

HOUSE BILL NO. HB0044

Portable electronic device insurance.

Sponsored by: Representative(s) Illoway, Blikre, Moniz and
Stubson and Senator(s) Emerich and Perkins

A BILL

for

1 AN ACT relating to insurance; providing for licensure of
2 vendors selling portable electronics insurance; providing
3 requirements for portable electronics insurance policies;
4 providing an exemption of insurance producer licensure; and
5 providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 26-51-101 through 26-51-108 are
10 created to read:

11

12 CHAPTER 51

13 PORTABLE ELECTRONICS LIMITED PRODUCER LICENSES

14

15 **26-51-101. Short title.**

16

1 This chapter shall be known as the "Portable Electronics
2 Limited Producer License Act."

3

4 **26-51-102. Definitions.**

5

6 (a) For purposes of this act:

7

8 (i) "Customer" means a person who purchases
9 portable electronics or services;

10

11 (ii) "Enrolled customer" means a customer who
12 elects coverage under a portable electronics insurance
13 policy issued to a vendor of portable electronics;

14

15 (iii) "Location" means any physical location in
16 the state of Wyoming or any website, call center site or
17 similar location directed to residents of the state of
18 Wyoming;

19

20 (iv) "Portable electronics" means electronic
21 devices that are portable in nature, their accessories and
22 services related to the use of the device;

23

1 (v) "Portable electronics insurance" means
2 insurance providing coverage for the repair or replacement
3 of portable electronics which may provide coverage for
4 portable electronics against any one (1) or more of the
5 following causes of loss: loss, theft, inoperability due
6 to mechanical failure, malfunction, damage or other similar
7 causes of loss. "Portable electronics insurance" does not
8 include a service contract governed by W.S. 26-49-101;

9

10 (vi) "Portable electronics transaction" means:

11

12 (A) The sale or lease of portable
13 electronics by a vendor to a customer; or

14

15 (B) The sale of a service related to the
16 use of portable electronics by a vendor to a customer.

17

18 (vii) "Supervising entity" means a business
19 entity that is a licensed insurer or insurance producer
20 that is appointed or authorized by an insurer to supervise
21 the administration of a portable electronics insurance
22 program;

23

1 (viii) "Vendor" means a person in the business
2 of engaging in portable electronics transactions directly
3 or indirectly.

4

5 **26-51-103. Licensure of vendors.**

6

7 (a) A vendor shall hold a limited lines license to
8 sell or offer coverage under a policy of portable
9 electronics insurance.

10

11 (b) A portable electronics limited lines license
12 issued under this chapter shall authorize any employee or
13 authorized representative of the vendor to sell or offer
14 coverage under a policy of portable electronics insurance
15 to a customer at each location at which the vendor engages
16 in portable electronics transactions.

17

18 (c) The supervising entity shall maintain a registry
19 of vendor locations which are authorized to sell or solicit
20 portable electronics insurance coverage in this state.
21 Upon request by the commissioner and with ten (10) days
22 written notice to the supervising entity, the registry
23 shall be open to inspection and examination by the

1 commissioner during regular business hours of the
2 supervising entity.

3

4 (d) Notwithstanding any other provision of law, a
5 license issued pursuant to this section shall authorize the
6 licensee and its employees or authorized representatives to
7 engage in those activities that are permitted in this
8 section.

9

10 **26-51-104. Requirements for sale of portable**
11 **electronics insurance.**

12

13 (a) At every location where portable electronics
14 insurance is offered to customers, brochures or other
15 written materials shall be made available to a prospective
16 customer which:

17

18 (i) Disclose that portable electronics insurance
19 may provide a duplication of coverage already provided by a
20 customer's homeowner's insurance policy, renter's insurance
21 policy or other source of coverage;

22

23 (ii) State that the enrollment by the customer
24 in a portable electronics insurance program is not required

1 in order to purchase or lease portable electronics or
2 services;

3

4 (iii) Summarize the material terms of the
5 insurance coverage, including:

6

7 (A) The identity of the insurer;

8

9 (B) The identity of the supervising entity;

10

11 (C) The amount of any applicable deductible
12 and how it is to be paid;

13

14 (D) Benefits of the coverage; and

15

16 (E) Key terms and conditions of coverage
17 such as whether portable electronics may be repaired or
18 replaced with similar make and model reconditioned or
19 nonoriginal manufacturer parts or equipment.

20

21 (iv) Summarize the process for filing a claim,
22 including a description of how to return portable
23 electronics and the maximum fee applicable in the event the

1 customer fails to comply with any equipment return
2 requirements;

3

4 (v) State that an enrolled customer may cancel
5 enrollment for coverage under a portable electronics
6 insurance policy at any time and the person paying the
7 premium shall receive a refund of any applicable unearned
8 premium.

9

10 (b) Portable electronics insurance may be offered on
11 a month to month or other periodic basis as a group or
12 master commercial inland marine policy issued to a vendor
13 of portable electronics for its enrolled customers.

14

15 (c) Eligibility and underwriting standards for
16 customers electing to enroll in coverage shall be
17 established for each portable electronics insurance
18 program.

19

20 **26-51-105. Authority of vendors of portable**
21 **electronics.**

22

23 (a) The employees and authorized representatives of
24 vendors may sell or offer portable electronics insurance to

1 customers and shall not be subject to licensure as an
2 insurance producer under this title provided that:

3

4 (i) The vendor obtains a portable electronics
5 limited lines license to authorize its employees or
6 authorized representatives to sell or offer portable
7 electronics insurance pursuant to this section;

8

9 (ii) The insurer issuing the portable
10 electronics insurance either directly supervises or
11 appoints a supervising entity to supervise the
12 administration of the program including development of a
13 training program for employees and authorized
14 representatives of the vendors. The training required by
15 this paragraph shall comply with the following:

16

17 (A) The training shall be delivered to
18 employees and authorized representatives of a vendor who
19 are directly engaged in the activity of selling or offering
20 portable electronics insurance;

21

22 (B) The training may be provided in
23 electronic form. However, if conducted in an electronic
24 form the supervising entity shall implement a supplemental

1 education program regarding the portable electronics
2 insurance product that is conducted and overseen by
3 licensed employees of the supervising entity; and

4

5 (C) Each employee and authorized
6 representative shall receive basic instruction about the
7 portable electronics insurance offered to customers and the
8 disclosures required under W.S. 26-51-104.

9

10 (iii) No employee or authorized representative
11 of a vendor of portable electronics shall advertise,
12 represent or otherwise hold himself out as a nonportable
13 electronics limited lines licensed insurance producer.

14

15 (b) The charges for portable electronics insurance
16 coverage may be billed and collected by the vendor of
17 portable electronics. Any charge to the enrolled customer
18 for coverage that is not included in the cost associated
19 with the purchase or lease of portable electronics or
20 related services shall be separately itemized on the
21 enrolled customer's bill. If the portable electronics
22 insurance coverage is included with the purchase or lease
23 of portable electronics or related services the vendor
24 shall clearly and conspicuously disclose to the enrolled

1 customer that the portable electronics insurance coverage
2 is included with the portable electronics or related
3 services. Vendors billing and collecting such charges
4 shall not be required to maintain such funds in a
5 segregated account provided that the vendor is authorized
6 by the insurer to hold such funds in an alternative manner
7 and remits such amounts to the supervising entity within
8 sixty (60) days of receipt. All funds received by a vendor
9 from an enrolled customer for the sale of portable
10 electronics insurance shall be considered funds held in
11 trust by the vendor in a fiduciary capacity for the benefit
12 of the insurer. Vendors may receive compensation for
13 billing and collection services.

14

15 **26-51-106. Suspension or revocation of license.**

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17 (a) If a vendor of portable electronics or its
18 employee or authorized representative violates any
19 provision of this section, the commissioner may do any of
20 the following:

21

22 (i) After notice and hearing, impose a civil
23 penalty not to exceed five hundred dollars (\$500.00) per

1 violation or five thousand dollars (\$5,000.00) in the
2 aggregate for such conduct;

3

4 (ii) After notice and hearing, impose other
5 penalties that the commissioner deems necessary and
6 reasonable to carry out the purpose of this article,
7 including:

8

9 (A) Suspending the privilege of transacting
10 portable electronics insurance pursuant to this section at
11 specific business locations where violations have occurred;
12 and

13

14 (B) Suspending or revoking the ability of
15 individual employees or authorized representatives to act
16 under the license.

17

18 **26-51-107. Termination of portable electronics**
19 **insurance.**

20

21 (a) An insurer may terminate or otherwise change the
22 terms and conditions of a policy of portable electronics
23 insurance only upon providing the policyholder and enrolled
24 customers with at least thirty (30) days written notice.

1

2 (b) If the insurer changes the terms and conditions,
3 then the insurer shall provide the vendor policyholder with
4 a revised policy or endorsement, and each enrolled customer
5 with a revised certificate, endorsement, updated brochure
6 or other evidence indicating a change in the terms and
7 conditions has occurred and a summary of material changes.

8

9 (c) Notwithstanding subsection (a) of this section,
10 an insurer may terminate an enrolled customer's enrollment
11 under a portable electronics insurance policy upon fifteen
12 (15) days written notice for discovery of fraud or material
13 misrepresentation in obtaining coverage or in the
14 presentation of a claim thereunder.

15

16 (d) Notwithstanding subsection (a) of this section,
17 an insurer may immediately terminate an enrolled customer's
18 enrollment under a portable electronics insurance policy:

19

20 (i) For nonpayment of premium;

21

22 (ii) If the enrolled customer ceases to have an
23 active service with the vendor of portable electronics; or

24

1 (iii) If an enrolled customer exhausts the
2 aggregate limit of liability, if any, under the terms of
3 the portable electronics insurance policy and the insurer
4 sends notice of termination to the enrolled customer within
5 thirty (30) calendar days after exhaustion of the limit.
6 However, if notice is not timely sent, enrollment shall
7 continue notwithstanding the aggregate limit of liability
8 until the insurer sends notice of termination to the
9 enrolled customer.

10

11 (e) Where a portable electronics insurance policy is
12 terminated by a policyholder, the policyholder shall mail
13 or deliver written notice to each enrolled customer
14 advising the enrolled customer of the termination of the
15 policy and the effective date of termination. The written
16 notice shall be mailed or delivered to the enrolled
17 customer at least thirty (30) days prior to the
18 termination.

19

20 (f) Whenever notice or correspondence with respect to
21 a policy of portable electronics insurance is required
22 pursuant to this section or is otherwise required by law,
23 it shall be in writing and sent within the notice period,
24 if any, specified within the statute or regulation

1 requiring the notice or correspondence. Notwithstanding
2 any other provision of law, notices and correspondence may
3 be sent either by mail or by electronic means as set forth
4 in this subsection. If the notice or correspondence is
5 mailed, it shall be sent to the vendor of portable
6 electronics at the vendor's mailing address specified for
7 such purpose and to its affected enrolled customers' last
8 known mailing addresses on file with the insurer. The
9 insurer or vendor of portable electronics, as the case may
10 be, shall maintain proof of mailing in a form authorized or
11 accepted by the United States postal service or other
12 commercial mail delivery service. If the notice or
13 correspondence is sent by electronic means, it shall be
14 sent to the vendor of portable electronics at the vendor's
15 electronic mail address specified for such purpose and to
16 its affected enrolled customers' last known electronic mail
17 address as provided by each enrolled customer to the
18 insurer or vendor of portable electronics, as the case may
19 be. For purposes of this subsection, an enrolled
20 customer's provision of an electronic mail address to the
21 insurer or vendor of portable electronics, as the case may
22 be, shall be deemed to have consented to receive notices
23 and correspondence by electronic means. The insurer or

1 vendor of portable electronics, as the case may be, shall
2 maintain proof that the notice or correspondence was sent.

3

4 (g) Notice or correspondence required by this section
5 or otherwise required by law may be sent on behalf of an
6 insurer or vendor, as the case may be, by the supervising
7 entity appointed by the insurer.

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9 **26-51-108. Application for license and fees.**

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11 (a) A sworn application for a license under this
12 chapter shall be made to and filed with the commissioner on
13 forms prescribed and furnished by the commissioner.

14

15 (b) The application shall:

16

17 (i) Provide the name, residence address and
18 other information required by the commissioner for an
19 employee or officer of the vendor that is designated by the
20 applicant as the person responsible for the vendor's
21 compliance with the requirements of this chapter. However,
22 if the vendor derives more than fifty percent (50%) of its
23 revenue from the sale of portable electronics insurance the
24 information noted above shall be provided for all officers,

1 directors and any shareholder of record having beneficial
2 ownership of ten percent (10%) or more of any class of
3 securities registered under the federal securities law; and

4
5 (ii) Provide the location of the applicant's
6 home office.

7
8 (c) Any vendor engaging in portable electronics
9 insurance transactions on or before July 1, 2012 shall
10 apply for licensure within ninety (90) days of the
11 application being made available by the commissioner. Any
12 applicant commencing operations after July 1, 2012 shall
13 obtain a license prior to offering portable electronics
14 insurance.

15
16 (d) Initial licenses issued pursuant to this chapter
17 shall be valid for a period of no more than twenty-four
18 (24) months and shall expire on December 1 of the renewal
19 year assigned by the commissioner.

20
21 (e) Each vendor of portable electronics licensed
22 under this chapter shall pay to the commissioner a fee as
23 prescribed by the commissioner but in no event shall the
24 fee exceed one thousand dollars (\$1,000.00) for an initial

1 portable electronics limited lines license and five hundred
2 dollars (\$500.00) for each renewal thereof. However, for a
3 vendor that is engaged in portable electronics transactions
4 at ten (10) or fewer locations in the state the fee shall
5 not exceed one hundred dollars (\$100.00) for an initial
6 license and for each renewal thereof.

7

8 **Section 2.** W.S. 26-49-101(d)(ii), (iii) and by
9 creating a new paragraph (iv) is amended to read:

10

11 **26-49-101. Scope and purposes.**

12

13 (d) This article does not apply to:

14

15 (ii) To mechanical breakdown insurance
16 organizations who maintain a license pursuant to W.S.
17 26-37-106; ~~or~~

18

19 (iii) To motor club services regulated pursuant
20 to the Motor Club Services Act; ~~or~~ or

21

22 (iv) Portable electronics limited lines vendors
23 licensed pursuant to chapter 51 of this code.

24

