

Amendment No. 272

Senate Amendment to Senate Bill No. 292

(BDR 57-1074)

Proposed by: Senate Committee on Commerce, Labor and Energy**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 292 (§§ 10, 10.5 & NRS 680B.010 and 680C.110).

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

JMM/MSN



Date: 4/18/2011

S.B. No. 292—Revises provisions relating to insurance. (BDR 57-1074)



SENATE BILL NO. 292—SENATOR SCHNEIDER (BY REQUEST)

MARCH 21, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to insurance. (BDR 57-1074)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to insurance; providing for the licensure and regulation of persons who sell or offer coverage under a policy of portable electronics insurance; providing a fee; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person is not authorized to engage in the business of transacting insurance unless the person is issued a license by the Commissioner of Insurance. **Sections 2-15** of this bill provide for the licensure and regulation of persons, including certain persons who are not residents of this State, who sell or offer coverage under a new limited line of insurance, the coverage of portable electronics against the risk of loss, which provides coverage for the repair or replacement of portable electronics and which may cover portable electronics against loss, theft, inoperability due to mechanical failure, malfunction, accidental damage or other similar perils in accordance with the terms of the policy. A vendor who sells or offers coverage under a policy of portable electronics insurance must be licensed as a producer of insurance and pay certain fees. (NRS 680B.010, 680C.110) Existing law provides that a violation of certain provisions of the Nevada Insurance Code, including **sections 2-17** of this bill, is a misdemeanor.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. ~~“Covered customer” means a customer who elects coverage under a policy of portable electronics insurance issued to a vendor.~~ (Deleted by amendment.)

1 Sec. 4. “Customer” means a person who acquires, by lease or purchase,
2 portable electronics or services related to the use of portable electronics from a
3 vendor.

4 Sec. 4.3. “Enrolled customer” means a customer who elects coverage
5 under a policy of portable electronics insurance issued to a vendor.

6 Sec. 4.5. “Location” means any physical site within this State or any
7 Internet website, call center or other similar site where a vendor transacts
8 business with residents of this State.

9 Sec. 5. “Maintenance agreement” means a contract for a limited period
10 that provides only for scheduled maintenance.

11 Sec. 6. “Portable electronics” means electronic devices that are portable in
12 nature and their accessories.

13 Sec. 7. 1. “Portable electronics insurance” means insurance which
14 provides coverage for the repair or replacement of portable electronics and which
15 may cover portable electronics against loss, theft, inoperability due to mechanical
16 failure, malfunction, accidental damage or other similar perils in accordance
17 with the terms of the policy.

18 2. The term does not include:

19 (a) A service contract governed by chapter 690C of NRS;

20 (b) A maintenance agreement;

21 (c) A warranty;

22 (d) A policy of homeowners’ insurance, renter’s insurance or motor vehicle
23 insurance; or

24 (e) A policy of property or casualty insurance for business and commercial
25 risks.

26 Sec. 7.5. “Supervising entity” means a business or entity that is a licensed
27 insurer or producer of insurance.

28 Sec. 8. “Vendor” means a person who, directly or indirectly, engages in the
29 business of:

30 1. The sale or lease of portable electronics by the vendor to a customer; or

31 2. The sale of a service related to the use of portable electronics by the
32 vendor to a customer.

33 Sec. 9. “Warranty” means a warranty provided solely by a manufacturer,
34 importer or seller of goods for which the manufacturer, importer or seller did not
35 receive separate consideration and that:

36 1. Is not negotiated or separated from the sale of the goods;

37 2. Is incidental to the sale of the goods; and

38 3. Guarantees to indemnify the consumer for defective parts, mechanical or
39 electrical failure, labor or other remedial measures required to repair or replace
40 the goods.

41 Sec. 10. 1. A vendor shall not sell or offer coverage under a policy of
42 portable electronics insurance unless the vendor holds a license as a producer of
43 insurance in portable electronics insurance as a limited line issued by the
44 Commissioner pursuant to NRS 683A.261 or 683A.271.

45 2. In addition to the information required pursuant to NRS 683A.251, an
46 application for a license as a producer of insurance in portable electronics
47 insurance must include:

48 (a) A schedule which identifies each location at which the vendor does
49 business; and

50 (b) ~~If the vendor derives more than 50 percent of its revenue from the sale of~~
51 ~~portable electronics coverage, the name, residence address and other information~~
52 ~~required by the Commissioner for each officer, director and shareholder of~~

~~record having beneficial ownership of 10 percent or more of any class of securities of the vendor registered under federal securities law; and~~

~~(c) The location of the vendor's home office.~~ The physical address of the home office of the vendor.

~~3. If the Commissioner issues to a vendor a license as a producer of insurance in portable electronics insurance, the vendor must, not less often than quarterly, submit a schedule which identifies each location at which the vendor does business.~~ A natural person who is designated by a vendor pursuant to paragraph (b) of subsection 2 of NRS 683A.251 is not required to be a principal, officer or employee of the vendor.

Sec. 10.5. The Commissioner may issue or renew a license as a producer of insurance in portable electronics insurance as a limited line pursuant to NRS 683A.261 or 683A.271 to an applicant who is not a resident of Nevada, including, without limitation, a resident of Canada:

1. Before July 1, 2014, if:

(a) The jurisdiction in which the applicant resides or in which the applicant maintains his or her principal place of business does not provide for the issuance of a license as a producer of insurance in portable electronics insurance as a limited line; and

(b) The applicant meets all other requirements for licensure.

2. On or after July 1, 2014, if:

(a) The jurisdiction in which the applicant resides or in which the applicant maintains his or her principal place of business does not provide for the issuance of a license as a producer of insurance in portable electronics as a limited line;

(b) The applicant is issued a license as a producer of insurance for property and casualty insurance in this State pursuant to NRS 683A.261; and

(c) The applicant meets all other requirements for licensure.

Sec. 11. 1. Notwithstanding any other provision of law, an employee or authorized representative of a vendor that holds a license as a producer of insurance in portable electronics insurance issued by the Commissioner pursuant to NRS 683A.261 or 683A.271 may, without a license issued by the Commissioner, sell or offer coverage under a policy of portable electronics insurance at any location at which the vendor does business if:

(a) The employee or authorized representative of the vendor sells or offers coverage under a policy of portable electronics insurance only on behalf of, and under the supervision of, the vendor; and

(b) Before the employee or authorized representative of the vendor sells or offers coverage under a policy of portable electronics insurance, he or she completes a program of training provided by the vendor pursuant to section 12 of this act.

2. An employee or authorized representative of a vendor who sells or offers coverage under a policy of portable electronics insurance pursuant to this section shall not advertise, represent or otherwise hold himself or herself out as a licensed producer of insurance for engage in any other conduct for which a license or certificate is required pursuant to this title, unless the person is licensed as a producer of insurance.

Sec. 12. 1. An authorized insurer may deliver or issue for delivery in this State a policy of portable electronics insurance as a group or master inland marine policy issued to a vendor. A vendor may provide coverage for portable electronics under the policy to customers who elect to enroll under the policy. The policy may be offered on a month-to-month or other periodic basis. Notwithstanding the provisions of any law to the contrary, each rate for a policy

of portable electronics insurance must be filed with the Commissioner pursuant to chapter 686B of NRS.

2. An insurer that issues a group policy of portable electronics insurance to a vendor shall:

(a) Establish reasonable eligibility and underwriting standards for customers who elect to enroll under the vendor's policy of portable electronics insurance.

(b) Appoint a ~~business entity that is licensed as a producer of insurance to act as a~~ supervising ~~agency~~ entity to oversee the vendor's sales ~~for~~ and enrollment ~~and claims administration~~ activities under the vendor's policy of portable electronics insurance.

3. A supervising ~~agency~~ entity appointed pursuant to this section must develop and conduct a training program for the employees and authorized representatives of the vendor who sell or offer coverage under the vendor's policy of portable electronics insurance. The training program must include, without limitation, basic instruction concerning:

(a) The coverage that is available to customers who enroll under the vendor's policy of portable electronics insurance; and

(b) The disclosures required by section 13 of this act.

4. The supervising ~~agency~~ entity may provide the basic instruction required by subsection 3 in electronic form if the supervising ~~agency~~ entity provides supplemental training that is conducted and overseen in person by a licensed employee of the supervising ~~agency~~ entity.

5. The supervising ~~agency~~ entity shall ensure that each employee and authorized representative of a vendor completes the training program required by subsection 3 before selling or offering to sell coverage under the vendor's policy of portable electronics insurance.

Sec. 13. 1. A vendor shall make available to a prospective customer, at each location where the vendor sells or offers coverage under a policy of portable electronics insurance, a printed brochure or other written material concerning the coverage available under the policy of portable electronics insurance. The written material must:

(a) Disclose that coverage under a policy of portable electronics insurance may duplicate coverage already provided to the customer by a policy of property insurance or other source of coverage;

(b) State that the customer is not required to enroll for coverage under the vendor's policy of portable electronics insurance as a condition of the purchase or lease of any portable electronics or related services;

(c) Summarize the material terms of the coverage provided under the policy of portable electronics insurance, including:

(1) The identity of the insurer;

(2) The identity of the supervising ~~agency~~ entity;

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

(4) Benefits of the coverage; and

(5) Key terms and conditions of the coverage, including, without limitation, whether portable electronics may be repaired or replaced with a similar make and model that has been reconditioned or with nonoriginal manufacturer parts or equipment;

(d) Summarize the process for filing a claim, including a description of ~~any requirement~~

~~(1) To~~ how to return portable electronics and the maximum fee applicable if the enrolled customer fails to comply with any equipment return requirements; and

~~(2) Relating to proof of loss; and~~

(e) State that the enrolled customer may cancel his or her enrollment for coverage under the policy of portable electronics insurance at any time and, in the event of such cancellation, the person paying the premium for the coverage will receive a refund of any applicable unearned premium.

2. If a customer elects to enroll in coverage under a policy of portable electronics insurance, the printed brochure or other written material may serve as a certificate of coverage if the material satisfies the requirements of subsection 1. ~~and includes a physical or electronic address at which the covered customer may obtain a copy of the group policy of portable electronics insurance.~~ A policy of portable electronics insurance, including the certificate of coverage of the policy, must be filed with the Commissioner not later than 15 days after the effective date of the policy.

Sec. 14. 1. If a customer purchases a policy of portable electronics insurance from a vendor or elects to enroll in coverage under the vendor's policy of portable electronics insurance, the vendor may bill and collect the charges for the portable electronics insurance coverage.

2. Any charge to the customer for portable electronics insurance coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services must be separately itemized on the customer's ~~invoice.~~ bill.

3. If portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services, the vendor must clearly and conspicuously disclose to the customer that the ~~cost of the~~ portable electronics insurance coverage is included ~~in the price~~ with the purchase of the portable electronics or related services.

4. A vendor which bills and collects charges for portable electronics insurance coverage on behalf of an insurer is not required to maintain such money in a segregated account if the vendor:

(a) Is authorized by the insurer to hold such money in an alternative manner; and

(b) Remits such amounts to the supervising ~~agency~~ entity within 60 days after receipt.

↳ All money collected by a vendor from ~~a~~ an enrolled customer for the sale of portable electronics insurance shall be deemed to be held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. A vendor is entitled to receive compensation for billing and collection services.

Sec. 15. Notwithstanding any other provision of law:

1. Except as otherwise provided in this section, an insurer that issues a policy of portable electronics insurance may ~~cancel~~ not terminate the policy before the expiration of the agreed term of the policy ~~for otherwise change any term or condition of the policy if~~ unless, not less than 30 days before the effective date of the ~~cancellation or changed term or condition~~ termination, the insurer provides notice to:

(a) The holder of the policy of portable electronics insurance; and

(b) If the policy is a group policy issued to a vendor under which individual customers may elect to enroll for coverage, each ~~covered~~ enrolled customer.

2. An insurer shall not change any term or condition of a policy of portable electronics insurance more than once in any 6-month period. If the insurer changes a term or condition of a policy of portable electronics insurance, pursuant to subsection 1, the insurer shall, not less than 30 days before the effective date of the change, provide:

(a) The policyholder with a revised policy or endorsement; and

(b) Each ~~covered~~ enrolled customer with a revised certificate of coverage, endorsement, brochure or other evidence of coverage which:

(1) Declares that the insurer has changed a term or condition of the policy which may affect the enrolled customer's coverage; and

(2) Provides a summary of the material changes.

3. An insurer may terminate ~~a covered~~ an enrolled customer's coverage under a vendor's policy of portable electronics insurance upon the discovery of fraud or material misrepresentation by the ~~covered~~ enrolled customer in obtaining the coverage or in presenting a claim thereunder if the insurer provides notice of the termination to the vendor and the ~~covered~~ enrolled customer within 15 days after discovery of the fraud or material misrepresentation.

4. An insurer may terminate an enrolled customer's coverage under a vendor's policy of portable electronics insurance if the enrolled customer fails to pay a premium and the insurer gives the enrolled customer not less than 10 days' notice of his or her failure to pay the premium.

5. An insurer may immediately terminate ~~a covered~~ an enrolled customer's coverage under a vendor's policy of portable electronics insurance:

(a) ~~For the covered customer's failure to pay a premium when due;~~

~~(b)~~ If the ~~covered~~ enrolled customer ceases to have an active service with the vendor; or

~~(c)~~ (b) If the ~~covered~~ enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the policy of portable electronics insurance and the insurer provides notice of termination to the customer within 30 calendar days after exhaustion of the limit. If the insurer fails to provide timely notice as required by this paragraph, the ~~covered~~ enrolled customer's coverage under the policy continues until the insurer provides notice of termination to the ~~covered~~ enrolled customer notwithstanding the exhaustion of the aggregate limit of liability.

~~5.~~ 6. A vendor or other holder of a group policy of portable electronics insurance shall not terminate ~~a covered~~ an enrolled customer's coverage under the policy unless, not less than 30 days before the effective date of the termination, the ~~holder~~ insurer provides notice to the ~~covered~~ enrolled customer of the termination of the policy and the effective date of termination. An insurer may authorize a vendor to provide notice to an enrolled customer on behalf of the insurer pursuant to this subsection.

~~6.~~ 7. Any notice that is required pursuant to this section must be in writing and be:

(a) Mailed or delivered to the ~~covered~~ enrolled customer, vendor or other policyholder at his or her last known address; or

(b) Sent by electronic mail or other electronic means in accordance with regulations adopted by the Commissioner to the ~~covered~~ enrolled customer, vendor or other policyholder at the electronic mail address of the ~~covered~~ enrolled customer, vendor or other policyholder last known by the insurer.

➤ An insurer or vendor who provides notice pursuant to this subsection must maintain proof of mailing or delivery in a form authorized or accepted by the United States Postal Service or other commercial mail delivery service or an electronic record or other proof that the notice was sent.

Sec. 16. If a vendor or an employee or authorized representative of a vendor violates any provision of this chapter or an order or regulation of the Commissioner issued or adopted pursuant thereto, the Commissioner may, after notice and an opportunity for a hearing:

1 *1. Impose an administrative fine ~~[of not more than \$500]~~ pursuant to NRS*
2 *683A.461 for each violation ~~[for \$5,000]~~, which must not exceed \$50,000 in the*
3 *aggregate; ~~[for such conduct]~~*

4 *2. Suspend a vendor's privilege of engaging in the sale or offering of*
5 *coverage under a policy of portable electronics insurance at a particular location*
6 *where the vendor does business;*

7 *3. Suspend or revoke the privilege of an employee or authorized*
8 *representative of a vendor to sell or offer coverage under a policy of portable*
9 *electronics insurance; or*

10 *4. Suspend or revoke the license issued by the Commissioner to the vendor*
11 *as a licensed producer of insurance.*

12 *Sec. 17. The Commissioner may adopt such regulations as necessary to*
13 *carry out the provisions of this chapter.*

14 **Sec. 18.** NRS 683A.261 is hereby amended to read as follows:

15 683A.261 1. Unless the Commissioner refuses to issue the license under
16 NRS 683A.451, the Commissioner shall issue a license as a producer of insurance
17 to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A
18 producer of insurance may qualify for a license in one or more of the lines of
19 authority permitted by statute or regulation, including:

20 (a) Life insurance on human lives, which includes benefits from endowments
21 and annuities and may include additional benefits from death by accident and
22 benefits for dismemberment by accident and for disability.

23 (b) Health insurance for sickness, bodily injury or accidental death, which may
24 include benefits for disability.

25 (c) Property insurance for direct or consequential loss or damage to property of
26 every kind.

27 (d) Casualty insurance against legal liability, including liability for death,
28 injury or disability and damage to real or personal property.

29 (e) Surety indemnifying financial institutions or providing bonds for fidelity,
30 performance of contracts or financial guaranty.

31 (f) Variable annuities and variable life insurance, including coverage reflecting
32 the results of a separate investment account.

33 (g) Credit insurance, including life, disability, property, unemployment,
34 involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability,
35 guaranteed protection of assets, and any other form of insurance offered in
36 connection with an extension of credit that is limited to wholly or partially
37 extinguishing the obligation which the Commissioner determines should be
38 considered as limited-line credit insurance.

39 (h) Personal lines, consisting of automobile and motorcycle insurance and
40 residential property insurance, including coverage for flood, of personal watercraft
41 and of excess liability, written over one or more underlying policies of automobile
42 or residential property insurance.

43 (i) Fixed annuities as a limited line.

44 (j) Travel and baggage as a limited line.

45 (k) Rental car agency as a limited line.

46 (l) *Portable electronics as a limited line.*

47 (m) Continuous care coverage, which includes health insurance, as set forth in
48 paragraph (b), and may include insurance for workers' compensation.

49 2. A license as a producer of insurance remains in effect unless revoked,
50 suspended or otherwise terminated if a request for a renewal is submitted on or
51 before the date for the renewal specified on the license, all applicable fees for
52 renewal and a fee established by the Commissioner of not more than \$15 for
53 deposit in the Insurance Recovery Account are paid for each license and each

1 authorization to transact business on behalf of a business organization licensed
2 pursuant to subsection 2 of NRS 683A.251, and any requirement for education or
3 any other requirement to renew the license is satisfied by the date specified on the
4 license for the renewal. A producer of insurance may submit a request for a renewal
5 of his or her license within 30 days after the date specified on the license for the
6 renewal if the producer of insurance otherwise complies with the provisions of this
7 subsection and pays, in addition to any fee paid pursuant to this subsection, a
8 penalty of 50 percent of all applicable renewal fees, except for any fee required
9 pursuant to NRS 680C.110. A license as a producer of insurance expires if the
10 Commissioner receives a request for a renewal of the license more than 30 days
11 after the date specified on the license for the renewal. A fee paid pursuant to this
12 subsection is nonrefundable.

13 3. A natural person who allows his or her license as a producer of insurance to
14 expire may reapply for the same license within 12 months after the date specified
15 on the license for a renewal without passing a written examination or completing a
16 course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a
17 penalty of twice all applicable renewal fees, except for any fee required pursuant to
18 NRS 680C.110, is required for any request for a renewal of the license that is
19 received after the date specified on the license for the renewal.

20 4. A licensed producer of insurance who is unable to renew his or her license
21 because of military service, extended medical disability or other extenuating
22 circumstance may request a waiver of the time limit and of any fine or sanction
23 otherwise required or imposed because of the failure to renew.

24 5. A license must state the licensee's name, address, personal identification
25 number, the date of issuance, the lines of authority and the date of expiration and
26 must contain any other information the Commissioner considers necessary. A
27 resident producer of insurance shall maintain a place of business in this State which
28 is accessible to the public and where the resident producer of insurance principally
29 conducts transactions under his or her license. The place of business may be in his
30 or her residence. The license must be conspicuously displayed in an area of the
31 place of business which is open to the public.

32 6. A licensee shall inform the Commissioner of each change of location from
33 which the licensee conducts business as a producer of insurance and each change of
34 business or residence address, in writing or by other means acceptable to the
35 Commissioner, within 30 days after the change. If a licensee changes the location
36 from which the licensee conducts business as a producer of insurance or his or her
37 business or residence address without giving written notice and the Commissioner
38 is unable to locate the licensee after diligent effort, the Commissioner may revoke
39 the license without a hearing. The mailing of a letter by certified mail, return receipt
40 requested, addressed to the licensee at his or her last mailing address appearing on
41 the records of the Division, and the return of the letter undelivered, constitutes a
42 diligent effort by the Commissioner.

43 **Sec. 19.** NRS 683A.291 is hereby amended to read as follows:

44 683A.291 1. An applicant for licensing in this state as a producer of
45 insurance who was previously licensed for the same lines of authority in another
46 state need not complete any education or examination if the applicant is currently
47 licensed in that state or, if the application is received within 90 days after the
48 cancellation of the license, the other state certifies that the applicant was in good
49 standing at the time of cancellation. Alternatively, the exemption is available if the
50 records of the National Association of Insurance Commissioners show that the
51 applicant is or was licensed and in good standing for the lines of authority
52 requested.

1 2. An examination is not required for a producer of insurance who confines
2 his or her activity to insurance categorized as limited line, credit, travel, **portable**
3 **electronics**, baggage or fixed annuity, or covering vehicles leased for a short term.

4 3. A person licensed in another state who moves to this state and desires to
5 become licensed as a resident producer of insurance with the benefit of the
6 exemption provided in subsection 1 must apply for licensing within 90 days after
7 establishing legal residence.

8 **Sec. 20.** Notwithstanding the provisions of sections 2 to 17, inclusive, of this
9 act, a vendor is not required to be licensed as a producer of insurance limited to
10 portable electronics insurance to sell or offer coverage under a policy of portable
11 electronics insurance until 90 days after the Commissioner of Insurance makes
12 available an application for such a license or October 1, 2011, whichever is later.

13 **Sec. 21.** This act becomes effective:

14 1. Upon passage and approval for the purposes of adopting regulations and
15 performing any other preparatory administrative tasks that are necessary to carry
16 out the provisions of this act; and

17 2. On October 1, 2011, for all other purposes.