

Amendment No. 655

Assembly Amendment to Senate Bill No. 292 First Reprint (BDR 57-1074)

Proposed by: Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

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: 5/20/2011

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. (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) *The physical address of the home office of the vendor.*

51 3. *A natural person who is designated by a vendor pursuant to paragraph*
52 *(b) of subsection 2 of NRS 683A.251 is not required to be a principal, officer or*
53 *employee of the vendor.*

4. A vendor who is licensed as a producer of insurance in portable electronics insurance shall maintain the schedule described in paragraph (a) of subsection 2 and make the schedule available for inspection by the Commissioner upon request.

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 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 supervising entity to oversee the vendor's sales and enrollment activities under the vendor's policy of portable electronics insurance.

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

5. The supervising 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 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 how to return portable electronics and the maximum fee applicable if the enrolled customer fails to comply with any equipment return requirements; 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. 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~~ before 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

1 *of portable electronics insurance, the vendor may bill and collect the charges for*
2 *the portable electronics insurance coverage.*

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

6 3. *If portable electronics insurance coverage is included with the purchase*
7 *or lease of portable electronics or related services, the vendor must clearly and*
8 *conspicuously disclose to the customer that the portable electronics insurance*
9 *coverage is included with the purchase of the portable electronics or related*
10 *services.*

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

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

16 (b) *Remits such amounts to the supervising entity within 60 days after*
17 *receipt.*

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

22 **Sec. 15.** *Notwithstanding any other provision of law:*

23 1. *Except as otherwise provided in this section, an insurer that issues a*
24 *policy of portable electronics insurance may not terminate the policy before the*
25 *expiration of the agreed term of the policy unless, not less than 30 days before the*
26 *effective date of the termination, the insurer provides notice to:*

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

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

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

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

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

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

40 (2) *Provides a summary of the material changes.*

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

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

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

1 (a) If the enrolled customer ceases to have an active service with the vendor;
2 or

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

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

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

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

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

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

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

33 1. Impose an administrative fine pursuant to NRS 683A.461 for each
34 violation, which must not exceed \$50,000 in the aggregate;

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

38 3. Suspend or revoke the privilege of an employee or authorized
39 representative of a vendor to sell or offer coverage under a policy of portable
40 electronics insurance; or

41 4. Suspend or revoke the license issued by the Commissioner to the vendor
42 as a licensed producer of insurance.

43 Sec. 17. The Commissioner may adopt such regulations as necessary to
44 carry out the provisions of this chapter.

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

46 683A.261 1. Unless the Commissioner refuses to issue the license under
47 NRS 683A.451, the Commissioner shall issue a license as a producer of insurance
48 to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A
49 producer of insurance may qualify for a license in one or more of the lines of
50 authority permitted by statute or regulation, including:

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

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

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

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

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

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

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

17 (h) Personal lines, consisting of automobile and motorcycle insurance and
18 residential property insurance, including coverage for flood, of personal watercraft
19 and of excess liability, written over one or more underlying policies of automobile
20 or residential property insurance.

21 (i) Fixed annuities as a limited line.

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

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

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

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

27 2. A license as a producer of insurance remains in effect unless revoked,
28 suspended or otherwise terminated if a request for a renewal is submitted on or
29 before the date for the renewal specified on the license, all applicable fees for
30 renewal and a fee established by the Commissioner of not more than \$15 for
31 deposit in the Insurance Recovery Account are paid for each license and each
32 authorization to transact business on behalf of a business organization licensed
33 pursuant to subsection 2 of NRS 683A.251, and any requirement for education or
34 any other requirement to renew the license is satisfied by the date specified on the
35 license for the renewal. A producer of insurance may submit a request for a renewal
36 of his or her license within 30 days after the date specified on the license for the
37 renewal if the producer of insurance otherwise complies with the provisions of this
38 subsection and pays, in addition to any fee paid pursuant to this subsection, a
39 penalty of 50 percent of all applicable renewal fees, except for any fee required
40 pursuant to NRS 680C.110. A license as a producer of insurance expires if the
41 Commissioner receives a request for a renewal of the license more than 30 days
42 after the date specified on the license for the renewal. A fee paid pursuant to this
43 subsection is nonrefundable.

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

51 4. A licensed producer of insurance who is unable to renew his or her license
52 because of military service, extended medical disability or other extenuating

1 circumstance may request a waiver of the time limit and of any fine or sanction
2 otherwise required or imposed because of the failure to renew.

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

11 6. A licensee shall inform the Commissioner of each change of location from
12 which the licensee conducts business as a producer of insurance and each change of
13 business or residence address, in writing or by other means acceptable to the
14 Commissioner, within 30 days after the change. If a licensee changes the location
15 from which the licensee conducts business as a producer of insurance or his or her
16 business or residence address without giving written notice and the Commissioner
17 is unable to locate the licensee after diligent effort, the Commissioner may revoke
18 the license without a hearing. The mailing of a letter by certified mail, return receipt
19 requested, addressed to the licensee at his or her last mailing address appearing on
20 the records of the Division, and the return of the letter undelivered, constitutes a
21 diligent effort by the Commissioner.

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

23 683A.291 1. An applicant for licensing in this state as a producer of
24 insurance who was previously licensed for the same lines of authority in another
25 state need not complete any education or examination if the applicant is currently
26 licensed in that state or, if the application is received within 90 days after the
27 cancellation of the license, the other state certifies that the applicant was in good
28 standing at the time of cancellation. Alternatively, the exemption is available if the
29 records of the National Association of Insurance Commissioners show that the
30 applicant is or was licensed and in good standing for the lines of authority
31 requested.

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

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

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

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

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

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