

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:

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



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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.*

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

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

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

Sec. 7. 1. *“Portable electronics insurance” means insurance which provides coverage for the repair or replacement of portable electronics and which may cover portable electronics against loss, theft, mechanical failure, malfunction, accidental damage or other perils in accordance with the terms of the policy.*

2. *The term does not include:*

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

(b) A maintenance agreement;

(c) A warranty;

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

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

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

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

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

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

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

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



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1 3. *Guarantees to indemnify the consumer for defective parts,*
2 *mechanical or electrical failure, labor or other remedial measures*
3 *required to repair or replace the goods.*

4 **Sec. 10.** 1. *A vendor shall not sell or offer coverage under a*
5 *policy of portable electronics insurance unless the vendor holds a*
6 *license as a producer of insurance in portable electronics*
7 *insurance as a limited line issued by the Commissioner pursuant*
8 *to NRS 683A.261 or 683A.271.*

9 2. *In addition to the information required pursuant to NRS*
10 *683A.251, an application for a license as a producer of insurance*
11 *in portable electronics insurance must include:*

12 (a) *A schedule which identifies each location at which the*
13 *vendor does business;*

14 (b) *If the vendor derives more than 50 percent of its revenue*
15 *from the sale of portable electronics coverage, the name, residence*
16 *address and other information required by the Commissioner for*
17 *each officer, director and shareholder of record having beneficial*
18 *ownership of 10 percent or more of any class of securities of the*
19 *vendor registered under federal securities law; and*

20 (c) *The location of the vendor's home office.*

21 3. *If the Commissioner issues to a vendor a license as a*
22 *producer of insurance in portable electronics insurance, the*
23 *vendor must, not less often than quarterly, submit a schedule*
24 *which identifies each location at which the vendor does business.*

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

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

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

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



1 **Sec. 12. 1.** *An authorized insurer may deliver or issue for*
2 *delivery in this State a policy of portable electronics insurance as a*
3 *group policy issued to a vendor. A vendor may provide coverage*
4 *for portable electronics under the policy to customers who elect to*
5 *enroll under the policy. The policy may be offered on a month-to-*
6 *month or other periodic basis.*

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

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

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

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

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

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

25 **4.** *The supervising agency may provide the basic instruction*
26 *required by subsection 3 in electronic form if the supervising*
27 *agency provides supplemental training that is conducted in person*
28 *by a licensed employee of the supervising agency.*

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

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

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

44 **(b)** *State that the customer is not required to enroll for*
45 *coverage under the vendor's policy of portable electronics*



1 *insurance as a condition of the purchase or lease of any portable*
2 *electronics or related services;*

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

5 *(1) The identity of the insurer;*

6 *(2) The identity of the supervising agency;*

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

9 *(4) Benefits of the coverage; and*

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

15 *(d) Summarize the process for filing a claim, including a*
16 *description of any requirement:*

17 *(1) To return portable electronics and the maximum fee*
18 *applicable if the customer fails to comply with any equipment*
19 *return requirements; and*

20 *(2) Relating to proof of loss; and*

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

26 *2. If a customer elects to enroll in coverage under a policy of*
27 *portable electronics insurance, the printed brochure or other*
28 *written material may serve as a certificate of coverage if the*
29 *material satisfies the requirements of subsection 1 and includes a*
30 *physical or electronic address at which the covered customer may*
31 *obtain a copy of the group policy of portable electronics*
32 *insurance.*

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

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

42 *3. If portable electronics insurance coverage is included with*
43 *the purchase or lease of portable electronics or related services,*
44 *the vendor must clearly and conspicuously disclose to the*
45 *customer that the cost of the portable electronics insurance*



1 coverage is included in the price of the portable electronics or
2 related services.

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

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

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

11 ↪ All money collected by a vendor from a customer for the sale of
12 portable electronics insurance shall be deemed to be held in trust
13 by the vendor in a fiduciary capacity for the benefit of the insurer.
14 A vendor is entitled to receive compensation for billing and
15 collection services.

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

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

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

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

28 2. If the insurer changes a term or condition of a policy of
29 portable electronics insurance pursuant to subsection 1, the
30 insurer shall provide:

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

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

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

38 (2) Provides a summary of the material changes.

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



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1 4. An insurer may immediately terminate a covered
2 customer's coverage under a vendor's policy of portable
3 electronics insurance:

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

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

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

17 5. A vendor or other holder of a policy of portable electronics
18 insurance shall not terminate a covered customer's coverage
19 under the policy unless, not less than 30 days before the effective
20 date of the termination, the holder provides notice to the covered
21 customer of the termination of the policy and the effective date of
22 termination.

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

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

27 (b) Sent by electronic mail or other electronic means to the
28 covered customer, vendor or other policyholder at the electronic
29 mail address of the covered customer, vendor or other policyholder
30 last known by the insurer.

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

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

41 1. Impose an administrative fine of not more than \$500 for
42 each violation or \$5,000 in the aggregate for such conduct;

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



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

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

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

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

9 683A.261 1. Unless the Commissioner refuses to issue the
10 license under NRS 683A.451, the Commissioner shall issue a
11 license as a producer of insurance to a person who has satisfied the
12 requirements of NRS 683A.241 and 683A.251. A producer of
13 insurance may qualify for a license in one or more of the lines of
14 authority permitted by statute or regulation, including:

15 (a) Life insurance on human lives, which includes benefits from
16 endowments and annuities and may include additional benefits from
17 death by accident and benefits for dismemberment by accident and
18 for disability.

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

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

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

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

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

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

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

42 (i) Fixed annuities as a limited line.

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

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

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



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

4 2. A license as a producer of insurance remains in effect unless
5 revoked, suspended or otherwise terminated if a request for a
6 renewal is submitted on or before the date for the renewal specified
7 on the license, all applicable fees for renewal and a fee established
8 by the Commissioner of not more than \$15 for deposit in the
9 Insurance Recovery Account are paid for each license and each
10 authorization to transact business on behalf of a business
11 organization licensed pursuant to subsection 2 of NRS 683A.251,
12 and any requirement for education or any other requirement to
13 renew the license is satisfied by the date specified on the license for
14 the renewal. A producer of insurance may submit a request for a
15 renewal of his or her license within 30 days after the date specified
16 on the license for the renewal if the producer of insurance otherwise
17 complies with the provisions of this subsection and pays, in addition
18 to any fee paid pursuant to this subsection, a penalty of 50 percent
19 of all applicable renewal fees, except for any fee required pursuant
20 to NRS 680C.110. A license as a producer of insurance expires if
21 the Commissioner receives a request for a renewal of the license
22 more than 30 days after the date specified on the license for the
23 renewal. A fee paid pursuant to this subsection is nonrefundable.

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

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

38 5. A license must state the licensee's name, address, personal
39 identification number, the date of issuance, the lines of authority and
40 the date of expiration and must contain any other information the
41 Commissioner considers necessary. A resident producer of
42 insurance shall maintain a place of business in this State which is
43 accessible to the public and where the resident producer of
44 insurance principally conducts transactions under his or her license.
45 The place of business may be in his or her residence. The license



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1 must be conspicuously displayed in an area of the place of business
2 which is open to the public.

3 6. A licensee shall inform the Commissioner of each change of
4 location from which the licensee conducts business as a producer of
5 insurance and each change of business or residence address, in
6 writing or by other means acceptable to the Commissioner, within
7 30 days after the change. If a licensee changes the location from
8 which the licensee conducts business as a producer of insurance or
9 his or her business or residence address without giving written
10 notice and the Commissioner is unable to locate the licensee after
11 diligent effort, the Commissioner may revoke the license without a
12 hearing. The mailing of a letter by certified mail, return receipt
13 requested, addressed to the licensee at his or her last mailing address
14 appearing on the records of the Division, and the return of the letter
15 undelivered, constitutes a diligent effort by the Commissioner.

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

17 683A.291 1. An applicant for licensing in this state as a
18 producer of insurance who was previously licensed for the same
19 lines of authority in another state need not complete any education
20 or examination if the applicant is currently licensed in that state or,
21 if the application is received within 90 days after the cancellation of
22 the license, the other state certifies that the applicant was in good
23 standing at the time of cancellation. Alternatively, the exemption is
24 available if the records of the National Association of Insurance
25 Commissioners show that the applicant is or was licensed and in
26 good standing for the lines of authority requested.

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

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

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

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

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



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

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