

CHAPTER.....

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.

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

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.)

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

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

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, inoperability due to mechanical failure, malfunction, accidental damage or other similar 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. 7.5. *“Supervising entity” means a business or entity that is a licensed insurer or producer of insurance.*

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

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

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

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



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

3. 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.

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 education that is conducted and overseen 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 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 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 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 portable electronics insurance coverage is included 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 entity within 60 days after receipt.

↪ All money collected by a vendor from 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 not terminate the policy before the expiration of the agreed term of the policy unless, not less than 30 days before the effective date of the 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 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, 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 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 an enrolled customer's coverage under a vendor's policy of portable electronics insurance upon the discovery of fraud or material misrepresentation by the 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 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 an enrolled customer's coverage under a vendor's policy of portable electronics insurance:

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

(b) If the 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 enrolled customer's coverage under the policy continues until the insurer provides notice of termination to the enrolled customer notwithstanding the exhaustion of the aggregate limit of liability.

6. A vendor or other holder of a group policy of portable electronics insurance shall not terminate the policy unless, not less than 30 days before the effective date of the termination, the insurer provides notice to each 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.

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



(a) Mailed or delivered to the 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 enrolled customer, vendor or other policyholder at the electronic mail address of the 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. Impose an administrative fine pursuant to NRS 683A.461 for each violation, which must not exceed \$50,000 in the aggregate;

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

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

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

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

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

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

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

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



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

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

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

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

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

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

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

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

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

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, all applicable fees for renewal and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account are paid for each license and each authorization to transact business on behalf of a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his or her license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent



of all applicable renewal fees, except for any fee required pursuant to NRS 680C.110. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

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

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

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

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



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

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

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

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

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

Sec. 21. This act becomes effective:

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

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

