

Amendment No. 493

Senate Amendment to Senate Bill No. 496 (BDR 57-1095)

Proposed by: Senate Committee on Commerce, Labor and Energy

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

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.

DPR/JRS



Date: 4/18/2013

S.B. No. 496—Revises certain provisions governing portable electronics insurance.
(BDR 57-1095)



SENATE BILL NO. 496—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

MARCH 25, 2013

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises certain provisions governing portable electronics insurance.
(BDR 57-1095)FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 that a vendor of portable electronics is not required to have certain written materials concerning portable electronics insurance filed with or approved by the Commissioner of Insurance; allowing an insurer who issues a policy of portable electronics insurance to change a term or condition of the policy more than once in a 6-month period; allowing an insurer who issues a policy of portable electronics insurance to terminate the policy for nonpayment without first providing notice to the customer of the customer's failure to pay a premium for the policy; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, portable electronics are portable electronic devices and their accessories, and portable electronics insurance is insurance to cover the cost of the repair or replacement of those devices and accessories. (NRS 691D.060, 691D.070)

Existing law requires a vendor of portable electronics to make available to prospective customers certain printed brochures or other written material concerning the coverage available under policies of portable electronics insurance. If a customer elects to enroll in coverage under a policy of portable electronics insurance, the printed brochures or other written material may serve as a certificate of coverage if the material satisfies certain requirements. (NRS 691D.310) **Section 1** of this bill states that the printed brochures or other written material need not be filed with or approved by the Commissioner of Insurance.

~~However, section 1 requires that an insurer file a portable electronics insurance policy form with the Commissioner before the insurer uses the form.~~

Existing law sets forth provisions for billing, collection of charges and accounting of money received by a vendor for policies of portable electronics insurance. (NRS 691D.320) Section 2 of this bill deems an insurer who provides portable electronics insurance to have received the payment of a premium when an enrolled customer makes a payment to the vendor.

Under existing law, an insurer who issues a policy of portable electronics insurance is restricted as to the manner in which the insurer may terminate the policy or change the terms of the policy. (NRS 691D.330) **Section 3** of this bill: (1) eliminates a provision which prohibits an insurer from changing a term or condition of a policy of portable electronics

insurance more than once in any 6-month period; (2) reduces from 15 days to 10 days the period within which an insurer must notify a vendor and an enrolled customer of the insurer's intent to terminate an enrolled customer's coverage under a vendor's policy of portable electronics insurance after the discovery of fraud or material misrepresentation by the enrolled customer; and (3) allows an insurer to terminate an enrolled customer's coverage under a vendor's policy of portable electronics insurance for failure on the part of the customer to pay a premium, even if the insurer does not first notify the customer of the customer's failure to pay.

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

Section 1. NRS 691D.310 is hereby amended to read as follows:

691D.310 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~~ 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~~ that a vendor is required to make available to a prospective customer in accordance with subsection 1 need not be:

(a) Filed with the Commissioner; or

(b) Approved by the Commissioner.

~~3. An insurer must file a portable electronics insurance policy form, including the certificate of coverage, for the policy, must be filed, if applicable, with the Commissioner not later than 15 days before the effective date of the policy. Use of the form by the insurer.~~

Sec. 2. NRS 691D.320 is hereby amended to read as follows:

691D.320 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 ~~††~~, and the insurer shall be deemed to have received the premium from the enrolled customer upon payment of the premium by the enrolled customer to the vendor. A vendor is entitled to receive compensation for billing and collection services.

~~†Sec. 2†~~ **Sec. 3. NRS 691D.330 is hereby amended to read as follows:**

691D.330 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 ~~†††~~ 10 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 ~~if~~ *if the enrolled customer:*

(a) ~~If the enrolled customer ceases~~ *Fails to pay a premium;*

(b) *Ceases* to have an active service with the vendor; or

~~(b) If the enrolled customer exhausts~~

(c) *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—~~ 5. 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—~~ 6. 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.