

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

SESSION LAW 2011-225
HOUSE BILL 617

AN ACT TO PROVIDE FOR THE REGULATION OF PORTABLE ELECTRONICS INSURANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 58 of the General Statutes is amended by adding a new Article to read:

"Article 44A.

"Portable Electronics Insurance.

"§ 58-44A-1. Definitions.

As used in this Article, the following definitions apply:

- (1) Customer. – A person who purchases portable electronics or services.
- (2) Enrolled customer. – A customer who elects coverage under a portable electronics insurance policy issued to a vendor of portable electronics.
- (3) Location. – Any physical location in the State of North Carolina or any Web site, call center site, or similar location directed to residents of the State of North Carolina.
- (4) Portable electronics. – Electronic devices that are portable in nature, their accessories, and services related to the use of the device.
- (5) Portable electronics insurance. – Insurance providing coverage for the repair or replacement of portable electronics which may provide coverage for portable electronics against any one or more of the following causes of loss: (i) loss, (ii) theft, and (iii) inoperability due to mechanical failure, malfunction, damage, or other similar causes of loss. The term does not include the following:
 - a. A service contract or extended warranty providing coverage limited to the repair, replacement, or maintenance of property for the operational or structural failure of the property due to a defect in materials, workmanship, accidental damage from handling, power surges, or normal wear and tear.
 - b. A policy of insurance covering a seller's or a manufacturer's obligations under a warranty.
 - c. A homeowner's, renter's, private passenger automobile, commercial multiperil, or similar policy.
- (6) Portable electronics transaction. – Either of the following:
 - a. The sale or lease of portable electronics by a vendor to a customer.
 - b. The sale of a service related to the use of portable electronics by a vendor to a customer.
- (7) Supervising entity. – A business entity that is a licensed insurer or insurance producer.
- (8) Vendor. – A person in the business of engaging in portable electronics transactions directly or indirectly.



"§ 58-44A-5. Licensure of vendors.

(a) A vendor is required to hold a limited lines license to sell or offer coverage under a policy of portable electronics insurance.

(b) A limited lines license issued under this section shall authorize any employee or authorized representative of the vendor to sell or offer coverage under a policy of portable electronics insurance to a customer at each location at which the vendor engages in portable electronics transactions.

(c) Notwithstanding any other provision of law, a license issued pursuant to this section shall authorize the licensee and its employees or authorized representatives to engage in those activities that are permitted in this section.

"§ 58-44A-10. Requirements for sale of portable electronics insurance.

(a) At every location where portable electronics insurance is offered to customers, brochures or other written materials shall be made available to a prospective customer. Those materials shall do the following:

- (1) Disclose that portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of coverage.
- (2) State that the enrollment by the customer in a portable electronics insurance program is not required in order to purchase or lease portable electronics or services.
- (3) Summarize the material terms of the insurance coverage, including:
 - a. The identity of the insurer.
 - b. The identity of the supervising entity.
 - c. The amount of any applicable deductible and how it is to be paid.
 - d. Benefits of the coverage.
 - e. Key terms and conditions of coverage, such as whether portable electronics may be repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts or equipment.
- (4) Summarize the process for filing a claim, including a description of how to return portable electronics and the maximum fee applicable in the event the enrolled customer fails to comply with any equipment return requirements.
- (5) State that the enrolled customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and the person paying the premium shall receive a refund of any applicable unearned premium.

(b) Portable electronics insurance may be offered on a month-to-month or other periodic basis as a group or master commercial inland marine policy issued to a vendor of portable electronics for its enrolled customers.

(c) Eligibility and underwriting standards for customers electing to enroll in coverage shall be established for each portable electronics insurance program.

(d) The terms of the termination or modification of coverage under a policy of portable electronic insurance offered in compliance with this section shall be as set forth in the policy.

"§ 58-44A-15. Authority of vendors of portable electronics.

(a) The employees and authorized representatives of vendors may sell or offer portable electronics insurance to customers and shall not be subject to licensure as an insurance producer under this Chapter provided that the following are true:

- (1) The vendor obtains a limited lines license to authorize its employees or authorized representatives to sell or offer portable electronics insurance pursuant to this section.
- (2) The insurer issuing the portable electronics insurance either directly supervises or appoints a supervising entity to supervise the administration of the program, including development of a training program for employees

and authorized representatives of the vendors. The training required by this subdivision shall comply with the following:

- a. The training shall be delivered to employees and authorized representatives of a vendor who are directly engaged in the activity of selling or offering portable electronics insurance.
 - b. The training may be provided in electronic form. If conducted in an electronic form, the supervising entity shall implement a supplemental education program regarding portable electronics insurance that is conducted and overseen by licensed employees of the supervising entity.
 - c. Each employee and authorized representative shall receive basic instruction about the portable electronics insurance offered to customers and the disclosures required under G.S. 58-44A-10.
- (3) No employee or authorized representative of a vendor of portable electronics shall advertise, represent, or otherwise hold himself or herself out as a non-limited lines licensed insurance producer.

(b) The charges for portable electronics insurance coverage may be billed and collected by the vendor of portable electronics. Any charge to the enrolled customer for coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services shall be separately itemized on the enrolled customer's bill. If the portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services, the vendor shall clearly and conspicuously disclose to the enrolled customer that the portable electronics insurance coverage is included with the portable electronics or related services. Vendors billing and collecting such charges shall not be required to maintain such funds in a segregated account, provided that the vendor is authorized by the insurer to hold such funds in an alternative manner and remits such amounts to the supervising entity within 60 days of receipt. All funds received by a vendor from an enrolled customer for the sale of portable electronics insurance shall be considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. Vendors may receive compensation for billing and collection services in accordance with G.S. 58-33-85.

"§ 58-44A-20. Suspension or revocation of license.

If a vendor of portable electronics or its employee or authorized representative violates any provision of this section, the Commissioner may do any of the following:

- (1) Revoke or suspend a limited lines license issued under this Part in accordance with the provisions of G.S. 58-33-46.
- (2) After notice and hearing, impose other penalties, including suspending the transaction of insurance at specific locations where violations of this Article have occurred, as the Commissioner deems necessary and reasonable to carry out the purpose of this Article.

"§ 58-44A-25. Application for license.

The prerequisites for issuance of a limited lines license under this Article are the filing with the Commissioner of the following:

- (1) A license application, signed by an officer of the applicant, for the limited lines license in such form or forms, and supplements thereto, and containing such information, as the Commissioner may prescribe.
- (2) A certificate by the insurer that is to be named in such limited lines license, stating that it has satisfied itself that the named applicant is trustworthy and competent to act as its insurance agent for this limited purpose and that the insurer will appoint such applicant to act as the agent in reference to the kinds of insurance as are permitted by this section, if the limited lines license applied for is issued by the Commissioner. Such certificate shall be

subscribed to by an officer or managing agent of such insurer and affirmed as true under the penalties of perjury."

SECTION 2. This act becomes effective January 1, 2012.

In the General Assembly read three times and ratified this the 15th day of June, 2011.

s/ Walter H. Dalton
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 12:34 p.m. this 23rd day of June, 2011