

Regular Session, 2012

SENATE BILL NO. 167

BY SENATOR GARY SMITH

INSURANCE POLICIES. Provides for portable electronics insurance policies. (8/1/12)

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AN ACT

To enact R.S. 22:821(B)(34) and 1431, and Part VIII-A of Chapter 5 of Title 22 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 22:1781.1 through 1781.6, relative to portable electronics insurance; to provide definitions; to provide with respect to the vendors of portable electronic devices; to provide for the requirements for the sale of portable electronics insurance; to provide with respect to termination of portable electronics insurance; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:821(B)(34) and 1431, and Part VIII-A of Chapter 5 of Title 22 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 22:1781.1 through 1781.6 are hereby enacted to read as follows:

§821. Fees

\* \* \*

B. The following fees and licenses shall be collected in advance by the commissioner of insurance:

\* \* \*

**(34) Portable Electronics Insurance Limited Lines License**

1                   **(a) Initial license application.....\$200**

2                   **(b) Renewal.....\$100**

3   \*       \*       \*

4                   **§1431. Portable Electronics Insurance Policies**

5                   **A. Portable electronics insurance as defined in R.S. 22:1780.1(7) may be**  
6                   **offered on a month-to-month or other periodic basis as a group or master**  
7                   **commercial insurance policy issued to a vendor and defined in R.S. 22:1780.1(9)**  
8                   **of portable electronics for its enrolled customers.**

9                   **B. Notwithstanding any other provision of law to the contrary, an insurer**  
10                   **may terminate or otherwise change the terms and conditions of a policy of**  
11                   **portable electronics insurance only upon providing the policyholder and**  
12                   **enrolled customers with at least thirty days' written notice.**

13                   **C. If the insurer changes the terms and conditions of a policy, then the**  
14                   **insurer shall provide the vendor policyholder with a revised policy or**  
15                   **endorsement and each enrolled customer with a revised certificate,**  
16                   **endorsement, updated brochure, or other evidence indicating a change in the**  
17                   **terms and conditions has occurred and a summary of any material change.**

18                   **D. Notwithstanding Paragraph B of this Section, an insurer may**  
19                   **terminate an enrolled customer's enrollment under a portable electronics**  
20                   **insurance policy upon fifteen days' written notice for discovery of fraud or**  
21                   **material misrepresentation in obtaining coverage or in the presentation of a**  
22                   **claim thereunder.**

23                   **E. Notwithstanding Paragraph B of this Section, an insurer may**  
24                   **immediately terminate an enrolled customer's enrollment under a portable**  
25                   **electronics insurance policy:**

26                                   **(1) For nonpayment of premium.**

27                                   **(2) If the enrolled customer ceases to have an active service with the**  
28                   **vendor of portable electronics.**

29                                   **(3) If the enrolled customer exceeds the aggregate limit of liability under**

1 the terms of the portable electronics insurance policy.

2 F. If an enrolled customer exhausts the aggregate limit of liability under  
3 the terms of the portable electronics insurance policy, the insurer shall send  
4 notice of termination to the enrolled customer within thirty calendar days after  
5 exhaustion of the limit and shall terminate the enrollment of that customer. If  
6 notice is not timely sent, coverage shall, continue notwithstanding the  
7 exhaustion of the aggregate limit of liability until the insurer sends notice of  
8 termination to the enrolled customer.

9 G. Where a portable electronics insurance policy is terminated by a  
10 vendor, the vendor shall mail or deliver written notice to each enrolled  
11 customer advising the enrolled customer of the termination of the policy and the  
12 effective date of termination. The written notice shall be mailed or delivered to  
13 the enrolled customer at least thirty days prior to the termination.

14 H. All notices or correspondence required by this Section or otherwise  
15 required by law shall be in writing. Notices and correspondence may be sent  
16 either by mail or by electronic means as set forth in this Section. If the notice or  
17 correspondence is mailed, it shall be sent to the vendor or the enrolled customer  
18 at the mailing address on file with the insurer or vendor. The insurer or vendor  
19 of portable electronics shall maintain proof of mailing in a form authorized or  
20 accepted by the United States Postal Service or other commercial mail delivery  
21 service. If the notice or correspondence is sent electronically, it shall be sent to  
22 the vendor of portable electronics at the vendor's electronic mail address  
23 specified for such purpose and to its affected enrolled customers' last known  
24 electronic mail addresses as provided by each enrolled customer to the insurer  
25 or vendor of portable electronics. For purposes of this Section, an enrolled  
26 customer's provision of an electronic mail address to the insurer or vendor of  
27 portable electronics shall be deemed consent to receive notices and  
28 correspondence by electronic means. The insurer or vendor of portable  
29 electronics, shall maintain proof that the notice or correspondence was sent.



1 to the repair, replacement, or maintenance of property for the operational or  
2 structural failure of such property due to a defect in materials, workmanship,  
3 accidental damage from handling, power surges, or normal wear and tear.

4 (ii) A policy of insurance covering a seller's or a manufacturer's  
5 obligations under a warranty.

6 (iii) A homeowner's, renter's, private passenger automobile, commercial  
7 multi-peril, or similar policy.

8 (8) "Portable electronics transaction" means any of the following:

9 (a) The sale or lease of portable electronics by a vendor to a customer.

10 (b) The sale of a service related to the use of portable electronics by a  
11 vender to a customer.

12 (9) "Vendor" means a person in the business of engaging in portable  
13 electronics transactions directly or indirectly.

14 §1781.2. Licensure of vendors

15 Notwithstanding any other provision of law to the contrary, the following  
16 requirements apply to the licensure of vendors of portable electronic devices:

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

19 (2) A limited lines license issued pursuant to this Section shall authorize  
20 any employee or authorized representative of the vendor to sell or offer  
21 coverage under a policy of portable electronics insurance to a customer at each  
22 location at which the vendor engages in portable electronics transactions. The  
23 vendor shall be responsible for the conduct and actions related to the sale or  
24 offering of portable electronics insurance of all employees and authorized  
25 representatives and any payment of the premium for portable electronic  
26 insurance to an employee or authorized representative shall be deemed payment  
27 to the vendor.

28 (3) In connection with a vendor's application for licensure and upon  
29 license renewal, the vendor shall provide a list to the commissioner of all

1 locations in the state at which it offers coverage.

2 §1781.3. Requirements for sale of portable electronics insurance

3 A. In conjunction with and at the time of the sale of every portable  
4 electronics insurance policy, the vendor shall present brochures or other written  
5 materials to a prospective customer which:

6 (1) Disclose that portable electronics insurance may provide a  
7 duplication of coverage already provided by a customer's homeowner's  
8 insurance policy, renter's insurance policy, or other source of coverage.

9 (2) State that the enrollment by the customer in a portable electronics  
10 insurance program is not required in order to purchase or lease portable  
11 electronics or services.

12 (3) Summarize the material terms of the insurance coverage, including:

13 (a) The identity of the insurer.

14 (b) The amount of any applicable deductible and how it is to be paid.

15 (c) The benefits of the coverage.

16 (d) The key terms and conditions of coverage such as whether portable  
17 electronics may be repaired or replaced with similar make and model  
18 reconditioned or non-original manufacturer parts or equipment.

19 (4) Contain a summary of the process for filing a claim, including a  
20 description of how to return portable electronics and the maximum fee  
21 applicable in the event the customer fails to comply with any equipment return  
22 requirement.

23 (5) Contain a statement that an enrolled customer may cancel  
24 enrollment for coverage under a portable electronics insurance policy at any  
25 time and the person paying the premium shall receive a refund or credit of any  
26 applicable unearned premium.

27 B. Eligibility and underwriting standards for customers electing to  
28 enroll in coverage shall be established for each portable electronics insurance  
29 program.

1           **§1781.4. Authority of vendors of portable electronics**

2           **A. An employee or authorized representative of a vendor may sell or**  
3           **offer portable electronics insurance to customers and shall not be subject to**  
4           **licensure as an insurance producer under this Part provided that:**

5                   **(1) The vendor obtains a limited lines license to authorize its employees**  
6                   **or authorized representatives to sell or offer portable electronics insurance**  
7                   **pursuant to this Part.**

8                   **(2) The vendor shall develop a training program for employees and**  
9                   **authorized representatives of the vendor. The training required by this Section**  
10                  **shall comply with all of the following:**

11                          **(a) The training shall be delivered to employees and authorized**  
12                          **representatives of vendors who are directly engaged in the activity of selling or**  
13                          **offering portable electronics insurance prior to the engagement in any sale or**  
14                          **offer of portable electronics insurance to any customer by the employee or**  
15                          **authorized representative.**

16                          **(b) The training may be provided in electronic form.**

17                          **(c) The training shall include instruction about the portable electronics**  
18                          **insurance offered to customers and the disclosures required under this Part.**

19           **B. Notwithstanding any other provision of law to the contrary,**  
20           **employees or authorized representatives of a vendor of portable electronics**  
21           **shall not be compensated based primarily on the number of customers enrolled**  
22           **for portable electronics insurance coverage but may receive compensation for**  
23           **activities under the limited lines license which is incidental to their overall**  
24           **compensation.**

25           **C. The charges for portable electronics insurance coverage may be**  
26           **billed and collected by the vendor of portable electronics. Any charge to the**  
27           **enrolled customer for coverage that is not included in the cost associated with**  
28           **the purchase or lease of portable electronics or related services shall be**  
29           **separately itemized on the enrolled customer's bill. If the portable electronics**

1 insurance coverage is included with the purchase or lease of portable electronics  
2 or related services, the vendor shall clearly and conspicuously disclose to the  
3 enrolled customer that the portable electronics insurance coverage is included  
4 with the portable electronics or related services. Vendors billing and collecting  
5 such charges shall not be required to maintain such funds in a segregated  
6 account provided that the vendor is authorized by the insurer to hold such  
7 funds in an alternative manner and remits such amounts to the supervising  
8 entity within sixty days of receipt. All funds received by a vendor from an  
9 enrolled customer for the sale of portable electronics insurance shall be  
10 considered funds held in trust by the vendor in a fiduciary capacity for the  
11 benefit of the insurer. Vendors may receive compensation for billing and  
12 collection services.

13 §1781.5. Suspension or revocation of license

14 If a vendor of portable electronics or its employee or authorized  
15 representative violates any provision of this Part or any other applicable  
16 provision of this Title, the commissioner may, after notice and opportunity for  
17 a hearing, take any one or more of the following actions:

18 (1) Impose fines not to exceed five hundred dollars per violation or five  
19 thousand dollars in the aggregate for such conduct.

20 (2) Suspend or revoke the limited lines license of the vendor.

21 (3) Suspend the privilege of transacting portable electronics insurance  
22 at specific business locations where violations have occurred.

23 (4) Suspend or revoke the ability of individual employees or authorized  
24 representatives to act under the license of the vendor.

25 §1781.6. Application for license and fees

26 A. An application for a license pursuant to this Part shall be made to and  
27 filed with the commissioner on forms prescribed and furnished by the  
28 commissioner and shall include the legal name of the applicant, the address of  
29 the home office of the applicant, the name and identifying information for all



1 officers, all directors and all persons who own directly or indirectly ten percent  
2 or more of the applicant and such other information as the commissioner may  
3 reasonably require; provided, however, that any applicant whose stock is  
4 publicly traded and registered under the federal securities laws or that is  
5 licensed pursuant to the Federal Communications Act of 1934, or any affiliate  
6 or subsidiary thereof, may, in lieu of providing the information for all officers,  
7 all directors and all persons who own directly or indirectly ten percent or more  
8 of the applicant, designate a single officer as the designated responsible person  
9 for the activities of the vendor pursuant to the limited lines portable electronics  
10 insurance license.

11 B. The application shall be accompanied by the fee pursuant to R.S.  
12 22:821(34).

13 C. Any vendor engaging in portable electronics insurance transactions  
14 on or before the effective date of this Part shall apply for licensure within ninety  
15 days of the application being made available by the commissioner.

16 D. Every license issued pursuant to this Part shall expire on December  
17 thirty-first of the renewal year assigned by the commissioner and may be  
18 renewed by the filing of a renewal application as required by the commissioner  
19 and payment of the fee required by R.S. 22:821(34).

20 E. Any vendor licensed pursuant to the provisions of this Part may  
21 authorize a third party to make any filing or notice other than the initial or  
22 renewal application required by this Part with the department on behalf of the  
23 vendor.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Cheryl Horne.

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DIGEST

Gary Smith (SB 167)

Provides for portable electronics insurance policies.

Effective August 1, 2012.

(Adds R.S. 22:1431 through 1437)