

SENATE BILL NO. 167

BY SENATOR GARY SMITH

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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

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

* * *

(34) Portable Electronics Insurance Limited Lines License

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

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

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§1431. Portable Electronics Insurance Policies

A. Portable electronics insurance as defined in R.S. 22:1781.1(7) may be offered on a month-to-month or other periodic basis as a group or master commercial insurance policy issued to a vendor, as defined in R.S. 22:1781.1(9) of portable electronics for its enrolled customers.

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

5 C. If the insurer changes the terms and conditions of a policy, then the
6 insurer shall provide the vendor policyholder with a revised policy or
7 endorsement and each enrolled customer with a revised certificate,
8 endorsement, updated brochure, or other evidence indicating a change in the
9 terms and conditions has occurred and a summary of any material change.

10 D. Notwithstanding Subsection B of this Section, an insurer may
11 terminate an enrolled customer's enrollment under a portable electronics
12 insurance policy upon fifteen days' written notice for discovery of fraud or
13 material misrepresentation in obtaining coverage or in the presentation of a
14 claim thereunder.

15 E. Notwithstanding Subsection B of this Section, an insurer may
16 immediately terminate an enrolled customer's enrollment under a portable
17 electronics insurance policy:

18 (1) For nonpayment of premium.

19 (2) If the enrolled customer ceases to have an active service with the
20 vendor of portable electronics.

21 (3) If the enrolled customer exceeds the aggregate limit of liability under
22 the terms of the portable electronics insurance policy.

23 F. If an enrolled customer exhausts the aggregate limit of liability under
24 the terms of the portable electronics insurance policy, the insurer shall send
25 notice of termination to the enrolled customer within thirty calendar days after
26 exhaustion of the limit. If notice is not timely sent, coverage shall continue
27 notwithstanding the exhaustion of the aggregate limit of liability, until the
28 insurer sends notice of termination to the enrolled customer.

29 G. Where a portable electronics insurance policy is terminated by a
30 vendor, the vendor shall mail or deliver written notice to each enrolled

1 customer advising the enrolled customer of the termination of the policy and the
 2 effective date of termination. The written notice shall be mailed or delivered to
 3 the enrolled customer at least thirty days prior to the termination.

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

20 I. Notice or correspondence required by this Section or otherwise
 21 required by law may be sent on behalf of an insurer or vendor by a person
 22 licensed as an insurance producer in this state or any other person with whom
 23 the insurer or vendor contracts to perform such services on their behalf.

24 * * *

25 PART VIII-A Portable Electronics Insurance

26 §1781.1. Definitions

27 As used in this Part, the following terms shall have the following
 28 meanings:

29 (1) "Commissioner" means the commissioner of insurance.

30 (2) "Customer" means a person who purchases portable electronics or

1 services.

2 (3) "Department" means the department of insurance.

3 (4) "Enrolled customer" means a customer who elects coverage under
4 a portable electronics insurance policy issued to a vendor of portable
5 electronics.

6 (5) "Location" means any physical location in the state of Louisiana or
7 any website, call center site, or similar location directed to residents of the state
8 of Louisiana.

9 (6) "Portable electronics" means electronic devices that are portable in
10 nature, their accessories, and services related to the use of the device.

11 (7)(a) "Portable electronics insurance" means insurance providing
12 coverage for the repairs or replacement of portable electronics which may
13 provide coverage for portable electronics against any one or more of the
14 following causes of loss: loss, theft, inoperability due to mechanical failure,
15 malfunction, damage, or other similar causes of loss.

16 (b) "Portable electronics insurance" does not include any of the
17 following:

18 (i) A service contract or extended warranty providing coverage limited
19 to the repair, replacement, or maintenance of property for the operational or
20 structural failure of such property due to a defect in materials, workmanship,
21 accidental damage from handling, power surges, or normal wear and tear.

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

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

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

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

28 (b) The sale of a service related to the use of portable electronics by a
29 vendor to a customer.

30 (9) "Vendor" means a person in the business of engaging in portable

1 electronics transactions directly or indirectly.

2 §1781.2. Licensure of vendors

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

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

7 (2) A limited lines license issued pursuant to this Section shall authorize
8 any employee or authorized representative of the vendor to sell or offer
9 coverage under a policy of portable electronics insurance to a customer at each
10 location at which the vendor engages in portable electronics transactions. The
11 vendor shall be responsible for the conduct and actions related to the sale or
12 offering of portable electronics insurance of all employees and authorized
13 representatives and any payment of the premium for portable electronics
14 insurance to an employee or authorized representative shall be deemed payment
15 to the vendor.

16 (3) In connection with a vendor's application for licensure and upon
17 license renewal, the vendor shall provide a list to the commissioner of all
18 locations in the state at which it offers coverage.

19 §1781.3. Requirements for sale of portable electronics insurance

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

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

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

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

30 (a) The identity of the insurer.

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

2 **(c) The benefits of the coverage.**

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

6 **(4) Contain a summary of the process for filing a claim, including a**
 7 **description of how to return portable electronics and the maximum fee**
 8 **applicable in the event the customer fails to comply with any equipment return**
 9 **requirement.**

10 **(5) Contain a statement that an enrolled customer may cancel**
 11 **enrollment for coverage under a portable electronics insurance policy at any**
 12 **time and the person paying the premium shall receive a refund or credit for any**
 13 **applicable unearned premium.**

14 **B. Eligibility and underwriting standards for customers electing to**
 15 **enroll in coverage shall be established for each portable electronics insurance**
 16 **program.**

17 **§1781.4. Authority of vendors of portable electronics**

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

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

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

27 **(a) The training shall be delivered to employees and authorized**
 28 **representatives of vendors who are directly engaged in the activity of selling or**
 29 **offering portable electronics insurance prior to the engagement in any sale or**
 30 **offer of portable electronics insurance to any customer by the employee or**

1 authorized representative.

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

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

5 B. Notwithstanding any other provision of law to the contrary,
6 employees or authorized representatives of a vendor of portable electronics
7 shall not be compensated based primarily on the number of customers enrolled
8 for portable electronics insurance coverage but may receive compensation for
9 activities under the limited lines license which is incidental to their overall
10 compensation.

11 C. The charges for portable electronics insurance coverage may be
12 billed and collected by the vendor of portable electronics. Any charge to the
13 enrolled customer for coverage that is not included in the cost associated with
14 the purchase or lease of portable electronics or related services shall be
15 separately itemized on the enrolled customer's bill. If the portable electronics
16 insurance coverage is included with the purchase or lease of portable electronics
17 or related services, the vendor shall clearly and conspicuously disclose to the
18 enrolled customer that the portable electronics insurance coverage is included
19 with the portable electronics or related services. Vendors billing and collecting
20 such charges shall not be required to maintain such funds in a segregated
21 account provided that the vendor is authorized by the insurer to hold such
22 funds in an alternative manner and remits such amounts to the supervising
23 entity within sixty days of receipt. All funds received by a vendor from an
24 enrolled customer for the sale of portable electronics insurance shall be
25 considered funds held in trust by the vendor in a fiduciary capacity for the
26 benefit of the insurer. Vendors may receive compensation for billing and
27 collection services.

28 §1781.5. Suspension or revocation of license

29 If a vendor of portable electronics or its employee or authorized
30 representative violates any provision of this Part or any other applicable

1 provision of this Title, the commissioner may, after notice and opportunity for
2 a hearing, take any one or more of the following actions:

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

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

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

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

10 §1781.6. Application for license and fees

11 A. An application for a license pursuant to this Part shall be made to and
12 filed with the commissioner on forms prescribed and furnished by the
13 commissioner and shall include the legal name of the applicant, the address of
14 the home office of the applicant, the name and identifying information for all
15 officers, all directors and all persons who own directly or indirectly ten percent
16 or more of the applicant and such other information as the commissioner may
17 reasonably require. However, any applicant whose stock is publicly traded and
18 registered under the federal securities laws or that is licensed pursuant to the
19 Federal Communications Act of 1934, or any affiliate or subsidiary thereof,
20 may, in lieu of providing the name and identifying information for all officers,
21 all directors and all persons who own directly or indirectly ten percent or more
22 of the applicant, designate a single officer as the designated responsible person
23 for the activities of the vendor pursuant to the limited lines portable electronics
24 insurance license. The name and identifying information only for such single
25 designated responsible person is then required.

26 B. The application shall be accompanied by the fee pursuant to R.S.
27 22:821(B)(34).

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

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____