

Senate Study Bill 3095 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON McCOY)

A BILL FOR

1 An Act regulating the sale of portable electronics insurance,
2 including requiring licensure, and providing for fees and
3 penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 522E.1 Purpose.

2 The purpose of this chapter is to provide for the limited
3 licensing of vendors when a vendor sells an insurance product
4 or coverage in connection with and incidental to the sale or
5 lease of a portable electronic device.

6 Sec. 2. NEW SECTION. 522E.2 Definitions.

7 As used in this chapter, unless the context otherwise
8 requires:

9 1. "*Commissioner*" means the commissioner of insurance.

10 2. "*Customer*" means a person who purchases or leases
11 portable electronic devices.

12 3. "*Limited licensee*" means a vendor who is authorized to
13 offer or sell portable electronics insurance pursuant to this
14 chapter.

15 4. "*Location*" means any physical location in this state, or
16 any internet site, call center site, or similar site directed
17 to residents of this state.

18 5. "*Portable electronic device*" means an electronic
19 device that is personal, self-contained, easily carried by
20 an individual, battery operated, and used for communication,
21 viewing, listening, recording, gaming, computing, or global
22 positioning, including a cell or satellite phone, pager,
23 personal global positioning satellite unit, portable computer,
24 portable audio listening, video viewing, or recording device,
25 digital camera, video camcorder, portable gaming system,
26 docking station, automatic answering device, or any other
27 similar device, or an accessory or service related to the
28 use of such a device, with a value of less than one thousand
29 dollars at the time of purchase or lease.

30 6. a. "*Portable electronics insurance*" means insurance
31 providing coverage for the repair or replacement of a portable
32 electronic device which may include coverage against any one or
33 more of the following causes of loss:

34 (1) Property loss.

35 (2) Theft.

1 (3) Inoperability due to mechanical failure.

2 (4) Malfunction.

3 (5) Damage.

4 (6) Other similar causes of loss.

5 *b. "Portable electronics insurance" does not include any of*
6 *the following:*

7 (1) A service contract or extended warranty providing
8 coverage limited to the repair, replacement, or maintenance
9 of property for the operational or structural failure of the
10 property due to a defect in materials, workmanship, accidental
11 damage from handling power surges, or normal wear and tear.

12 (2) A policy of insurance covering a seller's or
13 manufacturer's obligations under a warranty.

14 (3) A homeowner's, renter's, private passenger automobile,
15 commercial multiperil, or similar insurance policy.

16 7. "Vendor" means a person who is directly or indirectly
17 engaged in the business of selling or leasing a portable
18 electronic device.

19 8. "Vendor employee" means any employee at least eighteen
20 years of age who is employed by a vendor.

21 Sec. 3. NEW SECTION. 522E.3 Limited licenses.

22 1. Notwithstanding the provisions of chapter 522B, the
23 commissioner may issue a limited license to a vendor that
24 has complied with the requirements of this chapter and 18
25 U.S.C. §1033. The limited license shall authorize the limited
26 licensee to offer or sell portable electronics insurance
27 in connection with and incidental to the sale or lease of
28 a portable electronic device with a value of less than one
29 thousand dollars.

30 2. As a prerequisite for issuance of a limited license
31 under this section, a vendor shall file a written application
32 for a limited license, signed by an officer of the applicant,
33 with the commissioner. The application shall be in a form and
34 contain information as prescribed by the commissioner. The
35 application shall include a list of all locations where the

1 vendor intends to conduct business. A list of vendor employees
2 authorized by the vendor to offer or sell portable electronics
3 insurance shall also be provided to the commissioner. If the
4 list of authorized vendor employees is amended, an updated list
5 shall be provided to the commissioner within thirty business
6 days from the date of the amendment.

7 3. If a provision of this section is violated by a
8 limited licensee, the commissioner may, after notice and a
9 hearing, revoke or suspend a limited license issued under this
10 section, or impose any other penalties, including suspension
11 of authorization to offer or sell portable electronics
12 insurance at specific vendor locations where violations of this
13 section have occurred, as the commissioner deems necessary or
14 convenient to carry out the purposes of this chapter.

15 4. A vendor licensed pursuant to this section may offer
16 or sell portable electronics insurance issued by an insurance
17 carrier authorized to do business in this state only in
18 connection with and incidental to the sale or lease of a
19 portable electronic device. A customer shall not be required
20 to purchase portable electronics insurance in order to buy or
21 lease a portable electronic device.

22 5. *a.* Portable electronics insurance offered or sold by
23 a limited licensee pursuant to this section, whether at the
24 vendor location or by preselection of coverage in a master,
25 corporate, group, or individual agreement, shall include
26 coverage of all of the following:

- 27 (1) Loss of the portable electronic device.
- 28 (2) Theft of the portable electronic device.
- 29 (3) Inoperability of the portable electronic device due to
30 mechanical failure of the device.
- 31 (4) Malfunction of the portable electronic device.
- 32 (5) Any other similar cause of loss.

33 *b.* Portable electronics insurance purchased in connection
34 with and incidental to the sale or lease of a portable
35 electronic device shall be considered primary coverage over

1 all other collectible insurance that may apply to the portable
2 electronic device.

3 *c.* An insurance carrier that issues portable electronics
4 insurance in this state shall file premium and loss ratio data
5 for the preceding year with the commissioner by April 1 of each
6 year. The insurance carrier shall maintain a minimum loss
7 ratio of eighty percent.

8 6. Portable electronics insurance shall only be offered or
9 sold by a limited licensee pursuant to this section if all of
10 the following apply:

11 *a.* The period of the portable electronics insurance
12 agreement does not exceed twelve months, unless the customer
13 is notified prior to continuation of the policy beyond that
14 period.

15 *b.* At every vendor location where a portable electronics
16 insurance agreement is executed, brochures or other written
17 materials are readily available to a prospective customer that
18 include all of the following information:

19 (1) A clear and accurate summary of the material terms
20 of the portable electronics insurance coverage that is
21 being offered to the customer, including the identity of the
22 insurance carrier.

23 (2) A disclosure that the portable electronics insurance
24 coverage being offered by the vendor may provide a duplication
25 of coverage that is already provided by the customer's
26 personal automobile insurance policy, homeowner's insurance
27 policy, business property insurance policy, or other source of
28 coverage.

29 (3) A statement that the customer is not required to
30 purchase portable electronics insurance coverage offered
31 pursuant to this section in order to purchase or lease a
32 portable electronic device.

33 (4) A description of the process for filing a claim under
34 the portable electronics insurance in the event of a claim.

35 *c.* Evidence of coverage is provided in the insurance

1 agreement to every customer who purchases portable electronics
2 insurance, that includes all of the following information:

3 (1) The material terms or a description of the material
4 terms of the portable electronics insurance coverage.

5 (2) A description of the process for filing a claim under
6 the portable electronics insurance.

7 (3) A description of the process for canceling the portable
8 electronics insurance coverage.

9 (4) The identity of and contact information for the
10 insurance carrier that issues the portable electronics
11 insurance coverage.

12 *d.* A fee, compensation, or commission is not paid to
13 a vendor employee by a vendor based solely on the sale of
14 portable electronics insurance by the vendor employee under a
15 limited license issued pursuant to this section.

16 7. A limited license issued under this section authorizes
17 a vendor employee of a limited licensee to act individually
18 on behalf, and under the supervision, of the limited licensee
19 with respect to the offer and sale of portable electronics
20 insurance, subject to the requirements of subsection 8.

21 8. In order to offer and sell portable electronics
22 insurance, a vendor employee of a limited licensee must
23 successfully complete a training program, pass an examination
24 covering the portable electronics insurance products offered
25 for sale by the limited licensee in connection with and
26 incidental to the sale or lease of a portable electronic device
27 by the limited licensee, and obtain an individual license
28 pursuant to this subsection.

29 *a.* The training program and examination shall be approved
30 and administered by the commissioner or by a vendor approved
31 by the commissioner pursuant to section 522E.6. The training
32 materials shall, at a minimum, contain instructions on the
33 types of portable electronics insurance offered, ethical sales
34 practices, and required disclosures to prospective customers.

35 *b.* A vendor employee of a limited licensee shall file an

1 application with the commissioner for an individual license.
2 An application shall be deemed approved unless the commissioner
3 notifies the limited licensee of the denial or rejection of the
4 application within thirty days of receiving the application.
5 An application shall not include requirements greater in scope
6 than described in this section.

7 9. A limited licensee shall treat moneys collected from
8 customers purchasing portable electronics insurance when buying
9 or leasing a portable electronic device as moneys received in a
10 fiduciary capacity. The offer or sale of portable electronics
11 insurance not in conjunction with the purchase or lease of a
12 portable electronic device is prohibited.

13 10. A limited licensee shall not advertise, represent, or
14 otherwise hold out itself or any of its employees as licensed
15 insurers, insurance producers, or insurance brokers.

16 11. A limited licensee shall not engage in this state in any
17 of the following:

18 a. A trade practice defined in chapter 507B as, or
19 determined pursuant to section 507B.6 to be, an unfair method
20 of competition or an unfair or deceptive act or practice in the
21 business of insurance.

22 b. An illegal sales practice or unfair trade practice
23 as defined in rules adopted pursuant to chapter 17A by the
24 commissioner.

25 12. A limited licensee shall not do any of the following:

26 a. Answer technical questions about the benefits,
27 exclusions, or conditions of the portable electronics insurance
28 coverage offered.

29 b. Evaluate the adequacy of a prospective customer's
30 existing insurance coverage.

31 13. A vendor employee's individual license, authorization,
32 or certification to offer or sell portable electronics
33 insurance products under this chapter shall expire when the
34 vendor employee's employment with the vendor terminates.

35 Sec. 4. NEW SECTION. 522E.4 Term of limited license.

1 A limited license issued pursuant to this chapter is valid
2 for three years and may be renewed without examination if the
3 renewal application is received in a timely manner.

4 Sec. 5. NEW SECTION. **522E.5 Fees.**

5 The fee for a vendor employee individual license shall
6 be fifty dollars per vendor employee. In no case shall any
7 combined fees exceed one thousand dollars in any calendar year
8 for any one vendor, limited license or licensee, or renewal
9 license. The fees collected under this section shall be
10 deposited as provided in section 505.7.

11 Sec. 6. NEW SECTION. **522E.6 Vendor qualifications.**

12 The commissioner may approve a vendor that meets the
13 requirements of this section as a qualified vendor to
14 administer the requirements of section 522E.3, subsection 8.
15 A qualified vendor shall have at least two years teaching
16 experience relating to the topic of the products described
17 in this chapter. If a qualified vendor is available, the
18 commissioner shall utilize the qualified vendor closest in
19 proximity to where the vendor employee is employed to meet the
20 requirements in section 522E.3, subsection 8.

21 Sec. 7. NEW SECTION. **522E.7 Rules.**

22 The commissioner shall adopt rules necessary for the
23 administration of this chapter pursuant to chapter 17A.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
26 the explanation's substance by the members of the general assembly.

27 This bill creates new Code chapter 522E for the purpose
28 of regulating the sale of portable electronics insurance,
29 including requiring licensure, and providing for fees and
30 penalties.

31 New Code chapter 522E defines "portable electronic device"
32 as an electronic device that is personal, self-contained,
33 easily carried by an individual, battery operated, and used for
34 a variety of specified purposes, and accessories or services
35 related to such a device, with a value of less than \$1,000 at

1 the time of purchase or lease. "Portable electronic insurance"
2 is insurance providing coverage for the repair or replacement
3 of a portable electronic device. Such insurance does not
4 include a service contract or extended warranty.

5 The bill allows the commissioner of insurance to issue a
6 limited license to a vendor of portable electronic devices that
7 authorizes the vendor to offer or sell portable electronics
8 insurance in connection with and incidental to the sale or
9 lease of a portable electronic device with a value of less than
10 \$1,000.

11 A vendor must file a written application for a limited
12 license to sell such insurance that includes a list of all
13 locations where the vendor intends to conduct business and
14 a list of all vendor employees that will offer or sell the
15 insurance. Sale of portable electronics insurance is allowed
16 only in connection with and incidental to the sale or lease of
17 a portable electronic device. A customer cannot be required to
18 purchase such insurance in order to buy a portable electronic
19 device.

20 If the bill's provisions are violated by a limited licensee,
21 the commissioner may, after notice and a hearing, revoke
22 or suspend the limited license, or impose other penalties,
23 including suspension of authorization to sell the insurance at
24 specific vendor locations where violations have occurred.

25 Portable electronics insurance sold pursuant to a limited
26 license must include specified coverage and meet specified
27 disclosure requirements. The term of the insurance cannot
28 exceed 12 months unless the customer is notified prior to
29 continuation of the policy. An insurance carrier that issues
30 portable electronics insurance in the state must file premium
31 and loss ratio data with the commissioner each year and
32 maintain a minimum loss ratio of 80 percent. A vendor cannot
33 pay a fee, compensation, or commission to a vendor employee
34 based solely on the sale of portable electronics insurance by
35 the employee.

1 A limited license issued pursuant to the bill's provisions
2 authorizes a vendor employee to act individually on behalf,
3 and under the supervision, of the limited licensee, to offer
4 and sell portable electronics insurance if the employee also
5 obtains an individual license. In order to obtain a license, a
6 vendor employee must successfully complete a training program
7 and examination. The training program and examination must be
8 approved and administered by the commissioner and must contain
9 instructions on the types of portable electronics insurance
10 offered, ethical sales practices, and required disclosures
11 to prospective customers. However, the commissioner may
12 approve a qualified vendor to perform such duties. A vendor
13 employee must file an application with the commissioner for the
14 license and the application is deemed approved if not denied or
15 rejected within 30 days of its receipt.

16 A limited licensee is required to treat moneys collected
17 from customers purchasing portable electronics insurance as
18 moneys received in a fiduciary capacity. The offer or sale
19 of portable electronics insurance not in conjunction with
20 the purchase or lease of a portable electronic device is
21 prohibited. A limited licensee is prohibited from advertising,
22 representing, or holding out itself or any of its employees as
23 licensed insurers, insurance producers, or insurance brokers.

24 A limited licensee is prohibited from engaging in a trade
25 practice that is defined in Code chapter 507B as, or determined
26 pursuant to Code section 507B.6 to be, an unfair method of
27 competition or an unfair or deceptive act or practice in the
28 business of insurance, or an illegal sales practice or unfair
29 trade practice as defined in rules adopted by the commissioner
30 pursuant to Code chapter 17A.

31 A limited licensee is prohibited from answering technical
32 questions about the portable electronics insurance offered or
33 evaluating the adequacy of a prospective customer's existing
34 insurance coverage.

35 A limited license is valid for three years and may be renewed

1 without examination if application is timely made. The fee
2 for a vendor employee individual license is \$50 per vendor
3 employee but combined fees cannot exceed \$1,000 in any calendar
4 year for one vendor, limited license or licensee, or renewal
5 license. The license fees collected are to be deposited in the
6 department of commerce revolving fund pursuant to Code section
7 505.7.

8 The commissioner is required to select qualified vendors
9 closest in proximity to where a vendor employee is employed to
10 meet the training and examination requirements for the employee
11 to obtain an individual license. A vendor must have at least
12 two years teaching experience relating to the topics of the
13 products described in the new Code chapter to be utilized as a
14 qualified vendor.

15 The commissioner shall adopt rules necessary for the
16 administration of the new Code chapter pursuant to Code chapter
17 17A.