

HOUSE BILL REPORT

SHB 1032

As Passed House:
March 4, 2013

Title: An act relating to portable electronics insurance.

Brief Description: Addressing portable electronics insurance.

Sponsors: House Committee on Business & Financial Services (originally sponsored by Representatives Kirby, Chandler, Ryu and Hudgins).

Brief History:

Committee Activity:

Business & Financial Services: 1/23/13, 1/29/13 [DPS].

Floor Activity:

Passed House: 3/4/13, 98-0.

Brief Summary of Substitute Bill

- Modifies rate and form filing requirements for portable electronics insurance.
- Modifies cancellation and nonrenewal requirements for portable electronics insurance.
- Provides the Insurance Commissioner with additional authority to take enforcement actions against a licensee.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Kirby, Chair; Ryu, Vice Chair; Parker, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Blake, Habib, Hawkins, Hudgins, Kochmar, MacEwen, O'Ban, Santos and Stanford.

Staff: Jon Hedegard (786-7127).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Certain transactions that fall within the definition of insurance have been addressed by exemptions from the Insurance Code or the creation of a specific regulatory structure. Entities regulated under these chapters may not be required to comply with the same capitalization and reserve requirements, reporting and solvency oversight, and claims handling practices as are required of an insurer selling a traditional insurance product. Persons regulated under these chapters may not have to be licensed or have the same degree of training. There are unique regulatory standards for the persons who sell portable electronics insurance and the people who process the claims for portable electronics insurance.

Inland Marine Insurance.

"Inland marine insurance" is not defined in the Insurance Code. It is generally defined as insurance for portable goods, whether in transit or not. The policies may be for an individual's goods or for the goods of a business. The Office of the Insurance Commissioner (OIC) has adopted rules that characterize over 30 different risks as types of inland marine insurance. Included among these risks are: accounts receivable; agricultural machinery, farm equipment and livestock coverage; bicycles; pleasure boats twenty-six feet and under in length; cameras; photographic equipment and musical instruments; communications equipment, including cell phones, pagers, and portable personal computers; fine arts private collections; golf equipment; furs; jewelry; silverware; and stamp and coin collections.

Regulation of Insurance Rates and Contracts.

The rates and forms used in insurance contracts are filed with the OIC. There are two main types of review for property and casualty insurance forms in Washington:

- *Prior approval* - Any rate or form for property and casualty insurance that does not qualify for "use and file" must be filed with the OIC and must be approved prior to being used by the insurer. Personal line insurance rates are subject to prior approval. Common examples of personal lines insurance are an individual's automobile insurance or homeowners insurance.
- *Use and file* - Forms for most commercial property and commercial casualty insurance can be used prior to filing and approval. Filing must occur within 30 days of the issuance of a policy. Commercial property casualty insurance is generally property and casualty insurance pertaining to a business, profession, occupation, nonprofit organization, or public entity.

Portable Electronics Insurance.

"Portable electronics" is defined as "personal, self-contained, easily carried by an individual, battery-operated electronic communication, viewing, listening, recording, gaming, computing, or global positioning devices and other similar devices and their accessories, and service related to the use of such devices."

A retailer or "vendor" must be licensed by the OIC as a specialty producer if the vendor wants to offer or sell insurance products related to portable electronics. Before a license may be issued to a vendor, the vendor must be appointed as the agent of an authorized insurer. The vendor must affiliate with a licensed insurance agent who must supervise a training program for the vendor's employees. A vendor selling the communications equipment insurance must provide prospective customers with written materials disclosing the terms of the insurance. The license of a vendor may be denied, suspended, or revoked

upon a conviction of a felony if the facts demonstrate the licensee is not trustworthy to maintain the license. The OIC may adopt rules regarding specialty producers of portable electronics insurance

Cancellation and Nonrenewal.

The general cancellation provisions and the nonrenewal provisions in the Insurance Code apply to portable electronics insurance. An insurer of portable electronics may cancel or nonrenew a property or casualty insurance policy:

- with at least 45 days notice to the policyholder; and
- with 10 days notice for nonpayment of premium.

Disclosure Materials.

A vendor must make written disclosure materials available to prospective customers. The written materials must:

- disclose that portable electronics insurance may duplicate coverage already provided by another source of coverage;
- 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;
- summarize the material terms of the insurance coverage and key terms and conditions of coverage;
- summarize the process for filing a claim; and
- state that an enrolled customer may cancel coverage at any time and receive a refund of any applicable unearned premium.

Summary of Substitute Bill:

It is specified that a master, corporate or group policy for personal electronics insurance is classified as commercial inland marine insurance. An individual policy of personal electronics insurance may be sold on a monthly or other periodic basis.

Portable Electronics Insurance Rates, Contracts, and Disclosure Materials.

An insurer of a portable electronics insurance program:

- with insufficient loss experience to support its proposed rates may submit to the OIC an explanation of how the insurer has developed its proposed rates, including the insurer's analysis of any relevant information and showing why the proposed rates are appropriate; and
- may not increase premiums or deductibles or otherwise restrict benefits more than once in any six month period. An insurer must comply with the notice requirements if any such changes are made.

The written disclosure materials are not required to be filed for the review or approval of the commissioner.

Sanctions.

The license of a vendor may be denied, suspended, or revoked for a number of different reasons, including fraudulent, coercive, or dishonest practices and violations of the Insurance Code.

Cancellation and Nonrenewal.

An insurer may cancel, modify, or otherwise change the terms and conditions of a policy of portable electronics insurance:

- with at least 30 days notice to the policyholder and enrolled customer;
- with 15 days notice for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim.
- immediately without prior notice: (1) for nonpayment of premium; (2) if the enrolled customer ceases to have an active service with the vendor of portable electronics or; (3) if an enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the portable electronics insurance policy and the insurer sends notice of termination to the enrolled customer within thirty calendar days after exhaustion of the limit. However, if notice is not timely sent, coverage continues notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the enrolled customer.

A policyholder terminating a portable electronics insurance policy must advise each enrolled customer of the termination of the policy and the effective date of termination by providing a written notice to the enrolled customer. The written notice must be mailed or delivered to the enrolled customer at least 30 days prior to the termination.

Disclosure Materials.

The written disclosure materials made available to prospective customers must also disclose what circumstances and subject to what limitations an insurer may cancel, terminate, modify, or otherwise change the terms and conditions of a policy of portable electronics insurance. The written disclosure materials are not required to be filed for the review or approval of the Insurance Commissioner.

Until July 1, 2015, a vendor must deliver materials to enrolled customers that disclose what circumstances and subject to what limitations an insurer may cancel, terminate, modify, or otherwise change the terms and conditions of a policy of portable electronics insurance.

Contract Changes.

If an insurer changes the terms and conditions, then the insurer must provide the vendor policyholder with a revised policy or endorsement and each enrolled customer with:

- evidence indicating a change in the terms and conditions has occurred; and
- a summary of material changes.

Written Notices.

The must be sent to:

- the vendor at the vendor's mailing address specified for that purpose or vendor's electronic mail address specified for that purpose; and
- all affected enrolled customer's last known mailing addresses or last known electronic mail address as provided by each enrolled customer.

If an enrolled customer provides an electronic mail means, the enrolled customer consents to receive notices and correspondence by electronic mail. The enrolled customer must be provided with a disclosure to that effect at the time the electronic mail address is provided.

The insurer or vendor of portable electronics, as the case may be, must maintain proof that the notice or correspondence was sent.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 6 which replaces an expiring section and takes effect July 1, 2015.

Staff Summary of Public Testimony:

(In support) This is an ongoing exercise in modernizing our insurance regulation. Society develops new products and devices and the law must be altered to accommodate those new products and devices. The stakeholders and regulators have been working to resolve some outstanding issues and appear to have reached an agreement. That will be a proposed substitute and the stakeholders will direct some remarks to the differences between the agreement and the underlying bill. The stakeholders that worked on the law that passed last year are bringing this bill. Last year's bill modernized the regulatory framework. There were a few issues where the stakeholders and the OIC did not reach agreement last year. Those are the issues addressed in this bill. The stakeholders have worked with the OIC and have an agreement. That agreement is being processed and will be a proposed substitute to the bill. The sellers of portable electronics insurance may offer the product in every state. The goal is to have similar regulatory oversight in every state. Washington had one of the first laws in the country on this subject, but that law became outdated. One key provision in the bill is it recognizes the unique nature of the product. The insurer usually sells the product to a master policyholder, called a vendor. A vendor can sell enrollment on the policy to consumers. A consumer buys from the vendor but has contractual rights with both the vendor and insurer. Both the insurer and vendor are licensed by the OIC. It is similar to a commercial product but it is regulated in this state as a personal lines product. Commercial purchasers, the vendors, are usually more sophisticated purchasers. Because the purchaser is more sophisticated, the regulatory oversight for commercial lines is not as exhaustive as personal lines. It is agreed that rates and forms will still be subject to prior approval by the OIC. The rest of the regulatory structure is modified to make it more uniform with the rest of the country.

(Opposed) None.

Persons Testifying: Representative Kirby, prime sponsor; and Mel Sorensen, Asurion Financial.

Persons Signed In To Testify But Not Testifying: None.