

LEGISLATIVE BILL 306

Approved by the Governor May 10, 2017

Introduced by Lindstrom, 18.

A BILL FOR AN ACT relating to the Portable Electronics Insurance Act; to amend sections 44-8502 and 44-8508, Revised Statutes Cumulative Supplement, 2016; to redefine a term; to change provisions relating to notice requirements; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 44-8502, Revised Statutes Cumulative Supplement, 2016, is amended to read:

44-8502 For purposes of the Portable Electronics Insurance Act:

(1) Customer means a person who purchases portable electronics;

(2) Covered customer means a customer who elects coverage pursuant to a portable electronics insurance policy issued to a vendor of portable electronics;

(3) Director means the Director of Insurance;

(4) Location means any physical location in this state or any web site, call center, or other site or similar location to which Nebraska customers may be directed;

(5) Portable electronics means any nonstationary electronic equipment and its accessories capable of communications or data processing or utility including, but not limited to, a laptop, a tablet, a wearable computer, a personal communications device such as a cellular or mobile telephone, a hand-held smart phone, a media player, an e-reader, a personal digital assistant, devices used for data collection, global positioning, or monitoring, and other devices that may or may not incorporate wireless transmitters and receivers a device that is personal, self-contained, easily carried by an individual, and battery-operated and includes devices used for electronic communication, viewing, listening, recording, computing, or global positioning. Portable electronics does not include telecommunications switching equipment, transmission wires, cellular site transceiver equipment, or other equipment or system used by a telecommunications company to provide telecommunications service to consumers;

(6)(a) Portable electronics insurance means insurance that provides coverage for the repair or replacement of portable electronics and may provide coverage for portable electronics that are lost, stolen, damaged, or inoperable due to mechanical failure or malfunction or suffer other similar causes of loss; and

(b) Portable electronics insurance does not include:

(i) A service contract under the Motor Vehicle Service Contract Reimbursement Insurance Act;

(ii) A service contract or extended warranty providing coverage as described in subdivision (2) of section 44-102.01;

(iii) A policy of insurance providing coverage for a seller's or manufacturer's obligations under a warranty; or

(iv) A homeowner's, renter's, private passenger automobile, commercial multiperil, or other similar policy;

(7) Portable electronics transaction means the sale or lease of portable electronics by a vendor to a customer or the sale of a service related to the use of portable electronics by a vendor to a customer;

(8) Supervising entity means a business entity that is a licensed insurance producer or insurer; and

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

Sec. 2. Section 44-8508, Revised Statutes Cumulative Supplement, 2016, is amended to read:

44-8508 Notwithstanding any other provision of law:

(1) An insurer may terminate or otherwise change the terms and conditions of a policy of portable electronics insurance only upon providing the vendor and enrolled customers with at least thirty ~~sixty~~ days' notice, except that:

(a) An insurer may terminate an enrolled customer's insurance policy upon fifteen days' notice for:

(i) Discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim under such policy; or

(ii) Nonpayment of premium; or

(b) An insurer may immediately terminate an enrolled customer's insurance policy:

(i) If the enrolled customer ceases to have active service with the vendor of portable electronics; or

(ii) If an enrolled customer exhausts the aggregate limit of liability, if any, under the portable electronics insurance policy and the insurer sends notice of termination to the customer within thirty days after exhaustion of the limit. If such notice is not sent within the thirty-day period, the customer shall continue to be enrolled in such insurance policy notwithstanding the aggregate limit of liability until the insurer sends notice of termination

to the customer;

(2) If the insurer changes the terms and conditions, the insurer shall provide the vendor with a revised policy or endorsement and each enrolled customer with a revised certificate, endorsement, updated brochure, or other evidence indicating a change in the terms and conditions has occurred and a summary of the material changes;

(3) If a portable electronics insurance policy is terminated by a vendor, the vendor shall mail or deliver written notice to each enrolled customer at least thirty days prior to the termination advising the customer of such termination and of the effective date of termination; and

(4) If notice is required under this section, it shall be:

(a) In writing and may be mailed or delivered to a vendor at the vendor's mailing address and to an enrolled customer at such customer's last-known mailing address on file with the insurer. The insurer or vendor, as applicable, shall maintain proof of mailing in a form authorized or accepted by the United States Postal Service or a commercial mail delivery service; or

(b) In electronic form. Disclosure of notice in electronic form to the enrolled customer shall be provided within thirty days after the purchase of the portable electronics. If notice is delivered in electronic form, the insurer or vendor, as applicable, shall maintain proof that the notice was sent.

Sec. 3. Original sections 44-8502 and 44-8508, Revised Statutes Cumulative Supplement, 2016, are repealed.