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HOUSE BILL 2457

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State of Washington

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By Representatives Kirby and Bailey

Read first time 01/16/12. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to specialty producer licenses; amending RCW  
2 48.120.005, 48.120.010, 48.120.015, and 48.120.020; and adding a new  
3 section to chapter 48.120 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 48.120.005 and 2008 c 217 s 94 are each amended to  
6 read as follows:

7 The definitions in this section apply throughout this chapter  
8 unless the context clearly requires otherwise.

9 (1) (~~"Communications equipment" means handsets, pagers, personal~~  
10 ~~digital assistants, portable computers, automatic answering devices,~~  
11 ~~batteries, and their accessories or other devices used to originate or~~  
12 ~~receive communications signals or service approved for coverage by rule~~  
13 ~~of the commissioner, and also includes services related to the use of~~  
14 ~~the devices.)) "Portable electronics" means personal, self-contained,  
15 easily carried by an individual, battery-operated electronic  
16 communication, viewing, listening, recording, gaming, computing or  
17 global positioning devices, including cell or satellite phones, pagers,  
18 personal global positioning satellite units, portable computers,  
19 portable audio listening, video viewing or recording devices, digital~~

1 cameras, video camcorders, portable gaming systems, docking stations,  
2 automatic answering devices, and other similar devices and their  
3 accessories, and service related to the use of such devices.

4 (2) "~~((Communications equipment))~~ Portable electronics insurance  
5 program" means an insurance program as described in RCW 48.120.015.

6 (3) ("~~Communications service~~" means the service necessary to send,  
7 receive, or originate communications signals)) "Portable electronics  
8 transaction" means the sale or lease of portable electronics or the  
9 sale of a service related to the use of portable electronics by a  
10 vendor to a customer.

11 (4) "Customer" means a person or entity (~~(purchasing or leasing~~  
12 ~~communications equipment or communications services from)) that enters  
13 into a portable electronics transaction with a vendor.~~

14 (5) "Specialty producer license" means a license issued under RCW  
15 48.120.010 that authorizes a vendor to offer or sell insurance as  
16 provided in RCW 48.120.015.

17 (6) "Supervising (~~agent~~) entity" means a licensed insurer or an  
18 appointed insurance producer licensed under RCW 48.17.090 who provides  
19 training as described in RCW 48.120.020 and is (~~affiliated to a~~  
20 ~~licensed vendor~~) appointed by an insurer to supervise the  
21 administration of a portable electronics insurance program.

22 (7) "Vendor" means a person or entity resident or with offices in  
23 this state in the business of (~~leasing, selling, or providing~~  
24 ~~communications equipment or communications service to customers~~),  
25 directly or indirectly, engaging in portable electronics transactions.

26 (8) "Appointing insurer" means the insurer appointing the vendor as  
27 its agent under a specialty producer license.

28 (9) "Federal securities law" means the securities act of 1933, the  
29 securities exchange act of 1934, and the investment company act of  
30 1940.

31 (10) "Location" means any physical locale in this state and any web  
32 site, call center site, or similar site directed to residents of this  
33 state.

34 **Sec. 2.** RCW 48.120.010 and 2008 c 217 s 95 are each amended to  
35 read as follows:

36 (1) A vendor that intends to offer insurance under RCW 48.120.015  
37 must file a specialty producer license application with the

1 commissioner. Before the commissioner issues such a license, the  
2 vendor must be appointed as the insurance producer of one or more  
3 authorized appointing insurers under a vendor's specialty producer  
4 license.

5 (2) Upon receipt of an application, if the commissioner is  
6 satisfied that the application is complete, the commissioner may issue  
7 a specialty producer license to the vendor.

8 (3) An application submitted under this section must include:

9 (a)(i) The name, residence address, and other information required  
10 by the commissioner for an employee or officer of the vendor that is  
11 designated by the applicant as the person responsible for the vendor's  
12 compliance with the requirements of this chapter.

13 (ii) The information required in (a)(i) of this subsection for all  
14 of the vendor's officers, directors, and shareholders of record having  
15 beneficial ownership of ten percent or more of any class of securities  
16 registered under federal securities law if the vendor derives more than  
17 fifty percent of its revenue from the sale of portable electronics  
18 insurance;

19 (b) The location of the applicant's home office; and

20 (c) The written materials in RCW 48.120.020(1)(a).

21 (4) The written materials in RCW 48.120.020(1)(a) must also be  
22 provided each time that a vendor seeks to renew their license.

23 **Sec. 3.** RCW 48.120.015 and 2002 c 357 s 3 are each amended to read  
24 as follows:

25 (1) A specialty producer license authorizes a vendor and its  
26 employees and authorized representatives to offer and sell to, enroll  
27 in, and bill and collect premiums from customers for insurance covering  
28 ((communications—equipment)) portable electronics on a master,  
29 corporate, or group commercial inland marine policy, or on an  
30 individual policy basis at each location at which the vendor engages in  
31 portable electronics transactions. However:

32 (a) The supervising entity must maintain a registry of a vendor's  
33 locations in this state that are authorized to sell or solicit portable  
34 electronics insurance coverage; and

35 (b) The registry under (a) of this subsection must be provided to  
36 the commissioner within ten days of a request by the commissioner.

1       (2) An employee or authorized representative of a vendor may sell  
2 or offer portable electronics insurance to the vendor's customers  
3 without being individually licensed as an insurance producer if the  
4 vendor is licensed under this chapter and is acting in compliance with  
5 this chapter and any rules adopted by the commissioner.

6       (3) A vendor billing and collecting premiums from customers for  
7 portable electronics insurance coverage is not required to maintain  
8 these funds in a segregated account if the vendor:

9       (a) Is authorized by the insurer to hold the funds in an  
10 alternative manner; and

11       (b) Remits the funds to the supervising entity within sixty days of  
12 receipt.

13       (4) All funds received by a vendor from an enrolled customer for  
14 the sale of portable electronics insurance are considered funds held in  
15 trust by the vendor in a fiduciary capacity for the benefit of the  
16 insurer.

17       (5) Any charge to the enrolled customer for coverage that is not  
18 included in the cost associated with the purchase or lease of portable  
19 electronics or related services must be separately itemized on the  
20 enrolled customer's bill.

21       (6) If portable electronics insurance coverage is included with the  
22 purchase or lease of portable electronics or related services, the  
23 vendor must clearly and conspicuously disclose to the enrolled customer  
24 that the portable electronics insurance coverage is included with the  
25 portable electronics or related services.

26       (7) Vendors may receive compensation for billing and collection  
27 services.

28       **Sec. 4.** RCW 48.120.020 and 2002 c 357 s 4 are each amended to read  
29 as follows:

30       (1) A vendor issued a specialty producer license may not issue  
31 insurance under RCW 48.120.015 unless:

32       (a) At every location where customers are enrolled in  
33 ~~((communications equipment))~~ portable electronics insurance programs,  
34 written material regarding the program is made available to prospective  
35 customers; and

36       (b) The ~~((communications equipment))~~ portable electronics insurance  
37 program is operated with the participation of a supervising ~~((agent))~~

1 entity who, with authorization and approval from the appointing  
2 insurer, supervises a training program for employees of the licensed  
3 vendor.

4 (2) Employees and authorized representatives of a vendor issued a  
5 specialty producer license may only act on behalf of the vendor in the  
6 offer, sale, solicitation, or enrollment of customers in a  
7 (~~communications equipment~~) portable electronics insurance program.  
8 The conduct of these employees and authorized representatives within  
9 the scope of their employment or agency is the same as conduct of the  
10 vendor for purposes of this title.

11 NEW SECTION. Sec. 5. A new section is added to chapter 48.120 RCW  
12 to read as follows:

13 (1) The cancellation provisions in RCW 48.18.290 and the nonrenewal  
14 provisions in RCW 48.18.2901 do not apply to portable electronics  
15 insurance policies issued under this chapter.

16 (2) An insurer may terminate or otherwise change the terms and  
17 conditions of a policy of portable electronics insurance only:

18 (a) Upon providing the policyholder and enrolled customers with at  
19 least thirty days' notice; or

20 (b) As provided in subsections (4) and (5) of this section.

21 (3) If an insurer changes the terms and conditions, then the  
22 insurer must provide:

23 (a) The vendor policyholder with a revised policy or endorsement;  
24 and

25 (b) Each enrolled customer with:

26 (i) A revised certificate, endorsement, updated brochure, or other  
27 evidence indicating a change in the terms and conditions has occurred;  
28 and

29 (ii) A summary of material changes.

30 (4) An insurer may terminate an enrolled customer's enrollment  
31 under a portable electronics insurance policy upon fifteen days' notice  
32 for discovery of fraud or material misrepresentation in obtaining  
33 coverage or in the presentation of a claim.

34 (5) An insurer may immediately terminate an enrolled customer's  
35 enrollment under a portable electronics insurance policy:

36 (a) For nonpayment of premium;

1 (b) If the enrolled customer ceases to have an active service with  
2 the vendor of portable electronics; or

3 (c) If an enrolled customer exhausts the aggregate limit of  
4 liability, if any, under the terms of the portable electronics  
5 insurance policy and the insurer sends notice of termination to the  
6 enrolled customer within thirty calendar days after exhaustion of the  
7 limit. However, if notice is not timely sent, enrollment continues  
8 notwithstanding the aggregate limit of liability until the insurer  
9 sends notice of termination to the enrolled customer.

10 (6) When a portable electronics insurance policy is terminated by  
11 a policyholder, the policyholder must mail or deliver written notice to  
12 each enrolled customer advising the enrolled customer of the  
13 termination of the policy and the effective date of termination. The  
14 written notice must be mailed or delivered to the enrolled customer at  
15 least thirty days prior to the termination.

16 (7) Any notice or correspondence with respect to a policy of  
17 portable electronics insurance required under this section or otherwise  
18 required by law must be in writing. A notice and correspondence may be  
19 sent either by mail or by electronic means. If the notice or  
20 correspondence is mailed, it must be sent to the vendor of portable  
21 electronics at the vendor's mailing address specified for that purpose  
22 and to its affected enrolled customers' last known mailing addresses on  
23 file with the insurer.

24 The insurer or vendor of portable electronics, as the case may be,  
25 must maintain proof of mailing in a form authorized or accepted by the  
26 United States postal service or other commercial mail delivery service.  
27 If a notice or correspondence is sent by electronic means, it must be  
28 sent to the vendor of portable electronics at the vendor's electronic  
29 mail address specified for that purpose and to its affected enrolled  
30 customers' last known electronic mail address as provided by each  
31 enrolled customer to the insurer or vendor of portable electronics, as  
32 the case may be.

33 For purposes of this subsection, an enrolled customer's provision  
34 of an electronic mail address to the insurer, supervising entity, or  
35 vendor of portable electronics means that the enrolled customer  
36 consents to receive notices and correspondence by electronic mail. The  
37 insurer or vendor of portable electronics, as the case may be, must  
38 maintain proof that the notice or correspondence was sent.

1           (8) Notice or correspondence required by this section or otherwise  
2 required by law may be sent by the supervising entity appointed by the  
3 insurer on behalf of an insurer or a vendor.

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