

HOUSE _____ **AMENDMENT NO.** _____**Offered By**

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 0132, Section A, Page 1, Line 5, by inserting after all of said section and line the following:

"379.1500. As used in sections 379.1500 to 379.1550, the following terms shall mean:

(1) "Director", the director of the department of insurance, financial institutions and professional registration;

(2) "Insurance company" or "insurer", any person, reciprocal exchange, interinsurer, or any other legal entity licensed and authorized by the director to write inland marine coverage;

(3) "Insurance producer" or "producer", a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance;

(4) "License", the same meaning as such term is defined in section 375.012;

(5) "Location", any physical location in this state or any website, call center site, or similar location directed to residents of this state;

(6) "Person", an individual or business entity;

(7) "Portable electronics", electronic devices that are portable in nature, their accessories, and services related to the use of the device. Portable electronics does not include telecommunication and cellular equipment used by a telecommunication company to provide telecommunication service to consumers;

(8) "Portable electronics insurance", an insurance policy issued by an insurer which may be offered on a month-to-month or other periodic basis as a group or master commercial inland marine policy issued to a vendor of portable electronics under which individual customers may elect to enroll for coverage for the repair or replacement of portable electronics which may cover portable electronics against any one or more of the following causes of loss: loss, theft, mechanical failure, malfunction, damage, or other applicable perils, but does not include:

(a) A service contract governed by sections 385.300 to 385.321;

(b) A policy of insurance covering a seller's or manufacturer's obligations under a warranty; or

(c) A homeowner's, renter's, private passenger automobile, commercial multiperil, similar policy, or endorsement to such policy that covers any portable electronics;

(9) "Portable electronics insurance license", a license to sell or solicit portable electronics insurance;

(10) "Portable electronics transaction", 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

1 to a customer;

2 (11) "Negotiate", the same meaning as such term is defined in section 375.012;

3 (12) "Sell", the same meaning as such term is defined in section 375.012;

4 (13) "Solicit", the same meaning as such term is defined in section 375.012;

5 (14) "Supervising business entity", the insurer or a licensed business entity producer
6 designated by the insurer to supervise the actions of a vendor;

7 (15) "Vendor", a person in the business of engaging in portable electronics transactions
8 directly or indirectly.

9 379.1505. 1. No vendor shall sell or solicit portable electronics insurance coverage in this
10 state unless such vendor has obtained a portable electronics insurance license.

11 2. A vendor applying for a portable electronics insurance license shall make application to
12 the director on the prescribed form as required. On the prescribed form, the vendor shall be
13 required to provide the name for an employee or officer of the vendor that is designated by the
14 vendor as the person responsible for the vendor's compliance with the requirements of this section
15 and such designated responsible person shall not be required to hold an insurance producer
16 license. Such license shall authorize an employee or authorized representative of a vendor to sell
17 or offer coverage under a policy of portable electronics insurance to a customer at each location at
18 which the vendor engages in a portable electronics transaction.

19 3. Any vendor licensed under sections 379.1500 to 379.1550 shall pay an initial license
20 fee to the director in an amount prescribed by the director by rule, but not to exceed one thousand
21 dollars, and shall pay a renewal fee in an amount prescribed by the director by rule, but not to
22 exceed five hundred dollars. License fees shall be deposited in the insurance dedicated fund.

23 4. Notwithstanding any provision of sections 375.012 to 375.018, a portable electronics
24 insurance license, if not renewed by the director by its expiration date, shall terminate on its
25 expiration date and shall not after such date authorize its holder to sell or solicit any portable
26 electronics insurance under sections 379.1500 to 379.1550.

27 379.1510. 1. A vendor shall have the obligation to ensure that every location that is
28 authorized to sell, solicit, or negotiate portable electronics insurance to customers shall have
29 specific brochures and actual policies or certificates of coverage available to prospective
30 customers which:

31 (1) Disclose that portable electronics insurance may provide a duplication of coverage
32 already provided by a customer's homeowner's, renter's, or other source of coverage, and that the
33 portable electronics insurance coverage is primary over any other collateral coverage;

34 (2) State that the enrollment by the customer in a portable electronics insurance program
35 is not required in order to purchase or lease portable electronics or services;

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

37 (a) The identity of the insurer;

38 (b) The identity of the supervising business entity;

1 (c) The amount of any applicable deductible and how it is to be paid;
2 (d) Benefits of the coverage; and
3 (e) Key terms and conditions of coverage, such as whether portable electronics may be
4 repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts
5 or equipment;
6 (4) Summarize the process for filing a claim, including any requirement to return portable
7 electronics and the maximum fee applicable in the event the customer fails to comply with any
8 equipment return requirements; and
9 (5) State that the customer may cancel enrollment for coverage under a portable
10 electronics insurance policy at any time and receive a refund of any unearned premium on a pro
11 rata basis.
12 2. Eligibility and underwriting standards for customers electing to enroll in coverage shall
13 be established for each portable electronics insurance program. Each insurer shall maintain all
14 eligibility and underwriting records for a period of five years. Portable electronics insurance
15 issued under sections 379.1500 to 379.1550 shall be deemed primary coverage over any other
16 collateral coverage.
17 3. Insurers offering portable electronics insurance coverage through vendors shall appoint
18 a supervising business entity to supervise the administration of the program. The supervising
19 business entity shall be responsible for the development of a training program for employees and
20 authorized representatives of a vendor, and shall include basic instruction about the portable
21 electronics insurance offered to customers and the disclosures required under this section.
22 4. Insurers and applicable supervising business entities offering portable electronics
23 insurance shall share all complaint, grievance, or inquiries regarding any conduct that is specific
24 to a vendor and that may not comply with applicable state laws and regulations.
25 5. A supervising business entity shall maintain a registry of vendor locations which are
26 authorized to sell or solicit portable electronics insurance coverage in this state. Upon request by
27 the director and with ten days' notice to the supervising business entity, the registry shall be open
28 to inspection and examination by the director during regular business hours of the supervising
29 business entity.
30 6. Within thirty days of a supervising business entity terminating a vendor location's
31 appointment to sell or solicit portable electronics insurance, the supervising business entity shall
32 update the registry with the effective date of termination. If a supervising business entity has
33 possession of information relating to any cause for discipline under section 375.141, the
34 supervising business entity shall notify the director of such information in writing. The privileges
35 and immunities applicable to insurers under section 375.022 shall apply to supervising business
36 entities for any information reported under this subsection.
37 7. The supervising business entity shall not charge a fee for adding or removing a vendor
38 location from the registry.

1 8. No employee or authorized representative of a vendor shall advertise, represent, or
2 otherwise hold himself or herself out as an insurance producer, unless such employee or
3 authorized representative is otherwise licensed as an insurance producer.

4 9. The training required in subsection 3 of this section shall be delivered to all employees
5 and authorized representatives of the vendors who are directly engaged in the activity of selling
6 portable electronics insurance in this state. The training may be provided in electronic form.
7 However, if conducted in an electronic form, the supervising business entity shall implement a
8 supplemental education program regarding the portable electronics insurance product that is
9 conducted and overseen by licensed employees of the supervising business entity.

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

23 379.1515. Persons licensed as vendors shall be subject to the provisions of sections
24 375.012 to 375.014, 375.018, 375.031, 375.046, 375.051, 375.052, 375.071, 375.106, 375.116,
25 375.141, and 375.144 of the insurance producers act.

26 379.1520. 1. The director may suspend, revoke, refuse to issue, or refuse to issue any
27 license or renew any license required by the provisions of sections 379.1500 to 379.1550 for any
28 reason listed in section 375.141 or for any one or more of the following causes:

29 (1) Use of any advertisement or solicitation that is false, misleading, or deceptive to the
30 general public or persons to whom the advertisement or solicitation is primarily directed;

31 (2) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by
32 fraud, deception, or misrepresentation;

33 (3) Violation of any professional trust or confidence.

34 2. The director may impose other penalties that the director deems necessary and
35 reasonable to carry out the purposes of sections 379.1500 to 379.1550, including:

36 (1) Suspending the privilege of transacting portable electronics insurance under sections
37 379.1500 to 379.1550 at specific locations where violations have occurred; and

38 (2) Suspending or revoking the ability of individual employees or authorized

1 representatives to act under the license.

2 379.1525. Vendors shall be subject to the investigation and examination provisions of
3 section 374.190.

4 379.1530. Premiums received by a vendor or supervising business entity shall be deemed
5 received by the insurer. Insurers may require consumers to provide proof of purchase.

6 379.1535. If the director determines that a person has engaged, is engaging in, or has
7 taken a substantial step toward engaging in an act, practice, or course of business constituting a
8 violation of sections 379.1500 to 379.1550 or rule adopted or order issued thereunder, or that a
9 person has materially aided or is materially aiding an act, practice, omission, or course of business
10 constituting a violation of sections 379.1500 to 379.1550, or a rule adopted or order issued
11 thereunder, the director may:

12 (1) Issue such administrative orders as authorized under section 374.046; or

13 (2) Maintain a civil action for relief authorized under section 374.048.

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15 A violation of sections 379.1500 to 379.1550 or rule adopted or order issued thereunder is a level
16 two violation under section 374.049.

17 379.1540. The license of a supervising business entity may be suspended, revoked,
18 renewal refused, or an application refused if the director finds that a violation by a portable
19 electronics insurance vendor was known or should have been known by the supervising business
20 entity and the violation was neither reported to the director nor correction action taken. A
21 violation of this section is a level three violation under section 374.049.

22 379.1545. Notwithstanding any other provision of law:

23 (1) An insurer may terminate or otherwise change the terms and conditions of a policy of
24 portable electronics insurance only upon providing the policyholder and enrolled customers with
25 at least thirty days' notice;

26 (2) If the insurer changes the terms and conditions of a policy of portable electronics
27 insurance, the insurer shall provide the vendor and any policyholders with a revised policy or
28 endorsement and each enrolled customer with a revised certificate, endorsement, updated
29 brochure, or other evidence indicating a change in the terms and conditions has occurred and a
30 summary of material changes;

31 (3) Notwithstanding subdivision (1) of this section, an insurer may terminate an enrolled
32 customer's enrollment under a portable electronics insurance policy upon fifteen days' notice for
33 discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a
34 claim thereunder;

35 (4) Notwithstanding subdivision (1) of this section, an insurer may immediately terminate
36 an enrolled customer's enrollment under a portable electronics insurance policy:

37 (a) For nonpayment of premium;

38 (b) If the enrolled customer ceases to have an active service with the vendor of portable

1 electronics; or

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

7 (5) Where a portable electronics insurance policy is terminated by a policyholder, the
8 policyholder shall mail or deliver written notice to each enrolled customer advising the customer
9 of the termination of the policy and the effective date of termination. The written notice shall be
10 mailed or delivered to the customer at least thirty days prior to the termination;

11 (6) Whenever notice is required under this section, it shall be in writing and may be
12 mailed or delivered to the vendor at the vendor's mailing address and to its affected enrolled
13 customers' last known mailing addresses on file with the insurer. If notice is mailed, the insurer or
14 vendor, as the case may be, shall maintain proof of mailing in a form authorized or accepted by
15 the U.S. Postal Service or other commercial mail delivery service. Alternatively, an insurer or
16 vendor policyholder may comply with any notice required by this section by providing electronic
17 notice to a vendor or its affected enrolled customers, as the case may be, by electronic means.
18 Additionally, if an insurer or vendor policyholder provides electronic notice to an affected
19 enrolled customer and such delivery by electronic means is not available or is undeliverable, the
20 insurer or vendor policyholder shall provide written notice to the enrolled customer by mail in
21 accordance with this section. If notice is accomplished through electronic means, the insurer or
22 vendor of portable electronics, as the case may be, shall maintain proof that the notice was sent.

23 379.1550. 1. The director may promulgate rules to implement the provisions of sections
24 379.1500 to 379.1550. Any rule or portion of a rule, as that term is defined in section 536.010,
25 that is created under the authority delegated in sections 379.1500 to 379.1550 shall become
26 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
27 applicable, section 536.028. Sections 379.1500 to 379.1550 and chapter 536 are nonseverable
28 and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to
29 delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional,
30 then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011,
31 shall be invalid and void.

32 2. The provisions of sections 379.1500 to 379.1550 shall become effective January 1,
33 2012.”; and

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35 Further amend said bill by amending the title, enacting clause, and intersectional references
36 accordingly.