

SENATE BILL NO. 52

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY SENATOR COGHILL

Introduced: 2/13/13

Referred: Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 **"An Act providing that portable electronics insurance is not a service contract; defining**
2 **portable electronics insurance; authorizing the director of insurance to issue a limited**
3 **producer license to a portable electronics vendor for the sale of portable electronics**
4 **insurance; and authorizing the employees and representatives of a vendor to transact**
5 **portable electronics insurance."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 *** Section 1.** AS 21.03.021(e) is amended to read:

8 (e) This title does not apply to a service contract offered, issued for delivery,
9 delivered, or renewed in this state. In this subsection, "service contract"

10 (1) means a service contract or agreement for a separate or additional
11 consideration, for a specific duration, to

12 (A) maintain, service, repair, or replace tangible personal
13 property, or to indemnify for repair, replacement, or maintenance, for an

1 operational or structural failure due to a defect in materials or workmanship or
 2 normal wear and tear, with or without additional provision for incidental
 3 indemnity payments when service, repair, or replacement is not reasonably or
 4 commercially feasible;

5 (B) repair, replace, or maintain tangible personal property
 6 damaged as a result of power surges or as a result of accidental damage from
 7 the handling of property damaged by power surges; or

8 (C) repair, replace, or maintain household consumer goods,
 9 household appliances, and household systems, including damage resulting
 10 from operational or structural failure due to a defect in materials or
 11 workmanship or normal wear and tear;

12 (2) does not include

13 (A) mechanical breakdown insurance;

14 (B) a contract that requires an indemnity payment per incident
 15 and the payment exceeds the purchase price of the property serviced;

16 (C) a contract to provide service on a motor vehicle subject to
 17 registration under AS 28.10.011; [OR]

18 (D) a home warranty; in this subparagraph, "home warranty"
 19 means a warranty that covers the entire home and does not include a warranty
 20 limited to a household system or appliance; or

21 (E) portable electronics insurance as defined in AS

22 21.36.515.

23 * **Sec. 2.** AS 21.27.060(d) is amended to read:

24 (d) This section does not apply to an applicant

25 (1) for a limited license under AS 21.27.150(a)(1), (4), [OR] (5), or

26 (8); or

27 (2) who, at any time within the one-year period immediately preceding
 28 the date the current pending application is received by the division, had been licensed
 29 in good standing in this state under a license requiring substantially similar
 30 qualifications as required by the license applied for.

31 * **Sec. 3.** AS 21.27.150(a) is amended to read:

1 (a) The director may issue a

2 (1) travel insurance limited producer license to a person who is
3 appointed under AS 21.27.100 and who sells insurance connected with transportation
4 provided by a common carrier, and limited to a specific trip, that covers

5 (A) trip cancellation;

6 (B) trip interruption; or

7 (C) life, health, disability, or personal effects;

8 (2) title insurance limited producer license to a person whose place of
9 business is located in this state and whose sole purpose is to be appointed by and act
10 on behalf of a title insurer;

11 (3) bail bond limited producer license to a person who is appointed by
12 and acts on behalf of a surety insurer pertaining to bail bonds;

13 (4) motor vehicle rental agency limited producer license to a person
14 and, subject to the approval of the director, to employees of the person licensed that
15 the licensee authorizes to transact the business of insurance on the licensee's behalf if,
16 as to an employee, the licensee complies with (D) of this paragraph and if the licensee

17 (A) rents to others, without operators,

18 (i) private passenger motor vehicles, including
19 passenger vans, minivans, and sport utility vehicles; or

20 (ii) cargo motor vehicles, including cargo vans, pickup
21 trucks, and trucks with a gross vehicle weight of less than 26,000
22 pounds that do not require the operator to possess a commercial driver's
23 license;

24 (B) rents motor vehicles only to persons under rental
25 agreements that do not exceed a term of 90 days;

26 (C) transacts only the following kinds of insurance:

27 (i) motor vehicle liability insurance with respect to
28 liability arising out of the use of a vehicle rented from the licensee
29 during the term of the rental agreement;

30 (ii) uninsured or underinsured motorist coverage, with
31 minimum limits described in AS 21.96.020(c) and (d) arising from the

1 use of a vehicle rented from the licensee during the term of the rental
2 agreement;

3 (iii) insurance against medical, hospital, surgical, and
4 disability benefits to an injured person and funeral and death benefits to
5 dependents, beneficiaries, or personal representatives of a deceased
6 person if the insurance is issued as incidental coverage with or
7 supplemental to liability insurance and arises out of the use of a vehicle
8 rented from the licensee during the term of the rental agreement;

9 (iv) personal effects insurance, including loss of use,
10 with respect to damage to or loss of personal property of a person
11 renting the vehicle and other vehicle occupants while that property is
12 being loaded into, transported by, or unloaded from a vehicle rented
13 from the licensee during the term of the rental agreement;

14 (v) towing and roadside assistance with respect to
15 vehicles rented from the licensee during the term of the rental
16 agreement; and

17 (vi) other insurance as may be authorized by regulation
18 by the director;

19 (D) notifies the director in writing, within 30 days of
20 employment, of the name, date of birth, social security number, location of
21 employment, and home address of an employee authorized by the licensee to
22 transact insurance on the licensee's behalf; and

23 (E) provides other information as required by the director;

24 (5) nonresident limited producer license to a person; a license that the
25 director issues under this paragraph grants the same scope of authority as a limited
26 lines producer license issued to the person by the person's home state;

27 (6) credit insurance limited producer license to a person who sells
28 limited lines credit insurance;

29 (7) miscellaneous limited producer license to a person who transacts
30 insurance in this state that restricts the person's authority to less than the total authority
31 for a line of authority described in AS 21.27.115(1) - (6), (8), and (9);

1 **(8) portable electronics limited producer license to a vendor that**
2 **sells or offers portable electronics insurance as defined in AS 21.36.515; the**
3 **following provisions apply to a license issued under this paragraph:**

4 **(A) a vendor shall file with the director a sworn application**
5 **for a license under this paragraph on a form prescribed and furnished by**
6 **the director; the vendor shall provide the name, residence address,**
7 **location of the vendor's home office, and other information required by**
8 **the director for an employee or officer that is designated by the vendor as**
9 **the person responsible for the vendor's compliance with the requirements**
10 **of this chapter; however, if the vendor derives more than 50 percent of its**
11 **revenue from the sale of portable electronics insurance, the vendor shall**
12 **provide the information required under this subparagraph for all officers,**
13 **directors, and shareholders of record having beneficial ownership of 10**
14 **percent or more of any class of securities registered under the federal**
15 **securities law;**

16 **(B) a portable electronics limited producer license issued**
17 **under this paragraph must authorize the employees or authorized**
18 **representatives of a vendor to transact portable electronics insurance at**
19 **each location at which a vendor offers portable electronics to customers in**
20 **this state; and**

21 **(C) the employees or authorized representatives of the**
22 **vendor may transact portable electronics insurance and are not required**
23 **to obtain a limited producer license if**

24 **(i) the employees or authorized representatives are**
25 **not compensated based primarily on the number of customers**
26 **enrolled for coverage; however, an employee or authorized**
27 **representative may receive compensation for activities under the**
28 **license that is incidental to the employee's or authorized**
29 **representative's overall compensation;**

30 **(ii) the insurer issuing the portable electronics**
31 **insurance provides a training program for employees and**

1 authorized representatives of the portable electronics limited
 2 producer licensee that includes instruction about the portable
 3 electronics insurance offered to customers and the disclosures
 4 required under AS 21.36.515;

5 (iii) the vendor maintains a register of each location
 6 in the state where it offers portable electronics insurance and
 7 submits the register to the director within 30 days after the director
 8 requests the register.

9 * **Sec. 4.** AS 21.36 is amended by adding a new section to article 5 to read:

10 **Sec. 21.36.515. Portable electronics insurance.** (a) Portable electronics
 11 insurance may be offered, issued for delivery, issued, or renewed only if the insurer
 12 makes available to customers written material stating

13 (1) a summary of the material terms of the insurance, including

14 (A) the identity of the insurer;

15 (B) the identity of the vendor offering or selling the portable
 16 electronics insurance;

17 (C) the amount of the premium for coverage to be paid by the
 18 customer;

19 (D) the period for which coverage is effective;

20 (E) deductible amounts, and how the deductible is to be paid;

21 (F) the benefits of the coverage;

22 (G) the process for filing a claim;

23 (H) requirements for returning a device to the vendor or
 24 insurer, including related costs;

25 (I) proof-of-loss requirements;

26 (2) whether the portable electronic device may be repaired or replaced
 27 by the insurer in response to a claim;

28 (3) whether similar make and model reconditioned devices or
 29 nonoriginal manufacturer parts and equipment may be used by the insurer in response
 30 to a claim;

31 (4) that the insurance offered may duplicate coverage in a

1 homeowner's, renter's, or other similar insurance policy;

2 (5) that the customer is not obligated to purchase insurance to
3 purchase, lease, or service a portable electronic device; and

4 (6) that the customer may cancel the insurance policy at any time and
5 receive a refund based on a proration of the premium amount paid by the customer for
6 the period specified in the policy and the time that the policy was effective.

7 (b) The written materials required by this section are not subject to the
8 requirements of AS 21.42.120.

9 (c) Portable electronics insurance may be offered on a month-to-month or
10 other periodic basis as a group or master policy issued to a vendor under which an
11 individual customer may elect to enroll for coverage. The insurer offering coverage
12 under a group or master policy shall establish eligibility and underwriting standards
13 for customers electing to enroll in coverage for each portable electronics insurance
14 program.

15 (d) Portable electronics insurance may be offered as commercial inland marine
16 insurance.

17 (e) A premium for portable electronics insurance may be billed and collected
18 by the vendor of portable electronics. A charge to the customer for coverage that is not
19 included in the cost associated with the purchase or lease of portable electronics or
20 related services must be itemized separately from the charges for the purchase, lease,
21 or service of a portable electronic device. If the coverage is included with the purchase
22 or lease of portable electronics or related services, the vendor shall clearly and
23 conspicuously disclose to the consumer that the coverage is included with the portable
24 electronics or related services. Vendors collecting premiums for portable electronics
25 insurance are not required to maintain premiums in a segregated account if the vendor
26 is authorized by the producer or insurer to hold premiums in an alternative manner and
27 pays the premiums to the insurer within 60 days after receipt. Premiums received by a
28 vendor from a customer purchasing portable electronics insurance shall be held in a
29 fiduciary capacity for the benefit of the insurer. A vendor may receive compensation
30 for billing and collection services.

31 (f) A portable electronics insurance policy may be changed or terminated as

1 follows:

2 (1) an insurer may change the terms and conditions of the policy; the
3 insurer shall provide the vendor and enrolled customers with at least 30 days' notice
4 and shall provide the vendor with a revised policy or endorsement and each enrolled
5 customer with a revised certificate, endorsement, updated brochure, or other evidence
6 indicating that a change in the terms and conditions has occurred and a summary of
7 material changes;

8 (2) an insurer may, upon 15 days' notice, terminate an enrolled
9 customer's enrollment under a portable electronics insurance policy for fraud or
10 material misrepresentation in obtaining coverage or in the presentation of a claim
11 under the terms of the policy;

12 (3) an insurer may, without prior notice, immediately terminate an
13 enrolled customer's enrollment under a portable electronics insurance policy

14 (A) for nonpayment of premium;

15 (B) if the enrolled customer ceases to have a current contract to
16 provide service for the operation of a portable electronic device with the
17 vendor; or

18 (C) if an enrolled customer exhausts the aggregate limit of
19 liability, if any, under the terms of the portable electronics insurance policy
20 and the insurer sends notice of termination to the enrolled customer within 30
21 calendar days after exhaustion of the limit; however, if notice is not sent within
22 30 calendar days, enrollment shall continue, notwithstanding the exhaustion of
23 the aggregate limit of liability, until the insurer sends notice of termination to
24 the enrolled customer.

25 (4) if a portable electronics insurance policy is terminated by a vendor,
26 the vendor shall mail or deliver written notice to each enrolled customer advising the
27 enrolled customer of the termination of the policy and the effective date of
28 termination; the written notice shall be mailed or delivered to the enrolled customer at
29 least 30 days before the termination.

30 (5) if notice or correspondence with respect to a policy of portable
31 electronics insurance is required under this section or is otherwise required by law, the

1 notice or correspondence must be in writing; notices and correspondence may be sent
2 either by mail or by electronic means as follows:

3 (A) if the notice or correspondence is mailed, it shall be sent to
4 the vendor of portable electronics at the vendor's mailing address specified for
5 that purpose and to the vendor's affected enrolled customers' last known
6 mailing addresses on file with the insurer; the insurer or vendor of portable
7 electronics shall maintain proof of mailing in a form authorized or accepted by
8 the United States Postal Service or other commercial mail delivery service;

9 (B) if the notice or correspondence is sent by electronic means,
10 it shall be sent to the vendor of portable electronics at the vendor's electronic
11 mail address specified for that purpose and to the vendor's affected enrolled
12 customers' last known electronic mail addresses as provided by each enrolled
13 customer to the insurer or vendor of portable electronics; for purposes of this
14 subparagraph, an enrolled customer's provision of an electronic mail address to
15 the insurer or vendor of portable electronics shall be considered consent to
16 receive notices and correspondence electronically; the insurer or vendor of
17 portable electronics shall maintain proof that the notice or correspondence was
18 sent.

19 (6) Notice or correspondence required by this section or otherwise
20 required by law may be sent on behalf of an insurer or vendor by a producer appointed
21 by the insurer.

22 (g) In this section,

23 (1) "portable electronics insurance"

24 (A) means insurance offered, issued for delivery, delivered, or
25 renewed by a vendor engaged in the business of selling, leasing, or servicing
26 portable electronic devices to cover the loss, theft, mechanical failure,
27 malfunction, damage, repair, or replacement of a small electronic device,
28 including a cell phone, laptop computer, GPS device, radio, portable music
29 player, or associated accessory;

30 (B) does not include

31 (i) a service contract governed by AS 21.03.021(e);

1 (ii) a policy of insurance covering a seller's or a
2 manufacturer's obligations under a warranty; or

3 (iii) a homeowner's, renter's, private passenger
4 automobile, commercial multiperil, or similar policy that covers loss or
5 theft of portable electronics;

6 (2) "vendor" means a business entity in the business of selling or
7 leasing portable electronics and related services and accessories.