

SB0792/107070/1

BY: Finance Committee

AMENDMENTS TO SENATE BILL 792
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, strike “prohibiting the issuance of portable electronics insurance unless” and substitute “establishing a limited lines license to sell coverage under a policy of portable electronics insurance subject to the jurisdiction of the Maryland Insurance Commissioner; providing that the limited lines license authorizes certain employees and authorized representatives of a vendor of portable electronics to sell certain portable electronics insurance under certain circumstances; deeming the acts of certain employees and authorized representatives to be the acts of the vendor for certain purposes; providing for the billing, collection, and maintenance of certain premiums by certain persons; establishing certain limitations on the compensation of certain employees and authorized representatives who sell portable electronics insurance on behalf of a vendor; providing for the issuance and renewal of a limited lines license to sell coverage under a policy of portable electronics insurance subject to certain requirements and procedures; providing for the scope of authority of the limited lines license; requiring the prior filing and approval of certain portable electronics insurance policies; requiring a vendor to hold certain appointments from certain authorized insurers; requiring”; in line 5, strike “materials are available” and substitute “disclosures to be provided”; in line 6, strike “materials” and substitute “disclosures”; in line 7, strike “disclosure” and substitute “statement”; in line 8, strike “enrollment in” and substitute “purchase of”; strike beginning with “a certain” in line 9 down through “coverage,” in line 10; strike beginning with “authorizing” in line 11 down through “purposes;” in line 17 and substitute “providing that coverage under a policy of portable electronics insurance is primary to certain other coverage; authorizing the Commissioner to suspend, revoke, or refuse to renew a limited lines license under certain circumstances; prohibiting a vendor and the employees and authorized representatives of the vendor from advertising, representing, or otherwise holding themselves out as a certain insurer or insurance producer; authorizing the”

(Over)

Commissioner to adopt certain regulations;; strike beginning with “authorizing” in line 18 down through “manner;” in line 19; in line 20, strike “Maryland Insurance”; and in line 21, after “violations;” insert “authorizing the issuance of portable electronics insurance on a month-to-month or other periodic basis as a certain commercial inland marine policy; requiring the establishment of certain eligibility and underwriting standards;”.

On page 2, in line 2, after “terms;” insert “providing for a delayed effective date;”; in line 6, after “Section” insert “10-701 through 10-708 to be under the new subtitle “Subtitle 7. Portable Electronics Vendors;”; and”; and in the same line, strike “19-904” and substitute “19-903”.

AMENDMENT NO. 2

On page 2, in line 13, strike “**9.**” and substitute “**7.**”; in the same line, strike “**INSURANCE**” and substitute “**VENDORS**”; in line 14, strike “**19-901.**” and substitute “**10-701.**”; in line 18, strike “**ENROLL IN**” and substitute “**PURCHASE**”; in line 20, after “**PURCHASES**” insert “**OR LEASES**”; in line 21, after “**ELECTRONICS**” insert “**OR PURCHASES SERVICE RELATED TO THE USE OF PORTABLE ELECTRONICS**”; in line 22, after “**MEANS**” insert a colon; and strike beginning with “**ELECTRONIC**” in line 22 down through “**DEVICES**” in line 28 and substitute:

(I) HANDSETS, PAGERS, PERSONAL DIGITAL ASSISTANTS, PORTABLE COMPUTERS, CELLULAR TELEPHONES, BATTERIES, AND OTHER DEVICES OR ACCESSORIES USED TO ORIGINATE OR RECEIVE COMMUNICATIONS SIGNALS OR SERVICES; AND

(II) ANY OTHER ELECTRONIC DEVICE THAT IS PORTABLE IN NATURE THAT THE COMMISSIONER APPROVES.

(2) “PORTABLE ELECTRONICS” DOES NOT INCLUDE TELECOMMUNICATIONS SWITCHING EQUIPMENT, TRANSMISSION WIRES, CELL

SITE TRANSCEIVER EQUIPMENT, OR OTHER EQUIPMENT AND SYSTEMS USED BY TELECOMMUNICATIONS COMPANIES TO PROVIDE TELECOMMUNICATIONS SERVICE TO CONSUMERS".

On page 3, in line 1, after "LOSS" insert "BY DISAPPEARANCE"; in line 6, after "PERIL" insert ", AS APPROVED BY THE COMMISSIONER"; in line 7, after "INCLUDE" insert ":

(I);

and in line 9, after "ARTICLE" insert "THAT DOES NOT INCLUDE COVERAGE FOR LOSS BY DISAPPEARANCE OR THEFT;

(II) A POLICY OF INSURANCE COVERING A SELLER'S OR A MANUFACTURER'S OBLIGATIONS UNDER A WARRANTY; OR

(III) A HOMEOWNER'S, RENTER'S, PRIVATE PASSENGER AUTOMOBILE, OR SIMILAR POLICY THAT COVERS LOSS OR THEFT OF PORTABLE ELECTRONICS".

strike lines 10 and 11 in their entirety and substitute:

"(F) "PORTABLE ELECTRONICS TRANSACTION" MEANS:

(1) THE SALE OR LEASE OF PORTABLE ELECTRONICS BY A VENDOR TO A CUSTOMER; OR

(2) THE SALE OF SERVICE RELATED TO THE USE OF PORTABLE ELECTRONICS BY A VENDOR TO A CUSTOMER.";

(Over)

in line 13, after “ELECTRONICS” insert “, OR SELLING OR PROVIDING SERVICE RELATED TO THE USE OF PORTABLE ELECTRONICS,”; after line 14, insert:

“10-702.

THIS SUBTITLE DOES NOT APPLY TO:

(1) A SERVICE CONTRACT GOVERNED BY TITLE 14, SUBTITLE 4 OF THE COMMERCIAL LAW ARTICLE THAT DOES NOT INCLUDE COVERAGE FOR LOSS BY DISAPPEARANCE OR THEFT;

(2) A POLICY OF INSURANCE COVERING A SELLER’S OR A MANUFACTURER’S OBLIGATIONS UNDER A WARRANTY; OR

(3) A HOMEOWNER’S, RENTER’S, PRIVATE PASSENGER AUTOMOBILE, OR SIMILAR POLICY THAT COVERS LOSS OR THEFT OF PORTABLE ELECTRONICS.”;

and strike in their entirety lines 15 through 19, inclusive, and substitute:

“10-703.

(A) A VENDOR SHALL HOLD A LIMITED LINES LICENSE TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE IN CONNECTION WITH, AND INCIDENTAL TO, A PORTABLE ELECTRONICS TRANSACTION WITH A CUSTOMER BEFORE THE VENDOR OR THE EMPLOYEES OF OR AUTHORIZED REPRESENTATIVES OF THE VENDOR MAY SELL OR OFFER TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO A CUSTOMER.

(B) A LIMITED LINES LICENSE ISSUED UNDER THIS SUBTITLE SHALL ALSO AUTHORIZE ANY SALARIED OR HOURLY EMPLOYEE OR AUTHORIZED REPRESENTATIVE OF THE VENDOR TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO A CUSTOMER IN CONNECTION WITH, AND INCIDENTAL TO, A PORTABLE ELECTRONICS TRANSACTION ONLY IF THE EMPLOYEE OR AUTHORIZED REPRESENTATIVE IS:

(1) TRAINED UNDER § 10-705 OF THIS SUBTITLE TO ACT ON BEHALF OF THE VENDOR; AND

(2) ACTING UNDER THE SUPERVISION OF THE VENDOR.

(C) THE ACTS OF AN EMPLOYEE OR AUTHORIZED REPRESENTATIVE OFFERING TO SELL OR SELLING COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE SHALL BE DEEMED THE ACTS OF THE VENDOR FOR THE PURPOSES OF THIS SUBTITLE.

(D) (1) A VENDOR MAY BILL AND COLLECT PREMIUMS FROM COVERED CUSTOMERS FOR COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE.

(2) A VENDOR THAT BILLS AND COLLECTS PREMIUMS UNDER THIS SECTION IS NOT REQUIRED TO MAINTAIN THE PREMIUMS COLLECTED IN A SEGREGATED ACCOUNT IF:

(1) THE VENDOR'S APPOINTING INSURER AGREES IN WRITING THAT SEGREGATION OF FUNDS IS NOT REQUIRED; AND

(Over)

(II) THE VENDOR REMITS THE FUNDS COLLECTED TO THE APPOINTING INSURER OR THAT INSURER'S APPOINTED INSURANCE PRODUCER WITHIN 60 DAYS AFTER RECEIPT.

(3) THE PREMIUMS FOR COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE SHALL BE SEPARATELY ITEMIZED FROM THE CHARGES FOR THE PURCHASE OR LEASE OF THE PORTABLE ELECTRONICS.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A VENDOR AND THE EMPLOYEES OR AUTHORIZED REPRESENTATIVES OF THE VENDOR MAY NOT RECEIVE COMPENSATION FOR THE SALE OF COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE.

(2) A VENDOR MAY RECEIVE COMPENSATION FOR BILLING AND COLLECTION SERVICES UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE.

(3) NOTHING IN THIS SUBSECTION SHALL AFFECT THE ABILITY OF A VENDOR OR AN AUTHORIZED REPRESENTATIVE OF THE VENDOR TO COMPENSATE THE EMPLOYEES OF THE VENDOR OR OF THE AUTHORIZED REPRESENTATIVE IN A MANNER THAT DOES NOT DEPEND ON THE SALE OF PORTABLE ELECTRONICS INSURANCE.

10-704.

(A) THE COMMISSIONER SHALL ISSUE TO A VENDOR A LIMITED LINES LICENSE AUTHORIZING THE VENDOR TO SELL OR OFFER TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO A CUSTOMER IN

CONNECTION WITH, AND INCIDENTAL TO, A PORTABLE ELECTRONICS TRANSACTION IF THE VENDOR:

(1) MEETS THE REQUIREMENTS OF § 10-705 OF THIS SUBTITLE;

(2) PAYS THE FEES FOR INSURANCE PRODUCERS REQUIRED UNDER § 2-112 OF THIS ARTICLE THAT ARE APPLICABLE TO AN INSURANCE PRODUCER LICENSE; AND

(3) SUBMITS TO THE COMMISSIONER ANY ADDITIONAL INFORMATION OR DOCUMENTATION THAT THE COMMISSIONER REQUIRES, INCLUDING ANY INFORMATION OR DOCUMENTATION NEEDED TO DETERMINE THE PROFESSIONAL COMPETENCE, GOOD CHARACTER, AND TRUSTWORTHINESS OF THE VENDOR.

(B) A LIMITED LINES LICENSE UNDER THIS SUBTITLE IS SUBJECT TO THE SAME TERM AND RENEWAL CONDITIONS THAT ARE SPECIFIED FOR AN INSURANCE PRODUCER LICENSE UNDER § 10-115 OF THIS TITLE.

10-705.

(A) A LIMITED LINES LICENSE TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO A CUSTOMER ISSUED UNDER THIS SUBTITLE AUTHORIZES A VENDOR OR AN AUTHORIZED REPRESENTATIVE OF THE VENDOR TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO CUSTOMERS IN CONNECTION WITH, AND INCIDENTAL TO, A PORTABLE ELECTRONICS TRANSACTION AT EACH LOCATION AT WHICH THE VENDOR ENGAGES IN PORTABLE ELECTRONICS TRANSACTIONS IN THE STATE IF:

(Over)

(1) THE PORTABLE ELECTRONICS INSURANCE POLICIES HAVE BEEN FILED WITH AND APPROVED BY THE COMMISSIONER;

(2) THE VENDOR HOLDS AN APPOINTMENT UNDER § 10-118 OF THIS TITLE WITH EACH AUTHORIZED INSURER THAT THE VENDOR INTENDS TO REPRESENT;

(3) AT EACH LOCATION WHERE COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE IS OFFERED OR SOLD TO CUSTOMERS, THE VENDOR PROVIDES TO THE CUSTOMERS DISCLOSURES APPROVED BY THE COMMISSIONER THAT:

AMENDMENT NO. 3

On page 3, in line 20, strike “(1)” and substitute “(I)”; in the same line, strike “, CLEARLY AND CORRECTLY,”; in lines 23, 25, 26, and 27, strike “(I)”, “(III)”, “(IV)”, and “(V)”, respectively, and substitute “1.”, “2.”, “3.”, and “4.”, respectively; strike line 24 in its entirety; and in line 27, before “THE” insert “**THE MAJOR FEATURES OF**”.

On page 4, in line 1, strike “(VI)” and substitute “**5. THE MAJOR FEATURES OF**”; in line 3, after “WITH” insert “**SIMILAR MAKE AND MODEL**”; in line 5, strike “(2)” and substitute “(II) 1.”; in the same line, strike “DISCLOSE” and substitute “**STATE**”; in line 8, after “COVERAGE;” insert “**AND**”

2. STATE THAT THE PURCHASE OF COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE WOULD MAKE THIS COVERAGE PRIMARY TO ANY OTHER COVERAGE, INCLUDING DUPLICATE COVERAGE;

strike in their entirety lines 9 through 11, inclusive, and substitute:

“(III) STATE THAT THE PURCHASE OF COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE IS NOT REQUIRED IN ORDER TO ENTER INTO THE PORTABLE ELECTRONICS TRANSACTION;”;

in line 12, strike “(4)” and substitute “(IV)”; in line 13, strike “ENROLL IN” and substitute “PURCHASE”; in lines 15, 16, 18, and 20, strike “(I)”, “(II)”, “(III)”, and “(IV)”, respectively, and substitute “1.”, “2.”, “3.”, and “4.”, respectively; strike in their entirety lines 21 through 27, inclusive; in line 28, strike “(7)” and substitute “(V)”; in line 29, strike “(I)” and substitute “1.”; and in the same line, after “CANCEL” insert “COVERAGE UNDER”.

On page 5, in line 1, strike “(II)” and substitute “2.”; in the same line, after “CANCELS” insert “COVERAGE UNDER”; in line 3, after “LAW” insert “; AND”

(VI) PROVIDE THE TOLL-FREE CONSUMER HOTLINE TELEPHONE NUMBER OF THE ADMINISTRATION; AND

(4) (I) THE VENDOR PROVIDES A TRAINING PROGRAM, APPROVED BY THE COMMISSIONER, FOR ANY EMPLOYEE OR AUTHORIZED REPRESENTATIVE WHO SELLS COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO CUSTOMERS UNDER THIS SUBTITLE THAT INCLUDES INSTRUCTION:

1. ABOUT THE PORTABLE ELECTRONICS INSURANCE OFFERED TO CUSTOMERS OF THE VENDOR;

2. THAT THE EMPLOYEE OR AUTHORIZED REPRESENTATIVE MAY NOT REPRESENT OR IMPLY TO A CUSTOMER THAT PURCHASE OF COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE IS REQUIRED IN ORDER TO PURCHASE PORTABLE ELECTRONICS;

(Over)

3. THAT PORTABLE ELECTRONICS INSURANCE MAY DUPLICATE INSURANCE COVERAGE ALREADY PROVIDED BY A CUSTOMER'S HOMEOWNER'S INSURANCE POLICY, RENTER'S INSURANCE POLICY, OR OTHER SOURCE OF INSURANCE COVERAGE; AND

4. ABOUT THE OTHER DISCLOSURES REQUIRED BY ITEM (3) OF THIS SUBSECTION.

(B) THE TRAINING REQUIRED UNDER SUBSECTION (A)(4) OF THIS SECTION MAY BE PROVIDED IN ELECTRONIC FORM";

strike in their entirety lines 4 through 28, inclusive, and substitute:

10-706.

COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE SOLD IN CONNECTION WITH A PORTABLE ELECTRONICS TRANSACTION UNDER THIS SUBTITLE IS PRIMARY TO ANY OTHER VALID AND COLLECTIBLE COVERAGE.

10-707.

(A) THE COMMISSIONER MAY SUSPEND, REVOKE, OR REFUSE TO RENEW A LIMITED LINES LICENSE ISSUED UNDER THIS SUBTITLE AFTER NOTICE AND OPPORTUNITY FOR A HEARING UNDER TITLE 2, SUBTITLE 2 OF THIS ARTICLE IF THE VENDOR OR AN EMPLOYEE OR AUTHORIZED REPRESENTATIVE OF THE VENDOR HAS:

(1) WILLFULLY VIOLATED THIS ARTICLE OR ANOTHER LAW OF THE STATE THAT RELATES TO INSURANCE;

(2) OPERATED WITHOUT A LIMITED LINES LICENSE AS REQUIRED UNDER THIS SUBTITLE;

(3) FAILED TO PROVIDE THE DISCLOSURES REQUIRED UNDER § 10-705 OF THIS SUBTITLE;

(4) OFFERED OR SOLD UNAPPROVED INSURANCE PRODUCTS;

(5) FAILED TO HOLD AN APPOINTMENT WITH AN INSURER;

(6) FAILED TO TRAIN EMPLOYEES OR AUTHORIZED REPRESENTATIVES AS REQUIRED UNDER § 10-705 OF THIS SUBTITLE; OR

(7) MISREPRESENTED PERTINENT FACTS OR POLICY PROVISIONS CONCERNING A POLICY OF PORTABLE ELECTRONICS INSURANCE.”;

in line 29, strike “(2) THE” and substitute:

“(B) A VENDOR AND THE”;

in the same line, strike “DO” and substitute “**OF THE VENDOR MAY**”; and strike line 31 in its entirety and substitute “**AN AUTHORIZED INSURER OR AS AN INSURANCE PRODUCER FOR ANY KIND OR SUBDIVISION OF INSURANCE, EXCEPT AS PROVIDED IN THIS SUBTITLE.**”

(C) INSTEAD OF, OR IN ADDITION TO, SUSPENDING OR REVOKING A LIMITED LINES LICENSE ISSUED UNDER THIS SUBTITLE, THE COMMISSIONER MAY:

(1) IMPOSE ON THE VENDOR A PENALTY OF NOT MORE THAN \$2,500 FOR EACH VIOLATION OF THIS SUBTITLE; AND

(2) REQUIRE THAT RESTITUTION BE MADE TO ANY PERSON WHO HAS SUFFERED FINANCIAL INJURY BECAUSE OF A VIOLATION OF THIS SUBTITLE.

10-708.

THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE, INCLUDING REGULATIONS:

(1) CONCERNING THE FORM AND CONTENT OF REQUIRED DISCLOSURES TO CUSTOMERS;

(2) THE TRAINING REQUIREMENTS FOR EMPLOYEES AND AUTHORIZED REPRESENTATIVES OF VENDORS; AND

(3) THE QUALIFICATIONS OF THE INDIVIDUALS WHO PROVIDE TRAINING.”.

AMENDMENT NO. 4

On pages 5 through 7, strike in their entirety the lines beginning with line 32 on page 5 through line 7 on page 7, inclusive, and substitute:

“SUBTITLE 9. PORTABLE ELECTRONICS INSURANCE.

19-901.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "COVERED CUSTOMER" HAS THE MEANING STATED IN § 10-701 OF THIS ARTICLE.

(C) "CUSTOMER" HAS THE MEANING STATED IN § 10-701 OF THIS ARTICLE.

(D) "PORTABLE ELECTRONICS" HAS THE MEANING STATED IN § 10-701 OF THIS ARTICLE.

(E) "PORTABLE ELECTRONICS INSURANCE" HAS THE MEANING STATED IN § 10-701 OF THIS ARTICLE.

(F) "VENDOR" HAS THE MEANING STATED IN § 10-701 OF THIS ARTICLE.

19-902.

(A) PORTABLE ELECTRONICS INSURANCE 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 UNDER WHICH INDIVIDUAL CUSTOMERS MAY ELECT TO PURCHASE COVERAGE UNDER THE POLICY.

(Over)

(B) ELIGIBILITY AND UNDERWRITING STANDARDS FOR CUSTOMERS PURCHASING COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE SHALL BE ESTABLISHED FOR EACH PORTABLE ELECTRONICS INSURANCE POLICY.

19-903.

On page 7, in line 8, strike “**EXCEPT**” and substitute “**NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND EXCEPT**”; in line 13, after “A” insert “**POLICY OF**”; in line 14, strike “**POLICY**”; in line 15, strike “**THEN**”; in line 23, after “**COVERAGE**” insert “**OF A COVERED CUSTOMER**”; in line 24, after “**INSURANCE**” insert “**:**”

(1);

in the same line, strike “**15**” and substitute “**45**”; in line 26, after “**POLICY**” insert “**;**
OR

(2) AFTER 10 DAYS’ NOTICE FOR NONPAYMENT OF PREMIUM;

in line 27, after “**COVERAGE**” insert “**OF A COVERED CUSTOMER**”; and in line 30, strike “**TELECOMMUNICATIONS SERVICE WITH THE VENDOR;**” and substitute “**SERVICE RELATED TO THE USE OF PORTABLE ELECTRONICS WITH THE VENDOR; OR**”.

On page 8, in line 1, after “**IF**” insert “**:**”

1.;

in line 3, strike “**AND**” and substitute “**;****AND**

2.;

strike beginning with the semicolon in line 5 down through “**PREMIUM**” in line 7; in line 10, after “**POLICY**” insert “**OF PORTABLE ELECTRONICS INSURANCE**”; in line 20, strike “**30**” and substitute “**45**”; in lines 27 and 31, in each instance, after “**COVERAGE**” insert “**UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE**”; and in line 34, strike “**MAILED OR DELIVERED**” and substitute “**SENT BY CERTIFICATE OF MAIL**”.

On page 9, in lines 3 and 4, strike “**OR OTHER COMMERCIAL MAIL DELIVERY SERVICE**”; and in line 6, strike “July 1, 2009” and substitute “**January 1, 2010**”.