

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 617  
PROPOSED COMMITTEE SUBSTITUTE H617-PCS70218-RG-14

Short Title: Portable Electronics Insurance Coverage.

(Public)

Sponsors:

Referred to:

April 6, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR THE REGULATION OF PORTABLE ELECTRONICS  
3 INSURANCE.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 58 of the General Statutes is amended by adding a new  
6 Article to read:

7 "Article 44A.

8 "Portable Electronics Insurance.

9 **"§ 58-44A-1. Definitions.**

10 As used in this Article, the following definitions apply:

- 11 (1) Customer. – A person who purchases portable electronics or services.
- 12 (2) Enrolled customer. – A customer who elects coverage under a portable  
13 electronics insurance policy issued to a vendor of portable electronics.
- 14 (3) Location. – Any physical location in the State of North Carolina or any Web  
15 site, call center site, or similar location directed to residents of the State of  
16 North Carolina.
- 17 (4) Portable electronics. – Electronic devices that are portable in nature, their  
18 accessories, and services related to the use of the device.
- 19 (5) Portable electronics insurance. – Insurance providing coverage for the repair  
20 or replacement of portable electronics which may provide coverage for  
21 portable electronics against any one or more of the following causes of loss:  
22 (i) loss, (ii) theft, and (iii) inoperability due to mechanical failure,  
23 malfunction, damage, or other similar causes of loss. The term does not  
24 include the following:
- 25 a. A service contract or extended warranty providing coverage limited  
26 to the repair, replacement, or maintenance of property for the  
27 operational or structural failure of the property due to a defect in  
28 materials, workmanship, accidental damage from handling, power  
29 surges, or normal wear and tear.
- 30 b. A policy of insurance covering a seller's or a manufacturer's  
31 obligations under a warranty.
- 32 c. A homeowner's, renter's, private passenger automobile, commercial  
33 multi-peril, or similar policy.
- 34 (6) Portable electronics transaction. – Either of the following:



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- 1           a.     The sale or lease of portable electronics by a vendor to a customer.  
2           b.     The sale of a service related to the use of portable electronics by a  
3                 vendor to a customer.

4           (7)   Supervising entity. – A business entity that is a licensed insurer or insurance  
5                 producer.

6           (8)   Vendor. – A person in the business of engaging in portable electronics  
7                 transactions directly or indirectly.

8   **"§ 58-44A-5. Licensure of vendors.**

9           (a)   A vendor is required to hold a limited lines license to sell or offer coverage under a  
10                 policy of portable electronics insurance.

11           (b)   A limited lines license issued under this section shall authorize any employee or  
12                 authorized representative of the vendor to sell or offer coverage under a policy of portable  
13                 electronics insurance to a customer at each location at which the vendor engages in portable  
14                 electronics transactions.

15           (c)   Notwithstanding any other provision of law, a license issued pursuant to this section  
16                 shall authorize the licensee and its employees or authorized representatives to engage in those  
17                 activities that are permitted in this section.

18   **"§ 58-44A-10. Requirements for sale of portable electronics insurance.**

19           (a)   At every location where portable electronics insurance is offered to customers,  
20                 brochures or other written materials shall be made available to a prospective customer. Those  
21                 materials shall do the following:

22                 (1)   Disclose that portable electronics insurance may provide a duplication of  
23                         coverage already provided by a customer's homeowner's insurance policy,  
24                         renter's insurance policy, or other source of coverage.

25                 (2)   State that the enrollment by the customer in a portable electronics insurance  
26                         program is not required in order to purchase or lease portable electronics or  
27                         services.

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

29                         a.     The identity of the insurer.

30                         b.     The identity of the supervising entity.

31                         c.     The amount of any applicable deductible and how it is to be paid.

32                         d.     Benefits of the coverage.

33                         e.     Key terms and conditions of coverage, such as whether portable  
34                                 electronics may be repaired or replaced with similar make and model  
35                                 reconditioned or nonoriginal manufacturer parts or equipment.

36                 (4)   Summarize the process for filing a claim, including a description of how to  
37                         return portable electronics and the maximum fee applicable in the event the  
38                         enrolled customer fails to comply with any equipment return requirements.

39                 (5)   State that the enrolled customer may cancel enrollment for coverage under a  
40                         portable electronics insurance policy at any time and the person paying the  
41                         premium shall receive a refund of any applicable unearned premium.

42           (b)   Portable electronics insurance may be offered on a month-to-month or other  
43                 periodic basis as a group or master commercial inland marine policy issued to a vendor of  
44                 portable electronics for its enrolled customers.

45           (c)   Eligibility and underwriting standards for customers electing to enroll in coverage  
46                 shall be established for each portable electronics insurance program.

47           (d)   The terms of the termination or modification of coverage under a policy of portable  
48                 electronic insurance offered in compliance with this section shall be as set forth in the policy.

49   **"§ 58-44A-15. Authority of vendors of portable electronics.**

1        (a) The employees and authorized representatives of vendors may sell or offer portable  
2 electronics insurance to customers and shall not be subject to licensure as an insurance  
3 producer under this Chapter provided that the following are true:

4            (1) The vendor obtains a limited lines license to authorize its employees or  
5 authorized representatives to sell or offer portable electronics insurance  
6 pursuant to this section.

7            (2) The insurer issuing the portable electronics insurance either directly  
8 supervises or appoints a supervising entity to supervise the administration of  
9 the program, including development of a training program for employees  
10 and authorized representatives of the vendors. The training required by this  
11 subdivision shall comply with the following:

12            a. The training shall be delivered to employees and authorized  
13 representatives of a vendor who are directly engaged in the activity  
14 of selling or offering portable electronics insurance.

15            b. The training may be provided in electronic form. If conducted in an  
16 electronic form, the supervising entity shall implement a  
17 supplemental education program regarding portable electronics  
18 insurance that is conducted and overseen by licensed employees of  
19 the supervising entity.

20            c. Each employee and authorized representative shall receive basic  
21 instruction about the portable electronics insurance offered to  
22 customers and the disclosures required under G.S. 58-44A-10.

23            (3) No employee or authorized representative of a vendor of portable electronics  
24 shall advertise, represent, or otherwise hold himself or herself out as a  
25 non-limited lines licensed insurance producer.

26        (b) The charges for portable electronics insurance coverage may be billed and collected  
27 by the vendor of portable electronics. Any charge to the enrolled customer for coverage that is  
28 not included in the cost associated with the purchase or lease of portable electronics or related  
29 services shall be separately itemized on the enrolled customer's bill. If the portable electronics  
30 insurance coverage is included with the purchase or lease of portable electronics or related  
31 services, the vendor shall clearly and conspicuously disclose to the enrolled customer that the  
32 portable electronics insurance coverage is included with the portable electronics or related  
33 services. Vendors billing and collecting such charges shall not be required to maintain such  
34 funds in a segregated account, provided that the vendor is authorized by the insurer to hold  
35 such funds in an alternative manner and remits such amounts to the supervising entity within 60  
36 days of receipt. All funds received by a vendor from an enrolled customer for the sale of  
37 portable electronics insurance shall be considered funds held in trust by the vendor in a  
38 fiduciary capacity for the benefit of the insurer. Vendors may receive compensation for billing  
39 and collection services in accordance with G.S. 58-33-85.

40 **"§ 58-44A-20. Suspension or revocation of license.**

41        If a vendor of portable electronics or its employee or authorized representative violates any  
42 provision of this section, the Commissioner may do any of the following:

43            (1) Revoke or suspend a limited lines license issued under this Part in  
44 accordance with the provisions of G.S. 58-33-46.

45            (2) After notice and hearing, impose other penalties, including suspending the  
46 transaction of insurance at specific locations where violations of this Article  
47 have occurred, as the Commissioner deems necessary and reasonable to  
48 carry out the purpose of this Article.

49 **"§ 58-44A-25. Application for license.**

50        The prerequisites for issuance of a limited lines license under this Article are the filing with  
51 the Commissioner of the following:

- 1           (1)   A license application, signed by an officer of the applicant, for the limited  
2           lines license in such form or forms, and supplements thereto, and containing  
3           such information, as the Commissioner may prescribe.  
4           (2)   A certificate by the insurer that is to be named in such limited lines license,  
5           stating that it has satisfied itself that the named applicant is trustworthy and  
6           competent to act as its insurance agent for this limited purpose and that the  
7           insurer will appoint such applicant to act as the agent in reference to the  
8           kinds of insurance as are permitted by this section, if the limited lines license  
9           applied for is issued by the Commissioner. Such certificate shall be  
10          subscribed to by an officer or managing agent of such insurer and affirmed  
11          as true under the penalties of perjury."

12          **SECTION 2.** This act becomes effective January 1, 2012.