



# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 1464

S.P. 455

In Senate, April 12, 2011

### **An Act To Establish Standards for Portable Electronic Device Insurance**

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Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

*Joseph G. Carleton Jr.*

JOSEPH G. CARLETON, JR.  
Secretary of the Senate

Presented by Senator SNOWE-MELLO of Androscoggin.  
Cosponsored by Senator: BRANNIGAN of Cumberland, Representatives: BECK of  
Waterville, GOODE of Bangor, MORISSETTE of Winslow, RICHARDSON of Warren.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 24-A MRSA §601, sub-§29** is enacted to read:

3 **29. Portable electronic device insurance vendor.** Portable electronic device  
4 insurance vendor licensing fees may not exceed:

5 A. Original license issuance fee, \$1,000; and

6 B. Annual renewal fee, \$500.

7 **Sec. 2. 24-A MRSA §1420-F, sub-§1, ¶K,** as enacted by PL 2001, c. 259, §24,  
8 is amended to read:

9 K. Automobile mechanical breakdown contracts, which are a limited line; ~~and~~

10 **Sec. 3. 24-A MRSA §1420-F, sub-§1, ¶L,** as repealed and replaced by PL 2007,  
11 c. 51, §3, is amended to read:

12 L. Insurance offered, sold or solicited in connection with and incidental to the rental  
13 of rental cars for a period of no more than 60 days, whether at the rental office or by  
14 preselection of coverage in master, corporate, group or individual agreements, that is  
15 nontransferable, applies only to the rental car that is the subject of the rental  
16 agreement and is limited to the following kinds of insurance:

17 (1) Personal accident insurance for renters and other rental car occupants for  
18 accidental death or dismemberment and for medical expenses resulting from an  
19 accident that occurs with the rental car during the rental period;

20 (2) Liability insurance that provides protection to the renters and other  
21 authorized drivers of a rental car for liability arising from the operation or use of  
22 the rental car during the rental period;

23 (3) Personal effects insurance that provides coverage to renters and other vehicle  
24 occupants for loss of, or damage to, personal effects in the rental car during the  
25 rental period;

26 (4) Roadside assistance and emergency sickness protection insurance; and

27 (5) Any other coverage designated by the superintendent; and

28 **Sec. 4. 24-A MRSA §1420-F, sub-§1, ¶M** is enacted to read:

29 M. Vendor's portable electronic device insurance, which is a limited line.

30 **Sec. 5. 24-A MRSA c. 89** is enacted to read:

31 **CHAPTER 89**

32 **PORTABLE ELECTRONIC DEVICE INSURANCE**

1           **§7001. Definitions**

2           As used in this chapter, unless the context otherwise indicates, the following terms  
3           have the following meanings.

4           **1. Customer.** "Customer" means a person who purchases a portable electronic  
5           device or service.

6           **2. Enrolled customer.** "Enrolled customer" means a customer who elects coverage  
7           under a portable electronic device insurance policy issued to a vendor.

8           **3. Portable electronic device.** "Portable electronic device" means an electronic  
9           device that is portable in nature, its accessories and services related to the use of the  
10           device.

11           **4. Portable electronic device insurance.** "Portable electronic device insurance"  
12           means insurance authorized under section 705 providing coverage for the repair or  
13           replacement of a portable electronic device that may cover a portable electronic device  
14           against any one or more of the following causes of loss: loss, theft, mechanical failure,  
15           malfunction, damage or other applicable perils. "Portable electronic device insurance"  
16           does not include:

17           A. A service contract governed by Title 11, Article 2;

18           B. A policy of insurance covering a seller's or a manufacturer's obligations under a  
19           warranty; or

20           C. Personal insurance, as defined in section 2169-B, subsection 1, paragraph H or  
21           any similar policy.

22           **5. Portable electronic device transaction.** "Portable electronic device transaction"  
23           means:

24           A. The sale or lease of a portable electronic device by a vendor to a customer; or

25           B. The sale of a service related to the use of a portable electronic device by a vendor  
26           to a customer.

27           **6. Supervising agency.** "Supervising agency" means a business entity that is a  
28           licensed insurance producer.

29           **7. Vendor.** "Vendor" means a person in the business of engaging in portable  
30           electronic device transactions directly or indirectly.

31           **§7002. Licensure of vendors**

32           **1. License required.** A vendor is required to hold a limited lines license pursuant to  
33           section 1420-F to sell or offer coverage under a policy of portable electronic device  
34           insurance.

35           **2. Authority provided by license.** A limited lines license issued under this chapter  
36           authorizes any employee or authorized representative of a vendor to sell or offer coverage

1 under a policy of portable electronic device insurance to a customer at each location at  
2 which the vendor engages in portable electronic device transactions.

3 **3. List of locations.** In connection with a vendor's application for licensure and  
4 quarterly thereafter, the vendor shall provide a list to the superintendent of all locations in  
5 this State at which the vendor offers coverage.

6 **4. Activities authorized by license.** Notwithstanding any other provision of law, a  
7 license issued pursuant to this chapter authorizes the licensee and its employees or  
8 authorized representatives to engage only in those activities that are expressly permitted  
9 in this chapter.

10 **§7003. Requirements for sale of portable electronic device insurance**

11 **1. Brochures.** At every location where portable electronic device insurance is  
12 offered to customers, brochures or other written materials must be made available to a  
13 prospective customer that:

14 A. Disclose that portable electronic device insurance may provide a duplication of  
15 coverage already provided by a customer's homeowner's insurance policy, renter's  
16 insurance policy or other source of coverage;

17 B. State that the enrollment by the customer in a portable electronic device insurance  
18 policy is not required in order to purchase or lease a portable electronic device or  
19 service;

20 C. Summarize the material terms of the insurance coverage, including:

21 (1) The identity of the insurer;

22 (2) The identity of the supervising agency;

23 (3) The amount of any applicable deductible and how it is to be paid;

24 (4) Benefits of the coverage; and

25 (5) Key terms and conditions of coverage such as whether the portable electronic  
26 device may be replaced with a similar make and model or repaired using  
27 reconditioned or nonoriginal manufacturer parts or equipment;

28 D. Summarize the process for filing a claim, including a description of any  
29 requirements:

30 (1) To return the portable electronic device and the maximum fee applicable if  
31 the customer fails to comply with any equipment return requirements; and

32 (2) For proof of loss; and

33 E. State that the customer may cancel enrollment for coverage under a portable  
34 electronic device insurance policy at any time and receive a refund of any applicable  
35 premium.

36 **2. Periodic basis of coverage.** Portable electronic device insurance may be offered  
37 on a month-to-month or other periodic basis as a group or inland marine policy issued to  
38 a vendor under which individual customers may elect to enroll for coverage.

1           **3. Eligibility and underwriting standards.** Eligibility and underwriting standards  
2 for customers electing to enroll in coverage must be established by an insurer for each  
3 portable electronic device insurance policy.

4           **§7004. Authority of vendors**

5           **1. Requirements for employees and authorized representatives of vendors.** An  
6 employee or authorized representative of a vendor may sell or offer portable electronic  
7 device insurance to a customer and is not subject to licensure as an insurance producer  
8 under this chapter if:

9           A. The vendor obtains a limited lines license to authorize its employees or authorized  
10 representatives to sell or offer portable electronic device insurance pursuant to this  
11 section;

12           B. The insurer issuing the portable electronic device insurance appoints a supervising  
13 agency to supervise the administration of the sale of insurance, including  
14 development of a training program for employees and authorized representatives of  
15 the vendors. The training required by this paragraph must comply with the  
16 following:

17           (1) The training must be delivered to all employees and authorized  
18 representatives of the vendor who sell or offer portable electronic device  
19 insurance. The training may be provided in electronic form. If conducted in  
20 electronic form the supervising agency shall implement a program of in-person  
21 training conducted by licensed employees of the supervising agency to  
22 supplement the electronic training; and

23           (2) Each employee and authorized representative must receive basic instruction  
24 about the portable electronic device insurance offered to customers and the  
25 disclosures required under section 7003, subsection 1; and

26           C. The employee or authorized representative of the vendor does not advertise,  
27 represent or otherwise hold that employee or authorized representative out as a  
28 nonlimited lines licensed insurance producer.

29           **2. Charges.** The charges for portable electronic device insurance coverage may be  
30 billed and collected by the vendor. Any charge to the customer for coverage that is not  
31 included in the cost associated with the purchase or lease of a portable electronic device  
32 or related services must be separately itemized on the customer's bill. If the charge for  
33 coverage is included in the cost associated with the purchase or lease of a portable  
34 electronic device or related services, the vendor shall clearly and conspicuously disclose  
35 to the customer that the charge for the portable electronic device or related services  
36 includes the charge for coverage. A vendor billing and collecting charges for coverage is  
37 not required to maintain those funds in a segregated account as long as the vendor is  
38 authorized by the insurer to hold such funds in an alternative manner and remits the funds  
39 to the supervising agency within 60 days of receipt. All funds received by a vendor from  
40 a customer for the sale of portable electronic device insurance are considered funds held  
41 in trust by the vendor in a fiduciary capacity for the benefit of the insurer. A vendor may  
42 receive compensation for billing and collection services.

1           **§7005. Violations**

2           **1. Penalties.** If a vendor or its employee or authorized representative violates any  
3 provision of this chapter, the superintendent may:

4           A. After notice and hearing, impose fines not to exceed \$500 per violation or \$5,000  
5 in the aggregate for such conduct; and

6           B. After notice and hearing, impose other penalties that the superintendent considers  
7 necessary and reasonable to carry out the purpose of this chapter, including:

8                   (1) Suspending the authority for transacting portable electronic device insurance  
9 pursuant to this chapter at specific business locations where violations have  
10 occurred; and

11                   (2) Suspending or revoking the authority for an individual employee or  
12 authorized representative of a vendor to act under the license under section 7002.

13           **§7006. Termination of portable electronic device insurance**

14           **1. Notice.** Notwithstanding any other provision of law, an insurer may terminate or  
15 otherwise change the terms and conditions of a policy of portable electronic device  
16 insurance only upon providing the vendor policyholder and enrolled customers with at  
17 least 60 days' notice.

18           **2. Revised documents.** Notwithstanding any other provision of law, if the insurer  
19 changes the terms and conditions of a policy of portable electronic device insurance, the  
20 insurer shall provide the vendor policyholder with a revised policy or endorsement and  
21 each enrolled customer with a revised certificate or endorsement, an updated brochure or  
22 other evidence indicating that a change in the terms and conditions has occurred and a  
23 summary of material changes.

24           **3. Notice in case of fraud or material misrepresentation.** Notwithstanding  
25 subsection 1 or any other provision of law, an insurer may upon 15 days' notice terminate  
26 an enrolled customer's enrollment under a portable electronic device insurance policy for  
27 discovery of fraud or material misrepresentation in obtaining coverage or in the  
28 presentation of a claim thereunder.

29           **4. Immediate termination of enrollment allowed.** Notwithstanding subsection 1 or  
30 any other provision of law, an insurer may immediately terminate an enrolled customer's  
31 enrollment under a portable electronic device insurance policy:

32           A. For nonpayment of premium;

33           B. If the enrolled customer ceases to have an active service with the vendor; or

34           C. If an enrolled customer exhausts the aggregate limit of liability, if any, under the  
35 terms of the portable electronic device insurance policy and the insurer sends notice  
36 of termination to the customer within 30 calendar days after exhaustion of the limit.  
37 If this notice is not timely sent, enrollment must continue notwithstanding the  
38 aggregate limit of liability until the insurer sends notice of termination to the enrolled  
39 customer.

1           **5. Policy terminated by vendor policyholder.** Notwithstanding any other provision  
2 of law, when a portable electronic device insurance policy is terminated by a vendor  
3 policyholder, the vendor policyholder shall mail or deliver written notice to each enrolled  
4 customer advising the customer of the termination of the policy and the effective date of  
5 termination. The written notice must be mailed or delivered to the customer at least 30  
6 days prior to the termination.

7           **6. Method of notice.** Notwithstanding any other provision of law, whenever notice  
8 is required pursuant to this section, it must be in writing and may be mailed or delivered  
9 to the vendor at the vendor's mailing address and to the vendor's affected enrolled  
10 customers at the last known mailing addresses on file with the insurer. If notice is  
11 mailed, the insurer or vendor, as the case may be, shall maintain proof of mailing in a  
12 form authorized or accepted by the United States Postal Service or other commercial mail  
13 delivery service. Alternatively, an insurer or vendor policyholder may comply with any  
14 notice required by this section by providing notice to a vendor or its affected enrolled  
15 customers, as the case may be, by electronic means. If notice is accomplished through  
16 electronic means, the insurer or vendor, as the case may be, shall maintain proof that the  
17 notice was sent.

18           **§7007. Application for license and fees**

19           **1. Application for license to be filed with superintendent.** A sworn application  
20 for a license under this chapter must be made to and filed with the superintendent on  
21 forms prescribed and furnished by the superintendent.

22           **2. Contents of application.** In addition to other information required by the  
23 superintendent, the application must:

24           **A.** Provide the name, residence address and other information required by the  
25 superintendent for an employee or officer of the vendor that is designated by the  
26 applicant as the person responsible for the vendor's compliance with the requirements  
27 of this chapter. If the vendor derives more than 50% of its revenue from the sale of  
28 portable electronic device insurance, the information specified in this paragraph must  
29 be provided for all officers, directors and shareholders of record having beneficial  
30 ownership of 10% or more of any class of securities registered under the federal  
31 securities laws;

32           **B.** Appoint the superintendent as the applicant's attorney to receive service of all  
33 legal process issued against it in any civil action or proceeding in this State and agree  
34 that process so served is valid and binding against the applicant. The appointment is  
35 irrevocable, binds the company and any successor in interest as well as the assets or  
36 liabilities of the applicant and must remain in effect as long as the applicant's license  
37 remains in force in this State; and

38           **C.** Provide the location of the applicant's home office.

39           **3. Time of application.** An application for licensure under this chapter must be  
40 made within 90 days of the application being made available by the superintendent.

