A bill for an act

relating to insurance; regulating the sale and termination of portable electronics insurance; amending Minnesota Statutes 2008, sections 60K.36, subdivision 2; 60K.38, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 59D.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[59D.01] TERMINATION OF PORTABLE ELECTRONICS INSURANCE.**

Subdivision 1. **Definitions.** The definitions in section 59D.02 apply to this section.

Subd. 2. **Right to terminate.** Notwithstanding any other provision of law:

(a) An insurer may terminate or otherwise change the terms and conditions of a policy of portable electronics insurance only after providing the policyholder and covered customers with at least 30 days' notice.

(b) If the insurer changes the terms and conditions, then the insurer shall provide the policyholder with a revised policy or endorsement and each covered customer with a revised certificate, endorsement, updated brochure, or other evidence indicating a change in the terms and conditions has occurred and a summary of material changes.

(c) Notwithstanding paragraph (a), an insurer may terminate a covered customer's coverage under a portable electronics insurance policy upon 15 days' notice for fraud or material misrepresentation by the customer in obtaining coverage or in the presentation of a claim.

(d) Notwithstanding paragraph (a), an insurer may immediately terminate a customer's coverage under a portable electronics insurance policy:

(1) for nonpayment of premium;

(2) if the covered customer ceases to have an active service with the vendor of portable electronics; or

(3) if the covered customer exhausts the aggregate limit of liability, if any, under the terms of the portable electronics insurance policy and the customer is notified within 15 business days after exhaustion of the limit. However, if notice is not timely sent, coverage must continue notwithstanding the aggregate limit of liability until the covered customer is notified.

(e) Notwithstanding the provisions of paragraph (d), clause (3), upon the request of a covered customer, the customer's coverage is eligible for reinstatement not more than 12 months following the date of exhaustion of the coverage limit according to the terms of the policy and subject to the criteria then applicable to prospective customers generally.

Subd. 3. **Notice.** (a) Where a portable electronics insurance policy is terminated by a policyholder, the policyholder shall mail or deliver written notice to each covered customer advising the customer of the termination of the policy and the effective date of termination. The written notice must be mailed or delivered to the customer at least 30 days before the termination.

(b) Whenever notice is required pursuant to this section, it must be in writing and mailed or delivered to the vendor of portable electronics at the vendor's mailing address and to its affected covered customers' last known mailing addresses on file with the insurer. The insurer or vendor of portable electronics shall maintain proof of mailing in a form authorized or accepted by the United States Postal Service or other commercial delivery service.

Sec. 2. **[59D.02] SALE OF PORTABLE ELECTRONICS INSURANCE.**

Subdivision 1. **Definitions.** (a) For purposes of this section and sections 60K.36 and 60K.38, the following terms have the meanings given them.

(b) "Covered customer" means a customer who elects to purchase coverage under a portable electronics insurance policy issued to a vendor of portable electronics.

(c) "Customer" means a person who purchases portable electronics or services.

(d) "Portable electronics" means an electronic device that is portable in nature, its accessories, and services related to the use of that device.

(e)(1) "Portable electronics insurance" means insurance providing 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; and

(2) Portable electronics insurance does not include:

(i) a service contact governed by chapter 59;

(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, commercial multiperil, or similar policy that covers loss or theft of portable electronics.

(f) "Portable electronics transaction" means:

(1) the sale or lease of portable electronics by a vendor to a customer; or

(2) the sale of a service related to the use of portable electronics by a vendor to a customer.

(g) "Supervising agency" means a business entity that is a licensed insurance producer.

(h) "Vendor" means a person in the business of engaging in portable electronics transactions.

Subd. 2. **Licensure of vendors.** (a) A vendor is required to hold a limited lines license for each location at which it offers to sell coverage under a policy of portable electronics insurance in connection with, and incidental to, a portable electronics transaction with a customer.

(b) A limited lines license issued under this subdivision authorizes an 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 at each licensed location at which the vendor engages in portable electronics transactions.

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

Subd. 3. **Requirements for sale of portable electronics insurance.** (a) At every location where portable electronics insurance is offered to customers, brochures or other written materials must be made available to a prospective customer which:

(1) disclose that portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of coverage;

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

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

(i) the identity of the insurer;

(ii) the identity of the supervising agency;

(iii) the premium to be paid;

(iv) the amount of any applicable deductible and how it is to be paid;

(v) benefits of the coverage; and

(vi) any material exclusions, conditions, or other limitations of coverage including whether portable electronics may be repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts or equipment;

(4) describe the process for filing a claim, including a description of:

(i) any proof of loss requirements; and

(ii) any requirements to return portable electronics and the maximum fee applicable in the event the customer fails to comply with any equipment return requirements; and

(5) state that the customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and any unearned premium will be refunded on a pro rata basis.

(b) Portable electronics insurance may be offered on a month-to-month or other periodic bass 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.

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

Subd. 4. **Authority of vendors of portable electronics.** (a) The employees and authorized representatives of vendors may sell portable electronics insurance to customers and are not subject to licensure as an insurance producer under this chapter provided that:

(1) the vendor obtains a limited lines license to authorize its employees or authorized representatives to sell portable electronics insurance pursuant to this section;

(2) the insurer issuing the portable electronics insurance appoints a supervising agency to supervise the administration of the program including development of a training program for employees and authorized representatives of the vendors. The training required by this subdivision must comply with the following:

(i) the training must be delivered to all employees and authorized representatives of the vendors who sell portable electronics insurance;

(ii) the training may be provided in electronic form. However, if conducted in an electronic form the supervising agency shall implement a program of in-person training conducted by licensed employees of the supervising agency to supplement the electronic training; and

(iii) each employee and authorized representative shall receive basic instruction about the portable electronics insurance offered to customers and the disclosures required under subdivision 3; and

(3) no employee or authorized representative of a vendor of portable electronics shall advertise, represent, or otherwise hold himself or herself out as a nonlimited lines licensed insurance producer.

(b) The charges for insurance coverage may be billed and collected by the vendor of portable electronics. If billed and collected by the vendor, the charges must be separately itemized from the charges for the purchase or lease of portable electronics or services. Vendors billing and collecting such charges are not required to maintain funds in a segregated account provided that the vendor is authorized by the insurer to hold funds in an alternative manner and remits such amounts to the supervising agency within 60 days of receipt. All funds received by a vendor from a customer for the sale of portable electronics insurance are considered funds held by the vendor in a fiduciary capacity for the benefit of the insurer. Vendors may receive compensation for billing and collection services.

(c) In accordance with the procedures in section 45.027, if a vendor of portable electronics or its employee or authorized representative violates any provision of this section, the commissioner may do any of the following:

(1) after notice and hearing, impose fines not to exceed $500 per violation or $5,000 in the aggregate for the conduct; and

(2) after notice and hearing:

(i) suspend the privilege of transacting portable electronics insurance pursuant to this section at specific business locations where violations have occurred; and

(ii) suspend or revoke the ability of individual employees or authorized representatives to act under the license.

Sec. 3. Minnesota Statutes 2008, section 60K.36, subdivision 2, is amended to read:

Subd. 2. **Examination not required.** A resident individual applying for a limited lines credit insurance, title insurance, travel baggage insurance, ~~mobile telephone~~ portable electronics insurance, or bail bonds license is not required to take a written examination.

Sec. 4. Minnesota Statutes 2008, section 60K.38, subdivision 1, is amended to read:

Subdivision 1. **Issuance.** (a) Unless denied a license under section 60K.43, a person who has met the requirements of sections 60K.36 and 60K.37 must be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the lines of authority in paragraphs (b) ~~and (c)~~ through (d).

(b) An individual insurance producer may receive qualification for a license in one or more of the following major lines:

(1) life insurance: coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(2) accident and health or sickness insurance: coverage for sickness, bodily injury, or accidental death, and may include benefits for disability income;

(3) property insurance: coverage for the direct or consequential loss or damage to property of every kind;

(4) casualty insurance: coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property;

(5) variable life and variable annuity products insurance: coverage provided under variable life insurance contracts and variable annuities; and

(6) personal lines: property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

(c) An individual insurance producer may receive qualification for a license in one or more of the following limited lines:

(1) limited line credit insurance;

(2) farm property and liability insurance;

(3) title insurance;

(4) travel baggage insurance; and

~~(5) mobile telephone insurance; and~~

~~(6)~~ (5) bail bonds.

(d) A vendor of portable electronics insurance may receive a limited lines license pursuant to section 59D.02.