

CHAPTER 290
SB 350-FN – FINAL VERSION

03/28/12 1340s
6June2012... 2484h
06/27/12 2513EBA

2012 SESSION

12-2900
01/10

SENATE BILL ***350-FN***

AN ACT relative to the sale of portable electronics insurance.

SPONSORS: Sen. Carson, Dist 14; Sen. Luther, Dist 12; Sen. Gallus, Dist 1; Rep. Matt Quandt,
Rock 13; Rep. Headd, Rock 3

COMMITTEE: Commerce

ANALYSIS

This bill regulates the sale of portable electronics insurance.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to the sale of portable electronics insurance.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 290:1 New Chapter; Sale of Portable Electronics Insurance. Amend RSA by inserting after
2 chapter 402-J the following new chapter:

3 CHAPTER 402-K

4 SALE OF PORTABLE ELECTRONICS INSURANCE

5 402-K:1 Definitions. In this chapter:

6 I. “Commissioner” means the insurance commissioner.

7 II. “Customer” means a person who purchases portable electronics or services.

8 III. “Enrolled customer” means a customer who elects coverage under a portable electronics
9 insurance policy issued to a vendor of portable electronics.

10 IV. “Location” means any physical location in the state of New Hampshire or any Internet
11 website, call center site, or similar location directed to residents of the state of New Hampshire.

12 V. “Portable electronics” means electronic devices that are portable in nature, their
13 accessories and services related to the use of the device.

14 VI. “Portable electronics insurance” means insurance providing coverage for the repair or
15 replacement of portable electronics which may provide coverage for portable electronics against any
16 one or more of the following causes of loss: loss, theft, inoperability due to mechanical failure,
17 malfunction, damage, or other similar causes of loss. “Portable electronics insurance” does not
18 include:

19 (a) A service contract governed by RSA 415-C;

20 (b) A service contract or extended warranty providing coverage limited to the repair,
21 replacement, or maintenance of property for the operational or structural failure of property due to a
22 defect in materials, workmanship, accidental damage from handling, power surges, or normal wear
23 and tear;

24 (c) A policy of insurance covering a seller’s or a manufacturer’s obligations under a
25 warranty; or

26 (d) A homeowner’s, renter’s, motor vehicle, commercial multi-peril, or similar policy.

27 VII. “Portable electronics transaction” means:

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

4 VIII. “Supervising entity” means a business entity that is a licensed insurer or insurance
5 producer that is appointed or authorized by an insurer to supervise the administration of a portable
6 electronics insurance program.

7 IX. “Vendor” means a person in the business of engaging in portable electronics transactions
8 directly or indirectly.

9 402-K:2 Licensure of Vendors.

10 I. A vendor shall hold a limited lines license to sell or offer coverage under a policy of
11 portable electronics insurance.

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

16 III. The supervising entity shall maintain a registry of vendor locations which are
17 authorized to sell or solicit portable electronics insurance coverage in this state. Upon request by the
18 commissioner and within 10 working days notice to the supervising entity, the registry shall be open
19 to inspection and examination by the commissioner during regular business hours of the supervising
20 entity.

21 IV. Notwithstanding any other provision of law, a license issued pursuant to this chapter
22 shall authorize the licensee and its employees or authorized representatives to engage in those
23 activities that are permitted in this chapter.

24 402-K:3 Marketing Requirements for Sale of Portable Electronics Insurance.

25 I. At every location where portable electronics insurance is offered to customers, brochures
26 or other written materials shall be made available to a prospective customer which:

27 (a) Disclose that portable electronics insurance may provide a duplication of coverage
28 already provided by a customer’s homeowner’s insurance policy, renter’s insurance policy, motor
29 vehicle insurance policy, or other source of coverage.

30 (b) State that the enrollment by the customer in a portable electronics insurance
31 program is not required in order to purchase or lease portable electronics or services.

32 (c) Summarize the material terms of the insurance coverage, including:

- 33 (1) The identity of the insurer;
34 (2) The identity of the supervising entity;
35 (3) The amount of any applicable deductible and how it is to be paid;
36 (4) Benefits of the coverage; and

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1 (5) Key terms and conditions of coverage such as whether portable electronics may
2 be repaired or replaced with similar make and model reconditioned or non-original manufacturer
3 parts or equipment.

4 (d) Provide a toll-free number and a summary of the process for filing a claim, including
5 a description of how to return portable electronics and the maximum fee applicable in the event the
6 customer fails to comply with any equipment return requirements.

7 (e) State that an enrolled customer may cancel enrollment for coverage under a portable
8 electronics insurance policy at any time and the person paying the premium shall receive a refund of
9 any applicable unearned premium.

10 II. Portable electronics insurance may be offered on a month-to-month or other periodic
11 basis as a group or master commercial inland marine policy issued to a vendor of portable electronics
12 for its enrolled customers.

13 III. Eligibility and underwriting standards for customers electing to enroll in coverage shall
14 be established for each portable electronics insurance program in compliance with RSA 417:4, VIII(e)
15 and RSA 417-B:2-a.

16 IV. A certificate, endorsement, brochure, or other evidence setting forth the terms and
17 conditions of the portable electronics insurance policy shall be provided to each enrolled customer.

18 402-K:4 Authority of Vendors of Portable Electronics.

19 I. The employees and authorized representatives of vendors may sell or offer portable
20 electronics insurance to customers and shall not be subject to licensure as an insurance producer
21 under this chapter provided that:

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

24 (b) The insurer issuing the portable electronics insurance either directly supervises or
25 appoints a supervising entity to supervise the administration of the program, including development
26 of a training program for employees and authorized representatives of the vendors. The training
27 required by this section shall comply with the following:

28 (1) The training shall be delivered to employees and authorized representatives of
29 vendors who are directly engaged in the activity of selling or offering portable electronics insurance.

30 (2) The training may be provided in electronic form. However, if conducted in an
31 electronic form the supervising entity shall implement a supplemental education program regarding
32 the portable electronics insurance product that is conducted and overseen by employees of the
33 supervising entity who are licensed to sell, solicit, or negotiate portable electronics insurance to the
34 extent required by RSA 402-J.

35 (3) Each employee and authorized representative shall receive basic instruction
36 about the portable electronics insurance offered to customers and the disclosures required under

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1 RSA 402-K:3.

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

5 II. The charges for portable electronics insurance coverage may be billed and collected by the
6 vendor of portable electronics. Any charge to the enrolled customer for coverage that is not included
7 in the cost associated with the purchase or lease of portable electronics or related services shall be
8 separately itemized on the enrolled customer's bill. If the portable electronics insurance coverage is
9 included with the purchase or lease of portable electronics or related services the vendor shall clearly
10 and conspicuously disclose to the enrolled customer that the portable electronics insurance coverage
11 is included with the portable electronics or related services. Vendors billing and collecting such
12 charges shall not be required to maintain such funds in a segregated account provided that the
13 vendor is authorized by the insurer to hold such funds in an alternative manner and remits such
14 amounts to the supervising entity within 60 days of receipt. All funds received by a vendor from an
15 enrolled customer for the sale of portable electronics insurance shall be considered funds held in
16 trust by the vendor in a fiduciary capacity for the benefit of the insurer.

17 402-K:5 Suspension or Revocation of License. If a vendor of portable electronics or its employee
18 or authorized representative violates any provision of this chapter, the commissioner may:

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

21 II. After notice and hearing, impose other penalties that the commissioner deems necessary
22 and reasonable to carry out the purpose of this article, including:

23 (a) Suspending the privilege of transacting portable electronics insurance pursuant to
24 this section at specific business locations where violations have occurred; and

25 (b) Suspending or revoking the ability of individual employees or authorized
26 representatives to act under the license.

27 402-K:6 Termination of Portable Electronics Insurance. Notwithstanding RSA 417-B, RSA 417-C, or
28 any other provision of law:

29 I. An insurer may terminate or otherwise change the terms and conditions of a policy of
30 portable electronics insurance only upon providing the policyholder and enrolled customers with at
31 least 30 days notice.

32 II. If the insurer changes the terms and conditions, then the insurer shall provide the vendor
33 policyholder with a revised policy or endorsement and each enrolled customer with a revised
34 certificate, endorsement, updated brochure, or other evidence indicating a change in the terms and
35 conditions has occurred and a summary of material changes.

36 III. Notwithstanding paragraph I, an insurer may terminate an enrolled customer's

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1 enrollment under a portable electronics insurance policy upon 15 days notice for discovery of fraud or
2 material misrepresentation in obtaining coverage or in the presentation of a claim thereunder.

3 IV. Notwithstanding paragraph I, an insurer may immediately terminate an enrolled
4 customer's enrollment under a portable electronics insurance policy:

5 (a) For nonpayment of premium;

6 (b) If the enrolled customer ceases to have an active service with the vendor of portable
7 electronics; or

8 (c) If an enrolled customer exhausts the aggregate limit of liability, if any, under the
9 terms of the portable electronics insurance policy and the insurer sends notice of termination to the
10 enrolled customer within 30 calendar days after exhaustion of the limit. However, if notice is not
11 timely sent, enrollment shall continue notwithstanding the aggregate limit of liability until the
12 insurer sends notice of termination to the enrolled customer.

13 V. Where a portable electronics insurance policy is terminated by a policyholder, the
14 policyholder shall mail or deliver written notice to each enrolled customer advising the enrolled
15 customer of the termination of the policy and the effective date of termination. The written notice
16 shall be mailed or delivered to the enrolled customer at least 30 days prior to the termination.

17 VI. Whenever notice or correspondence with respect to a policy of portable electronics
18 insurance is required pursuant to this section or is otherwise required by law, it shall be in writing
19 and sent within the notice period, if any, specified within the statute or rule requiring the notice or
20 correspondence. Notwithstanding any other provision of law, notices and correspondence may be
21 sent either by mail or by electronic means as set forth in this paragraph. If the notice or
22 correspondence is mailed, it shall be sent to the vendor of portable electronics at the vendor's mailing
23 address specified for such purpose and to its affected enrolled customers' last known mailing
24 addresses on file with the insurer. The insurer or vendor of portable electronics, as the case may be,
25 shall maintain proof of mailing in a form authorized or accepted by the United States Postal Service
26 or other commercial mail delivery service. If the notice or correspondence is sent by electronic
27 means, it shall be sent to the vendor of portable electronics at the vendor's electronic mail address
28 specified for such purpose and to its affected enrolled customers' last known electronic mail address
29 as provided by each enrolled customer to the insurer or vendor of portable electronics, as the case
30 may be. For the purposes of this paragraph, an enrolled customer's provision of an electronic mail
31 address to the insurer or vendor of portable electronics, as the case may be, shall be deemed consent
32 to receive notices and correspondence by electronic means. The insurer or vendor of portable
33 electronics, as the case may be, shall maintain proof that the notice or correspondence was sent.

34 VII. Notice or correspondence required by this section or otherwise required by law may be sent
35 on behalf of an insurer or vendor, as the case may be, by the supervising entity appointed by the insurer.

36 402-K:7 Application for License and Fees.

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1 I. A sworn application for a license under this chapter shall be made to and filed with the
2 commissioner on forms prescribed and furnished by the commissioner.

3 II. The application shall provide:

4 (a) The name, residence address, and other information required by the
5 commissioner for an employee or officer of the vendor that is designated by the applicant as the
6 person responsible for the vendor's compliance with the requirements of this chapter. However, if
7 the vendor derives more than 50 percent of its revenue from the sale of portable electronics
8 insurance the information noted above shall be provided for all officers, directors, and shareholder of
9 record having beneficial ownership of 10 percent or more of any class of securities registered under
10 the federal securities law; and

11 (b) The location of the applicant's home office.

12 III. Any vendor engaging in portable electronics insurance transactions on or before the
13 effective date of this chapter shall apply for licensure within 90 days of the application being made
14 available by the commissioner. Any applicant commencing operations after the effective date of this
15 chapter shall obtain a license prior to offering portable electronics insurance.

16 IV. Initial licenses issued pursuant to this chapter shall be valid for a period of 24 months
17 and expire on the next June 14 following such registration unless renewed prior to that date.

18 V. Each vendor of portable electronics licensed under this chapter shall pay to the
19 commissioner a fee as prescribed by the commissioner but in no event shall the fee exceed \$1,000 for
20 an initial portable electronics limited lines license and \$500 for each renewal thereof. However, for a
21 vendor that is engaged in portable electronics transactions at 10 or fewer locations in the state the
22 fee shall not exceed \$100 for an initial license and for each renewal thereof.

23 290:2 Effective Date. This act shall take effect 60 days after its passage.

24
25 Approved: July 17, 2012

26 Effective Date: September 15, 2012