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# A BILL FOR AN ACT

RELATING TO PORTABLE ELECTRONICS INSURANCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 431, Hawaii Revised Statutes, is  
2 amended by adding a new article to be appropriately designated  
3 and to read as follows:

4                                 "ARTICLE

5   PORTABLE ELECTRONICS INSURANCE

6           §431: -101 Definitions. For purposes of this article:

7           "Customer" means a person who purchases portable  
8 electronics or services.

9           "Enrolled customer" means a customer who elects coverage  
10 under a portable electronics insurance policy issued to a vendor  
11 of portable electronics.

12           "Location" means any physical location in the State or any  
13 website, call-center site, or similar location directed to  
14 residents of the State.

15           "Portable electronics" means electronic devices that are  
16 portable in nature, and the accessories and services related to  
17 the use of the device.



1 "Portable electronics insurance" means insurance providing  
2 coverage for the repair or replacement of portable electronics,  
3 which may provide coverage for portable electronics against any  
4 one or more of the following: loss, theft, inoperability due to  
5 mechanical failure, malfunction, damage, or other similar  
6 causes. The term does not include:

- 7 (1) A service contract, as defined in section 481X-2;  
8 (2) A policy of insurance covering a seller's or  
9 manufacturer's obligations under a warranty; or  
10 (3) A homeowner's, renter's, private passenger automobile,  
11 commercial multi-peril, or similar insurance policy.

12 "Portable electronics transaction" means:

- 13 (1) The sale or lease of portable electronics by a vendor  
14 to a customer; or  
15 (2) The sale of a service related to the use of portable  
16 electronics by a vendor to a customer.

17 "Supervising entity" means a business entity that is a  
18 licensed insurer or insurance producer that is appointed or  
19 authorized by an insurer to supervise the administration of a  
20 portable electronics insurance program.

21 "Vendor" means a person in the business of directly or  
22 indirectly engaging in portable electronics transactions.



1           §431: -102 Licensure of vendors. (a) A vendor shall  
2 hold a limited lines license to sell or offer coverage under a  
3 portable electronics insurance policy.

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

9           (c) The supervising entity shall maintain a registry of  
10 vendor locations that are authorized to sell or solicit portable  
11 electronics insurance coverage in the State. Upon request by  
12 the commissioner and with ten days notice to the supervising  
13 entity, the registry shall be open to inspection and examination  
14 by the commissioner during regular business hours of the  
15 supervising entity.

16           (d) Notwithstanding any law to the contrary, a license  
17 issued pursuant to this section shall authorize the licensee and  
18 its employees or authorized representatives to engage in the  
19 activities that are permitted in this section.

20           §431: -103 Requirements for sale of portable electronics  
21 insurance. (a) At every location at which portable electronics  
22 insurance is offered to customers, brochures or other written



1 materials shall be made available to prospective customers. The  
2 brochures or other written materials shall:

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

7 (2) State that enrollment by the customer in a portable  
8 electronics insurance program is not required to  
9 purchase or lease portable electronics or services;

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

12 (A) The identity of the insurer;

13 (B) The identity of the supervising entity;

14 (C) The amount of any applicable deductible and how  
15 it is to be paid;

16 (D) The benefits of the coverage; and

17 (E) The key terms and conditions of coverage, such as  
18 whether portable electronics may be repaired or  
19 replaced with a similar make and model  
20 reconditioned, or with non-original manufacturer  
21 parts or equipment;



1           (4) Summarize the process for filing a claim, including a  
2           description of how to return portable electronics and  
3           the maximum fee applicable if the customer fails to  
4           comply with any equipment-return requirements; and

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

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

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

17         §431: -104 Authority of vendors of portable electronics.

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



- 1           (1) The vendor obtains a limited lines license to  
2           authorize its employees or authorized representatives  
3           to sell or offer portable electronics insurance  
4           pursuant to this section;
- 5           (2) The insurer issuing the portable electronics insurance  
6           either directly supervises or appoints a supervising  
7           entity to supervise the administration of the program,  
8           including development of a training program for  
9           employees and authorized representatives of the  
10          vendors. The training shall comply with the  
11          following:
- 12          (A) The training shall be delivered to employees and  
13          authorized representatives of a vendor who are  
14          directly engaged in the activity of selling or  
15          offering portable electronics insurance;
- 16          (B) The training may be provided in electronic form;  
17          provided that, if the training is conducted in an  
18          electronic form, the supervising entity shall  
19          implement a supplemental education program  
20          regarding the portable electronics insurance  
21          product that is conducted and overseen by a  
22          licensed employee of the supervising entity; and



1           (C) Each employee and authorized representative shall  
2           receive basic instruction about the portable  
3           electronics insurance offered to customers and  
4           the disclosures required under section 431: -  
5           103; and

6           (3) No employee or authorized representative of a vendor  
7           of portable electronics shall advertise, represent, or  
8           otherwise portray the employee or representative as a  
9           non-limited lines licensed insurance producer.

10          (b) The charges for portable electronics insurance  
11 coverage may be billed and collected by the vendor of portable  
12 electronics. Any charge to the enrolled customer for coverage  
13 that is not included in the cost associated with the purchase or  
14 lease of portable electronics or related services shall be  
15 separately itemized on the enrolled customer's bill. If the  
16 portable electronics insurance coverage is included with the  
17 purchase or lease of portable electronics or related services,  
18 the vendor shall clearly and conspicuously disclose to the  
19 enrolled customer that the portable electronics insurance  
20 coverage is included with the purchase or lease of portable  
21 electronics or related services. Vendors billing and collecting  
22 the charges shall not be required to maintain the funds in a



1 segregated account; provided that the vendor is authorized by  
2 the insurer to hold the funds in an alternative manner and  
3 remits the amounts to the supervising entity within sixty days  
4 of receipt. All funds received by a vendor from an enrolled  
5 customer for the sale of portable electronics insurance shall be  
6 considered funds held in trust by the vendor in a fiduciary  
7 capacity for the benefit of the insurer. Vendors may receive  
8 compensation for billing and collection services.

9       **§431: -105 Sanctions for violations.** The vendor of  
10 portable electronics or its employee or authorized  
11 representative shall be subject to sanctions pursuant to this  
12 chapter for the violation of any provision of this chapter.

13       **§431: -106 Termination of portable electronics insurance.**  
14 (a) An insurer, with the consent of the vendor and enrolled  
15 customer, may terminate or otherwise change the terms and  
16 conditions of a portable electronics insurance policy. The  
17 vendor and enrolled customer shall be provided at least thirty  
18 days' notice before the change becomes effective.

19       (b) If the insurer changes the terms and conditions of a  
20 portable electronics insurance policy, the insurer shall provide  
21 the vendor with a revised policy or endorsement and each  
22 enrolled customer with a revised certificate, endorsement,





1 updated brochure, or other evidence indicating that a change in  
2 the terms and conditions has occurred, and a summary of material  
3 changes.

4 (c) Notwithstanding subsection (a), an insurer may  
5 terminate an enrolled customer's enrollment under a portable  
6 electronics insurance policy upon fifteen days' notice for  
7 discovery of fraud or material misrepresentation in obtaining  
8 coverage or in the presentation of a claim thereunder.

9 (d) Notwithstanding subsection (a), an insurer may  
10 immediately terminate an enrolled customer's enrollment under a  
11 portable electronics insurance policy:

- 12 (1) For nonpayment of an insurance policy premium;
- 13 (2) If the enrolled customer ceases to have an active  
14 service with the vendor of portable electronics; or
- 15 (3) If an enrolled customer exhausts the aggregate limit  
16 of liability, if any, under the terms of the portable  
17 electronics insurance policy and the insurer sends  
18 notice of termination to the enrolled customer within  
19 thirty calendar days after exhaustion of the limit;  
20 provided that, if notice is not timely sent,  
21 enrollment shall continue notwithstanding the



1 aggregate limit of liability, until the insurer sends  
2 notice of termination to the enrolled customer.

3 (e) If a portable electronics insurance policy is  
4 terminated by a vendor, the vendor shall mail or deliver written  
5 notice to each enrolled customer informing the enrolled customer  
6 of the termination of the policy and the effective date of  
7 termination. The written notice shall be mailed or delivered to  
8 the enrolled customer at least thirty days prior to the  
9 termination.

10 (f) Whenever notice or correspondence with respect to a  
11 portable electronics insurance policy is required pursuant to  
12 this section, or is otherwise required by law, the notice or  
13 correspondence shall be in writing and sent within the notice  
14 period, if any, specified within the law requiring the notice or  
15 correspondence. Notwithstanding any other law to the contrary,  
16 notice and correspondence may be sent either by mail or by  
17 electronic means as set forth in this subsection. If the notice  
18 or correspondence is mailed, it shall be sent to the vendor of  
19 portable electronics at the vendor's mailing address specified  
20 for such purpose and to its affected enrolled customers' last  
21 known mailing addresses on file with the insurer. The insurer  
22 or vendor of portable electronics, as applicable, shall maintain



1 proof of mailing in a form authorized or accepted by the United  
2 States Postal Service or other commercial mail delivery service.  
3 If the notice or correspondence is sent by electronic means, it  
4 shall be sent to the vendor of portable electronics at the  
5 vendor's electronic-mail address specified for such purpose and  
6 to its affected enrolled customer's last known electronic-mail  
7 address as provided by each enrolled customer to the insurer or  
8 vendor of portable electronics, as the case may be.

9 For purposes of this subsection, an enrolled customer's  
10 provision of an electronic-mail address to the insurer or vendor  
11 of portable electronics, as applicable, shall be deemed consent  
12 to receive notices and correspondence by electronic means. The  
13 insurer or vendor of portable electronics, as applicable, shall  
14 maintain proof that the notice or correspondence was sent.

15 (g) Notice or correspondence required by this section or  
16 otherwise required by law may be sent on behalf of an insurer or  
17 vendor, as applicable, by the supervising entity appointed by  
18 the insurer.

19 §431: -107 Application for license and fees. (a) A  
20 sworn application for a license under this article shall be  
21 filed with the commissioner on forms prescribed and furnished by  
22 the commissioner.



- 1 (b) The application for a license shall provide the:
- 2 (1) Name, residence address, electronic-mail address, and  
3 other information required by the commissioner for an  
4 employee or officer of the vendor that is designated  
5 by the applicant as the person responsible for the  
6 vendor's compliance with the requirements of this  
7 article; provided that, if the vendor derives more  
8 than fifty per cent of its revenue from the sale of  
9 portable electronics insurance, the information in  
10 this paragraph shall be provided for all officers,  
11 directors, and shareholder of record having beneficial  
12 ownership of ten per cent or more of any class of  
13 securities registered under the federal securities  
14 law; and
- 15 (2) Location of the applicant's home office.
- 16 (c) Any vendor engaging in portable electronics insurance  
17 transactions on or before the effective date of this Act shall  
18 apply for licensure within ninety days of the application's  
19 being made available by the commissioner. Any applicant  
20 commencing operations after the effective date of this Act shall  
21 obtain a license prior to offering portable electronics  
22 insurance.



1 (d) Initial licenses issued pursuant to this article shall  
2 be valid for a period of not less than twenty-four months.  
3 Renewed licenses shall be valid for a period of twenty-four  
4 months.

5 (e) Each vendor of portable electronics licensed under  
6 this article shall pay to the commissioner a fee of \$2,000 for  
7 the issuance of the initial portable electronics limited lines  
8 license, plus a license fee of \$1,200 per year for the initial  
9 or a renewal term. A pro rata portion of the license fee may be  
10 applied for a partial year of the initial term.

11 §431: -108 Portable electronics insurance claims. No  
12 licensed independent adjuster or licensed vendor shall supervise  
13 more than twenty-five employees; provided that a licensed vendor  
14 who supervises employees or adjusts claims shall not be required  
15 to be licensed as an adjuster.

16 For purposes of this section:

17 "Automated claims adjudication system" means a  
18 preprogrammed computer system designed for the collection, data  
19 entry, calculation, and final resolution of portable electronics  
20 insurance claims, which:

21 (1) Shall be used only by a licensed independent adjuster,  
22 a licensed vendor, or supervised employees; and



1           (2) Shall comply with all claims-payment requirements of  
2                   the insurance code.

3           "Employee" means an individual who collects claim  
4 information for portable electronics insurance claims from, or  
5 furnishes claim information to, insureds or claimants, and who  
6 conducts data entry, including entering data into an automated  
7 claims adjudication system."

8           SECTION 2. This Act does not affect rights and duties that  
9 matured, penalties that were incurred, and proceedings that were  
10 begun before its effective date.

11           SECTION 3. The revisor of statutes shall insert the  
12 effective date of this Act in the appropriate places in section  
13 1 of this Act.

14           SECTION 4. This Act shall take effect on January 1, 3000.



**Report Title:**

Portable Electronics Insurance; Vendors; License

**Description:**

Establishes provisions for the sale of portable electronics insurance. Requires vendors to hold a limited lines license to sell or offer coverage under a policy. Effective January 1, 3000. (HB2359 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

