
SENATE BILL 5008

State of Washington

63rd Legislature

2013 Regular Session

By Senators Hobbs, Benton, and Hatfield

Read first time 01/14/13. Referred to Committee on Financial Institutions, Housing & Insurance.

1 AN ACT Relating to portable electronics insurance; amending RCW
2 48.18.100, 48.19.030, and 48.120.015; and adding a new section to
3 chapter 48.120 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 48.18.100 and 2008 c 217 s 12 are each amended to read
6 as follows:

7 (1) No insurance policy form or application form where written
8 application is required and is to be attached to the policy, or printed
9 life or disability rider or endorsement form may be issued, delivered,
10 or used unless it has been filed with and approved by the commissioner.
11 This section does not apply to:

12 (a) Surety bond forms;

13 (b) Forms filed under RCW 48.18.103;

14 (c) Forms exempted from filing requirements by the commissioner
15 under RCW 48.18.103;

16 (d) Manuscript policies, riders, or endorsements of unique
17 character designed for and used with relation to insurance upon a
18 particular subject; or

1 (e) Contracts of insurance procured under the provisions of chapter
2 48.15 RCW.

3 (2) Every such filing containing a certification, in a form
4 approved by the commissioner, by either the chief executive officer of
5 the insurer or by an actuary who is a member of the American academy of
6 actuaries, attesting that the filing complies with Title 48 RCW and
7 Title 284 of the Washington Administrative Code, may be used by the
8 insurer immediately after filing with the commissioner. The
9 commissioner may order an insurer to cease using a certified form upon
10 the grounds set forth in RCW 48.18.110. This subsection does not apply
11 to certain types of policy forms designated by the commissioner by
12 rule.

13 (3) Except as provided in RCW 48.18.103, every filing that does not
14 contain a certification pursuant to subsection (2) of this section must
15 be made not less than thirty days in advance of issuance, delivery, or
16 use. At the expiration of the thirty days, the filed form shall be
17 deemed approved unless prior thereto it has been affirmatively approved
18 or disapproved by order of the commissioner. The commissioner may
19 extend by not more than an additional fifteen days the period within
20 which he or she may affirmatively approve or disapprove any form, by
21 giving notice of the extension before expiration of the initial thirty-
22 day period. At the expiration of the period that has been extended,
23 and in the absence of prior affirmative approval or disapproval, the
24 form shall be deemed approved. The commissioner may withdraw any
25 approval at any time for cause. By approval of any form for immediate
26 use, the commissioner may waive any unexpired portion of the initial
27 thirty-day waiting period.

28 (4) The commissioner's order disapproving any form or withdrawing
29 a previous approval must state the grounds for disapproval.

30 (5) No form may knowingly be issued or delivered as to which the
31 commissioner's approval does not then exist.

32 (6) The commissioner may, by rule, exempt from the requirements of
33 this section any class or type of insurance policy forms if filing and
34 approval is not desirable or necessary for the protection of the
35 public.

36 (7) Every member or subscriber to a rating organization must adhere
37 to the form filings made on its behalf by the organization. Deviations

1 from the organization are permitted only when filed with the
2 commissioner in accordance with this chapter.

3 (8) Medical malpractice insurance form filings are subject to the
4 provisions of this section.

5 (9) Variable contract forms; disability insurance policy forms;
6 individual life insurance policy forms; life insurance policy
7 illustration forms; industrial life insurance contract, individual
8 medicare supplement insurance policy, and long-term care insurance
9 policy forms, which are amended solely to comply with the changes in
10 nomenclature required by RCW 48.18A.035, 48.20.013, 48.20.042,
11 48.20.072, 48.23.380, 48.23A.040, 48.23A.070, 48.25.140, 48.66.120, and
12 48.76.090 are exempt from this section.

13 (10) An insurance policy that provides portable electronics
14 insurance coverage, defined in RCW 48.120.005, issued on a commercial
15 inland marine policy must be filed in accordance with this chapter
16 whether the coverage is offered on a group, master, or individual
17 policy basis. The written materials in RCW 48.120.020(1)(a) are not
18 required to be filed for the review or approval of the commissioner.

19 **Sec. 2.** RCW 48.19.030 and 1989 c 25 s 3 are each amended to read
20 as follows:

21 Rates shall be used, subject to the other provisions of this
22 chapter, only if made in accordance with the following provisions:

23 (1) In the case of insurances under standard fire policies and that
24 part of marine and transportation insurances not exempted under RCW
25 48.19.010, manual, minimum, class or classification rates, rating
26 schedules or rating plans, shall be made and adopted; except as to
27 specific rates on inland marine risks individually rated, which risks
28 are not reasonably susceptible to manual or schedule rating, and which
29 risks by general custom of the business are not written according to
30 manual rates or rating plans.

31 (2) In the case of casualty and surety insurances:

32 (a) The systems of expense provisions included in the rates for use
33 by any insurer or group of insurers may differ from those of other
34 insurers or groups of insurers to reflect the requirements of the
35 operating methods of any such insurer or group with respect to any kind
36 of insurance, or with respect to any subdivision or combination thereof

1 for which subdivision or combination separate expense provisions are
2 applicable.

3 (b) Risks may be grouped by classifications for the establishment
4 of rates and minimum premiums. Classification rates may be modified to
5 produce rates for individual risks in accordance with rating plans
6 which establish standards for measuring variations in hazards or
7 expense provisions, or both. Such standards may measure any
8 differences among risks that can be demonstrated to have a probable
9 effect upon losses or expenses.

10 (3) In the case of a portable electronics insurance program, as
11 defined in RCW 48.120.005, an insurer:

12 (a) May use ranges of rating factors and may use actuarial judgment
13 in the making of such rates; and

14 (b) Must file rates for approval for portable electronics insurance
15 offered on a group, master, or individual policy basis in accordance
16 with the requirements of RCW 48.18.040; and

17 (c) May not increase premiums or deductibles or otherwise restrict
18 benefits more than once in any six-month period. An insurer must
19 comply with the notice requirements in section 4 of this act if any
20 such changes are made.

21 (4) Due consideration in making rates for all insurances shall be
22 given to:

23 (a) Past and prospective loss experience within this state for
24 experience periods acceptable to the commissioner. If the information
25 is not available or is not statistically credible, an insurer may use
26 loss experience in those states which are likely to produce loss
27 experience similar to that in this state.

28 (b) Conflagration and catastrophe hazards, where present.

29 (c) A reasonable margin for underwriting profit and contingencies.

30 (d) Dividends, savings and unabsorbed premium deposits allowed or
31 returned by insurers to their policyholders, members, or subscribers.

32 (e) Past and prospective operating expenses.

33 (f) Past and prospective investment income.

34 (g) All other relevant factors within and outside this state.

35 ((+4)) (5) In addition to other factors required by this section,
36 rates filed by an insurer on its own behalf may also be related to the
37 insurer's plan of operation and plan of risk classification.

1 (~~(5)~~) (6) Except to the extent necessary to comply with RCW
2 48.19.020 uniformity among insurers in any matter within the scope of
3 this section is neither required nor prohibited.

4 **Sec. 3.** RCW 48.120.015 and 2012 c 154 s 3 are each amended to read
5 as follows:

6 (1) A specialty producer license authorizes a vendor and its
7 employees and authorized representatives to offer and sell to, enroll
8 in, and bill and collect premiums from customers for insurance covering
9 portable electronics on a master, corporate, group commercial inland
10 marine policy, or on an individual policy basis on a month-to-month or
11 other periodic basis at each location at which the vendor engages in
12 portable electronics transactions. However:

13 (a) The supervising person must maintain a list of a vendor's
14 locations that are authorized to sell or solicit portable electronics
15 insurance coverage; and

16 (b) The list under (a) of this subsection must be provided to the
17 commissioner within ten days of a request by the commissioner.

18 (2) An employee or authorized representative of a vendor may sell
19 or offer portable electronics insurance to the vendor's customers
20 without being individually licensed as an insurance producer if the
21 vendor is licensed under this chapter and is acting in compliance with
22 this chapter and any rules adopted by the commissioner.

23 (3) A vendor billing and collecting premiums from customers for
24 portable electronics insurance coverage is not required to maintain
25 these funds in a segregated account if the vendor:

26 (a) Is authorized by the insurer to hold the funds in an
27 alternative manner; and

28 (b) Remits the funds to the supervising person within sixty days of
29 receipt.

30 (4) All funds received by a vendor from an enrolled customer for
31 the sale of portable electronics insurance are considered funds held in
32 trust by the vendor in a fiduciary capacity for the benefit of the
33 insurer.

34 (5) Any charge to the enrolled customer for coverage that is not
35 included in the cost associated with the purchase or lease of portable
36 electronics or related services must be separately itemized on the
37 enrolled customer's bill.

1 (6) If portable electronics insurance coverage is included with the
2 purchase or lease of portable electronics or related services, the
3 vendor must clearly and conspicuously disclose to the enrolled customer
4 that the portable electronics insurance coverage is included with the
5 portable electronics or related services.

6 (7) Vendors may receive compensation for billing and collection
7 services.

8 NEW SECTION. **Sec. 4.** A new section is added to chapter 48.120 RCW
9 to read as follows:

10 (1) The cancellation provisions in RCW 48.18.290 and the nonrenewal
11 provisions in RCW 48.18.2901 do not apply to portable electronics
12 insurance policies issued under this chapter. Any notice required to
13 be provided to a person insured under a portable electronics insurance
14 policy in the event of cancellation, modification, or nonrenewal of
15 such policy is governed exclusively by this section.

16 (2) An insurer may cancel, modify, or otherwise change the terms
17 and conditions of a policy of portable electronics insurance only:

18 (a) Upon providing the policyholder and enrolled customers with at
19 least thirty days' notice; or

20 (b) As provided in subsections (4) and (5) of this section.

21 (3) If an insurer changes the terms and conditions, then the
22 insurer must provide:

23 (a) The vendor policyholder with a revised policy or endorsement;
24 and

25 (b) Each enrolled customer with:

26 (i) A revised certificate, endorsement, updated brochure, or other
27 evidence indicating a change in the terms and conditions has occurred;
28 and

29 (ii) A summary of material changes.

30 (4) An insurer may terminate an enrolled customer's enrollment
31 under a portable electronics insurance policy upon fifteen days' notice
32 for discovery of fraud or material misrepresentation in obtaining
33 coverage or in the presentation of a claim.

34 (5) An insurer may immediately terminate an enrolled customer's
35 enrollment under a portable electronics insurance policy without prior
36 notice:

37 (a) For nonpayment of premium;

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

3 (c) If an enrolled customer exhausts the aggregate limit of
4 liability, if any, under the terms of the portable electronics
5 insurance policy and the insurer sends notice of termination to the
6 enrolled customer within thirty calendar days after exhaustion of the
7 limit. However, if notice is not timely sent, coverage continues
8 notwithstanding the aggregate limit of liability until the insurer
9 sends notice of termination to the enrolled customer.

10 (6) When a portable electronics insurance policy is terminated by
11 a policyholder, the policyholder must mail or deliver written notice to
12 each enrolled customer advising the enrolled customer of the
13 termination of the policy and the effective date of termination. The
14 written notice must be mailed or delivered to the enrolled customer at
15 least thirty days prior to the termination.

16 (7) Any notice or correspondence with respect to a policy of
17 portable electronics insurance required under this section or otherwise
18 required by law must be in writing. Notice or correspondence may be
19 sent either by mail or by electronic means. If the notice or
20 correspondence is mailed, it must be sent to the vendor of portable
21 electronics at the vendor's mailing address specified for that purpose
22 and to its affected enrolled customers' last known mailing addresses on
23 file with the insurer.

24 The insurer or vendor of portable electronics must maintain proof
25 of mailing in a form authorized or accepted by the United States postal
26 service or other commercial mail delivery service. If a notice or
27 correspondence is sent by electronic means, it must be sent to the
28 vendor of portable electronics at the vendor's electronic mail address
29 specified for that purpose and to its affected enrolled customers' last
30 known electronic mail address as provided by each enrolled customer to
31 the insurer or vendor of portable electronics, as the case may be.

32 For purposes of this subsection, an enrolled customer's provision
33 of an electronic mail address to the insurer, supervising person, or
34 vendor of portable electronics means that the enrolled customer
35 consents to receive notices and correspondence by electronic mail as
36 long as a disclosure to that effect is provided to the consumer at the
37 time the consumer provides an electronic mail address. The insurer or

1 vendor of portable electronics, as the case may be, must maintain proof
2 that the notice or correspondence was sent.

3 (8) Notice or correspondence required by this section or otherwise
4 required by law may be sent by the supervising person appointed by the
5 insurer on behalf of an insurer or a vendor.

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