# HOUSE BILL No. 1172

DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 27-1-15.6; IC 27-1-15.9.

**Synopsis:** Portable electronics insurance. Specifies requirements related to insurance covering portable electronic devices, including limited lines producer licensing for vendors of the devices to sell, solicit, or negotiate the insurance.

**Effective:** July 1, 2012.

**GiaQuinta**

January 9, 2012, read first time and referred to Committee on Insurance.

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Introduced

Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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# HOUSE BILL No. 1172

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 27-1-15.6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) As used in this section, "insurer" does not include an officer, director, employee, subsidiary, or affiliate of an insurer.

(b) This chapter does not require an insurer to obtain an insurance producer license.

(c) The following are not required to be licensed as an insurance producer:

(1) An officer, director, or employee of an insurer or of an insurance producer, if the officer, director, or employee does not receive any commission on policies written or sold to insure risks that reside, are located, or are to be performed in Indiana, and if:

(A) the officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance;

(B) the officer, director, or employee's function relates to

underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

(C) the officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers and the officer, director, or employee's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.

(2) A person who secures and furnishes information for the purpose of:

(A) group life insurance, group property and casualty insurance, group annuities, **or** group or blanket accident and sickness insurance;

(B) enrolling individuals under plans;

(C) issuing certificates under plans or otherwise assisting in administering plans; or

(D) performing administrative services related to mass marketed property and casualty insurance;

where no commission is paid to the person for the service.

(3) A person identified in clauses (A) through (C) who is not in any manner compensated, directly or indirectly, by a company issuing a contract, to the extent that the person is engaged in the administration or operation of a program of employee benefits for the employer's or association's employees, or for the employees of a subsidiary or affiliate of the employer or association, that involves the use of insurance issued by an insurer:

(A) An employer or association.

(B) An officer, director, or employee of an employer or association.

(C) The trustees of an employee trust plan.

(4) An:

(A) employee of an insurer; or

(B) organization employed by insurers;

that is engaged in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers, and that is not individually engaged in the sale, solicitation, or negotiation of insurance.

(5) A person whose activities in Indiana are limited to advertising, without the intent to solicit insurance in Indiana, through communications in printed publications or other forms of electronic mass media whose distribution is not limited to

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residents of Indiana, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in Indiana.

(6) A person who is not a resident of Indiana and who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one **(1)** state insured under that contract, provided that:

(A) the person is otherwise licensed as an insurance producer to sell, solicit, or negotiate the insurance in the state where the insured maintains its principal place of business; and

(B) the contract of insurance insures risks located in that state.

(7) A salaried full-time employee who counsels or advises the employee's employer about the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell or solicit insurance or receive a commission.

(8) An officer, employee, or representative of a rental company (as defined in IC 24-4-9-7) who negotiates or solicits insurance incidental to and in connection with the rental of a motor vehicle.

(9) An individual who:

(A) furnishes only title insurance rate information at the request of a consumer; and

(B) does not discuss the terms or conditions of a title insurance policy.

**(10) An employee or authorized representative of a vendor that is licensed as a limited lines producer under this chapter to sell, solicit, or negotiate portable electronics insurance incidental to and in connection with portable electronics transactions as described in IC 27-1-15.9.**

SECTION 2. IC 27-1-15.6-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 18. The commissioner may issue a limited lines producer's license to the following without examination:

(1) A person who is a ticket-selling producer of a common carrier and who will act only with reference to the issuance of insurance on personal effects carried as baggage, in connection with the transportation provided by such common carrier.

(2) A person who will only negotiate or solicit limited travel accident insurance in transportation terminals.

(3) A limited line credit insurance producer.

(4) A person who will only negotiate or solicit insurance under Class 2(j) of IC 27-1-5-1.

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(5) Any person who will negotiate or solicit a kind of insurance that the commissioner finds does not require an examination to demonstrate professional competency.

**(6) A person that will sell, solicit, or negotiate only portable electronics insurance as provided in IC 27-1-15.9.**

SECTION 3. IC 27-1-15.9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

**Chapter 15.9. Portable Electronics Insurance**

**Sec. 1. The definitions in IC 27-1-15.6-2 apply throughout this chapter.**

**Sec. 2. As used in this chapter, "customer" means a person who purchases portable electronics.**

**Sec. 3. As used in this chapter, "insured customer" means a customer who purchases insurance under a portable electronics insurance policy that is issued to a vendor.**

**Sec. 4. As used in this chapter, "location" means:**

**(1) a geographic site in Indiana; or**

**(2) an Internet web site, a call center site, or a similar site;**

**that is intended to be used by Indiana residents to engage in portable electronics transactions.**

**Sec. 5. (a) As used in this chapter, "portable electronics" means electronic devices that are portable in nature.**

**(b) The term includes accessories, wireless services, and other services related to the use of a device described in subsection (a).**

**Sec. 6. (a) As used in this chapter, "portable electronics insurance" means insurance that provides coverage for the repair or replacement of portable electronics, including coverage for loss, theft, inoperability due to mechanical failure, malfunction, damage, or other similar causes of loss.**

**(b) The term does not include the following:**

**(1) A service contract or extended warranty that provides coverage for repair, replacement, or maintenance only to address operational or structural failure caused by:**

**(A) a defect in materials or workmanship;**

**(B) accidental damage from a power surge; or**

**(C) normal wear and tear.**

**(2) A policy of insurance that covers a seller's or manufacturer's obligations under a warranty.**

**(3) Any of the following:**

**(A) A homeowner's insurance policy.**

**(B) A renter's insurance policy.**

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**(C) A private passenger automobile insurance policy.**
**(D) A commercial multi-peril insurance policy.**
**(E) An insurance policy that provides coverage similar to the insurance provided by a policy described in clauses (A) through (D).**

**Sec. 7. As used in this chapter, "portable electronics transaction" means the sale or lease of portable electronics.**

**Sec. 8. As used in this chapter, "supervising entity" means a business entity that:**

**(1) is an:**
**(A) insurer; or**
**(B) insurance producer;**
**that is licensed under this title; and**
**(2) issues, or is appointed by the insurer that issues, a portable electronics insurance policy that is sold, solicited, or negotiated by a vendor;**
**to supervise the activities of the vendor related to the portable electronics insurance policy.**

**Sec. 9. As used in this chapter, "vendor" means a business entity that directly or indirectly engages in portable electronics transactions.**

**Sec. 10. (a) A vendor shall not sell, solicit, or negotiate portable electronics insurance unless the vendor holds a limited lines license issued under IC 27-1-15.6 to sell, solicit, or negotiate portable electronics insurance.**

**(b) A limited lines license required by subsection (a) authorizes each of the following to sell, solicit, or negotiate portable electronics insurance to a customer at each of a vendor's locations:**

**(1) The vendor.**
**(2) Each of the vendor's employees or authorized representatives, regardless of whether the employee or authorized representative is individually licensed under IC 27-1-15.6, if the insurer that issues the portable electronics insurance directly supervises or appoints a supervising entity to supervise:**
**(A) the administration of the portable electronics insurance sold by the vendor; and**
**(B) a training program for the employees and authorized representatives.**

**(c) The following apply to a training program described in subsection (b):**

**(1) The training must be provided to any employee or**

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**authorized representative who is directly engaged in the sale, solicitation, or negotiation of portable electronics insurance.**

**(2) Initial training of an employee or authorized representative:**

**(A) must be provided before the employee or authorized representative engages in the sale, solicitation, or negotiation of portable electronics insurance; and**

**(B) may be provided in electronic form.**

**(3) Continuing training of an employee or authorized representative:**

**(A) must be provided on a periodic basis; and**

**(B) may be provided in electronic or another form.**

**(4) The training must be developed and overseen by employees of the supervising entity who are licensed as insurance producers under IC 27-1-15.6 with the qualifications described in IC 27-1-15.6-7(a)(3) and IC 27-1-15.6-7(a)(4).**

**(5) The training must provide basic instruction concerning the:**

**(A) portable electronics insurance offered to customers of the vendor; and**

**(B) disclosures required by section 12 of this chapter.**

**(d) An employee or authorized representative of a vendor shall not advertise, represent, or otherwise profess to be an insurance producer other than a limited lines producer licensed under IC 27-1-15.6.**

**Sec. 11. (a) A supervising entity shall:**

**(1) maintain a registry of locations described in section 10(b) of this chapter; and**

**(2) make the registry available for examination by the commissioner during the supervising entity's regular business hours.**

**(b) The commissioner shall, at least ten (10) days before the examination is conducted, provide to a supervising entity written notice of an examination described in subsection (a).**

**Sec. 12. (a) A vendor shall, at each location where portable electronics insurance is sold, solicited, or negotiated, make available to customers written materials concerning the portable electronics insurance.**

**(b) The written materials available under subsection (a) must do all the following:**

**(1) Disclose that portable electronics insurance may duplicate**

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**coverage already provided under a customer's homeowner's insurance policy, renter's insurance policy, or other coverage.**

**(2) State that the customer may purchase or lease portable electronics regardless of whether the customer also purchases portable electronics insurance.**

**(3) Summarize the material terms of each portable electronics insurance policy under which insurance is available from the vendor, including all the following:**

**(A) The identity of the insurer that issues the portable electronics insurance policy.**

**(B) The identity of any supervising entity.**

**(C) The amount of any applicable deductible and the manner by which the deductible is paid.**

**(D) The benefits of the portable electronics insurance.**

**(E) The key terms and conditions, including whether portable electronics may be repaired or replaced with:**

**(i) reconditioned; or**

**(ii) nonoriginal;**

**manufacturer equipment of a make or model that is similar to the portable electronics.**

**(4) Summarize the process for filing a claim, including:**

**(A) a description of the manner by which to return portable electronics; and**

**(B) the maximum fee applicable if the customer fails to comply with any applicable equipment return requirement.**

**(5) State that an insured customer may cancel the portable electronics insurance at any time and the person who pays the premium will receive a refund of unearned premium.**

**Sec. 13. Portable electronics insurance may be sold:**

**(1) for any period; and**

**(2) under:**

**(A) an individual policy; or**

**(B) a group or master policy issued to a vendor to provide insurance for the vendor's customers.**

**Sec. 14. The:**

**(1) insurer that issues a portable electronics insurance policy; or**

**(2) supervising entity that supervises a vendor with respect to a portable electronics insurance policy;**

**shall establish eligibility and underwriting standards for each portable electronics insurance policy that is sold, solicited, or**

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**negotiated by a vendor.**

**Sec. 15. The following apply to charges for portable electronics insurance:**

**(1) The charges may be billed and collected by the vendor.**

**(2) If the insurance cost is not included in the cost associated with the purchase or lease of portable electronics, the insurance cost must be separately itemized on the insured customer's bill.**

**(3) If the insurance cost is included in the cost associated with the purchase or lease of portable electronics, the vendor shall clearly and conspicuously disclose to the insured customer that the portable electronics insurance cost is included with the cost of the portable electronics.**

**(4) A vendor that bills and collects the charges shall maintain collected funds in a segregated account unless the:**

**(A) insurer that issues the portable electronics insurance policy authorizes the vendor to hold the funds in an alternative manner; and**

**(B) vendor remits the funds to the supervising entity less than sixty (60) days after the vendor receives the funds.**

**(5) All funds received by the vendor from an insured customer for the sale of portable electronics insurance are considered to be funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer.**

**(6) A vendor may receive from an insurer compensation for billing and collection services.**

**Sec 16. (a) This section supplements and does not limit the actions that may be taken by the commissioner for a violation under IC 27-1-15.6.**

**(b) If a vendor or an employee or authorized representative of a vendor violates this chapter, the commissioner may do any of the following:**

**(1) After notice and hearing, impose on the vendor a civil penalty of not less than fifty dollars ($50) and not more than ten thousand dollars ($10,000).**

**(2) After notice and hearing, impose other penalties that the commissioner considers necessary and reasonable, including:**

**(A) suspending the privilege of transacting portable electronics insurance under this chapter at specific locations where violations have occurred; and**

**(B) suspending or revoking the ability of an individual employee or authorized representative to act under the**

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**vendor's limited lines producer license.**

**Sec. 17. (a) To the extent that this section conflicts with any other provision of IC 27 that applies to an insurer, this section is controlling.**

**(b) The following apply to an insurer that issues a portable electronics insurance policy:**

**(1) Except as provided in subdivisions (3) and (4), an insurer shall provide written notice to a vendor and an insured customer at least thirty (30) days before terminating or otherwise changing the terms and conditions of a portable electronics insurance policy.**

**(2) An insurer that changes the terms and conditions as described in subdivision (1) shall provide to the vendor and insured customer:**

**(A) a revised policy, endorsement, or certificate;**

**(B) an updated brochure; or**

**(C) other evidence of the change;**

**including a summary of material changes.**

**(3) If an insurer discovers fraud or material misrepresentation by an insured customer in:**

**(A) obtaining portable electronics insurance; or**

**(B) presenting a claim under the portable electronics insurance;**

**the insurer may, not less than fifteen (15) days after providing written notice to the insured customer, terminate the insured customer's portable electronics insurance.**

**(4) An insurer may immediately terminate an insured customer's portable electronics insurance for the following reasons:**

**(A) Nonpayment of premiums.**

**(B) The insured customer no longer has active service with the vendor.**

**(C) The:**

**(i) insured customer has exhausted any aggregate limit of liability under the terms of the portable electronics insurance policy; and**

**(ii) insurer has sent written notice of the termination to the insured customer.**

**(5) If portable electronics insurance is terminated by a vendor, the vendor shall, at least thirty (30) days before the effective date of the termination, deliver written notice of the termination, including notice of the effective date of the**

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**termination, to each insured customer.**

**(6) Written notice required by this chapter may be delivered as follows:**

**(A) By United States mail to:**

**(i) a vendor at the mailing address specified by the vendor for delivery of written notice; and**

**(ii) an insured customer at the insured customer's last known mailing address;**

**that is on file with the insurer.**

**(B) By electronic mail to:**

**(i) a vendor at the vendor's electronic mail address specified by the vendor for delivery of written notice; or**

**(ii) an insured customer at the insured customer's last known electronic mail address provided by the insured customer to the insurer or vendor.**

**An insured customer's provision of an electronic mail address to an insurer or a vendor is considered to be consent from the insured customer to receive written notices by electronic mail. An insurer and a vendor shall maintain proof that a written notice sent by electronic mail was sent.**

**(7) A written notice required by this chapter that is delivered by a supervising entity appointed by an insurer on behalf of the insurer or vendor is considered to have been delivered by the insurer or vendor.**

**Sec. 18. (a) A vendor shall apply for a limited lines producer license required by this chapter by filing a sworn application for the license with the commissioner on forms prescribed and furnished by the commissioner.**

**(b) An application filed under subsection (a) must include the following information:**

**(1) Except as provided in subdivision (2), the name, residence address, and other information required by the commissioner for an employee or officer of the vendor who is designated by the vendor as the individual who is responsible for the vendor's compliance with this chapter.**

**(2) If the vendor derives more than fifty percent (50%) of the vendor's revenue from the sale of portable electronics insurance, the name, residence address, and other information required by the commissioner for each officer, director, and shareholder of record that has beneficial ownership of at least ten percent (10%) of any class of securities registered by the vendor under federal securities law.**

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**(3) The physical address of the vendor's home office.**

SECTION 4. [EFFECTIVE JULY 1, 2012] **(a) The department of insurance shall, not later than August 1, 2012, make available an application for a limited lines license required by IC 27-1-15.9, as added by this act.**

**(b) A vendor that sold, solicited, or negotiated portable electronics insurance on June 30, 2012, shall not sell, solicit, or negotiate portable electronics insurance after October 31, 2012, unless the vendor has, before November 1, 2012, obtained a limited lines license as required by IC 27-1-15.9, as added by this act.**

**(c) This SECTION expires January 1, 2014.**

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