

MINUTES OF THE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 a.m. on February 16, 2011, in Room 152-S of the Capitol.

All members were present.

Committee staff present:

Ken Wilke, Office of the Revisor of Statutes  
Melissa Calderwood, Kansas Legislative Research Department  
Heather O'Hara, Kansas Legislative Research Department  
Beverly Beam, Committee Assistant

Conferees appearing before the Committee:

Rhonda Oswald, Asurion

Others attending:

See attached list.

The Chair called the meeting to order. She introduced Bronwyn McNaughton to the committee. Bronwyn is "shadowing" Senator Teichman for the day. Bronwyn is in the gifted program at Antioch in Merriam.

Hearing on

**SB 170 - Portable electronics insurance act.**

Ken Wilke gave an overview of the bill. Mr. Wilke stated this bill is a new piece of legislation which would regulate the licensing and sale of insurance for portable electronic devices. Mr. Wilke went through each Section of the bill and offered two amendments. He said vendors would be required to apply for a limited lines license to sell and offer policies for portable electronic insurance. He said vendors would have to provide on a quarterly basis, a list of all locations where they are offering coverage in the state. He noted the bill would also permit the Commissioner of Insurance to adopt rules and regulations to implement this act.

Rhonda Oswald, director of State Legislative Affairs for Asurion, testified in support of **SB 170.** She stated that the product that is at the heart of this bill is an insurance program that protects a consumer's investment in their wireless communications device by insuring it against loss, theft, damage, and internal malfunction of the device. She said the bill provides for an entity level license to vendors offering portable electronics insurance and provides for key consumer protections related to such coverage. Summarizing, she stated that this is a good bill not only for the Kansas retailers, but also for Kansas consumers in that the bill creates a regulatory structure for this product that ensures full disclosure to the consumer of the terms and conditions of this insurance coverage while also providing the Department of Insurance with the regulatory authority to ensure that the product is sold to Kansas consumers in the right way. She said the bill strikes an effective balance between the interests of consumers and industry. (Attachment 1)

The Chair asked for comments from those in attendance. Kevin Davis, Kansas Insurance Department, said the Kansas Insurance Department has worked closely with the proponents of this bill to make sure there are no problems.

Senator Steineger moved to approve the amendments to SB 170. Senator Olson seconded. Motion passed.

Senator Taddiken moved to pass out SB 170 as amended. Senator Schmidt seconded. Motion passed.

The Chair closed the hearing on **SB 170.**

The meeting was adjourned at 10:00 a.m.

# SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE GUEST LIST

DATE: 2-16-11

NAME	REPRESENTING
John Petersen	Cyber Study
Nicole Reed	Academy
Michelle Butler	Capital Strategies
Nathan Lindsey	Kearney Associates
Mandy McQueen	SCIFICS
Jeff Copp	Allen G. G. H. H.
SHAWN SULLIVAN	ALLEN G. G. H. H.
Terri Spelman	KATA
Emily Wood	KATA
Phonda Oswald	Asurion
Kevin Davis	KID
Dave Rauthier	Hein Law Firm
Bill Sneed	ANIP
Bill Bray	Asurion
<del>Bill Bray</del>	
Heidi White	Es. Inc.
Jen Bruning	OP Chamber
KEV DAVIS	TIBI
Bernie Koch	KEPC
Jeff Eckles	KS Chamber
Asbury Sneed	Lexia Chamber
Kay Ph...	B-yet + Computer

## SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE GUEST LIST

**DATE:** \_\_\_\_\_

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Testimony of Rhonda Oswald, Asurion

Support of SB 170

Senate Financial Institutions and Insurance Committee

February 16, 2011

Madam Chair and Senators, thank you for the opportunity to testify in favor of SB 170.

My name is Rhonda Oswald and I am the director of State Legislative Affairs for Asurion. Asurion is the leading provider of handset protection programs in the country and has joined forces with leading wireless carriers throughout the world to bring the portable electronics insurance product to consumers. Asurion's North American headquarters is in Kansas City and employs over 150 people. In addition we have facilities in Salina and Hays that employ over 650 people.

The product that is at the heart of this bill is an insurance program that protects a consumer's investment in their wireless communications device by insuring it against loss, theft, damage, and internal malfunction of the device. The bill provides for an entity level license to vendors offering portable electronics insurance and provides for key consumer protections related to such coverage.

As wireless devices have become an integral part of our everyday lives their functionalities have expanded exponentially and with these developments the costs of these devices has also risen. Portable electronics insurance not only ensures that a consumer's investment in such a device is protected, but also ensures that a consumer has very little down time when a problem does occur by getting a pre-programmed phone or other portable electronics device in the consumer's hands often the very next day after a claim has been made. Staying connected in today's world is crucial and Asurion's products ensure that its customers stay connected.

SB 170 creates a licensing framework applicable to the sale of portable electronics insurance in Kansas. Currently, there is no statutory regulatory structure that exists for the sale of this product in Kansas. This bill will provide such a structure and provide for an individual limited lines producer license to sell this type of insurance product. It creates a balanced regulatory structure that would avoid the need to license every individual on the floor of every retailer that offers this insurance to consumers while also providing crucial consumer protection and disclosures. As you can imagine, licensing of every sales floor representative of a large retailer such as Best Buy would be impractical and overly burdensome on both the Department and businesses. There is no state in the country that currently requires such a licensing scenario.

SB 170 creates a regulatory structure governing the sale of this product by creating a licensing framework under which the retailer itself holds the license authorizing its employees to sell this insurance product on their behalf. This model is consistent with the national trend that we have seen with respect to the regulation of this product as it creates an efficient and fair licensing framework for the entities offering this product to consumers and gives regulators the authority they need to effectively oversee these activities. Laws similar to this have been enacted into law in Minnesota, Texas, New Mexico, Georgia, Washington, Maryland, California, Florida, and New York.

In addition to the licensing framework, the bill also provides significant consumer protection measures in the form of required disclosures to consumers regarding the insurance coverage that is being sold as well as required training for those individual salespeople.

So in summary, this bill is a good bill not only for the Kansas retailers but also for Kansas consumers in that the bill creates a regulatory structure for this product that ensures full disclosure to the consumer of the terms and conditions of this insurance coverage while also providing the Department of Insurance with the regulatory authority to ensure that the product is sold to Kansas consumers in the right way. This bill strikes an effective balance between the interests of consumers and industry and we would ask that you vote to recommend this bill favorably.

Thank you and I would be pleased to answer any questions.

*FI&I Committee  
2-16-11  
Attachment 1*

1 electronics devices shall advertise, represent or otherwise hold one's self  
2 out as a nonlimited lines licensed insurance producer.

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

20 Sec. 6. If a supervision agency, vendor of portable electronics, or  
21 employee or authorized representative of a vendor violates any provision  
22 of this act, K.A.R. 40-1-34, K.S.A. 40-2404 or 40-4909, and amendments  
23 thereto, the commissioner may: (a) Impose on the supervision agency or  
24 vendor any or all of the penalties authorized under chapter 40 of the  
25 Kansas Statutes Annotated, and amendments thereto, for those violations;  
26 and

27 (b) suspend or revoke the ability of individual employees or  
28 authorized representatives to act under the license of the vendor.

29 Sec. 7. Notwithstanding any other provision of law:

30 (a) An insurer may not terminate or otherwise change the terms and  
31 conditions of a policy of portable electronics insurance more than once in  
32 any six-month period.

33 (b) If the insurer changes the terms and conditions of a policy, the  
34 insurer shall provide the policyholder with a revised policy or  
35 endorsement and each enrolled customer with a revised certificate,  
36 endorsement, updated brochure or other evidence indicating a change in  
37 the terms and conditions has occurred and a summary of material changes  
38 30 days prior to the end of the term of the policy.

39 (c) Notwithstanding paragraph (1) of subsection (a), an insurer may  
40 terminate an enrolled customer's enrollment under a portable electronics  
41 insurance policy upon 15 days notice for:

42 (1) Fraud or material misrepresentation in obtaining coverage or in  
43 the presentation of a claim thereunder; or

An insurer may not terminate an individual enrolled customer based solely upon the age of such enrolled customer's covered portable electronic device.

1 (2) nonpayment of premium;

2 (d) notwithstanding subsection (a), an insurer may terminate an  
3 enrolled customer's enrollment under a portable electronics insurance  
4 policy immediately if:

5 (1) The enrolled customer ceases to have an active service with the  
6 vendor of portable electronics; or

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

13 (e) Whenever notice is required pursuant to this section, it shall be in  
14 writing and may be mailed or delivered to the vendor of portable  
15 electronics devices at the vendor's mailing address and to its affected  
16 enrolled customers' last known mailing addresses on file with the insurer.  
17 The insurer or vendor of portable electronics, as the case may be, shall  
18 maintain proof of mailing in a form authorized or accepted by the United  
19 States postal service or other commercial mail delivery service.  
20 Alternatively, an insurer or vendor policyholder may comply with any  
21 notice required by this section by providing electronic notice to a vendor  
22 or its affected enrolled customers, as the case may be, by electronic  
23 means. If notice is accomplished through electronic means, the insurer or  
24 vendor of portable electronics, as the case may be, shall maintain proof  
25 that the notice was sent. Additionally, if an insurer or vendor  
26 policyholder provides electronic notice to an affected enrolled customer  
27 and such delivery by electronic means is not available or fails, the insurer  
28 or vendor policyholder shall provide written notice to the enrolled  
29 customer by mail in accordance with this section.

30 (f) Regardless of whether the insurer or the enrolled customer  
31 terminates the policy the insurer shall return any unearned premium to the  
32 customer without requiring the consumer to request it. The unearned  
33 premium shall be calculated on a pro rata basis such that the enrolled  
34 customer pays for the actual number of days of coverage. No penalty for  
35 early termination may be charged.

36 Sec. 8. If any provision of this act, or the application of such  
37 provision to any person or circumstances, shall be held invalid, the  
38 remainder of the act, and the application of such provision to persons or  
39 circumstances other than those as to which it is held invalid, shall not be  
40 affected thereby.

41 Sec. 9. The commissioner may adopt rules and regulations necessary  
42 to implement this act.

43 Sec. 10. This act shall take effect and be in force from and after its

January 1, 2012 and