



COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

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BULLETIN 2014-09

To: Persons and Business Entities seeking to engage in the business of Portable Electronics Insurance in the Commonwealth of Massachusetts

From: Joseph G. Murphy, Commissioner of Insurance

Date: October 24, 2014

Re: Guidance Concerning Portable Electronics Insurance under Chapter 175, Section 162Y of the Massachusetts General Laws

The Division of Insurance (“Division”) issues this Bulletin to provide further guidance with respect to the implementation of the requirements of Massachusetts General Laws (“Chapter”) Chapter 175, Section 162Y, concerning Portable Electronics Insurance.

A. Background on the Regulation of Portable Electronics Insurance in Massachusetts

The Portable Electronics Insurance Act, Chapter 175, Section 162Y, became effective on April 24, 2014 (“Section 162Y”). The purpose of this law is to regulate the licensing and sale of or offer of coverage for portable electronic devices. This coverage differs from the extended manufacturer warranty or service contract offered when consumers purchase a cell or mobile phone or similar device, laptop, tablet, GPS, portable media device, or other portable electronic device at retail establishments or online.

Under the terms of Section 162Y, portable electronic insurance (“PEI”) may be offered to the consumer by employees and authorized representatives of a vendor that has been issued a PEI license by the Division of Insurance (“Division”). At every location where PEI is offered, written materials must be available which disclose information including the identity of the insurer underwriting the coverage, key terms and conditions of coverage, claims filing information, a statement that the insurance purchase is not a requirement of the sale or lease of the device and that coverage may duplicate existing coverage under a personal homeowners' or renters' policy.

Under Section 162Y, an insurer may write the coverage on a month-to-month or other periodic basis as a group or master commercial inland marine policy issued to the vendor with consumers as covered customers; consumers purchasing coverage then receive certificates of

insurance as covered customers. The supervising entity, which is defined by statute as either the insurer or an insurance producer that is authorized by the insurer to supervise the PEI program, remains responsible for providing compliant consumer disclosures and supervising program administration, which must include a training program for employees and authorized representatives of the vendor.

The effect of implementing Section 162Y will allow for the better regulation of the licensing and sale of or offer of coverage for portable electronic devices. Section 162Y also benefits consumers because it requires disclosure of the terms of the coverage being offered by the insurer and vendor, and Section 162Y requires that the vendor and insurer make sure that consumers are informed that the purchase of the PEI-coverage is *not* required in order to purchase the cell phone or similar portable electronic device or the voice or data service in question.

B. Further Guidance on Certain Provisions of Chapter 175, Section 162Y

1. Portable Electronics

Under Section 162Y(a), the term "Portable electronics" is defined as including "electronic devices that are portable in nature, their accessories and services related to the use of the device." As noted above, this definition could include *any* form of electronic apparatus including but not limited to: cell or mobile phones or similar devices, laptops, notebooks, tablets, GPS units, portable media devices, memory sticks or "thumb drives," pagers, audio/video/data recording or playback devices, scanning devices, remote sensors, messaging devices, personal digital assistants, two-way radios, or any other portable device or appliance of any kind or nature that accomplishes its purpose electronically. For purposes of this bulletin, a device will be deemed to be "portable" if it is capable of being easily carried or conveyed by hand.

2. Vendors

Under Section 162Y(a), the term "Vendor" is defined as a "person engaged in the business of portable electronics transactions directly or indirectly." For purposes of this bulletin, a "vendor" engaged in a portable electronic device transaction will be deemed to include corporations, partnerships, associations, sole proprietorships and similar entities.

3. Vendor Locations

Under Section 162Y(b), the supervising entity – the business entity that is a licensed insurer or insurance producer authorized by an insurer to supervise the administration of a PEI program - "shall maintain a registry of vendor locations that are authorized to sell or solicit portable electronics insurance coverage in the commonwealth." Each supervising entity shall maintain this registry and make it available to the Division within 10 days of request for the same by the Division.

4. Brochures or Other Written Materials

Under Section 162Y(e), at every location and website where PEI is offered to customers, brochures or other written materials shall be made available to prospective customers that, among other requirements, must: disclose that PEI may provide a duplication of coverage already provided by a homeowner's insurance policy, renter's insurance policy or other source of coverage; state that the enrollment in a PEI program is not required in order to purchase or lease portable electronics or services; summarize the key material terms and conditions of the PEI coverage; summarize the processes for filing a claim and cancelling the PEI coverage. Copies of such brochures or other written materials must be submitted to the Division, including any material changes that may be made to such materials, within 10 days of request for the same by the Division.

5. Training Program for Employees and Authorized Representatives of Vendors

Under Section 162Y(h)(2), the insurer issuing the PEI either directly supervises or appoints a supervising entity to supervise the administration of the insurance program, including development of a training program for employees and authorized representatives of the vendors. Each supervising entity shall submit to the Division a syllabus of the training program developed pursuant to this requirement along with a certification that all employees, agents and authorized representatives involved in the issuance, sale or offering for sale of PEI coverage to customers have completed or will complete the training program prior to issuing, selling or offering for sale PEI coverage. Each insurer shall also provide to the Division a list containing each employee and/or authorized representative of a vendor that received training, including the name of the employee or authorized representative, the vendor, and the date and location, if any, where the training took place, within 10 days of request for the same by the Division.

6. Policy Changes

Under Section 162Y(l)(2), if an insurer changes the terms and conditions of a PEI policy, then the insurer must provide the vendor policyholder with a revised policy or endorsement and each enrolled customer with: a revised certificate, endorsement, updated brochure, or other evidence indicating a change in the terms and conditions has occurred; and a summary of material changes.

7. Refunds

In the event of cancellation by the insurer or customer, the person paying the premium will be entitled to receive a refund or credit on any applicable unearned premium.

8. PEI License Application

Under Section 162Y(o), a sworn application for a PEI license must be made and filed with the Division on forms set forth on the Division website. Applications must be submitted electronically as set forth in the online application instructions. Under Section 162Y(q), a vendor applying for a PEI license must pay to the Division a fee in the amount of \$1,000 for an initial PEI

license and \$500 for each annual renewal of that license. These fees do *not* depend on the number of retail establishments that any vendor may have.

C. Filing Materials with the Division

PEI policy forms and certificates of coverage used in Massachusetts are required to be filed with the Division per Chapter 175, Section 191 according to the process described in Bulletin 2008-08 and the General Filing Instructions on the System for Electronic Rate and Form Filing (SERFF). The Division expects that all PEI policy forms issued or renewed be in compliance with the requirements of Chapter 175, Section 162Y and this bulletin. In order to insure uniform compliance with this bulletin, form filings already on file before the publication of this bulletin must be re-filed to demonstrate compliance with Chapter 175, Section 162Y and this bulletin unless previously approved by the Division subsequent to the effective date of Chapter 175, Section 162Y and otherwise in compliance with this bulletin.

When submitting policy form materials electronically through the Division's System for Electronic Rate and Form Filing ("SERFF"), please ensure that the filing indicates that the "Type of Insurance" selected in SERFF is "9.0007 – Communication Equipment (Cellular Telephones)." Because these products are generally considered Inland Marine coverage, the rates for such coverages are exempt from filing per Chapter 174A, Section 6.

Any questions regarding this Bulletin should be directed to: Robert A. Whitney, Deputy Commissioner and General Counsel, (617) 521-7308, robert.a.whitney@state.ma.us or Matthew M. Mancini, Director, State Rating Bureau, (617)521-7459.