

# State of South Dakota

NINETY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2017

625Y0301

## HOUSE BILL NO. 1061

Introduced by: Representatives Willadsen, Gosch, Haggar, Mickelson, Pischke, and Rounds  
and Senators Cronin, Bolin, Kolbeck, Maher, and Netherton

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding consent for  
2 correspondence through electronic mail by enrolled customers of portable electronics.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-47-1 be amended to read:

5 58-47-1. Terms used in this chapter mean:

6 (1) "Customer," a any person who purchases portable electronics;

7 (2) "Enrolled customer," a any customer who elects coverage under a portable electronics  
8 insurance policy issued to a vendor of portable electronics;

9 (3) "Location," any physical location in ~~this~~ the state or any website, call center site, or  
10 similar location directed to residents of this state;

11 (4) "Portable electronics," ~~personal, self-contained,~~ electronic devices and their  
12 accessories that are easily carried by ~~an individual, battery-operated electronic~~  
13 ~~communication, viewing, listening, recording, gaming, computing, or global~~  
14 ~~positioning devices, including cell or satellite phones, pagers, personal global~~  
15 ~~positioning satellite units, portable computers, portable audio listening, video~~



1 ~~viewing or recording devices, digital cameras, video camcorders, portable gaming~~  
2 ~~systems, docking stations, automatic answering devices, and other similar devices~~  
3 ~~and their accessories, and service related to the use of such devices~~ a person;

4 (5) "Portable electronics transaction," the sale or lease of portable electronics by a vendor  
5 to a customer, or the sale of a service related to the use of portable electronics by a  
6 vendor to a customer;

7 (6) "Supervising entity," a any licensed insurer, licensed business entity, or licensed  
8 insurance producer that is appointed by an insurer to supervise the administration of  
9 a portable electronics insurance program;

10 (7) "Vendor," a any person in the business of engaging in portable electronics  
11 transactions directly or indirectly.

12 Section 2. That § 58-47-13 be amended to read:

13 58-47-13. ~~Whenever~~ If any notice or correspondence with respect to a policy of portable  
14 electronics insurance is required, it the notice or correspondence shall be in writing and ~~sent~~  
15 mailed within ~~the~~ any notice period, ~~if any~~, specified within the statute or regulation requiring  
16 the notice or correspondence. Notwithstanding any other ~~provision of law, notices and~~  
17 ~~correspondence~~ any notice or correspondence may be ~~sent either by mail~~ mailed by postal or by  
18 electronic means. If the notice or correspondence is mailed through any postal service, it the  
19 notice or correspondence shall be sent to the vendor of portable electronics at the vendor's  
20 mailing address specified for that purpose and to its affected enrolled ~~customers'~~ customer's last  
21 known mailing ~~addresses~~ address on file with the insurer. Either the insurer or vendor of  
22 portable electronics shall maintain proof of mailing in a form authorized or accepted by the  
23 United States Postal Service or any other commercial mail delivery service. If the notice or  
24 correspondence is ~~sent~~ mailed by electronic means, it the notice or correspondence shall be sent

1 to the vendor of portable electronics at the vendor's electronic mail address specified for that  
2 purpose and to its affected enrolled ~~customers'~~ customer's last known electronic mail address  
3 as provided by each enrolled customer to the insurer or vendor of portable electronics. An  
4 enrolled customer's provision of an electronic mail address to the insurer or vendor of portable  
5 electronics is deemed to be consent to receive ~~notices and~~ notice or correspondence by  
6 electronic means as so long as a disclosure is provided to the customer ~~at the time the electronic~~  
7 ~~mail address is provided indicating the same~~ within a reasonable time following purchase of the  
8 portable electronics. The insurer or vendor of portable electronics shall maintain proof that ~~the~~  
9 any notice or correspondence was ~~sent~~ electronically mailed to an enrolled customer. Notice or  
10 correspondence may be sent on behalf of ~~an~~ any insurer or vendor, by the supervising entity  
11 appointed by the insurer.