

SENATE BILL REPORT

ESHB 3032

As of February 23, 2010

Title: An act relating to defining normal wear and tear for a motor vehicle for the purpose of a service contract.

Brief Description: Defining normal wear and tear for a motor vehicle for the purpose of a service contract.

Sponsors: House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Simpson and Bailey).

Brief History: Passed House: 2/13/10, 95-0.

Committee Activity: Financial Institutions, Housing & Insurance: 2/17/10.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Staff: Diane Smith (786-7410)

Background: Service contracts are regulated by the Office of Insurance Commissioner (OIC). Service contracts are agreements whereby the customer buys what functionally is insurance for repairs, replacement, or maintenance of property, for operational or structural failure due to a defect in materials or workmanship, or normal wear and tear.

The company that is obligated to the customer under the service contract, called the service contract provider, must register with OIC. It must comply with OIC's requirements for record-keeping, form filings, disclosures, and refunds to customers within 30 days of purchase if no claim is made. The service contract provider must also demonstrate its financial responsibility or assure its faithful performance under the contract.

There are three options for the service contract provider to comply with this requirement. It may: (1) insure its service contracts with a reimbursement insurance policy; (2) maintain a reserve account that includes at least 40 percent of the gross consideration received for all service contracts and give the Insurance Commissioner (Commissioner) a financial security deposit of at least 5 percent of the gross consideration received; or (3) maintain or have its parent company maintain, a net worth of stockholders' equity of at least \$100 million.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Commissioner may take enforcement actions for violations of the service provider statutes. A violation of the service contract chapter is also a violation of the Consumer Protection Act.

Summary of Bill: The definition of service contract is modified to include a contract or agreement sold for separate consideration for the repair or replacement of tires or wheels damaged as a result of coming into contact with ordinary road hazards including, but not limited to, potholes, rocks, wood debris, metal parts, glass, plastic, or composite scraps.

Tire or wheel manufacturers and motor vehicle manufacturers are exempt from the requirements of the chapter.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill adds wheels and tires as a simple common sense step in the right direction. There was no House dissent. The issues have been addressed as it is clearly not applicable to free tire repair or original manufacturers' warranties. This is popular insurance.

Persons Testifying: PRO: Representative Simpson, prime sponsor; Mel Sorenson, Service Contract Industry Council.