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**SUBSTITUTE HOUSE BILL 3032**

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**State of Washington                      61st Legislature                      2010 Regular Session**

**By** House Financial Institutions & Insurance (originally sponsored by Representatives Simpson and Bailey)

READ FIRST TIME 01/28/10.

1            AN ACT Relating to defining normal wear and tear for a motor  
2 vehicle for the purpose of a service contract; and reenacting and  
3 amending RCW 48.110.020.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 48.110.020 and 2006 c 274 s 3 and 2006 c 36 s 17 are  
6 each reenacted and amended to read as follows:

7            The definitions in this section apply throughout this chapter.

8            (1) "Administrator" means the person who is responsible for the  
9 administration of the service contracts, the service contracts plan, or  
10 the protection product guarantees.

11            (2) "Commissioner" means the insurance commissioner of this state.

12            (3) "Consumer" means an individual who buys any tangible personal  
13 property that is primarily for personal, family, or household use.

14            (4) "Incidental costs" means expenses specified in the guarantee  
15 incurred by the protection product guarantee holder related to damages  
16 to other property caused by the failure of the protection product to  
17 perform as provided in the guarantee. "Incidental costs" may include,  
18 without limitation, insurance policy deductibles, rental vehicle  
19 charges, the difference between the actual value of the stolen vehicle

1 at the time of theft and the cost of a replacement vehicle, sales  
2 taxes, registration fees, transaction fees, and mechanical inspection  
3 fees. Incidental costs may be paid under the provisions of the  
4 protection product guarantee in either a fixed amount specified in the  
5 protection product guarantee or sales agreement, or by the use of a  
6 formula itemizing specific incidental costs incurred by the protection  
7 product guarantee holder to be paid.

8 (5) "Protection product" means any product offered or sold with a  
9 guarantee to repair or replace another product or pay incidental costs  
10 upon the failure of the product to perform pursuant to the terms of the  
11 protection product guarantee.

12 (6) "Protection product guarantee" means a written agreement by a  
13 protection product guarantee provider to repair or replace another  
14 product or pay incidental costs upon the failure of the protection  
15 product to perform pursuant to the terms of the protection product  
16 guarantee.

17 (7) "Protection product guarantee provider" means a person who is  
18 contractually obligated to the protection product guarantee holder  
19 under the terms of the protection product guarantee. Protection  
20 product guarantee provider does not include an authorized insurer  
21 providing a reimbursement insurance policy.

22 (8) "Protection product guarantee holder" means a person who is the  
23 purchaser or permitted transferee of a protection product guarantee.

24 (9) "Protection product seller" means the person who sells the  
25 protection product to the consumer.

26 (10) "Maintenance agreement" means a contract of limited duration  
27 that provides for scheduled maintenance only.

28 (11) "Motor vehicle" means any vehicle subject to registration  
29 under chapter 46.16 RCW.

30 (12) "Person" means an individual, partnership, corporation,  
31 incorporated or unincorporated association, joint stock company,  
32 reciprocal insurer, syndicate, or any similar entity or combination of  
33 entities acting in concert.

34 (13) "Premium" means the consideration paid to an insurer for a  
35 reimbursement insurance policy.

36 (14) "Provider fee" means the consideration paid by a consumer for  
37 a service contract.

1 (15) "Reimbursement insurance policy" means a policy of insurance  
2 that is issued to a service contract provider or a protection product  
3 guarantee provider to provide reimbursement to the service contract  
4 provider or the protection product guarantee provider or to pay on  
5 behalf of the service contract provider or the protection product  
6 guarantee provider all contractual obligations incurred by the service  
7 contract provider or the protection product guarantee provider under  
8 the terms of the insured service contracts or protection product  
9 guarantees issued or sold by the service contract provider or the  
10 protection product guarantee provider.

11 (16)(a) "Service contract" means a contract or agreement for  
12 consideration over and above the lease or purchase price of the  
13 property for a specific duration to perform the repair, replacement, or  
14 maintenance of property or the indemnification for repair, replacement,  
15 or maintenance for operational or structural failure due to a defect in  
16 materials or workmanship, or normal wear and tear. Service contracts  
17 may provide for the repair, replacement, or maintenance of property for  
18 damage resulting from power surges and accidental damage from handling,  
19 with or without additional provision for incidental payment of  
20 indemnity under limited circumstances, including towing, rental,  
21 emergency road services, or other expenses relating to the failure of  
22 the product or of a component part thereof.

23 (b) "Service contract" also includes a contract or agreement for  
24 the repair or replacement of tires and/or wheels damaged as a result of  
25 coming into contact with road hazards including but not limited to  
26 potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or  
27 composite scraps. However, a contract or agreement meeting the  
28 definition under this subsection (16)(b) in which the party obligated  
29 to perform is either a tire or wheel manufacturer or a motor vehicle  
30 manufacturer is exempt from the requirements of this chapter.

31 (17) "Service contract holder" or "contract holder" means a person  
32 who is the purchaser or holder of a service contract.

33 (18) "Service contract provider" means a person who is  
34 contractually obligated to the service contract holder under the terms  
35 of the service contract.

36 (19) "Service contract seller" means the person who sells the  
37 service contract to the consumer.

1           (20) "Warranty" means a warranty made solely by the manufacturer,  
2 importer, or seller of property or services without consideration; that  
3 is not negotiated or separated from the sale of the product and is  
4 incidental to the sale of the product; and that guarantees indemnity  
5 for defective parts, mechanical or electrical breakdown, labor, or  
6 other remedial measures, such as repair or replacement of the property  
7 or repetition of services.

8           (21) "Home heating fuel service contract" means a contract or  
9 agreement for a separately stated consideration for a specific duration  
10 to perform the repair, replacement, or maintenance of a home heating  
11 fuel supply system including the fuel tank and all visible pipes, caps,  
12 lines, and associated parts or the indemnification for repair,  
13 replacement, or maintenance for operational or structural failure due  
14 to a defect in materials or workmanship, or normal wear and tear.

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