

HOUSE BILL REPORT

HB 2135

As Reported by House Committee On: Business & Financial Services

Title: An act relating to the regulation of service contracts and protection product guarantees.

Brief Description: Addressing the regulation of service contracts and protection product guarantees.

Sponsors: Representatives Parker, Stanford and Kirby.

Brief History:

Committee Activity:

Business & Financial Services: 1/14/14, 1/15/14 [DPS].

Brief Summary of Substitute Bill

- Expands the scope of services allowed under a "service contract."
- Clarifies the definition of a "protection product."

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Kirby, Chair; Ryu, Vice Chair; Parker, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Blake, Fagan, Habib, Hawkins, Hudgins, Hurst, Kochmar, MacEwen, Santos and Stanford.

Staff: Linda Merelle (786-7092).

Background:

Service Contracts.

Certain transactions that fall within the definition of insurance have been addressed by exemptions from the Insurance Code (Code) or the creation of a specific regulatory structure. Entities regulated under these chapters may not be required to comply with the same capitalization and reserve requirements, reporting and solvency oversight, and claims handling practices as are required of an insurer selling a traditional insurance product. In 1990 the Legislature created a chapter in the Code to regulate motor vehicle service

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contracts. In 1999 a chapter in the Code was created for the regulation of service contracts. In 2006 the Legislature overhauled the service contract chapter, included provisions for motor vehicle service contracts and "protection products," and repealed the motor vehicle service contracts chapter.

After the 2006 overhaul, a "service contract" was defined as "a contract to perform the repair, replacement, or maintenance of property or the payment for the repair, replacement, or maintenance for operational or structural failure due to a defect in materials or workmanship, or normal wear and tear." In 2010 the scope of the definition of a "service contract" was expanded to include contracts and agreements purchased separately and for a specific duration to perform the repair or replacement of tires or wheels damaged as a result of coming into contact with road hazards. Examples of "road hazards" included potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps. The expanded definition provided that parties obligated to perform under service contracts relating to damage to tire or wheel as a result of road hazards were exempt from requirements under the Revised Code of Washington chapter governing service contracts.

A "protection product" is any product that is offered or sold with a guarantee to repair or replace another product or pay incidental costs upon the failure of the product to perform pursuant to the terms of the protection product guarantee.

A "protection product guarantee" is a written agreement by a protection product guarantee provider to repair or replace another product or pay incidental costs upon the failure of the protection product or to pay incidental costs upon the failure of the protection product to perform pursuant to the terms of the protection product guarantee.

Registration and Regulation of Service Contract Providers.

Service contract providers must register with the Insurance Commissioner (Commissioner). Persons selling and marketing service contracts are not required to register with the Commissioner unless they are service contract providers.

A service contract provider must meet requirements regarding financial responsibility, record-keeping, form filings, disclosures, and provisions that allow a consumer to return the contract and obtain a refund within 30 days of purchase, if no claim is made.

The Commissioner may suspend or revoke the registration of a service contract provider for failure to comply with the specific requirements.

Penalties for Violations.

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.

Exemptions.

Service contracts that: (1) are paid for with separate and additional consideration; (2) are issued at the point of sale or within 60 days of the original purchase date of the property; and (3) pertain to tangible property that costs less than \$50, not including sales tax, are exempt from the requirements under the chapter governing service contracts.

Summary of Substitute Bill:

The definition of a "protection product" is modified to specifically apply to a protective chemical, substance, device, or system and to expressly exclude fuel additives, oil additives, or other chemical products applied to the engine, transmission, or fuel system of a motor vehicle.

A definition for "road hazards" is added and is defined as "a hazard that is encountered while driving a motor vehicle, and may include potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps."

The definition of "service contract" is modified to include a contract or agreement for:

- the removal of dents, dings, or creases on a motor vehicle that can be repaired using a process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding, or painting;
- the repair of chips or cracks in, or the replacement of windshields as a result of damage caused by road hazards;
- the replacement of a motor vehicle key or key fob;
- services provided pursuant to a protection product guarantee; and
- other services approved by rule of the Commissioner, not inconsistent with the chapter governing service contracts.

The definition of a "service contract" expressly excludes coverage of repair or placement due to damage to the interior surfaces or to the exterior paint or finish of a vehicle. Coverage for these kinds of services may be offered in connection with the sale of a protection product. A service contract may not include coverage for fuel additives, oil additives, or other chemical products applied to the engine, transmission, or fuel system of a motor vehicle.

The exemptions for tire and wheel manufacturers from the requirements of the services contract chapter apply to the additional services allowed under a service contract.

Substitute Bill Compared to Original Bill:

The definition of "service contract" is amended to clarify that a service contract provides for repair, replacement, or indemnification for the failure of materials or workmanship when the failure is the result of normal wear and tear, rather than repair, replacement, or indemnification for normal wear and tear of the purchased property.

Appropriation: None.

Fiscal Note: Requested on January 13, 2014.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This will make it easier for service contract providers and reflects the array of products that these providers deliver. These services are something that consumers like. Identical statutory provisions have been adopted in Oregon, Illinois, and a variety of other states. There is a technical amendment that has been offered by one of the members of the Motor Vehicle Ancillary Products Association.

(Opposed) None.

Persons Testifying: Representative Parker, prime sponsor; Mel Sorensen, Motor Vehicle Ancillary Products Association; and Vicki Christophersen and Anthony Battaglia, Cal-tex Protective Coatings, Inc.

Persons Signed In To Testify But Not Testifying: None.