

# HOUSE BILL REPORT

## HB 2356

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### As Passed Legislature

**Title:** An act relating to employer agreements to reimburse certain employee costs for the use of personal vehicles for business purposes.

**Brief Description:** Concerning employer agreements to reimburse certain employee costs for the use of personal vehicles for business purposes.

**Sponsors:** Representatives Kirby and Vick.

#### **Brief History:**

##### **Committee Activity:**

Business & Financial Services: 1/19/16, 1/20/16 [DP].

##### **Floor Activity:**

Passed House: 2/16/16, 97-0.

Senate Amended.

Passed Senate: 3/2/16, 48-0.

House Concurred.

Passed House: 3/7/16, 96-0.

Passed Legislature.

#### **Brief Summary of Bill**

- Exempts certain employee vehicle mileage and repair reimbursement plans from regulation as insurance.

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### HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

**Majority Report:** Do pass. Signed by 11 members: Representatives Kirby, Chair; Stanford, Vice Chair; Vick, Ranking Minority Member; McCabe, Assistant Ranking Minority Member; Blake, Dye, Hurst, Kochmar, Ryu, Santos and G. Hunt.

**Staff:** David Rubenstein (786-7153).

#### **Background:**

Service Contracts Generally.

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*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.*

Insurance and insurance transactions are governed by the Insurance Code (Code). Among other things, the Code requires: (1) that insurers meet certain financial requirements; and (2) that agents, solicitors, and brokers of insurance comply with specified licensing standards. Financial and criminal penalties may result from noncompliance.

Certain products and transactions that fall within the definition of insurance have been addressed by exemptions from the 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. Persons regulated under these chapters may not have to be licensed or have the same degree of training.

Service contracts are one of the types of products that are regulated less stringently than insurance products under the Code. A service contract under the Code is a contract for separate consideration for a specific duration to:

- repair, replace, or maintain property; or
- indemnify for the repair, replacement, or maintenance of property.

Examples of service contracts include motor vehicle service plans offered by auto dealers that provide a period of maintenance or repair or a protection plan offered by an electronics manufacturer.

#### Exemptions from Regulation as Service Contracts.

Some plans, products, and services that might otherwise meet the definition of a service contract are exempt from regulation as such. These include:

- warranties;
- maintenance;
- service contracts for tangible property worth less than \$50;
- vehicle mechanical breakdown insurance;
- service contracts to businesses or governments; and
- certain home heating fuel service contracts.

#### **Summary of Bill:**

Contracts in which a third party contracted by an employer agrees to reimburse its employees for mileage, maintenance, and repairs for personal vehicles used for business purposes are exempt from regulation as insurance. However, if the agreement provides indemnification for repairs for a loss caused by theft, collision, fire, or other peril typically covered by comprehensive auto insurance, there is no exemption.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) Employers often pay mileage pursuant to federal compensation standards, or they may cover maintenance for their employees who use personal vehicles for business purposes. Reimbursement companies provide this service on behalf of employers to save them the burden of administering the program. The insurance commissioners in over 40 other states have stipulated that this is not insurance, but advocates are seeking a statutory safe harbor, which the Office of the Insurance Commissioner supports. This bill, as the Legislature has done before, adds exemptions to the service contract statutes. The employee compensation arrangements contemplated in this bill must be fair to both employer and employees, and the service at issue here helps ensure that.

(Opposed) None.

**Persons Testifying:** Representative Kirby, prime sponsor; Mel Sorensen, Reimbursement Services LLC; and Lonnie Johns-Brown, Office of the Insurance Commissioner.

**Persons Signed In To Testify But Not Testifying:** None.