

SENATE BILL REPORT

SB 5977

As of January 20, 2014

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: Senators Hobbs and Fain.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 1/16/14.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Staff: Edward Redmond (786-7471)

Background: A protection product is any product that is offered or sold with a guarantee to repair or replace another product or pay the incidental costs upon the failure of the product to perform as contracted. A protection product guarantee is a written agreement by the protection product guarantee provider to repair or replace another product or pay incidental cost upon the failure of the protection product to perform pursuant to its terms. Protection products are regulated by the Office of Insurance Commissioner (OIC).

A service contract is a contract for separate consideration for any specific duration to repair, replace, or maintain property; or indemnify for the repair, replacement, or maintenance of property. The company that is obliged to the customer under the service contract is referred to as the service contract provider. Service contracts are also regulated by OIC.

Registration. Both protection product guarantee providers and service contract providers must register with the Insurance Commissioner (Commissioner). Application procedures, requirements, and fees are set forth. The Commissioner may suspend or revoke the registration of a protection product guarantee provider or service contract provider for failure to comply with the specific requirements.

Persons selling and marketing protection products or service contracts are not required to register with or be licensed by the Commissioner unless they are protection product guarantee providers or service contract providers.

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.

Financial Responsibility. A protection product guarantee provider or service contract provider may ensure that all obligations and liabilities are paid by choosing one of the following options where applicable:

- insure its protection product or service contracts with a reimbursement insurance policy;
- maintain a reserve account that includes a portion of the gross consideration received for all service contracts and give the Commissioner a financial security deposit;
- use a risk-retention group to insure the protection products or service contracts with a reimbursement insurer policy; or
- maintain or have the parent company maintain a net worth or stockholder's equity of \$100 million.

Recordkeeping. A protection product guarantee provider or service contract provider must keep accurate accounts and records including the following:

- the name and address of the person who purchased a protection product or service contract;
- a list of locations where the protection product or service contract is sold or marketed; and
- written claims files with the dates, amounts, and descriptions of claims related to protection products or service contracts.

Investigations and Enforcement. The Commissioner may investigate a protection product guarantee provider or service contract provider. Upon the Commissioner's request, such people must make the books, accounts, and records available to the Commissioner. The Commissioner may take actions to enforce the chapter and the Commissioner's rules and orders. A violation of the protection product or service contract laws is a violation of the Consumer Protection Act. A purchaser of a protection product or service contract may bring suit for a violation.

Summary of Bill: The definition of protection product is modified to mean any protective, chemical, substance, device, or system 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. The definition explicitly excludes fuel additives, oil additives, or other chemical products applied to the engine, transmission, or fuel system of a motor vehicle. Incidental cost reimbursement must be tied to the purchase of a product that makes the specified loss or damage less likely to occur.

A new definition is added. Road hazard is defined as a hazard that is encountered while driving a motor vehicle and may include, but is not limited to, potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps.

The definition of service contract is amended to permit additional contracted services including: (1) the painless removal of dents from a vehicle, (2) repair or replacement of windshields from damages caused by road hazards, (3) the replacement of a motor vehicle key or key fob, (4) services provided under a protection product guarantee, and (5) other services provided by rule of OIC.

Service contracts do not include coverage for repair or replacement of interior surfaces, exterior paint, or the finish of a vehicle. Such damages, however, may be covered through the sale of a protection product. Service contracts also do not include coverage for fuel additives, oil additives, or other chemical products applied to the engine, transmission, or fuel system of a motor vehicle.

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 was brought forward at the request of the Motor Vehicle Ancillary Products Association (MVAPA) to establish a regulatory framework for the suite of products MVAPA provides. This legislation has been advanced in a number of states including Illinois and Oregon, and has been considered in various forms in over 20 states. Washington adopted a portion of the model act three years ago which passed out of this committee. That bill had a service contract for a standalone tire and wheel repair benefit. The benefits included in this bill would treat an additional suite of services similar to the way the tire and wheel repair benefit is treated. These are modest benefits that would not generally fall under the ambit of a property insurance program under auto insurance. MVAPA has no objection to the added amendment.

CAL-TEX Protective coatings manufactures a protective coating that is used with nanotechnology. It is applied to the interior and exterior of a vehicle to protect it from damage. The proposed substitute incorporates a deletion of a comma, which was inadvertently left in when the model act was adopted. This left some ambiguity as to what a service contract was allowed to do. This inadvertent comma has been removed from legislation in other states as well.

Persons Testifying: PRO: Mel Sorensen, MVAPA; Vicki Christophersen, CAL-TEX Protective Coatings.