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SENATE BILL 6543

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State of Washington

55th Legislature

1998 Regular Session

By Senators Winsley, Prentice, Heavey, Hale, Benton, Finkbeiner and Strannigan

Read first time 01/21/98. Referred to Committee on Financial Institutions, Insurance & Housing.

1 AN ACT Relating to automobile clubs; adding a new chapter to Title  
2 48 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** This chapter may be known and cited as the  
5 automobile club services act.

6 NEW SECTION. **Sec. 2.** The definitions in this section apply  
7 throughout this chapter unless the context clearly requires otherwise.

8 (1) "Automobile club" means any person who in consideration of  
9 dues, assessments, or periodic payments of money, promises its members  
10 or subscribers to assist them in matters relating to travel and the  
11 operation, use, and maintenance of a motor vehicle and the supplying of  
12 services that may include such services as community traffic safety  
13 service, travel and touring service, theft or reward service, map  
14 service, towing service, emergency road service, bail bond service,  
15 legal fee reimbursement service in the defense of traffic offenses, and  
16 the participation in an accident and sickness or death insurance  
17 benefit program.

1 (2) "Person" means any person, firm, partnership, corporation, or  
2 association that conducts an automobile club service business within  
3 the state.

4 (3) "Commissioner" means the insurance commissioner.

5 (4) "Club agent" means any person other than the automobile club  
6 itself, who acts or aids in any manner in the solicitation, delivery,  
7 or negotiation of any service contract or of the renewal or continuance  
8 of that service contract. However, any person performing only work of  
9 a clerical nature in the office of the automobile club is not a club  
10 agent.

11 (5) "Service contract" means any agreement whereby an automobile  
12 club, for a consideration, promises to render, furnish, or procure  
13 specified services or promises to reimburse club members for those  
14 services.

15 NEW SECTION. **Sec. 3.** Automobile clubs furnishing bail bond  
16 service and accident and sickness or death insurance benefits to its  
17 members shall purchase such insurance from a company licensed and  
18 authorized to sell such coverages in the state.

19 NEW SECTION. **Sec. 4.** An automobile club that offers its members  
20 any of the services referred to in section 2 of this act shall not  
21 render any automobile club service prior to being licensed by the  
22 commissioner. The annual license fee shall be determined annually by  
23 the commissioner.

24 NEW SECTION. **Sec. 5.** An automobile club licensed by the  
25 commissioner shall file a statement appointing the commissioner its  
26 agent for the service of process.

27 NEW SECTION. **Sec. 6.** An automobile club licensed under this  
28 chapter shall file a bond in the amount of one hundred thousand dollars  
29 with the state treasurer.

30 NEW SECTION. **Sec. 7.** An automobile club shall, with its  
31 application for original license, and annually before April 1st, file  
32 with the commissioner a true statement of its financial condition,  
33 transactions, and its affairs as of the preceding December 31st. The  
34 statement shall contain such information as required by the

1 commissioner, and shall be verified by the oaths of at least two of the  
2 automobile club's principal officers and the statement of financial  
3 condition shall be certified by a certified public accountant within  
4 the six previous six months, as presenting fairly, in accordance with  
5 generally accepted accounting principles, the financial position of the  
6 automobile club. The commissioner may suspend or revoke the license of  
7 any automobile club failing to file its annual statement when due or  
8 during any extension of time that the commissioner for good cause may  
9 grant.

10 NEW SECTION. **Sec. 8.** A license may be refused, or a license duly  
11 issued may be suspended or revoked, or the renewal thereof refused by  
12 the commissioner if, after notice and hearings the commissioner finds  
13 that the applicant for, or holder of, the license:

14 (1) Has violated any provision of this chapter;

15 (2) Is in such a financial condition that its further transaction  
16 of automobile club service in the state would be hazardous to its  
17 members and the automobile club service-buying public;

18 (3) Is insolvent;

19 (4) Has refused or refuses to remove or discharge, or terminate its  
20 relationship with a director or officer who has been convicted of any  
21 crime involving fraud or dishonesty;

22 (5) Customarily, or in the regular course of business, compels  
23 claimants under its service contract either to accept less than the  
24 amount due them or fewer services or compels them to bring suit in  
25 order to secure full payment of the amount or all of the services due;

26 (6) Conducts its business outside this state in a manner that it  
27 unjustly discriminates against or prejudices the interests of the  
28 people of this state;

29 (7) Is affiliated with and is under the same general management or  
30 interlocking directorate or ownership as another automobile club that  
31 transacts business in this state but does not have a license issued  
32 under this chapter;

33 (8) Has exceeded, or exceeds, its charter powers;

34 (9) Has refused, or refuses, to be examined, or if its directors,  
35 managing officers, employees, or representatives refuse to submit to  
36 examination by the commissioner when required by the commissioner, or  
37 refuse to perform any legal obligation relative to such examination;

1 (10) Maintains, through its employees, a policy of misrepresenting  
2 to the public its service contracts; or

3 (11) Fails to issue service contracts to its members.

4 NEW SECTION. **Sec. 9.** A service contract shall not be executed,  
5 issued, or delivered in this state until the contract has been filed  
6 with the commissioner. The service contract may be in the form of a  
7 written agreement between the automobile club and the member or it may  
8 consist of a completed application, a membership card, and a written  
9 description of services to be rendered by the automobile club. A  
10 service contract shall not be executed, issued, or delivered in this  
11 state unless it contains the following:

12 (1) The exact corporate or other name of the club;

13 (2) The location of its home office and its usual place of business  
14 in the state, if any, giving street number and city;

15 (3) A provision that the contract may be canceled at any time by  
16 given written notice thereof by either the club or the holder, and that  
17 the holder is, if the dues or membership fee has been paid, entitled to  
18 a refund of the unused portion of the consideration paid for such  
19 contract, calculated on a pro rata basis over the period of the  
20 contract, without any deductions, except that the automobile club may  
21 make a reasonable minimum charge;

22 (4) A provision plainly specifying the services promised, that the  
23 holder is not required to pay any sum, in addition to the amount  
24 specified in the contract for any services specified, the territory  
25 wherein such services are to be rendered, the effective date of the  
26 contract, and the first renewal date; and

27 (5) A statement on the first page of the service contract in not  
28 less than fourteen-point type stating: "This is not an automobile  
29 liability insurance contract."

30 NEW SECTION. **Sec. 10.** Every automobile club licensed by the  
31 commissioner shall, within thirty days of the date of employment of a  
32 club agent to sell memberships in the automobile club to the public,  
33 file with the commissioner a notice of such employment. This notice  
34 shall include an application completed by the club agent and verified  
35 by him or her and shall contain the information required by the  
36 commissioner, and also contain proof satisfactory to the commissioner  
37 that such applicant is of good reputation and that he or she has

1 received training from the club or is otherwise qualified in the field  
2 of automobile club service contracts. Upon termination of any club  
3 agent's employment by an automobile club, the automobile club shall  
4 within thirty days thereafter notify the commissioner of such  
5 termination. Notifications and applications shall be upon such forms  
6 as the commissioner may prescribe. The registration fee for club  
7 agents shall be determined annually by the commissioner.

8 NEW SECTION. **Sec. 11.** The commissioner may suspend, revoke, or  
9 refuse to renew any club agent's registration, if it is found that the  
10 club agent:

- 11 (1) Has violated any of the provisions of this chapter;
- 12 (2) Has misappropriated or converted to private use, or has  
13 illegally withheld, moneys required to be held in a fiduciary capacity;
- 14 (3) Has materially misrepresented the terms or effects of any  
15 contract or has engaged in any fraudulent transaction;
- 16 (4) Has shown himself or herself to be incompetent, untrustworthy,  
17 or a source of injury and loss to the automobile club service-buying  
18 public; or
- 19 (5) Has been convicted of a crime involving fraud or dishonesty.

20 NEW SECTION. **Sec. 12.** Sections 1 through 11 of this act  
21 constitute a new chapter in Title 48 RCW.

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