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HOUSE BILL 2218

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State of Washington

62nd Legislature

2012 Regular Session

By Representatives Kirby and Schmick

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1 AN ACT Relating to service contracts; and amending RCW 48.110.020.

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

3 **Sec. 1.** RCW 48.110.020 and 2011 c 171 s 104 are each amended to  
4 read as follows:

5 The definitions in this section apply throughout this chapter.

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

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

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

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

1 (5) "Incidental costs" means expenses specified in the guarantee  
2 incurred by the protection product guarantee holder related to damages  
3 to other property caused by the failure of the protection product to  
4 perform as provided in the guarantee. "Incidental costs" may include,  
5 without limitation, insurance policy deductibles, rental vehicle  
6 charges, the difference between the actual value of the stolen vehicle  
7 at the time of theft and the cost of a replacement vehicle, sales  
8 taxes, registration fees, transaction fees, and mechanical inspection  
9 fees. Incidental costs may be paid under the provisions of the  
10 protection product guarantee in either a fixed amount specified in the  
11 protection product guarantee or sales agreement, or by the use of a  
12 formula itemizing specific incidental costs incurred by the protection  
13 product guarantee holder to be paid.

14 (6) "Maintenance agreement" means a contract of limited duration  
15 that provides for scheduled maintenance only.

16 (7) "Motor vehicle" means any vehicle subject to registration under  
17 chapter 46.16A RCW.

18 (8) "Person" means an individual, partnership, corporation,  
19 incorporated or unincorporated association, joint stock company,  
20 reciprocal insurer, syndicate, or any similar entity or combination of  
21 entities acting in concert.

22 (9) "Premium" means the consideration paid to an insurer for a  
23 reimbursement insurance policy.

24 (10) "Protection product" means any product offered or sold with a  
25 guarantee to repair or replace another product or pay incidental costs  
26 upon the failure of the product to perform pursuant to the terms of the  
27 protection product guarantee.

28 (11) "Protection product guarantee" means a written agreement by a  
29 protection product guarantee provider to repair or replace another  
30 product or pay incidental costs upon the failure of the protection  
31 product to perform pursuant to the terms of the protection product  
32 guarantee.

33 (12) "Protection product guarantee holder" means a person who is  
34 the purchaser or permitted transferee of a protection product  
35 guarantee.

36 (13) "Protection product guarantee provider" means a person who is  
37 contractually obligated to the protection product guarantee holder

1 under the terms of the protection product guarantee. Protection  
2 product guarantee provider does not include an authorized insurer  
3 providing a reimbursement insurance policy.

4 (14) "Protection product seller" means the person who sells the  
5 protection product to the consumer.

6 (15) "Provider fee" means the consideration paid by a consumer for  
7 a service contract.

8 (16) "Reimbursement insurance policy" means a policy of insurance  
9 that is issued to a service contract provider or a protection product  
10 guarantee provider to provide reimbursement to the service contract  
11 provider or the protection product guarantee provider or to pay on  
12 behalf of the service contract provider or the protection product  
13 guarantee provider all contractual obligations incurred by the service  
14 contract provider or the protection product guarantee provider under  
15 the terms of the insured service contracts or protection product  
16 guarantees issued or sold by the service contract provider or the  
17 protection product guarantee provider.

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

30 (b) "Service contract" (~~also~~) includes a contract or agreement  
31 sold for separately stated consideration for a specific duration to  
32 perform the repair or replacement of tires and/or wheels damaged as a  
33 result of coming into contact with road hazards including but not  
34 limited to potholes, rocks, wood debris, metal parts, glass, plastic,  
35 curbs, or composite scraps. However, a contract or agreement meeting  
36 the definition under this subsection (17)(b) in which the party  
37 obligated to perform is either a tire or wheel manufacturer or a motor  
38 vehicle manufacturer is exempt from the requirements of this chapter.

1       (c) "Service contract" also includes a contract or agreement of any  
2 duration entered into at or after the sale or lease of the subject real  
3 or personal property for additional consideration to perform the  
4 repair, replacement, or maintenance of residential electrical,  
5 telecommunication, plumbing, mechanical, water, sewage, utility, or  
6 similar system with or without coverage of any residential electronic,  
7 mechanical, or electrical equipment or appliance; or for the  
8 indemnification for property repair, replacement, or maintenance for  
9 operational or structural failure due to a defect in materials or  
10 workmanship, or normal wear and tear.

11       (18) "Service contract holder" or "contract holder" means a person  
12 who is the purchaser or holder of a service contract.

13       (19) "Service contract provider" means a person who is  
14 contractually obligated to the service contract holder under the terms  
15 of the service contract.

16       (20) "Service contract seller" means the person who sells the  
17 service contract to the consumer.

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

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