
SUBSTITUTE SENATE BILL 5977

State of Washington

63rd Legislature

2014 Regular Session

By Senate Financial Institutions, Housing & Insurance (originally sponsored by Senators Hobbs and Fain)

READ FIRST TIME 01/24/14.

1 AN ACT Relating to the regulation of service contracts and
2 protection product guarantees; and amending RCW 48.110.020.

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

4 **Sec. 1.** RCW 48.110.020 and 2013 c 117 s 1 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter.

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

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

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

13 (4) "Home heating fuel service contract" means a contract or
14 agreement for a separately stated consideration for a specific duration
15 to perform the repair, replacement, or maintenance of a home heating
16 fuel supply system including the fuel tank and all visible pipes, caps,
17 lines, and associated parts or the indemnification for repair,
18 replacement, or maintenance for operational or structural failure due
19 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~~) protective
25 chemical, substance, device, or system offered or sold with a guarantee
26 to repair or replace another product or pay incidental costs upon the
27 failure of the product to perform pursuant to the terms of the
28 protection product guarantee. Protection product does not include fuel
29 additives, oil additives, or other chemical products applied to the
30 engine, transmission, or fuel system of a motor vehicle.

31 (11) "Protection product guarantee" means a written agreement by a
32 protection product guarantee provider to repair or replace another
33 product or pay incidental costs upon the failure of the protection
34 product to perform pursuant to the terms of the protection product
35 guarantee. The reimbursement of incidental costs promised under a
36 protection product guarantee must be tied to the purchase of a physical
37 product that is formulated or designed to make the specified loss or
38 damage from a specific cause less likely to occur.

1 (12) "Protection product guarantee holder" means a person who is
2 the purchaser or permitted transferee of a protection product
3 guarantee.

4 (13) "Protection product guarantee provider" means a person who is
5 contractually obligated to the protection product guarantee holder
6 under the terms of the protection product guarantee. Protection
7 product guarantee provider does not include an authorized insurer
8 providing a reimbursement insurance policy.

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

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

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

23 (17) "Road hazard" means a hazard that is encountered while driving
24 a motor vehicle. Road hazards may include but are not limited to
25 potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or
26 composite scraps.

27 (18)(a) "Service contract" means a contract or agreement entered
28 into at any time for consideration over and above the lease or purchase
29 price of the property for any specific duration to perform the repair,
30 replacement, or maintenance of property or the indemnification for
31 repair, replacement, or maintenance for operational or structural
32 failure due to a defect in materials or workmanship((τ)) or normal wear
33 and tear. Service contracts may provide for the repair, replacement,
34 or maintenance of property for damage resulting from power surges and
35 accidental damage from handling, with or without additional provision
36 for incidental payment of indemnity under limited circumstances,
37 including towing, rental, emergency road services, or other expenses
38 relating to the failure of the product or of a component part thereof.

1 (b) "Service contract" also includes a contract or agreement sold
2 for separately stated consideration for a specific duration to perform
3 any one or more of the following services:

4 (i) The repair or replacement of tires and/or wheels damaged as a
5 result of coming into contact with road hazards (~~including but not~~
6 limited to potholes, rocks, wood debris, metal parts, glass, plastic,
7 curbs, or composite scraps)). However, a contract or agreement meeting
8 the definition under this subsection (~~(+17+)) (18)(b) in which the~~
9 party obligated to perform is either a tire or wheel manufacturer or a
10 motor vehicle manufacturer is exempt from the requirements of this
11 chapter;

12 (ii) The removal of dents, dings, or creases on a motor vehicle
13 that can be repaired using the process of paintless dent removal
14 without affecting the existing paint finish and without replacing
15 vehicle body panels, sanding, bonding, or painting;

16 (iii) The repair of chips or cracks in, or the replacement of,
17 motor vehicle windshields as a result of damage caused by road hazards;

18 (iv) The replacement of a motor vehicle key or key fob in the event
19 that the key or key fob becomes inoperable or is lost or stolen;

20 (v) Services provided pursuant to a protection product guarantee;
21 and

22 (vi) Other services approved by rule of the commissioner that are
23 not inconsistent with the provisions of this chapter.

24 (c) "Service contract" does not include coverage for:

25 (i) Repair or replacement due to damage to the interior surfaces or
26 to the exterior paint or finish of a vehicle. However, coverage for
27 these types of damage may be offered in connection with the sale of a
28 protection product as defined in this section; or

29 (ii) Fuel additives, oil additives, or other chemical products
30 applied to the engine, transmission, or fuel system of a motor vehicle.

31 (~~(+18+)) (19) "Service contract holder" or "contract holder" means~~
32 a person who is the purchaser or holder of a service contract.

33 (~~(+19+)) (20) "Service contract provider" means a person who is~~
34 contractually obligated to the service contract holder under the terms
35 of the service contract.

36 (~~(+20+)) (21) "Service contract seller" means the person who sells~~
37 the service contract to the consumer.

1 (~~(21)~~) (22) "Warranty" means a warranty made solely by the
2 manufacturer, importer, or seller of property or services without
3 consideration; that is not negotiated or separated from the sale of the
4 product and is incidental to the sale of the product; and that
5 guarantees indemnity for defective parts, mechanical or electrical
6 breakdown, labor, or other remedial measures, such as repair or
7 replacement of the property or repetition of services.

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