

1 SB74
2 172655-1
3 By Senator Chambliss
4 RFD: Banking and Insurance
5 First Read: 02-FEB-16

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8 SYNOPSIS: Under existing law, the Department of
9 Insurance regulates service contracts.

10 This bill would define the term "road
11 hazard" and would specify the damages caused by a
12 road hazard that would be covered by a service
13 contract.

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15 A BILL
16 TO BE ENTITLED
17 AN ACT

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19 To amend Section 8-32-2 of the Code of Alabama 1975,
20 relating to service contracts; to define the term "road
21 hazard" and to specify the damages caused by a road hazard
22 that would be covered by a service contract.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 8-32-2 of the Code of Alabama
25 1975, is amended to read as follows:

26 "§8-32-2.

1 "As used in this chapter, the following terms shall
2 have the following meanings:

3 "(1) ADMINISTRATOR. The person designated by a
4 provider to be responsible for the administration of service
5 contracts or the service contracts plan or to make the filings
6 required by this chapter.

7 "(2) COMMISSIONER. The Commissioner of Insurance of
8 this state.

9 "(3) CONSUMER. A natural person who buys, primarily
10 for personal, family, or household purposes, and not for
11 resale, any tangible personal property normally used for
12 personal, family, or household purposes and not for commercial
13 or research purposes.

14 "(4) MAINTENANCE AGREEMENT. A contract of limited
15 duration that provides for scheduled maintenance only.

16 "(5) MANUFACTURER. A person that is one of the
17 following:

18 "a. A manufacturer or producer of property that
19 sells the property under its own name or label.

20 "b. A subsidiary of the person who manufactures or
21 produces the property.

22 "c. A corporation which owns at least 80 percent of
23 the person who manufactures or produces the property.

24 "d. A person who manufactures or produces the
25 property even though the property is sold under the trade name
26 or label of another person.

1 "(6) MECHANICAL BREAKDOWN INSURANCE. For purposes of
2 this chapter, a policy, contract, or agreement issued by an
3 authorized insurance company directly to a consumer or other
4 owner of property that provides for, among other coverages,
5 the repair, replacement, or maintenance of property or
6 indemnification for repair, replacement, or maintenance, for
7 the operational or structural failure of the property due to a
8 defect in materials or workmanship or due to normal wear and
9 tear.

10 "(7) NON-ORIGINAL MANUFACTURER'S PARTS. Replacement
11 parts not made for or by the original manufacturer of the
12 property, commonly referred to as "after market parts."

13 "(8) PERSON. An individual, partnership,
14 corporation, incorporated or unincorporated association, joint
15 stock company, reciprocal, syndicate, or any other entity, or
16 combination of persons acting in concert.

17 "(9) PREMIUM. The consideration paid to an insurer
18 for a reimbursement insurance policy.

19 "(10) PROVIDER. A person who administers, makes,
20 provides, sells, or offers to sell a service contract, who is
21 contractually obligated to provide service under a service
22 contract.

23 "(11) PROVIDER FEE. The total purchase price paid
24 for a service contract. In cases where a reimbursement
25 insurance policy is issued to a provider, the "provider fee"
26 is the total purchase price paid for a service contract net of
27 the premium.

1 "(12) REIMBURSEMENT INSURANCE POLICY. A policy of
2 insurance issued to a provider pursuant to which the insurer
3 agrees, for the benefit of the service contract holders, to
4 discharge the obligations of the provider under the terms of
5 the service contracts in the event of non-performance by the
6 provider.

7 "(13) ROAD HAZARD. A hazard that is encountered
8 while driving a motor vehicle, including, but not limited to,
9 potholes, rocks, wood debris, metal parts, glass, plastic,
10 curbs, or composite scraps.

11 "~~(13)~~(14) SERVICE CONTRACT. A contract or agreement
12 for a separately stated consideration for a specific duration
13 to perform the repair, replacement, or maintenance of property
14 or indemnification for repair, replacement, or maintenance,
15 for the operational or structural failure due to a defect in
16 materials or workmanship, or normal wear and tear, with or
17 without additional provision for incidental payment or
18 indemnity under limited circumstances, for related expenses,
19 including, but not limited to, towing, rental, and emergency
20 road service. Service contracts may provide for the repair,
21 replacement or maintenance of property for damage resulting
22 from power surges and accidental damage from handling.

23 "Service contract" does not include warranties, mechanical
24 breakdown insurance or maintenance agreements. A service
25 contract is not insurance for any purpose, including, but not
26 limited to, compliance with the Alabama Insurance Code, other
27 than for the purpose of a service contract holder's claim

1 against a service contract provider for failure to comply with
2 the provisions of the service contract if so provided by other
3 law. Service contract services include, but are not limited
4 to, the following:

5 "a. The repair or replacement of tires or wheels, or
6 both, on a motor vehicle damaged as a result of coming into
7 contact with a road hazard.

8 "b. The removal of dents, dings, or creases on a
9 motor vehicle that may be repaired using the process of
10 paintless dent removal without affecting the existing paint
11 finish and without replacing vehicle body panels, sanding,
12 bonding, or painting.

13 "c. The repair of chips or cracks in or the
14 replacement of a motor vehicle windshield as a result of
15 damage caused by a road hazard that is primary to the coverage
16 offered by the motor vehicle owner's motor vehicle insurance
17 policy.

18 "d. The replacement of a motor vehicle key or
19 key-fob if the key or key-fob becomes inoperable, lost, or
20 stolen.

21 "e. Other services which may be approved by the
22 commissioner, if not inconsistent with this chapter.

23 "(14)(15) SERVICE CONTRACT HOLDER or CONTRACT
24 HOLDER. A person who is the purchaser or holder of a service
25 contract.

26 "(15)(16) WARRANTY. A warranty made by the
27 manufacturer, importer, distributor, or seller of property or

1 services without consideration stated separately from the
2 price of the property or services sold, that is not negotiated
3 separate from the sale of the product and is incidental to the
4 sale of the product, that guarantees repair or replacement, or
5 indemnity for repair or replacement, for defective parts,
6 mechanical or electrical breakdown, labor or other remedial
7 measures, such as repair or replacement of the property or
8 repetition of services."

9 Section 2. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.