

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE DRS25032-MH-13B (12/04)

Short Title: Motor Vehicle Service Agreement Amendments. (Public)

Sponsors: Senator Meredith (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE A LEGAL FRAMEWORK FOR THE SALE AND REGULATION
3 OF MOTOR VEHICLE ANCILLARY PRODUCT CONTRACTS IN NORTH
4 CAROLINA.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 66-370 reads as rewritten:

7 "§ 66-370. Motor vehicle service agreement companies.

8 (a) This section applies to all motor vehicle service agreement companies soliciting
9 business in this State, but it does not apply to maintenance agreements, performance
10 guarantees, warranties, or motor vehicle service agreements made by

11 (1) A manufacturer,

12 (2) A distributor, or

13 (3) A subsidiary or affiliate of a manufacturer or a distributor, where fifty-one
14 percent (51%) or more of the subsidiary or affiliate is owned directly or
15 indirectly by

16 a. The manufacturer,

17 b. The distributor, or

18 c. The common owner of fifty-one percent (51%) or more of the
19 manufacturer or distributor

20 in connection with the sale of motor vehicles. This section does not apply to
21 any motor vehicle dealer licensed to do business in this State (i) whose
22 primary business is the retail sale and service of motor vehicles; (ii) who
23 makes and administers its own service agreements with or without
24 association with a third-party administrator or who makes its own service
25 agreements in association with a manufacturer, distributor, or their
26 subsidiaries or affiliates; and (iii) whose service agreements cover only
27 vehicles sold by the dealer to its retail customer; provided that the dealer
28 complies with G.S. 66-372 and G.S. 66-373. A motor vehicle dealer who
29 sells a motor vehicle service agreement to a consumer, as defined in 15
30 U.S.C. § 2301(3), is not deemed to have made a written warranty to the
31 consumer with respect to the motor vehicle sold or to have entered into a
32 service contract with the consumer that applies to the motor vehicle, as
33 provided in 15 U.S.C. § 2308(a), if: (i) the motor vehicle dealer acts as a
34 mere agent of a third party in selling the motor vehicle service agreement;
35 and (ii) the motor vehicle dealer would, after the sale of the motor vehicle



1 service agreement, have no further obligation under the motor vehicle
2 service agreement to the consumer to service or repair the vehicle sold to the
3 consumer at or within 90 days before the dealer sold the motor vehicle
4 service agreement to the consumer.

5 (b) The following definitions apply in this section and in G.S. 66-371, 66-372, and
6 66-373:

7 (1) Ancillary protection product. – A protective chemical, substance, device, or
8 system that is installed on or applied to a motor vehicle and is designed to
9 prevent loss or damage to a motor vehicle from a specific cause. For
10 purposes of this section, the term "ancillary protection product" shall
11 include, but not be limited to, protective chemicals, alarm systems, body part
12 marking products, steering locks, window etch products, pedal and ignition
13 locks, fuel and ignition kill switches, and electronic, radio, and satellite
14 tracking devices. "Ancillary protection product" does not include fuel
15 additives, oil additives, or other chemical products applied to the engine,
16 transmission, or fuel system of a motor vehicle.

17 ~~(1)~~(1a) Authorized insurer. – An insurance company authorized to write liability
18 insurance under Articles 7, 16, 21, or 22 of Chapter 58 of the General
19 Statutes.

20 (2) Distributor. – Defined in G.S. 20-286(3).

21 (3) Licensed insurer. – An insurance company licensed to write liability
22 insurance under Article 7 or 16 of Chapter 58 of the General Statutes.

23 (4) Motor vehicle. – Defined in G.S. 20-4.01(23), but also including mopeds as
24 defined in G.S. 20-4.01(27)d1.

25 (4a) Motor vehicle failure. – The failure of a mechanical or other component part
26 of the motor vehicle arising out of the ownership, operation, or use of the
27 vehicle.

28 (5) Motor vehicle service agreement. –

29 a. Any contract or agreement (i) indemnifying the motor vehicle service
30 agreement holder against loss caused by ~~failure, arising out of the~~
31 ~~ownership, operation, or use of a motor vehicle, of a mechanical or~~
32 ~~other component part of the motor vehicle~~ a motor vehicle failure that
33 is listed in the ~~agreement~~ agreement or (ii) providing for the repair of
34 a motor vehicle failure that is listed in the agreement.

35 b. A motor vehicle service agreement includes a contract or agreement
36 to perform or to indemnify the holder of the motor vehicle service
37 agreement for performance of any of the following services:

38 1. The repair or replacement of tires or wheels on a motor
39 vehicle damaged as a result of coming into contact with road
40 hazards.

41 2. The removal of dents, dings, or creases on a motor vehicle
42 that can be repaired using the process of paintless dent
43 removal without affecting the existing paint finish and
44 without replacing vehicle body panels, sanding, bonding, or
45 painting.

46 3. The repair of chips or cracks in or the replacement of motor
47 vehicle windshields as a result of damage caused by road
48 hazards.

49 4. The replacement of a motor vehicle key or key-fob in the
50 event that the key or key-fob becomes inoperable or is lost or
51 stolen.

5. Other services which may be approved by the Commissioner of Insurance, if not inconsistent with other provisions of this Article.

c. ~~The term~~A motor vehicle service agreement does not mean—include (i) a contract or agreement guaranteeing the performance of parts parts, ancillary protection products, or lubricants manufactured or distributed by the guarantor and sold for use in connection with a motor vehicle where no additional consideration is paid or given to the guarantor for the contract or agreement beyond the price of the parts—parts, ancillary protection products, or lubricants—lubricants; or (ii) coverage for the repair or replacement of damage to the interior surfaces of a vehicle, or for repair or replacement of damage to the exterior paint or finish of a vehicle; provided, however, that such coverage may be offered in connection with the sale of an ancillary protection product as defined in this section.

(6) Motor vehicle service agreement company. – Any person that issues motor vehicle service agreements and that is not a licensed insurer.

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SECTION 2. G.S. 58-1-15 reads as rewritten:

"§ 58-1-15. Warranties by manufacturers, distributors, or sellers of goods or services.

...

(b) Any warranty made solely by a manufacturer, distributor, or seller of goods or services without charge, or an extended warranty offered as an option and made solely by a manufacturer, distributor, or seller of goods or services for charge, that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or any other remedial measure, including replacement of goods or repetition of services, shall not be a contract of insurance under Articles 1 through 64 of this Chapter; however, service agreements on motor vehicles are governed by G.S. 66-370, 66-372, and 66-373. Service agreements on home appliances are governed by G.S. 66-371, 66-372, and 66-373.

(b1) Service agreements on home appliances or on motor vehicles made by any person other than the manufacturer, distributor, or seller of the home appliance or motor vehicle and offered in compliance with Article 43 of Chapter 66 of the General Statutes shall not be a contract of insurance and shall be exempt from all provisions of this Chapter unless otherwise expressly provided.

...."

SECTION 3. G.S. 66-372(e)(2) reads as rewritten:

"(2) With respect to a motor vehicle service agreement as defined in ~~G.S. 66-370(b)(1),~~G.S. 66-370, provide for a right of assignability by the consumer to a subsequent purchaser before expiration of coverage if the subsequent purchaser meets the same criteria for motor vehicle service agreement acceptability as the original purchaser; and"

SECTION 4. This act becomes effective July 1, 2015.