

HOUSE No. 247

The Commonwealth of Massachusetts

PRESENTED BY:

John J. Mahoney

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to motor vehicle service contracts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>John J. Mahoney</i>	<i>13th Worcester</i>	<i>1/16/2013</i>

HOUSE No. 247

By Mr. Mahoney of Worcester, a petition (accompanied by bill, House, No. 247) of John J. Mahoney relative to motor vehicle service contracts . Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to motor vehicle service contracts.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 149M of Chapter 175 of the General Laws is hereby amended by
2 inserting after the definition of “Consumer” the following: “Motor Vehicle Manufacturer” means
3 a person that: (a) Manufactures or produces motor vehicles and sells motor vehicles under its
4 own name or label; (b) Is a subsidiary of the person who manufactures or produces motor
5 vehicles; (c) Is a corporation which owns 100 percent of the person who manufactures or
6 produces motor vehicles; (d) Does not manufacture or produce motor vehicles, but sells motor
7 vehicles under the trade name or label of another person who manufactures or produces motor
8 vehicles; (e) Manufactures or produces motor vehicles and sells such motor vehicles under the
9 trade name or label of another person who manufactures or produces motor vehicles; or (f) Does
10 not manufacture or produce motor vehicles but, pursuant to a written contract, licenses the use of
11 its trade name or label to another person who manufactures or produces motor vehicles that sells
12 motor vehicles under the licensor’s trade name or label.

13 SECTION 2. Said Section 149M is hereby further amended by striking the definition of
14 “service contract” and inserting in place thereof the following: “Service contract”, a contract for
15 a separately stated consideration and for a specific duration to perform the service, repair,
16 replacement or maintenance of tangible personal property, including a motor vehicle, or
17 indemnification for service, repair, replacement or maintenance, for the operational or structural
18 failure due to a defect in materials or workmanship or normal wear and tear, with or without
19 additional provision for incidental payment or indemnity under limited circumstances, for related
20 expenses, including, but not limited to, rental and food spoilage. Service contract also includes a
21 contract or agreement sold for a separately stated consideration for a specific duration that
22 provides for any of the following: (a) the repair or replacement of tires and/or wheels on a motor

23 vehicle damaged as a result of coming into contact with road hazards including but not limited to
24 potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps; (b) the
25 removal of dents, dings, or creases on a motor vehicle that can be repaired using the process of
26 paintless dent removal without affecting the existing paint finish and without replacing vehicle
27 body panels, sanding, bonding, or painting; (c) the repair of small motor vehicle windshield
28 chips or cracks which may include the replacement of the windshield for chips or cracks that
29 cannot be repaired; or (d) the repair of damage to the interior components of a motor vehicle
30 caused by wear and tear but which expressly excludes the replacement of any part or component
31 of a motor vehicle's interior.

32 SECTION 3. Section 149V of Chapter 75 of the General Laws is hereby amended by
33 striking said section and inserting in place thereof the following: The following shall be exempt
34 from sections 149M to 149W, inclusive: (a) warranties, service contracts or maintenance
35 agreements provided by public utilities that are regulated by the department of
36 telecommunications and cable or the Federal Communications Commission, or by an affiliate of
37 such entity, covering customer wiring, transmission devices serviced by such public utility or
38 warranting services provided by such public utility or its affiliate; (b) mechanical breakdown
39 insurance policies offered by insurers otherwise licensed and regulated under the insurance laws
40 and regulations of the commonwealth; (c) warranties, service contracts or other agreements
41 regarding automobiles under which a licensed motor vehicle dealer is obligated to perform; and
42 (d) warranties offered by builders as part of a conveyance of real estate. Motor vehicle
43 manufacturer's service contracts on the motor vehicle manufacturer's products need only comply
44 with sections 149N(g), 149P, 149Q, and 149U, as applicable, of this Act, and motor vehicle
45 manufacturers offering service contracts on the motor vehicle manufacturer's products are
46 exempt from licensure under section 149N(c).