

SENATE No. 1952

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 striking the definition of “Consumer” and inserting in place thereof the following definition:

3 “Consumer”, an individual who purchases, other than for purposes of resale, tangible
4 property used for personal, family or household purposes.

5 SECTION 2. Said Section 149M is hereby further amended by inserting after the
6 definition of “Consumer” the following new definitions:

7 “Maintenance agreement” means a contract of limited duration that provides for
8 scheduled maintenance only and does not include repair or replacement.

9 “Motor Vehicle Manufacturer” means a person that: (a) manufactures or produces motor
10 vehicles under its own name or label; (b) is a subsidiary of the person who manufactures or
11 produces motor vehicles; (c) is a corporation which owns 100 percent of the person who
12 manufactures or produces motor vehicles; or (d) does not manufacture or produce motor vehicles
13 but, pursuant to a written contract, licenses the use of its trade name or label to another person
14 who manufactures or produces motor vehicles.

15 SECTION 3. Said Section 149M is hereby further amended by striking the definition of
16 “Service contract” and inserting in place thereof the following definition:

17 “Service contract”, a contract for a separately stated consideration and for a specific
18 duration to perform the service, repair, replacement or maintenance of tangible property,
19 including a motor vehicle, or indemnification for service, repair, replacement or maintenance, for
20 the operational or structural failure due to a defect in materials or workmanship or normal wear
21 and tear, with or without additional provision for incidental payment or indemnity under limited

22 circumstances, for related expenses, including, but not limited to, rental and food spoilage.
23 Service contract also includes a contract or agreement sold for a separately stated consideration
24 for a specific duration that provides for any of the following: (a) the repair or replacement of
25 tires and/or wheels on a motor vehicle damaged as a result of coming into contact with road
26 hazards including but not limited to potholes, rocks, wood debris, metal parts, glass, plastic,
27 curbs, or composite scraps; (b) the removal of dents, dings, or creases on a motor vehicle that can
28 be repaired using the process of paintless dent removal without affecting the existing paint finish
29 and without replacing vehicle body panels, sanding, bonding, or painting; (c) the repair of small
30 motor vehicle windshield chips or cracks which may include the replacement of the windshield
31 for chips or cracks that cannot be repaired; or (d) the repair of damage to the interior components
32 of a motor vehicle caused by wear and tear but which expressly excludes the replacement of any
33 part or component of a motor vehicle's interior.

34 SECTION 4. Section 149N of Chapter 75 of the General Laws is hereby amended by
35 striking paragraph (j) and inserting in place thereof the following:

36 (j) Service contracts may provide for the service, repair, replacement or maintenance of
37 tangible property for damage resulting from power surges and accidental damage from handling
38 and may provide for leak or repair coverage to roofing systems on residential dwellings.

39 SECTION 5. Section 149V of Chapter 75 of the General Laws is hereby amended by
40 striking said section and inserting in place thereof the following:

41 Section 149V. The following shall be exempt from sections 149M to 149W, inclusive: (a)
42 warranties, service contracts or maintenance agreements provided by public utilities that are
43 regulated by the department of telecommunications and cable or the Federal Communications
44 Commission, or by an affiliate of such entity, covering customer wiring, transmission devices
45 serviced by such public utility or warranting services provided by such public utility or its
46 affiliate; (b) mechanical breakdown insurance policies offered by insurers otherwise licensed and
47 regulated under the insurance laws and regulations of the commonwealth; (c) warranties, service
48 contracts or other agreements regarding automobiles under which a licensed motor vehicle dealer
49 is obligated to perform; (d) warranties offered by builders as part of a conveyance of real estate.
50 Motor vehicle manufacturer's service contracts on the motor vehicle manufacturer's products
51 need only comply with sections 149N(g), 149P, 149Q, and 149U, as applicable, of this Act, and
52 motor vehicle manufacturers offering service contracts on the motor vehicle manufacturer's
53 products are exempt from licensure under section 149N(c); (e) warranties on a product made by
54 the manufacturer, importer, or seller of the product; and (f) maintenance agreements.