

SENATE No. 440

The Commonwealth of Massachusetts

PRESENTED BY:

Barry R. Finegold

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:

Barry R. Finegold

Second Essex and Middlesex

Eileen M. Donoghue

First Middlesex

SENATE No. 440

By Mr. Finegold, a petition (accompanied by bill, Senate, No. 440) of Barry R. Finegold and Eileen M. Donoghue for legislation relative to motor vehicle service contracts. Financial Services.

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, as appearing in the 2010
2 Official Edition, is hereby amended by inserting after the definition of “Consumer” the following
3 new definition:-

4 “Motor Vehicle Manufacturer”, a person that: (a) manufactures or produces motor
5 vehicles and sells motor vehicles under its own name or label; (b) is a subsidiary of the person
6 who manufactures or produces motor vehicles; (c) is a corporation which owns 100 percent of
7 the person who manufactures or produces motor vehicles; (d) does not manufacture or produce
8 motor vehicles, but sells motor vehicles under the trade name or label of another person who
9 manufactures or produces motor vehicles; (e) manufactures or produces motor vehicles and sells
10 such motor vehicles under the trade name or label of another person who manufactures or
11 produces motor vehicles; or (f) does not manufacture or produce motor vehicles but, pursuant to
12 a written contract, licenses the use of its trade name or label to another person who manufactures
13 or produces motor vehicles that sells motor vehicles under the licensor’s trade name or label.

14 SECTION 2. Said section 149M is hereby further amended by striking the definition of
15 “service contract” and inserting in place thereof the following definition:-

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

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

33 SECTION 3. Said chapter 75 of the General Laws is hereby amended by striking out
34 section 149V, as so appearing, and inserting in place thereof the following section:-

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