SENATE . . . . . No. 2804

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

SENATE, July 9, 2020.

The committee on Financial Services, to whom was referred the petitions (accompanied by bill, Senate, No. 576) of Diana DiZoglio for legislation relative to motor vehicle service contracts; and (accompanied by bill, Senate, No. 625) of Michael O. Moore for legislation relative to motor vehicle service contracts, reports the accompanying bill (Senate, No. 2804).

For the committee,
James T. Welch

FILED ON: 6/15/2020

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In the One Hundred and Ninety-First General Court
(2019-2020)

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:

SECTION 1. Section 149M of chapter 175 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the definition of "consumer" the following 5 definitions:-

"Consumer product", any tangible personal property that is distributed in commerce and is normally used for personal, family or household purposes, including tangible personal property intended to be attached to or installed in any real property without regard to whether it is so attached or installed.

"Maintenance agreement", a contract for regular maintenance.

"Motor vehicle manufacturer", a person who: (i) manufactures, distributes or produces motor vehicles under the person's own name or label;

(ii) is a subsidiary of the person who manufactures, distributes or produces motor vehicles; (iii) is a corporation which owns 100 per cent of the corporation, association,

partnership or other legal entity who manufactures, distributes or produces motor vehicles; or (iv) does not manufacture, distribute or produce motor vehicles but, pursuant to a written contract, licenses the use of its trade name or label to another person who manufactures, distributes or produces motor vehicles.

SECTION 2. Said section 149M of said chapter 175, as so appearing, is hereby further amended by striking out the definition of "service contract" and inserting in place thereof the following definition:-

"Service contract", a contract for a separately stated consideration and for a specific duration to perform the service, repair, replacement or maintenance of a consumer product, including a motor vehicle, or indemnification for service, repair, replacement or maintenance for the operational or structural failure due to a defect in materials or workmanship or normal wear and tear, with or without additional provision for incidental payment or indemnity under limited circumstances, for related expenses, including, but not limited to, rental and food spoilage; provided, however, that a service contract shall also include a contract or agreement sold for a separately stated consideration for a specific duration that provides for any of the following: (i) the repair or replacement of tires or wheels on a motor vehicle damaged as a result of coming into contact with road hazards including, but not limited to, potholes, rocks, wood debris, metal parts, glass, plastic, curbs or composite scraps; (ii) the removal of dents, dings or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding or painting; or (iii) the repair of small motor vehicle windshield chips or cracks which may include the replacement of the windshield for chips or cracks that cannot be repaired.

SECTION 3. Section 149N of said chapter 175, as so appearing, is hereby amended by striking out, in line 100, the words “tangible personal property” and inserting in place thereof the following words:- consumer products.

SECTION 4. Said chapter 175 is hereby amended by striking out section 149V, as so appearing, and inserting in place thereof the following section:-

Section 149V. (a) The following shall be exempt from sections 149M to 149W, inclusive: (i) warranties, service contracts or maintenance agreements provided by public utilities that are regulated by the department of telecommunications and cable or the Federal Communications Commission, or by an affiliate of such entity, covering customer wiring, transmission devices serviced by such public utility or warranting services provided by such public utility or its affiliate; (ii) mechanical breakdown insurance policies offered by insurers otherwise licensed and regulated pursuant to the laws and regulations of the commonwealth; (iii) warranties, service contracts or other agreements regarding automobiles under which a licensed motor vehicle dealer or an affiliate of a licensed motor vehicle dealer is obligated to perform; (iv) warranties offered by builders as part of a conveyance of real estate; (v) warranties on a product made by the manufacturer, importer or seller of the product; and (vi) maintenance agreements.

(b) Motor vehicle manufacturers and service contracts on the motor vehicle manufacturer’s products need only comply with sections 149N(f), 149P, 149Q, 149R and 149U, as applicable, of this Act, and motor vehicle manufacturers offering service contracts on the motor vehicle manufacturer’s products are exempt from licensure under section 149N(c) and the requirements of section 149N(d).