

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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SENATE BILL 195  
Transportation Committee Substitute Adopted 4/15/15  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S195-PCS45413-RO-31

Short Title: Motor Vehicle Service Agreement Amendments.

(Public)

Sponsors:

Referred to:

March 9, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE A LEGAL FRAMEWORK FOR THE SALE AND REGULATION  
3 OF MOTOR VEHICLE ANCILLARY ANTI-THEFT PROTECTION CONTRACTS IN  
4 NORTH 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



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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. An agreement whereby an employer, or  
5 a third party contracted by the employer, provides mileage reimbursement  
6 and incidental maintenance and repairs to its employees for personal  
7 vehicles used for business purposes shall not be considered a motor vehicle  
8 service agreement or a contract of insurance.

9 (b) The following definitions apply in this section and in G.S. 66-371, 66-372, and  
10 66-373:

11 (1) Ancillary anti-theft protection program. – A device or system that (i) is  
12 installed on or applied to a motor vehicle, (ii) is designed to prevent loss or  
13 damage to a motor vehicle from theft, and (iii) includes an ancillary  
14 anti-theft protection program warranty. For purposes of this section, the term  
15 "ancillary anti-theft protection program" includes alarm systems, body part  
16 marking products, steering locks, window etch products, pedal and ignition  
17 locks, fuel and ignition kill switches, and electronic, radio, and satellite  
18 tracking devices. "Ancillary anti-theft protection program" does not include  
19 fuel additives, oil additives, or other chemical products applied to the engine,  
20 transmission, or fuel system or interior or exterior surfaces of a motor  
21 vehicle.

22 (1a) Ancillary anti-theft protection program warranty. – A written agreement by a  
23 warrantor that provides if the ancillary anti-theft protection program fails to  
24 prevent loss or damage to a motor vehicle from a theft, that the warrantor  
25 will pay to or on behalf of the warranty holder specified incidental costs, as a  
26 result of the failure of the ancillary anti-theft protection program to perform  
27 pursuant to the terms of the ancillary anti-theft protection program warranty.  
28 Incidental costs may be reimbursed in either a fixed amount specified in the  
29 ancillary anti-theft protection program warranty or by use of a formula  
30 itemizing specific incidental costs incurred by the warranty holder.

31 ~~(1)~~(1b) Authorized insurer. – An insurance company authorized to write liability  
32 insurance under Articles 7, 16, 21, or 22 of Chapter 58 of the General  
33 Statutes.

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

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

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

39 (4a) Motor vehicle failure. – The failure of a mechanical or other component part  
40 of the motor vehicle arising out of the ownership, operation, or use of the  
41 vehicle.

42 (5) Motor vehicle service agreement. –

43 a. Any contract or agreement (i) indemnifying the motor vehicle service  
44 agreement holder against loss caused by failure, arising out of the  
45 ownership, operation, or use of a motor vehicle, of a mechanical or  
46 other component part of the motor vehicle, or a motor vehicle failure that  
47 is listed in the agreement, or (ii) providing for the repair of  
48 a motor vehicle failure that is listed in the agreement.

49 b. A motor vehicle service agreement includes a contract or agreement  
50 to perform or to indemnify the holder of the motor vehicle service  
51 agreement for performance of any of the following services:

- 1                           1.    The repair or replacement of tires or wheels on a motor
- 2   vehicle damaged as a result of coming into contact with road
- 3   hazards.
- 4                           2.    The removal of dents, dings, or creases on a motor vehicle
- 5   that can be repaired using the process of paintless dent
- 6   removal without affecting the existing paint or finish and
- 7   without replacing vehicle body panels, sanding, bonding, or
- 8   painting.
- 9                           3.    The repair of chips or cracks in or the replacement of motor
- 10    vehicle windshields as a result of damage caused by road
- 11    hazards.
- 12                           4.    The replacement of a motor vehicle key or key fob in the
- 13    event that the key or key fob becomes inoperable or is lost or
- 14    stolen.
- 15                           5.    Other services which may be approved by the Commissioner
- 16    of Insurance, if not inconsistent with other provisions of this
- 17    Article.
- 18                    c.    ~~The term~~ A motor vehicle service agreement does not mean include a
- 19    contract or agreement guaranteeing the performance of parts or
- 20    lubricants manufactured or distributed by the guarantor and sold for
- 21    use in connection with a motor vehicle where no additional
- 22    consideration is paid or given to the guarantor for the contract or
- 23    agreement beyond the price of the parts or lubricants.
- 24                    (6)   Motor vehicle service agreement company. – Any person that issues motor
- 25    vehicle service agreements and that is not a licensed insurer.

26        ...."

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

28    "**§ 58-1-15. Warranties by manufacturers, distributors, or sellers of goods or services.**

29        ...  
 30        (b)    Any ~~warranty~~ warranty, including ancillary anti-theft protection program warranties  
 31    as defined by G.S. 66-370(b)(1a), made solely by a manufacturer, distributor, or seller of goods  
 32    or services without charge, or an extended warranty offered as an option and made solely by a  
 33    manufacturer, distributor, or seller of goods or services for charge, that guarantees indemnity  
 34    for defective parts, mechanical or electrical breakdown, labor, or any other remedial measure,  
 35    including replacement of goods or repetition of services, shall not be a contract of insurance  
 36    under Articles 1 through 64 of this Chapter; however, service agreements on motor vehicles are  
 37    governed by G.S. 66-370, 66-372, and 66-373. Service agreements on home appliances are  
 38    governed by G.S. 66-371, 66-372, and 66-373.

39    (b1)    Service agreements on home appliances or on motor vehicles offered in compliance  
 40    with Article 43 of Chapter 66 of the General Statutes shall not be contracts of insurance and  
 41    shall be exempt from all provisions of this Chapter unless otherwise expressly provided.

42        ...."

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

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

49                    **SECTION 4.** This act becomes effective October 1, 2015.