

CHAPTER 1145**MOTOR VEHICLE SERVICE CONTRACTS***H.F. 2516*

AN ACT regulating motor vehicle service and repair and certain motor vehicle service contracts and establishing an annual fee.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321I.1, subsection 1, Code 1989, is amended to read as follows:

1. "Motor vehicle service contract" or "service contract" means a contract or agreement given for consideration over and above the lease or purchase price of a new or used motor vehicle having a gross vehicle weight rating of less than sixteen thousand pounds that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear, but does not include mechanical breakdown insurance or maintenance agreements providing scheduled repair and maintenance services for leased vehicles.

Sec. 2. Section 321I.2, Code 1989, is amended to read as follows:

321I.2 INSURANCE REQUIRED.

1. A motor vehicle service contract shall not be issued, sold, or offered for sale in this state unless the provider of the service contract is insured under a motor vehicle service contract reimbursement insurance policy issued by an insurer authorized to do business in this state.

2. The issuer of a reimbursement insurance policy shall not cancel a reimbursement insurance policy unless a written notice has been received by the insurance division and by each applicable provider, including automobile dealers and third-party administrators, which notice shall fix the date of cancellation at a date no earlier than ten days after receipt of the notice by the insurance division and by the applicable provider. The notice may be made in person or by mail and a post office department receipt of certified or registered mailing shall be deemed proof of receipt of the notice.

Sec. 3. Section 321I.3, Code 1989, is amended to read as follows:

321I.3 FILING AND FEE REQUIREMENTS.

1. A motor vehicle service contract shall not be issued, sold, or offered for sale in this state unless a true and correct copy of the service contract and the provider's reimbursement insurance policy have been filed with the commissioner.

2. In addition to any other required filings, a true and correct copy of the service contract and the provider's reimbursement insurance policy, the consent to service of process on the commissioner, and such other information as the commissioner requires, shall be filed annually no later than the first day of August. If the first day of August falls on a weekend or a holiday, the date for filing shall be the next business day. The annual filing shall be accompanied by a filing fee determined by the commissioner which shall be sufficient to defray the costs of administering this chapter.

Sec. 4. Section 321I.5, Code 1989, is amended to read as follows:

321I.5 DISCLOSURE TO SERVICE CONTRACT HOLDERS — CONTRACT PROVISIONS.

1. A motor vehicle service contract shall not be issued, sold, or offered for sale in this state unless the contract conspicuously states that the obligations of the provider to the service contract holder are guaranteed under the service contract reimbursement policy, and unless the contract conspicuously states the name and address of the issuer of the reimbursement policy.

2. A motor vehicle service contract shall be written in clear, understandable language and the entire contract shall be printed or typed in easy-to-read type, size, and style, and shall not be issued, sold, or offered for sale in this state unless the contract does all of the following:

- a. Clearly and conspicuously states that the obligations of the provider to the service contract holder are guaranteed under a service contract reimbursement insurance policy.
- b. Clearly and conspicuously states the name and address of the issuer of the reimbursement insurance policy.
- c. Identifies the motor vehicle service contract provider, the seller of the motor vehicle, and the service contract holder.
- d. Sets forth the total purchase price and the terms under which the purchase price is to be paid.
- e. Sets forth the procedure for making a claim, including a telephone number.
- f. Clearly and conspicuously states the existence of a deductible amount, if any.
- g. Specifies the merchandise or services, or both, to be provided and clearly states any and all limitations, exceptions, or exclusions.
- h. Sets forth the conditions on which substitution of services will be allowed.
- i. Sets forth all of the obligations and duties of the service contract holder, including but not limited to the duty to protect against any further damage to the motor vehicle, and the obligation to notify the provider in advance of any repair, if any.
- j. Sets forth any and all terms, restrictions, or conditions governing transferability of the service contract, if any.
- k. Describes or references any and all applicable provisions of the Iowa consumer credit code, chapter 531.
- l. States the name and address of the commissioner.
- m. Sets forth any and all conditions on which the service contract may be canceled and any and all terms and conditions for the refund of any portion of the purchase price.

Sec. 5. Section 321I.8, Code 1989, is amended to read as follows:

321I.8 EXEMPTION.

This chapter does not apply to a motor vehicle service ~~contracts~~ contract issued by a ~~motor vehicle~~ the manufacturer or importer of the motor vehicle covered by the service contract or to any third-party administrator acting on the manufacturer's behalf in connection with that service contract.

Sec. 6. **NEW SECTION. 321I.9 ADMINISTRATION.**

The commissioner or the deputy administrator shall administer this chapter. In the absence of the commissioner, due to a vacancy in office, absence, physical disability, or other cause, the deputy administrator appointed under section 502.601 shall be the acting administrator and shall, for the time being, have and exercise the authority conferred upon the commissioner. The commissioner may from time to time delegate to the deputy administrator any or all of the functions assigned to the commissioner.

Sec. 7. **NEW SECTION. 321I.10 MISREPRESENTATIONS OF STATE APPROVAL.**

It is unlawful for any motor vehicle service contract provider to represent or imply in any manner that the provider has been sponsored, recommended, or approved or that the provider's abilities or qualifications have in any respect been passed upon by the securities department, the insurance division, or the state of Iowa.

Sec. 8. **NEW SECTION. 321I.11 PROHIBITED ACTS — UNFAIR OR DECEPTIVE TRADE PRACTICES.**

1. MISREPRESENTATIONS, FALSE ADVERTISING, AND UNFAIR PRACTICES.

a. Unless licensed as an insurance company, a motor vehicle service contract provider shall not use in its name, contracts, or literature, the words "insurance", "casualty", "surety", "mutual", or any other words descriptive of the insurance, casualty, or surety business or deceptively similar to the name or description of any insurance or surety corporation, or any other motor vehicle service contract provider.

b. A motor vehicle service contract provider shall not, without the written consent of the purchaser, knowingly charge a purchaser for duplication of coverage or duties required by

state or federal law, a warranty expressly issued by a manufacturer or seller of a product, or an implied warranty enforceable against the lessor, seller, or manufacturer of a product.

c. A motor vehicle service contract provider shall not make, permit, or cause a false or misleading statement, either oral or written, in connection with the sale, offer to sell, or advertisement of a motor vehicle service contract.

d. A motor vehicle service contract provider shall not permit or cause the omission of a material statement in connection with the sale, offer to sell, or advertisement of a motor vehicle service contract, which under the circumstances should have been made in order to make the statement not misleading.

e. A motor vehicle service contract provider shall not make, permit, or cause to be made a false or misleading statement, either oral or written, about the benefits or services available under the motor vehicle service contract.

f. A motor vehicle service contract provider shall not make, permit, or cause to be made a statement of practice which has the effect of creating or maintaining a fraud.

g. A motor vehicle service contract provider shall not make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over a radio or television station or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with respect to the motor vehicle service contract industry or with respect to a motor vehicle service contract provider which is untrue, deceptive, or misleading.

h. A bank, savings and loan association, credit union, insurance company, or other lending institution shall not require the purchase of a motor vehicle service contract as a condition of a loan.

2. **DEFAMATION.** A motor vehicle service contract provider shall not make, publish, disseminate, or circulate, directly or indirectly, or aid, abet, or encourage the making, publishing, disseminating, or circulating of an oral or written statement or a pamphlet, circular, article, or literature which is false or maliciously critical of or derogatory to the financial condition of a person, and which is calculated to injure the person.

3. **BOYCOTT, COERCION, AND INTIMIDATION.** A motor vehicle service contract provider shall not enter into an agreement to commit, or by a concerted action commit, an act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the service contract industry.

4. **FALSE STATEMENTS.** A motor vehicle service contract provider shall not knowingly file with a supervisory or other public official, or knowingly make, publish, disseminate, circulate, or deliver to a person, or place before the public, or knowingly cause directly or indirectly to be made, published, disseminated, circulated, delivered to a person, or placed before the public, a false material statement of fact as to the financial condition of a person.

5. **FALSE ENTRIES.** A motor vehicle service contract provider shall not knowingly make a false entry of a material fact in a book, report, or statement of a person or knowingly fail to make a true entry of a material fact pertaining to the business of the person in a book, report, or statement of the person.

6. **VIOLATIONS OF SECTION 714.16.**

a. A violation of this chapter or rules adopted by the commissioner pursuant to this chapter is an unfair practice as defined in section 714.16.

b. An enforcement agreement between the commissioner and a motor vehicle service contract provider does not bar the attorney general from bringing an action against the provider under section 714.16 as to allegations that a violation of this chapter constitutes a violation of section 714.16.

Sec. 9. **NEW SECTION. 321I.12 RECORDS.**

A motor vehicle service contract provider shall keep accurate accounts, books, and records concerning transactions regulated under this chapter.

1. A motor vehicle service contract provider's accounts, books, and records shall include all of the following:

a. Copies of all service contracts.

b. The name and address of each service contract holder.

c. The dates, amounts, and descriptions of all receipts, claims, and expenditures related to service contracts.

2. A motor vehicle service contract provider shall retain all required accounts, books, and records pertaining to a service contract holder for at least two years after the specified period of coverage has expired. A provider discontinuing business in this state shall maintain its records until the provider furnishes the commissioner satisfactory proof that the provider has discharged all obligations to contract holders in this state.

3. Motor vehicle service contract providers shall make all accounts, books, and records concerning transactions regulated under the chapter available to the commissioner for the purpose of examination.

Sec. 10. NEW SECTION. 321I.13 SERVICE OF PROCESS.

The commissioner shall be the agent for service of process upon a motor vehicle service contract provider and an issuer of a reimbursement insurance policy.

Sec. 11. NEW SECTION. 321I.14 ORDERS, INVESTIGATIONS, EXAMINATIONS, AND SUBPOENAS.

1. The administrator of this chapter may take actions which are necessary or appropriate for the protection of service contract holders or to administer this chapter. The administrator may make private and public investigations and examinations as the administrator deems necessary to determine whether any person has violated or is about to violate this chapter or a rule or order adopted or issued pursuant to this chapter.

2. For the purpose of an investigation or proceeding under this chapter, the administrator or any officer designated by the administrator may administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records which the administrator deems relevant or material to an inquiry.

3. A person is not excused from attending and testifying or from producing a document or record before the administrator or in obedience to a subpoena of the administrator or an officer designated by the administrator, or in a proceeding instituted by the administrator, on the grounds that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate or subject the person to a penalty or forfeiture. However, a person shall not be prosecuted or subjected to any penalty or forfeiture due to a transaction or matter about which the person is compelled, after claiming privilege against self-incrimination, to testify or produce evidence, documentary or otherwise. The person testifying, however, is not exempt from prosecution and punishment for perjury or contempt committed while testifying.

Sec. 12. NEW SECTION. 321I.15 AUDITS.

The commissioner may examine or cause to be examined the books, papers, records, memoranda, or documents of a motor vehicle service contract provider for the purpose of verifying compliance with this chapter. The commissioner may require, by a subpoena, the attendance of the provider, or the provider's representative, and any other witness whom the commissioner deems necessary or expedient, and the production of books, papers, records, memoranda, or documents relating in any manner to compliance with this chapter if a provider or witness fails or refuses to produce the documents for examination when requested by the commissioner.

Sec. 13. Section 537B.2, subsection 2, as enacted by 1990 Iowa Acts, Senate File 81, is amended to read as follows:

2. "Motor vehicle" means a motor vehicle as defined in section 321.1 which is subject to registration. However, "motor vehicle" does not include a motor vehicle, as defined in section 321.1, with a registered gross vehicle weight rating of more than twelve thousand pounds.

Sec. 14. Section 537B.4, subsection 1, paragraph b, as enacted by 1990 Iowa Acts, Senate File 81, is amended to read as follows:

b. "Motor vehicle" means a motor vehicle as defined in section 321.1 which is subject to registration.

Approved April 4, 1990

CHAPTER 1146
FEDERAL JURISDICTION
S.F. 368

AN ACT relating to procedures for accepting offers from federal agencies for full or partial cession or retrocession of federal jurisdiction over lands in federal enclaves within the state.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 1.17 CESSION OR RETROCESSION OF FEDERAL JURISDICTION.

By appropriate executive order, the governor may accept on behalf of the state full or partial cession or retrocession of federal jurisdiction, criminal or civil, over any lands, except Indian lands, in federal enclaves within the state where such cession or retrocession has been offered by appropriate federal authority. An executive order accepting a cession or retrocession of jurisdiction shall be filed in the office of the secretary of state and in the office of the recorder of the county in which the affected real estate is located.

Approved April 5, 1990

CHAPTER 1147
FIREARMS REGULATION
H.F. 2321

AN ACT relating to the acquisition and possession of firearms, increasing penalties for certain offenses, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 724.10, Code 1989, is amended to read as follows:

724.10 APPLICATION FOR PERMIT TO CARRY WEAPONS — CRIMINAL HISTORY CHECK REQUIRED.

No A person shall not be issued a permit to carry weapons unless the person has completed and signed an application on a form to be prescribed and published by the commissioner of public safety. The application shall state the full name, social security number (optional), residence, and age of the applicant, and shall state whether the applicant has ever been convicted