

SENATE FILE 392

BY COMMITTEE ON TRANSPORTATION
SS 246 Approved 3/6/85 (p. 245)

Amended Title for H.F. 617

FILED MAR 6 1985

Passed Senate, Date 3-12-85 (p. 733) Passed House, Date 4-11-85 (p. 1454)
Vote: Ayes 48 Nays 0 Vote: Ayes 97 Nays 0
Approved April 25, 1985 (p. 1679)

A BILL FOR

1 An Act requiring insurance for certain motor vehicle service
2 contracts and providing a remedy.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 392

1 Section 1. NEW SECTIONS. 321I.1 DEFINITIONS.

2 For the purposes of this chapter:

3 1. "Motor vehicle service contract" or "service contract"
4 means a contract or agreement given for consideration over and
5 above the lease or purchase price of a motor vehicle that
6 undertakes to perform or provide repair or replacement
7 service, or indemnification for that service, for the
8 operational or structural failure of a motor vehicle due to a
9 defect in materials or skill of work or normal wear and tear,
10 but does not include mechanical breakdown insurance.

11 2. "Motor vehicle service contract provider" or "provider"
12 means a person who issues, makes, provides, sells, or offers
13 to sell a motor vehicle service contract.

14 3. "Commissioner" means the commissioner of insurance.

15 4. "Department" means the department of insurance.

16 5. "Mechanical breakdown insurance" means a policy,
17 contract, or agreement that undertakes to perform or provide
18 repair or replacement service, or indemnification for that
19 service, for the operational or structural failure of a motor
20 vehicle due to a defect in materials or skill of work or
21 normal wear and tear, and that is issued by an insurance
22 company authorized to do business in this state.

23 6. "Motor vehicle service contract reimbursement insurance
24 policy" or "reimbursement insurance policy" means a policy of
25 insurance providing coverage for all obligations and
26 liabilities incurred by a motor vehicle service contract
27 provider under the terms of motor vehicle service contracts
28 issued by the provider.

29 7. "Motor vehicle" means any self-propelled vehicle
30 subject to registration under chapter 321.

31 8. "Service contract holder" means a person who purchases
32 a motor vehicle service contract.

33 Sec. 2. NEW SECTION. 321I.2 INSURANCE REQUIRED.

34 A motor vehicle service contract shall not be issued, sold,
35 or offered for sale in this state unless the provider of the

1 service contract is insured under a motor vehicle service
2 contract reimbursement insurance policy issued by an insurer
3 authorized to do business in this state.

4 Sec. 3. NEW SECTION. 321I.3 FILING REQUIREMENTS.

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

9 Sec. 4. NEW SECTION. 321I.4 DISCLOSURE TO PROVIDER.

10 A motor vehicle service contract reimbursement insurance
11 policy shall not be issued, sold, or offered for sale in this
12 state unless the reimbursement insurance policy conspicuously
13 states that the issuer of the policy shall pay on behalf of
14 the provider all sums which the provider is legally obligated
15 to pay for failure to perform according to the provider's
16 contractual obligations under the motor vehicle service
17 contracts issued or sold by the provider.

18 Sec. 5. NEW SECTION. 321I.5 DISCLOSURE TO SERVICE
19 CONTRACT HOLDERS.

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

27 Sec. 6. NEW SECTION. 321I.6 COMMISSIONER MAY PROHIBIT
28 CERTAIN SALES -- INJUNCTION.

29 The commissioner shall, upon giving a ten-day notice to a
30 motor vehicle service contract provider, issue an order
31 instructing the provider to cease and desist from selling or
32 offering for sale motor vehicle service contracts if the
33 commissioner determines that the provider has failed to comply
34 with a provision of this chapter. Upon the failure of a motor
35 vehicle service contract provider to obey a cease and desist

1 order issued by the commissioner, the commissioner may give
2 notice in writing of the failure to the attorney general, who
3 shall immediately commence an action against the provider to
4 enjoin the provider from selling or offering for sale motor
5 vehicle service contracts until the provider complies with the
6 provisions of this chapter and the district court may issue
7 the injunction.

8 Sec. 7. NEW SECTION. 321I.7 RULES.

9 The commissioner may adopt rules as provided in chapter 17A
10 to administer and enforce the provisions of this chapter and
11 to establish minimum standards for disclosure of motor vehicle
12 service contract coverage limitations and exclusions.

13 Sec. 8. NEW SECTION. 321I.8 EXEMPT.

14 This chapter does not apply to motor vehicle service
15 contracts issued by a motor vehicle manufacturer or importer.

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EXPLANATION

17 This bill requires that a motor vehicle service contract
18 may not be issued, sold, or offered for sale in Iowa unless
19 the provider of the service is insured under a motor vehicle
20 service contract reimbursement insurance policy. The policy
21 must state that the issuer shall pay on behalf of the provider
22 of the service contract all sums which the provider is legally
23 obligated to pay in performance of the contract.

24 The bill does not apply to motor vehicle service contracts
25 issued by a motor vehicle manufacturer or importer.

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SSB 246

TRANSPORTATION: Doyle, Chair; Gettings and Drake

SSB 246
Transportation

HOUSE/SENATE FILE _____

BY (PROPOSED COMMITTEE ON
TRANSPORTATION BILL)

Now
SF 392

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act requiring insurance for certain motor vehicle service
2 contracts and providing a remedy.

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1 Section 1. NEW SECTIONS. 321I.1 DEFINITIONS.

2 For the purposes of this chapter:

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4 means a contract or agreement given for consideration over and
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6 undertakes to perform or provide repair or replacement
7 service, or indemnification for that service, for the
8 operational or structural failure of a motor vehicle due to a
9 defect in materials or skill of work or normal wear and tear,
10 but does not include mechanical breakdown insurance.

11 2. "Motor vehicle service contract provider" or "provider"
12 means a person who issues, makes, provides, sells, or offers
13 to sell a motor vehicle service contract.

14 3. "Commissioner" means the commissioner of insurance.

15 4. "Department" means the department of insurance.

16 5. "Mechanical breakdown insurance" means a policy,
17 contract, or agreement that undertakes to perform or provide
18 repair or replacement service, or indemnification for that
19 service, for the operational or structural failure of a motor
20 vehicle due to a defect in materials or skill of work or
21 normal wear and tear, and that is issued by an insurance
22 company authorized to do business in this state.

23 6. "Motor vehicle service contract reimbursement insurance
24 policy" or "reimbursement insurance policy" means a policy of
25 insurance providing coverage for all obligations and
26 liabilities incurred by a motor vehicle service contract
27 provider under the terms of motor vehicle service contracts
28 issued by the provider.

29 7. "Motor vehicle" means any self-propelled vehicle
30 subject to registration under chapter 321.

31 8. "Service contract holder" means a person who purchases
32 a motor vehicle service contract.

33 Sec. 2. NEW SECTION. 321I.2 INSURANCE REQUIRED.

34 A motor vehicle service contract shall not be issued, sold,
35 or offered for sale in this state unless the provider of the

1 service contract is insured under a motor vehicle service
2 contract reimbursement insurance policy issued by an insurer
3 authorized to do business in this state.

4 Sec. 3. NEW SECTION. 321I.3 FILING REQUIREMENTS.

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

9 Sec. 4. NEW SECTION. 321I.4 DISCLOSURE TO PROVIDER.

10 A motor vehicle service contract reimbursement insurance
11 policy shall not be issued, sold, or offered for sale in this
12 state unless the reimbursement insurance policy conspicuously
13 states that the issuer of the policy shall pay on behalf of
14 the provider all sums which the provider is legally obligated
15 to pay for failure to perform according to the provider's
16 contractual obligations under the motor vehicle service
17 contracts issued or sold by the provider.

18 Sec. 5. NEW SECTION. 321I.5 DISCLOSURE TO SERVICE
19 CONTRACT HOLDERS.

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

27 Sec. 6. NEW SECTION. 321I.6 COMMISSIONER MAY PROHIBIT
28 CERTAIN SALES -- INJUNCTION.

29 The commissioner shall, upon giving a ten-day notice to a
30 motor vehicle service contract provider, issue an order
31 instructing the provider to cease and desist from selling or
32 offering for sale motor vehicle service contracts if the
33 commissioner determines that the provider has failed to comply
34 with a provision of this chapter. Upon the failure of a motor
35 vehicle service contract provider to obey a cease and desist

1 order issued by the commissioner, the commissioner may give
2 notice in writing of the failure to the attorney general, who
3 shall immediately commence an action against the provider to
4 enjoin the provider from selling or offering for sale motor
5 vehicle service contracts until the provider complies with the
6 provisions of this chapter and the district court may issue
7 the injunction.

8 Sec. 7. NEW SECTION. 321I.7 RULES.

9 The commissioner may adopt rules as provided in chapter 17A
10 to administer and enforce the provisions of this chapter and
11 to establish minimum standards for disclosure of motor vehicle
12 service contract coverage limitations and exclusions.

13 Sec. 8. NEW SECTION. 321I.8 EXEMPT.

14 This chapter does not apply to motor vehicle service
15 contracts issued by a motor vehicle manufacturer or importer.

16 EXPLANATION

17 This bill requires that a motor vehicle service contract
18 may not be issued, sold, or offered for sale in Iowa unless
19 the provider of the service is insured under a motor vehicle
20 service contract reimbursement insurance policy. The policy
21 must state that the issuer shall pay on behalf of the provider
22 of the service contract all sums which the provider is legally
23 obligated to pay in performance of the contract.

24 The bill does not apply to motor vehicle service contracts
25 issued by a motor vehicle manufacturer or importer.

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SENATE FILE 392

AN ACT

REQUIRING INSURANCE FOR CERTAIN MOTOR VEHICLE SERVICE CONTRACTS
AND PROVIDING A REMEDY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 3211.1 DEFINITIONS.

For the purposes of this chapter:

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 motor vehicle 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.

2. "Motor vehicle service contract provider" or "provider" means a person who issues, makes, provides, sells, or offers to sell a motor vehicle service contract.

3. "Commissioner" means the commissioner of insurance.
4. "Department" means the department of insurance.
5. "Mechanical breakdown insurance" means a policy, contract, or agreement 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, and that is issued by an insurance company authorized to do business in this state.

6. "Motor vehicle service contract reimbursement insurance policy" or "reimbursement insurance policy" means a policy of insurance providing coverage for all obligations and liabilities incurred by a motor vehicle service contract provider under the terms of motor vehicle service contracts issued by the provider.

7. "Motor vehicle" means any self-propelled vehicle subject to registration under chapter 321.

8. "Service contract holder" means a person who purchases a motor vehicle service contract.

Sec. 2. NEW SECTION. 3211.2 INSURANCE REQUIRED.

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.

Sec. 3. NEW SECTION. 3211.3 FILING REQUIREMENTS.

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.

Sec. 4. NEW SECTION. 3211.4 DISCLOSURE TO PROVIDER.

A motor vehicle service contract reimbursement insurance policy shall not be issued, sold, or offered for sale in this state unless the reimbursement insurance policy conspicuously states that the issuer of the policy shall pay on behalf of

the provider all sums which the provider is legally obligated to pay for failure to perform according to the provider's contractual obligations under the motor vehicle service contracts issued or sold by the provider.

Sec. 5. NEW SECTION. 3211.5 DISCLOSURE TO SERVICE CONTRACT HOLDERS.

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.

Sec. 6. NEW SECTION. 3211.6 COMMISSIONER MAY PROHIBIT CERTAIN SALES -- INJUNCTION.

The commissioner shall, upon giving a ten-day notice to a motor vehicle service contract provider, issue an order instructing the provider to cease and desist from selling or offering for sale motor vehicle service contracts if the commissioner determines that the provider has failed to comply with a provision of this chapter. Upon the failure of a motor vehicle service contract provider to obey a cease and desist order issued by the commissioner, the commissioner may give notice in writing of the failure to the attorney general, who shall immediately commence an action against the provider to enjoin the provider from selling or offering for sale motor vehicle service contracts until the provider complies with the provisions of this chapter and the district court may issue the injunction.

Sec. 7. NEW SECTION. 3211.7 RULES.

The commissioner may adopt rules as provided in chapter 17A to administer and enforce the provisions of this chapter and to establish minimum standards for disclosure of motor vehicle service contract coverage limitations and exclusions.

Sec. 8. NEW SECTION. 3211.8 EXEMPT.

This chapter does not apply to motor vehicle service contracts issued by a motor vehicle manufacturer or importer.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 392, Seventy first General Assembly.

X. MARIE CHAYER
Secretary of the Senate

Approved *April 25*, 1985

TERRY E. BRANSTAD
Governor