

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1976

98TH GENERAL ASSEMBLY

Reported from the Committee on Transportation, Infrastructure and Public Safety, April 21, 2016, with recommendation that the Senate Committee Substitute do pass.

5454S.05C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 304.154, 385.200, 385.206, 385.300, and 385.306, RSMo, and to enact in lieu thereof six new sections relating to motor vehicle services, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 304.154, 385.200, 385.206, 385.300, and 385.306, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 304.153, 304.154, 385.200, 385.206, 385.300, and 385.306, to read as follows:

304.153. 1. As used in this section, the following terms shall mean:

(1) "Law enforcement officer", any public servant, other than a patrol officer, who is defined as a law enforcement officer under section 556.061;

(2) "Motor club", an organization which motor vehicle drivers and owners may join that provide certain benefits relating to driving a motor vehicle;

(3) "Patrol officer", a Missouri state highway patrol officer;

(4) "Tow list", a list of approved towing companies compiled, maintained, and utilized by the Missouri state highway patrol or its designee;

(5) "Tow management company", any sole proprietorship, partnership, corporation, fiduciary, association, or other business

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 entity that manages towing logistics for government agencies or motor
16 clubs;

17 (6) "Tow truck", a rollback or car carrier, wrecker, or tow truck
18 as defined under section 301.010;

19 (7) "Towing", moving or removing, or the preparation therefor,
20 of a vehicle by another vehicle for which a service charge is made,
21 either directly or indirectly, including any dues or other charges of
22 clubs or associations which provide towing services;

23 (8) "Towing company", any person, partnership, corporation,
24 fiduciary, association, or other entity that operates a wrecker or towing
25 service as defined under section 301.010.

26 2. In authorizing a towing company to perform services, any
27 patrol officer or law enforcement officer within the officer's
28 jurisdiction, or Missouri department of transportation employee, may
29 utilize the services of a tow management company or tow list, provided:

30 (1) The Missouri state highway patrol is under no obligation to
31 include or retain the services of any towing company in any contract
32 or agreement with a tow management company or any tow list
33 established pursuant to this section. A towing company is subject to
34 removal from a tow list at any time;

35 (2) Notwithstanding any other provision of law or any regulation
36 established pursuant to this section, an owner or operator's request for
37 a specific towing company shall be honored by the Missouri state
38 highway patrol unless:

39 (a) The requested towing company cannot or does not respond
40 in a reasonable time, as determined by a law enforcement officer; or

41 (b) The vehicle to be towed poses an immediate traffic hazard,
42 as determined by a law enforcement officer.

43 3. A patrol officer shall not use a towing company located outside
44 of Missouri under this section except under the following
45 circumstances:

46 (1) A state or federal emergency has been declared; or

47 (2) The driver or owner of the vehicle, or a motor club of which
48 the driver or owner is a member, requests a specific out-of-state towing
49 company.

50 4. A towing company shall not tow a vehicle to a location outside
51 of Missouri without the consent of the driver or owner of the motor

52 vehicle, or without the consent of a motor club of which the driver or
53 owner of the motor vehicle is a member.

54 5. Any towing company or tow truck arriving at the scene of an
55 accident that has not been called by a patrol officer, a law enforcement
56 officer, a Missouri department of transportation employee, the driver
57 or owner of the motor vehicle or his or her authorized agent, including
58 a motor club of which the driver or owner is a member, shall be
59 prohibited from towing the vehicle from the scene of the accident,
60 unless the towing company or tow truck operator is rendering
61 emergency aid in the interest of public safety, or is operating during a
62 declared state of emergency under section 44.100.

63 6. A tow truck operator that stops and tows a vehicle from the
64 scene of an accident in violation of subsection 5 of this section shall be
65 guilty of a class D misdemeanor upon conviction or pleading guilty for
66 the first violation, and such tow truck shall be subject to
67 impounding. The penalty for a second violation shall be a class A
68 misdemeanor, and the penalty for any third or subsequent violation
69 shall be a class D felony. A violation of this section shall not preclude
70 the tow truck operator from being charged with tampering under
71 chapter 569.

72 7. The provisions of this section shall also apply to motor
73 vehicles towed under section 304.155 or 304.157.

304.154. 1. [Beginning January 1, 2005,] A towing company operating a
2 tow truck pursuant to the authority granted in section 304.153, 304.155, or
3 304.157 shall:

4 (1) Have and occupy a verifiable business address **and display such**
5 **address in a location visible from the street or road;**

6 (2) Have a fenced, secure, and lighted storage lot or an enclosed, secure
7 building for the storage of motor vehicles;

8 **(3) Be open or available for a minimum of twelve hours per day,**
9 **Monday through Saturday, for fifty-two weeks per year, for a customer**
10 **or his or her authorized agent or an insurance adjuster, as defined in**
11 **section 324.1100, to view or retrieve items from a vehicle with no**
12 **additional fees charged, or to retrieve the vehicle at the posted rate,**
13 **during these regular business hours. A towing company shall not**
14 **assess any storage fee on a day which the towing company is not open**
15 **for business during such regular business hours;**

16 **(4) Notify the owner of a motor vehicle of the location of such**
17 **motor vehicle within twenty-four hours after being contacted by such**
18 **owner;**

19 [(3)] **(5) Be available twenty-four hours a day, seven days a week.**
20 **Availability shall mean that an employee of the towing company or an answering**
21 **service answered by a person is able to respond to a tow request;**

22 [(4)] **(6) Have and maintain an operational telephone with the**
23 **telephone number published or available through directory assistance;**

24 **(7) Maintain a valid insurance policy issued by an insurer authorized to**
25 **do business in this state, or a bond or other acceptable surety providing coverage**
26 **for the death of, or injury to, persons and damage to property for each accident**
27 **or occurrence in the amount of at least five hundred thousand dollars per**
28 **incident;**

29 [(5)] **(8) Provide workers' compensation insurance for all employees of the**
30 **towing company if required by chapter 287; [and]**

31 [(6)] **(9) Maintain current motor vehicle registrations on all tow trucks**
32 **currently operated within the towing company fleet; and**

33 **(10) Post at its place of business and make available upon**
34 **request to consumers a rate sheet listing all current rates applicable to**
35 **towing services provided under this chapter.**

36 **2. The initial tow performed under section 304.153, 304.155, or**
37 **304.157 shall remain in the state of Missouri unless authorized by the**
38 **vehicle owner, or his or her authorized agent including a motor club to**
39 **which the owner of the motor vehicle is a member.**

40 **3. Counties may adopt ordinances with respect to towing company**
41 **standards in addition to the minimum standards contained in this section. A**
42 **towing company located in a county of the second, third, [and] or fourth**
43 **classification is exempt from the provisions of this section.**

44 **4. Notwithstanding any provision of law to the contrary, unless**
45 **notified by a law enforcement agency that a motor vehicle is being**
46 **preserved as evidence, a storage lot facility or towing company shall**
47 **allow insurance adjusters access to and allow inspection of a motor**
48 **vehicle, without charge, at any time during the towing company's or**
49 **storage lot facility's normal business hours.**

50 **5. When a motor vehicle has been transferred to a towing**
51 **company storage lot or a vehicle storage facility, such vehicle shall not**

52 **be transferred from the towing company storage lot or vehicle storage**
53 **facility without providing the owner of such vehicle twenty-four-hour**
54 **advance notice of the planned transfer. The notification shall include**
55 **the address of where the vehicle is being transferred to, and all costs**
56 **associated with moving the vehicle to a different storage lot or vehicle**
57 **storage facility.**

385.200. As used in sections 385.200 to 385.220, the following terms
2 mean:

3 (1) "Administrator", the person other than a provider who is responsible
4 for the administration of the service contracts or the service contracts plan or for
5 any filings required by sections 385.200 to 385.220;

6 (2) "Business entity", any partnership, corporation, incorporated or
7 unincorporated association, limited liability company, limited liability
8 partnership, joint stock company, reciprocal, syndicate, or any similar entity;

9 (3) "Consumer", a natural person who buys other than for purposes of
10 resale any tangible personal property that is distributed in commerce and that
11 is normally used for personal, family, or household purposes and not for business
12 or research purposes;

13 (4) "Dealers", any motor vehicle dealer or boat dealer licensed or required
14 to be licensed under the provisions of sections 301.550 to 301.573;

15 (5) "Director", the director of the department of insurance, financial
16 institutions and professional registration;

17 (6) "Maintenance agreement", a contract of limited duration that provides
18 for scheduled maintenance only;

19 (7) "Manufacturer", any of the following:

20 (a) A person who manufactures or produces the property and sells the
21 property under the person's own name or label;

22 (b) A subsidiary **or affiliate** of the person who manufacturers or produces
23 the property;

24 (c) A person who owns one hundred percent of the entity that
25 manufactures or produces the property;

26 (d) A person that does not manufacture or produce the property, but the
27 property is sold under its trade name label;

28 (e) A person who manufactures or produces the property and the property
29 is sold under the trade name or label of another person;

30 (f) A person who does not manufacture or produce the property but, under

31 a written contract, licenses the use of its trade name or label to another person
32 who sells the property under the licensor's trade name or label;

33 (8) "Mechanical breakdown insurance", a policy, contract, or agreement
34 issued by an authorized insurer who provides for the repair, replacement, or
35 maintenance of a motor vehicle or indemnification for repair, replacement, or
36 service, for the operational or structural failure of a motor vehicle due to a defect
37 in materials or workmanship or to normal wear and tear;

38 (9) "Motor vehicle extended service contract" or "service contract", a
39 contract or agreement for a separately stated consideration and for a specific
40 duration to perform the repair, replacement, or maintenance of a motor vehicle
41 or indemnification for repair, replacement, or maintenance, for the operational
42 or structural failure due to a defect in materials, workmanship, or normal wear
43 and tear, with or without additional provision for incidental payment of
44 indemnity under limited circumstances, including but not limited to towing,
45 rental, and emergency road service[, but]. **The term shall also include a**
46 **contract or agreement for a separately stated consideration and for a**
47 **specific duration that provides for any of the following:**

48 (a) **The repair or replacement of tires or wheels on a motor**
49 **vehicle damaged as a result of coming into contact with road hazards;**

50 (b) **The removal of dents, dings, or creases on a motor vehicle**
51 **that can be repaired using the process of paintless dent removal**
52 **without affecting the existing paint finish and without replacing**
53 **vehicle body panels, sanding, bonding, or painting;**

54 (c) **The repair of chips or cracks in, or the replacement of, motor**
55 **vehicle windshields as a result of damage caused by road hazards;**

56 (d) **The replacement of a motor vehicle key or key fob in the**
57 **event that the key or key fob becomes inoperable or is lost or stolen;**
58 **and**

59 (e) **If not inconsistent with other provisions of this section or**
60 **section 385.206, 385.300, or 385.306, any other services approved by the**
61 **director.**

62 **The term [does] shall not include mechanical breakdown insurance or**
63 **maintenance agreements;**

64 (10) "Nonoriginal manufacturer's parts", replacement parts not made for
65 or by the original manufacturer of the property, commonly referred to as
66 after-market parts;

67 (11) "Person", an individual, partnership, corporation, incorporated or
68 unincorporated association, joint stock company, reciprocal, syndicate, or any
69 similar entity or combination of entities acting in concert;

70 (12) "Premium", the consideration paid to an insurer for a reimbursement
71 insurance policy;

72 (13) "Producer", any business entity or individual person selling, offering,
73 negotiating, or soliciting a motor vehicle extended service contract and required
74 to be licensed as a producer under subsection 1 of section 385.206;

75 (14) "Provider", a person who is contractually obligated to the service
76 contract holder under the terms of a motor vehicle extended service contract;

77 (15) "Provider fee", the consideration paid for a motor vehicle extended
78 service contract by a service contract holder;

79 (16) "Reimbursement insurance policy", a policy of insurance issued to a
80 provider and under which the insurer agrees, for the benefit of the motor vehicle
81 extended service contract holders, to discharge all of the obligations and liabilities
82 of the provider under the terms of the motor vehicle extended service contracts
83 in the event of nonperformance by the provider. All obligations and liabilities
84 include, but are not limited to, failure of the provider to perform under the motor
85 vehicle extended service contract and the return of the unearned provider fee in
86 the event of the provider's unwillingness or inability to reimburse the unearned
87 provider fee in the event of termination of a motor vehicle extended service
88 contract;

89 (17) **"Road hazard", a hazard encountered while driving a motor**
90 **vehicle that includes, but is not limited to, potholes, rocks, wood debris,**
91 **metal parts, glass, plastic, curbs, or composite scraps;**

92 (18) "Service contract holder" or "contract holder", a person who is the
93 purchaser or holder of a motor vehicle extended service contract;

94 [(18)] (19) "Warranty", a warranty made solely by the manufacturer,
95 importer, or seller of property or services without charge, that is not negotiated
96 or separated from the sale of the product and is incidental to the sale of the
97 product, that guarantees indemnity for defective parts, mechanical or electrical
98 breakdown, labor, or other remedial measures, such as repair or replacement of
99 the property or repetition of services.

385.206. 1. It is unlawful for any person in or from this state to sell,
2 offer, negotiate, or solicit a motor vehicle extended service contract with a
3 consumer, other than the following:

4 (1) A motor vehicle dealer licensed under sections 301.550 to 301.573,
5 along with its authorized employees offering the service contract in connection
6 with the sale of either a motor vehicle or vehicle maintenance or repair services;

7 (2) A manufacturer of motor vehicles, as defined in section 301.010, along
8 with its authorized employees;

9 (3) A federally insured depository institution, along with its authorized
10 employees;

11 (4) A lender licensed and defined under sections 367.100 to 367.215, along
12 with its authorized employees;

13 (5) A provider registered with the director and having demonstrated
14 financial responsibility as required in section 385.202, along with its subsidiaries
15 and affiliated entities, and authorized employees of the provider, subsidiary, or
16 affiliated entity;

17 (6) A business entity producer or individual producer licensed under
18 section 385.207;

19 (7) Authorized employees of an administrator under contract to effect
20 coverage, collect provider fees, and settle claims on behalf of a registered
21 provider, if the administrator is licensed as a business entity producer under
22 section 385.207; or

23 (8) A vehicle owner transferring an existing motor vehicle extended
24 service contract to a subsequent owner of the same vehicle.

25 2. No administrator or provider shall use a dealer as a fronting company,
26 and no dealer shall act as a fronting company. For purposes of this subsection,
27 "fronting company" means a dealer that authorizes a third-party administrator
28 or provider to use its name or business to evade or circumvent the provisions of
29 subsection 1 of this section.

30 3. Motor vehicle extended service contracts issued, sold, or offered in this
31 state shall be written in clear, understandable language, and the entire contract
32 shall be printed or typed in easy-to-read type and conspicuously disclose the
33 requirements in this section, as applicable.

34 4. Motor vehicle extended service contracts insured under a
35 reimbursement insurance policy under subsection 3 of section 385.202 shall
36 contain a statement in substantially the following form: "Obligations of the
37 provider under this service contract are guaranteed under a service contract
38 reimbursement insurance policy. If the provider fails to pay or provide service
39 on a claim within sixty days after proof of loss has been filed, the contract holder

40 is entitled to make a claim directly against the insurance company." A claim
41 against the provider also shall include a claim for return of the unearned provider
42 fee. The motor vehicle extended service contract also shall state conspicuously
43 the name and address of the insurer.

44 5. Motor vehicle extended service contracts not insured under a
45 reimbursement insurance policy pursuant to subsection 3 of section 385.202 shall
46 contain a statement in substantially the following form: "Obligations of the
47 provider under this service contract are backed only by the full faith and credit
48 of the provider (issuer) and are not guaranteed under a service contract
49 reimbursement insurance policy." A claim against the provider also shall include
50 a claim for return of the unearned provider fee. The motor vehicle extended
51 service contract also shall state conspicuously the name and address of the
52 provider.

53 6. Motor vehicle extended service contracts shall identify any
54 administrator, the provider obligated to perform the service under the contract,
55 the motor vehicle extended service contract seller, and the service contract holder
56 to the extent that the name and address of the service contract holder has been
57 furnished by the service contract holder.

58 7. Motor vehicle extended service contracts shall state conspicuously the
59 total purchase price and the terms under which the motor vehicle extended
60 service contract is sold. The purchase price is not required to be preprinted on
61 the motor vehicle extended service contract and may be negotiated at the time of
62 sale with the service contract holder.

63 8. If prior approval of repair work is required, the motor vehicle extended
64 service contracts shall state conspicuously the procedure for obtaining prior
65 approval and for making a claim, including a toll-free telephone number for claim
66 service and a procedure for obtaining emergency repairs performed outside of
67 normal business hours.

68 9. Motor vehicle extended service contracts shall state conspicuously the
69 existence of any deductible amount.

70 10. Motor vehicle extended service contracts shall specify the merchandise
71 and services to be provided and any limitations, exceptions, and exclusions.

72 11. Motor vehicle extended service contracts shall state the conditions
73 upon which the use of nonoriginal manufacturer's parts or parts of a like kind
74 and quality or substitute service may be allowed. Conditions stated shall comply
75 with applicable state and federal laws.

76 12. Motor vehicle extended service contracts shall state any terms,
77 restrictions, or conditions governing the transferability of the motor vehicle
78 extended service contract.

79 13. Motor vehicle extended service contracts shall state that subsequent
80 to the required free look period specified in subsection 14 of this section, a service
81 contract holder may cancel the contract at any time and the provider shall refund
82 to, **or credit to the account of**, the contract holder one hundred percent of the
83 unearned pro rata provider fee, less any claims paid. A reasonable
84 administrative fee may be surcharged by the provider in an amount not to exceed
85 fifty dollars. All terms, restrictions, or conditions governing termination of the
86 service contract by the service contract holder shall be stated. The provider of the
87 motor vehicle extended service contract shall mail a written notice to the contract
88 holder within forty-five days of the date of termination. The written notice
89 required by this subsection may be included with any other correspondence
90 required by this section. **Refunds may be effectuated through a provider**
91 **or a person that is permitted to sell motor vehicle extended service**
92 **contracts under subsection 1 of this section.**

93 14. Motor vehicle extended service contracts shall contain a free look
94 period that requires every provider to permit the service contract holder to return
95 the contract to the provider within at least twenty business days of the mailing
96 date of the motor vehicle extended service contract or the contract date if the
97 service contract is executed and delivered at the time of sale or within a longer
98 time period permitted under the contract. If no claim has been made under the
99 contract and the contract is returned, the contract is void and the provider shall
100 refund to, **or credit to the account of**, the contract holder the full purchase
101 price of the contract. A ten percent penalty of the amount outstanding per month
102 shall be added to a refund that is not paid within forty-five days of return of the
103 contract to the provider. If a claim has been made under the contract during the
104 free look period and the contract is returned, the provider shall refund to, **or**
105 **credit to the account of**, the contract holder the full purchase price less any
106 claims that have been paid. The applicable free-look time periods on service
107 contracts shall apply only to the original service contract purchaser. **Refunds**
108 **may be effectuated through a provider or a person that is permitted to**
109 **sell motor vehicle extended service contracts under subsection 1 of this**
110 **section.**

111 15. Motor vehicle extended service contracts shall set forth all of the

112 obligations and duties of the service contract holder, such as the duty to protect
113 against any further damage and the requirement for certain service and
114 maintenance.

115 16. Motor vehicle extended service contracts shall state clearly whether
116 or not the service contract provides for or excludes consequential damages or
117 preexisting conditions.

118 17. The contract requirements of subsections 3 to 16 of this section shall
119 apply to motor vehicle extended service contracts made with consumers in this
120 state. A violation of subsections 3 to 16 of this section is a level two violation
121 under section 374.049.

122 18. A violation of subsection 1 or 2 of this section is a level three violation
123 under section 374.049.

 385.300. As used in sections 385.300 to 385.320, the following terms
2 mean:

3 (1) "Administrator", the person who is responsible for the handling and
4 adjudication of claims under the product service agreements;

5 (2) "Consumer", a natural person who buys other than for purposes of
6 resale any tangible personal property that is distributed in commerce and that
7 is normally used for personal, family, or household purposes and not for business
8 or research purposes;

9 (3) "Contract holder", a person who is the purchaser or holder of a service
10 contract;

11 (4) "Director", the director of the department of insurance, financial
12 institutions, and professional registration;

13 (5) "Maintenance agreement", a contract of limited duration that provides
14 for scheduled maintenance only;

15 (6) "Manufacturer", any of the following:

16 (a) A person who manufactures or produces the property and sells the
17 property under the person's own name or label;

18 (b) A subsidiary **or affiliate** of the person who manufactures or produces
19 the property;

20 (c) A person who owns one hundred percent of the entity that
21 manufactures or produces the property;

22 (d) A person that does not manufacture or produce the property, but the
23 property is sold under its trade name label;

24 (e) A person who manufactures or produces the property and the property

25 is sold under the trade name or label of another person;

26 (f) A person who does not manufacture or produce the property but, under
27 a written contract, licenses the use of its trade name or label to another person
28 who sells the property under the licensor's trade name or label;

29 (7) "Nonoriginal manufacturer's parts", replacement parts not made for
30 or by the original manufacturer of the property, commonly referred to as
31 after-market parts;

32 (8) "Person", an individual, partnership, corporation, incorporated or
33 unincorporated association, joint stock company, reciprocal, syndicate, or any
34 similar entity or combination of entities acting in concert;

35 (9) "Premium", the consideration paid to an insurer for a reimbursement
36 insurance policy;

37 (10) "Property", all forms of property;

38 (11) "Provider", a person who is contractually obligated to the service
39 contract holder under the terms of a service contract;

40 (12) "Provider fee", the consideration paid for a service contract, if any,
41 by a service contract holder;

42 (13) "Reimbursement insurance policy", a policy of insurance issued to a
43 provider and under which the insurer agrees, for the benefit of the service
44 contract holders, to discharge all of the obligations and liabilities of the provider
45 under the terms of the service contracts in the event of nonperformance by the
46 provider. All obligations and liabilities include, but are not limited to, failure of
47 the provider to perform under the service contract and the return of the unearned
48 provider fee in the event of the provider's unwillingness or inability to reimburse
49 the unearned provider fee in the event of termination of a service contract;

50 (14) "Service contract", a contract for a specific duration and consideration
51 to perform the repair, replacement, or maintenance of property or indemnification
52 for repair, replacement, or maintenance, for the operational or structural failure
53 of any residential or other property due to a defect in materials, workmanship,
54 or normal wear and tear, with or without additional provision for incidental
55 payment of indemnity under limited circumstances, including, but not limited to,
56 unavailability of parts, obsolescence, food spoilage, rental, and shipping. Service
57 contracts may provide for the repair, replacement or maintenance of property for
58 damage resulting from power surges or accidental damage. Service contract
59 providers and administrators are not deemed to be engaged in the business of
60 insurance in this state;

61 (15) "Warranty", a warranty made solely by the manufacturer, importer,
62 or seller of property or services without charge, that is not negotiated or
63 separated from the sale of the product and is incidental to the sale of the product,
64 that guarantees indemnity for defective parts, mechanical or electrical
65 breakdown, labor, or other remedial measures, such as repair or replacement of
66 the property or repetition of services.

385.306. 1. Service contracts marketed, issued, sold, or offered for sale
2 in this state shall be written in clear, conspicuous, and understandable language,
3 and the entire contract shall be printed or typed in easy-to-read type and
4 conspicuously disclose the requirements in this section, as applicable.

5 2. Service contracts insured under a reimbursement insurance policy
6 under subdivision (3) of subsection 4 of section 385.302 shall contain a statement
7 in substantially the following form: "Obligations of the provider under this
8 service contract are guaranteed under a reimbursement insurance policy. If the
9 provider fails to pay or provide service on a claim within sixty days after proof of
10 loss has been filed, the contract holder is entitled to make a claim directly against
11 the insurance company." A claim against the provider may also include a claim
12 for return of the unearned provider fee. The service contract also shall state the
13 name and address of the insurer.

14 3. Service contracts not insured under a reimbursement insurance policy
15 under subdivision (3) of subsection 4 of section 385.302 shall contain a statement
16 in substantially the following form: "Obligations of the provider under this
17 service contract are backed only by the full faith and credit of the provider
18 (issuer) and are not guaranteed under a reimbursement insurance policy." A
19 claim against the provider shall also include a claim for return of the unearned
20 provider fee. The service contract shall also state the name and address of the
21 provider.

22 4. Service contracts shall identify any administrator, the provider
23 obligated to perform under the contract, and the service contract seller, if
24 different than the provider or administrator. The identities of such parties are
25 not required to be preprinted on the service contract and may be added to the
26 service contract prior to delivery to the contract holder.

27 5. Service contracts shall state the total purchase price and the terms
28 under which the service contract is sold. The purchase price is not required to
29 be preprinted on the service contract and may be negotiated at the time of sale
30 with the service contract holder.

31 6. If prior approval of repair work is required, the service contracts shall
32 state the procedure for obtaining prior approval and for making a claim, including
33 a toll-free telephone number for claim service and a procedure for obtaining
34 emergency repairs performed outside of normal business hours.

35 7. Service contracts shall state the existence of any deductible amount.

36 8. Service contracts shall specify the merchandise and services to be
37 provided and any limitations, exceptions, or exclusions.

38 9. Service contracts shall state the conditions upon which the use of
39 nonoriginal manufacturers' parts, refurbished merchandise, or substitute service
40 may be allowed. Conditions stated shall comply with applicable state and federal
41 laws.

42 10. Service contracts shall state any terms, restrictions, or conditions
43 governing the transferability of the service contract.

44 11. Service contracts shall state any terms, restrictions, or conditions
45 governing termination of the service agreement by the service contract holder and
46 provider.

47 12. Service contracts for which the service contract holder pays a
48 separate, identified consideration shall require every provider to permit the
49 service contract holder to return the contract within at least twenty days of the
50 date of mailing of the service contract or within at least ten days if the service
51 contract is delivered at the time of sale or within a longer time period permitted
52 under the contract. If no claim has been made under the contract, the contract
53 is void and the provider shall refund to, **or credit to the account of,** the
54 contract holder the full purchase price of the contract. A ten percent penalty per
55 month shall be added to a refund that is not paid within forty-five days of return
56 of the contract to the provider. The applicable free-look time periods on service
57 contracts shall apply only to the original service contract purchaser, and only if
58 no claim has been made prior to its return to the provider. **Refunds may be**
59 **effectuated through the provider or the provider's designee.**

60 13. Service contracts shall set forth all of the obligations and duties of the
61 service contract holder, such as the duty to protect against any further damage
62 and the requirement for certain service and maintenance.

63 14. Service contracts shall state clearly whether or not the service
64 contract provides for or excludes consequential damages, preexisting conditions,
65 or events covered under the original manufacturer's warranty.

66 15. Service contracts shall state any limitations on the number or value

67 of repairs, replacements, or monetary settlements, as applicable, that will be
68 provided during the term of coverage.

✓

Unofficial

Bill

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