

HCS HB 811 -- MOTOR VEHICLE EXTENDED SERVICE CONTRACTS

SPONSOR: Wells (Talboy)

COMMITTEE ACTION: Voted "do pass" by the Committee on Financial Institutions by a vote of 15 to 0.

This substitute changes the laws regarding motor vehicle extended service contracts. In its main provisions, the substitute:

(1) Specifies that it is unlawful for a motor vehicle extended service contract provider to fail to deliver a fully executed contract to the consumer within a commercially feasible time period, but no more than 45 days, from the date the consumer's initial payment is processed. It will be unlawful for any provider, administrator, or contract producer selling a contract to fail to deliver, upon request, an unsigned copy of the contract to the consumer prior to the time the consumer's initial payment is processed. A seller may comply with this provision by directing the consumer to a web site containing an unsigned copy of the service contract. Anyone who violates one of these provisions will be guilty of a level two violation under the provisions regarding insurance regulation;

(2) Revises the provisions regarding who can sell these contracts by specifying that any licensed motor vehicle dealer offering the contract in connection with the sale of a motor vehicle or vehicle maintenance or repair services; a manufacturer of motor vehicles; a federally insured depository institution; a lender licensed under Section 367.100 - 367.215, RSMo; a provider registered with the Director of the Department of Insurance, Financial Institutions and Professional Registration who has demonstrated financial responsibility as required in Section 385.202; an authorized employee of any of the afore specified entities; a business entity producer or individual producer licensed as an insurance producer for the limited line of motor vehicle extended service contracts; or a vehicle owner transferring an existing motor vehicle extended service contract to a subsequent owner of the same vehicle is authorized to sell these contracts. The substitute specifies the application and testing requirements for obtaining a limited line of motor vehicle extended service contract license;

(3) Allows a purchaser to return a contract for cancellation to the provider within at least 20 business days of the mailing date of the contract or the purchase date if the contract is executed and delivered at the time of sale. Currently, a contract must be returned within at least 20 days of the mailing or within 10 days of the date the contract is delivered. If a contract is returned within this free-look period and no claim has been made, the

provider must refund to the contract holder the full purchase price. If a claim has been made, the provider must refund the purchase price less any claims that have been paid. A contract must contain a statement which specifies that a contract holder may cancel a contract after the free-look period at any time, and the provider must refund 100% of the unearned pro rata provider fee, less any claims paid. A reasonable administrative fee can be charged in an amount of up to \$50. Anyone violating these provisions will be guilty of a level two or three violation under Section 374.049;

(4) Specifies that it is unlawful for a provider, administrator, motor vehicle extended service contract producer, or any other motor vehicle extended service contract seller to use "warranty" in its materials and to represent in any manner a false, deceptive, or misleading statement with respect to:

(a) An affiliation with a motor vehicle manufacturer or dealer;

(b) Possession of information regarding a motor vehicle owner's current motor vehicle manufacturer's original equipment warranty;

(c) The expiration date of a motor vehicle owner's current motor vehicle manufacturer's original equipment warranty;

(d) A requirement that a motor vehicle owner register for a new service contract with the provider in order to maintain coverage under the current extended service contract or the manufacturer's original equipment warranty; or

(e) Any term or provision of an extended service contract;

(5) Specifies that it is unlawful for any person, in connection with the offer, sale, solicitation, or negotiation of an extended service contract to:

(a) Employ any deception, device, scheme, or artifice to defraud;

(b) Make or use any misrepresentation, concealment, or suppression of any material fact;

(c) Engage in any pattern or practice of making any false statement of material fact; or

(d) Engage in any act, practice, or course of business which operates as a fraud or deceit upon any person;

(6) Allows the Director of the Department of Insurance, Financial Institutions and Professional Registration to suspend,

revoke, or refuse to issue or renew a registration or license to sell service contracts for specified causes. If a license is not renewed or is denied, an appeals process to the Administrative Hearing Commission is specified. The license of an extended service contract producer may be suspended, revoked, refused, or not renewed or an application can be refused if the department director finds a specified violation;

(7) Requires a licensed contract producer to notify the department director within 30 days of any address change or any license revocation or civil action taken against the producer in another jurisdiction or by another state governmental agency. A producer must report to the department director any felony proceeding initiated by any state or the federal government for any law violation within 30 days of the initial pretrial hearing date or arraignment; and

(8) Requires a provider to maintain a register of business entity motor vehicle extended service contract producers who are authorized to sell, offer, negotiate, or solicit the sale of these contracts in this state and make the list available for inspection upon the request of the department director. Within 30 days of a provider authorizing a producer to sell, offer, negotiate, or solicit the sale of service contracts, the provider must enter the name and license number of the producer in the company registry of producers. If a producer's appointment is terminated, the provider must update the registry with the effective termination date within 30 days. A provider must notify the department director in writing if he or she has possession of information relating to any cause for discipline.

FISCAL NOTE: No impact on General Revenue Fund in FY 2012, FY 2013, and FY 2014. Estimated Net Income on Other State Funds of Unknown in FY 2012, FY 2013, and FY 2014.

PROPOSERS: Supporters say that the bill will bring Missouri into compliance with federal regulations relating to motor vehicle extended service contracts and will help protect consumers.

Testifying for the bill were Representative Talbot; Office of the Attorney General; and Missouri Automobile Dealers Association.

OPPOSERS: There was no opposition voiced to the committee.