

REFERENCE TITLE: service contracts; vehicle protection products

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HB 2329

Introduced by
Representative Fann

AN ACT

AMENDING SECTIONS 20-1095 AND 20-1099, ARIZONA REVISED STATUTES; RELATING TO
MOTOR VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-1095, Arizona Revised Statutes, is amended to
3 read:

4 20-1095. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Consumer" means a buyer other than for purposes of resale of any
7 consumer product, any person to whom the product is transferred during the
8 duration of an implied or written warranty or service contract applicable to
9 the product and any other person who is entitled by the terms of the warranty
10 or service contract or under applicable federal or state law to enforce
11 against the warrantor or service company the obligations of the warranty or
12 service contract. ~~A~~ Consumer also means the buyer or seller of residential
13 property.

14 2. "Consumer product" means any tangible personal property ~~which~~ THAT
15 is distributed in commerce and ~~which~~ THAT is normally used solely for
16 personal, family or household purposes including any such property intended
17 to be attached to or installed in any real property without regard to whether
18 it is so attached or installed.

19 3. "Home warranty or home protection contract" means a service
20 contract as defined in paragraph 8, subdivision ~~(b)~~ (a), ITEM (ii) of this
21 section.

22 4. "Mechanical reimbursement insurance" means an insurance policy
23 issued to a motor vehicle dealer to insure the performance of a motor vehicle
24 service contract to a consumer if the motor vehicle dealer or the service
25 contract administrator becomes insolvent or ceases to do business. All such
26 policies shall provide that all purchasers of motor vehicle service contracts
27 are covered if the motor vehicle dealer, the service contract administrator
28 or the insurer becomes insolvent or ceases to do business.

29 5. "Motor vehicle service contract program" means contractual
30 documents, including service contract forms, claim forms and other forms,
31 used in connection with the sale of service contracts by motor vehicle
32 dealers.

33 6. "Residential property" means a house, townhouse, condominium or
34 other habitable structure consisting of no more than four units ~~which~~ THAT is
35 used principally as a residence.

36 7. "Service company" means any person who performs or arranges to
37 perform services pursuant to a service contract ~~which~~ THAT the person issues.

38 8. "Service contract":

39 (a) Means a written contract for a prepaid separately stated
40 consideration to perform, over a fixed period of time or for a specified
41 duration, services relating to the maintenance or repair, including
42 replacement, of ANY OF THE FOLLOWING:

43 ~~(a)~~ (i) A consumer product.

1 ~~(b)~~ (ii) All or any part of the structural components, the appliances
2 or the electrical, plumbing, heating, cooling or air conditioning systems of
3 residential property.

4 (iii) TIRES OR WHEELS ON A MOTOR VEHICLE THAT ARE DAMAGED AS A RESULT
5 OF COMING INTO CONTACT WITH ROAD HAZARDS.

6 (iv) DENTS, DINGS OR CREASES ON A MOTOR VEHICLE THAT CAN BE REPAIRED
7 USING THE PROCESS OF PAINTLESS DENT REMOVAL WITHOUT AFFECTING THE EXISTING
8 PAINT FINISH AND WITHOUT REPLACING VEHICLE BODY PANELS, SANDING, BONDING OR
9 PAINTING.

10 (v) CHIPS OR CRACKS IN OR THE REPLACEMENT OF MOTOR VEHICLE WINDSHIELDS
11 AS A RESULT OF DAMAGE CAUSED BY ROAD HAZARDS.

12 (vi) A MOTOR VEHICLE KEY OR KEY FOB IF THE KEY OR KEY FOB BECOMES
13 INOPERABLE OR IS LOST OR STOLEN.

14 (b) DOES NOT INCLUDE THE REPAIR OF DAMAGE TO OR REPLACEMENT OF THE
15 INTERIOR SURFACES OR EXTERIOR PAINT OR FINISH OF A MOTOR VEHICLE UNLESS THE
16 COVERAGE IS PROVIDED IN CONNECTION WITH THE SALE OF A VEHICLE PROTECTION
17 PRODUCT AS DEFINED IN SECTION 20-1099.

18 9. "Service contract administrator" means an entity ~~which~~ THAT agrees
19 to provide contract forms, process claims and procure insurance for and on
20 behalf of a motor vehicle dealer in the performance of the obligations
21 pursuant to the motor vehicle service contract but ~~which~~ THAT may not itself
22 perform actual repairs.

23 10. "Warranty" means:

24 (a) Any written affirmation by a manufacturer or seller of fact or
25 written promise made in connection with the sale of a consumer product ~~which~~
26 THAT relates to the nature of the material or workmanship and affirms or
27 promises that the material or workmanship is free of defects or will meet a
28 specified level of performance over a specified period of time.

29 (b) Any undertaking by a manufacturer or seller in writing in
30 connection with the sale of a consumer product to refund, repair, replace or
31 take other remedial action with respect to such a product if the product
32 fails to meet the specifications set forth in the undertaking, which written
33 affirmation, promise or undertaking becomes part of the basis of the bargain
34 for purposes other than resale of such product and if there is no separate
35 identifiable charge to the consumer.

36 Sec. 2. Section 20-1099, Arizona Revised Statutes, is amended to read:

37 20-1099. Definitions

38 In this article, unless the context otherwise requires:

39 1. "Administrator" means a third party other than the warrantor who is
40 designated by the warrantor to be responsible for the administration of
41 vehicle protection product warranties.

42 2. "Incidental costs" means expenses that are specified in the vehicle
43 protection product warranty, ~~relating~~ **THAT ARE** incurred by the warranty holder
44 ~~relating~~ **AND THAT RELATE** to the failure of the vehicle protection product to
45 perform as provided in the warranty. Incidental costs may include insurance

1 policy deductibles, rental vehicle charges, the difference between the actual
2 value of the stolen vehicle at the time of theft and the cost of a
3 replacement vehicle, sales taxes, registration fees, transaction fees and
4 mechanical inspection fees.

5 3. "Vehicle protection product":

6 (a) Means a ~~vehicle protection~~ SUBSTANCE, device, system or service
7 that:

8 ~~(a)~~ (i) Is installed on or applied to a vehicle.

9 ~~(b)~~ (ii) Is designed to prevent loss or damage to a vehicle from a
10 specific cause.

11 ~~(c)~~ (iii) Includes a written warranty by a warrantor that provides if
12 the vehicle protection product fails to prevent loss or damage to a vehicle
13 from a specific cause, the warranty holder shall be paid specified incidental
14 costs by the warrantor as a result of the failure of the vehicle protection
15 product to perform pursuant to the terms of the warranty.

16 ~~(d)~~ (iv) Covers the warrantor's liability with a warranty
17 reimbursement insurance policy.

18 (b) ~~Vehicle protection product~~ Includes PROTECTIVE CHEMICALS, alarm
19 systems, body part marking products, steering locks, window etch products,
20 pedal and ignition locks, fuel and ignition kill switches and electronic,
21 radio and satellite tracking devices.

22 (c) DOES NOT INCLUDE FUEL ADDITIVES, OIL ADDITIVES OR OTHER CHEMICAL
23 PRODUCTS APPLIED TO THE ENGINE, TRANSMISSION OR FUEL SYSTEM OF A MOTOR
24 VEHICLE.

25 4. "Vehicle protection product warrantor" or "warrantor" means a
26 person who is contractually obligated to the warranty holder under the terms
27 of the vehicle protection product warranty agreement. Warrantor does not
28 include an authorized insurer.

29 5. "Warranty reimbursement insurance policy" means a policy of
30 insurance issued to the vehicle protection product warrantor to pay on behalf
31 of the warrantor all covered contractual obligations incurred by the
32 warrantor under the terms and conditions of the vehicle protection product
33 warranty. An insurer authorized to do business in this state that has filed
34 its policy form with the department shall issue the warranty reimbursement
35 insurance policy.