

House Bill 206
Sectional Analysis

Section 1

Section 1 amends current law to remove motor vehicle service contracts from the list of items excluded from the current law's definition of "service contract."

Section 2

Section 2 creates new subsections of Alaskan law which provide that: (1) motor vehicle service contracts are governed by the new chapter of law created by the legislation; and (2) a federally regulated motor vehicle warranty, motor vehicle maintenance agreement, and motor vehicle service contract offered for sale to a person other than a consumer are not insurance and are not subject to the new chapter of law.

Section 3

Section 3 makes a change to an existing statutory cross-reference made necessary as a result of the legislation.

Section 4

Section 4 amends current law governing motor clubs to clarify that the laws do not apply to a person issued a motor vehicle service contract provider license pursuant to the new chapter of law created by the legislation, but only to the extent the person is offering a motor vehicle service contract.

Section 5

Section 5 amends Title 21 to add a new Chapter 61 providing a regulatory framework for motor vehicle service contracts. Chapter 61 sets forth the following:

21.61.010

- Identifies services that may be offered through a motor vehicle service contract; and
- Identifies disclosures that must be included on a motor vehicle service contract. Disclosures include:
 - Name and contact information for the person obligated to perform under a service contract;
 - Any deductible that may apply;
 - Coverage provided;
 - Cancellation rights; and
 - Transfer rights.

21.61.020

- Identifies parties who are exempt from the new chapter of law. Exemptions are as follows:
 - Federally regulated warranties;
 - Maintenance agreements; and
 - Commercial motor vehicle service contracts.
- A partial exemption is created for motor vehicle manufacturer service contract programs.

21.61.030

- Set forth a motor vehicle service contract provider's duty to provide a receipt and copy of the motor vehicle service contract to the consumer within a specified period of time;

- Requires that a consumer be provided a sample copy of the motor vehicle service contract prior to purchase upon request;
- Prohibits the use of deceptive names by a motor vehicle service contract provider;
- Prohibits the use of misleading statements or material related to a motor vehicle service contract or literature associated with the contract;
- Prohibits making the purchase of a motor vehicle service contract a condition of a loan or purchase of a motor vehicle; and
- Allows a provider to appoint an administrator and sets forth criteria related thereto.

21.61.040

- Sets forth procedures and requirements for applying for licensure to act as a motor vehicle service contract provider;
- Requires a licensee to report to the director in writing any adverse or criminal action taken against the licensee with 30 days; and
- Provides that the failure to notify the director of any information required by the section may result in denial, nonrenewal, suspension or revocation of the license.

21.61.050

- Requires biennially renewal of motor vehicle service contract provider license.

21.61.060

- Requires registration of an entity appointed by a motor vehicle service contract provider to administer the provider's motor vehicle service contracts

21.61.070

- Provides the requirements for return and cancellation of a motor vehicle service contract;
 - Providers are required to give consumers a 30-day period within which a consumer can cancel a motor vehicle service contract and if no claim has been made the consumer must receive a 100% refund of any amounts paid for contract.
 - Subsequent to the 30-day period or if a claim was made during that period, providers are required to permit a consumer to cancel the contract at any time and receive a pro rata refund of any unearned amounts paid for the contract.
- Requires that refunds be paid to a consumer within 45-days or a 10% penalty is added to any refund due; and
- Provides the information that must be contained in a motor vehicle service contract regarding cancellation by the provider and limits cases in which a provider may cancel to those specified in the law, including notice requirements to the consumer when a contract is cancelled by the provider.

21.61.080

- Provides financial responsibility requirements for motor vehicle service contract providers that must be met to obtain licensure and types of security that may be utilized. A provider must satisfy one of the following:
 - Obtain an insurance policy backing its obligations under service contract sold; or
 - Demonstrate that the provider maintains a \$100 million net worth.

21.61.090

- Requires a provider to maintain records related to the sale of motor vehicle service contracts and sets forth the specific information to be retained;
- Requires a provider to respond in writing to any inquiry of the director regarding examination of such records; and
- Requires a provider discontinuing business in the state to maintain such records until all of the provider's obligations have been discharged.

21.61.100

- Authorizes the director to conduct examinations or investigations of a provider, administrator, insurer, or other person to enforce the provisions of the law;
- Authorizes the director to take action to enforce the law including, but not limited to, the issuance of a cease and desist order;
- Authorizes the director to suspend the license of a provider, without a prior hearing;
- Sets forth penalties to be imposed for violation of the law.

21.61.900

- Sets forth definitions for terms used in the new chapter of law created by the legislation.

Section 6

Section 6 creates a new section clarifying that a person using prohibited words in the person's name prior to the enactment of the law may continue to use the name; however, all motor vehicle service contracts containing such language must include a statement that the agreement is not an insurance contract.