

## HOUSE BILL No. 2638

By Committee on Insurance and Pensions

2-8

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1 AN ACT concerning service contracts; amending the definition thereof;  
2 adding automobile windshield repair and replacement to the list of  
3 covered services; amending K.S.A. 40-201a and repealing the existing  
4 section.

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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 40-201a is hereby amended to read as follows: 40-  
8 201a. (a) The marketing, sale, offering for sale, issuance, making,  
9 proposing to make and administration of a service contract shall not be  
10 construed to be the business of insurance and shall be exempt from  
11 regulation as insurance pursuant to chapter 40 of the Kansas Statutes  
12 Annotated, and amendments thereto.

13 (b) For the purposes of this section:

14 (1) "Service contract" means a contract or agreement for a separate or  
15 additional consideration, for any specified duration, to service, repair,  
16 replace or maintain all or any part of any structural component, appliance  
17 or utility system of any residential property, consumer good or other  
18 property; or to indemnify for service, repair, replacement or maintenance  
19 for consumer good or other property, due to a defect in materials,  
20 workmanship, normal wear and tear; or as a result of power surges or as a  
21 result of accidental damage from the handling of any consumer good or  
22 other property, with or without additional provision for indemnity  
23 payments, when service repair or replacement is not reasonably,  
24 commercially or economically feasible. A service contract may also  
25 include additional provisions for incidental payment of indemnity under  
26 limited circumstances, including, but not limited to, towing, rental and  
27 emergency road service.

28 (2) "Service contract" also includes any nonconsumer commercial  
29 service contract.

30 (3) "Service contract" includes, but is not limited to, a contract that  
31 offers any one or more of the following services:

32 (A) The repair or replacement of tires or wheels on a motor vehicle  
33 damaged as a result of coming into contact with road hazards;

34 (B) the removal of dents, dings or creases on a motor vehicle that can  
35 be repaired using the process of paintless dent removal without affecting  
36 the existing paint finish and without replacing vehicle body panels,

1 sanding, bonding or painting; ~~and~~

2 (C) the replacement of a motor vehicle key or key-fob in the event  
3 that the key or key-fob becomes inoperable or is lost or stolen; *and*

4 (D) *the repair of chips or cracks in or the replacement of automobile*  
5 *windshields resulting from damage caused by roadside hazards.*

6 (4) "Service contract" does not include an automobile club service  
7 contract. As used in this paragraph, "automobile club service contract"  
8 means a service contract that provides, in consideration of dues,  
9 assessments or periodic payments of money, promises to assist in matters  
10 relating to travel and the operation, use and maintenance of an automobile  
11 in the supply of features or services or reimbursement thereof, which may  
12 include:

13 (A) Such services as community traffic safety services, travel and  
14 touring service, theft or reward service, map service, towing service,  
15 emergency road service, bail bond service and legal fee reimbursement  
16 service in the defense of traffic offenses, none of which enumerated  
17 features or services, if provided by the promisor itself, shall be subject to  
18 the insurance laws of this state;

19 (B) the purchase of accidental injury and death benefits insurance  
20 coverage issued, as provided by applicable statutes, by an insurance  
21 company authorized to do business in Kansas; or

22 (C) such other features or services not deemed by the commissioner  
23 to constitute the business of insurance.

24 (5) "Road hazard" means a hazard that is encountered while driving a  
25 motor vehicle, including, but not be limited to, potholes, rocks, wood  
26 debris, metal parts, glass, plastic, curbs or composite scraps.

27 (c) (1) No service contract that is exempt from regulation as  
28 insurance pursuant to chapter 40 of the Kansas Statutes Annotated, and  
29 amendments thereto, pursuant to this section shall contain any provision  
30 for consequential damages unless such consequential damages are caused  
31 by the failure of service, repair, replacement or maintenance rendered  
32 under the service contract.

33 (2) No service contract that is exempt from regulation as insurance  
34 pursuant to chapter 40 of the Kansas Statutes Annotated, and amendments  
35 thereto, pursuant to this section shall contain any provision, except as  
36 exempt by this section, that would otherwise be covered by a contract of  
37 property or liability insurance issued in this state.

38 Sec. 2. K.S.A. 40-201a is hereby repealed.

39 Sec. 3. This act shall take effect and be in force from and after its  
40 publication in the statute book.