

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1976
98TH GENERAL ASSEMBLY

5454S.05T

2016

AN ACT

To repeal sections 304.154, 385.200, 385.206, 385.300, and 385.306, RSMo, and to enact in lieu thereof seven 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
2 repealed and seven new sections enacted in lieu thereof, to be known as sections 304.005,
3 304.153, 304.154, 385.200, 385.206, 385.300, and 385.306, to read as follows:

**304.005. 1. As used in this section, the term "autocycle" means a three wheeled
2 motor vehicle on which the drivers and passengers ride in a completely enclosed, tandem
3 seating area that is equipped with air bag protection, a roll cage, safety belts for each
4 occupant, and antilock brakes and that is designed to be controlled with a steering wheel
5 and pedals.**

**6 2. Notwithstanding subsection 2 of section 302.020, a person operating or riding in
7 an autocycle shall not be required to wear protective headgear if the vehicle is equipped
8 with a roof that meets or exceeds the standards established for protective headgear.**

**9 3. No person shall operate an autocycle on any highway or street in this state unless
10 the person has a valid driver's license. The operator of an autocycle, however, shall not be
11 required to obtain a motorcycle or motortricycle license or endorsement pursuant to
12 sections 302.010 to 302.340.**

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

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

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

9 (5) "Tow management company", any sole proprietorship, partnership,
10 corporation, fiduciary, association, or other business entity that manages towing logistics
11 for government agencies or motor clubs;

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

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

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

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

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

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

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

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

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

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

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

40 **4. A towing company shall not tow a vehicle to a location outside of Missouri**
41 **without the consent of the driver or owner of the motor vehicle, or without the consent of**
42 **a motor club of which the driver or owner of the motor vehicle is a member.**

43 **5. Any towing company or tow truck arriving at the scene of an accident that has**
44 **not been called by a patrol officer, a law enforcement officer, a Missouri department of**
45 **transportation employee, the driver or owner of the motor vehicle or his or her authorized**
46 **agent, including a motor club of which the driver or owner is a member, shall be**
47 **prohibited from towing the vehicle from the scene of the accident, unless the towing**
48 **company or tow truck operator is rendering emergency aid in the interest of public safety,**
49 **or is operating during a declared state of emergency under section 44.100.**

50 **6. A tow truck operator that stops and tows a vehicle from the scene of an accident**
51 **in violation of subsection 5 of this section shall be guilty of a class D misdemeanor upon**
52 **conviction or pleading guilty for the first violation, and such tow truck shall be subject to**
53 **impounding. The penalty for a second violation shall be a class A misdemeanor, and the**
54 **penalty for any third or subsequent violation shall be a class D felony. A violation of this**
55 **section shall not preclude the tow truck operator from being charged with tampering**
56 **under chapter 569.**

57 **7. The provisions of this section shall also apply to motor vehicles towed under**
58 **section 304.155 or 304.157.**

59 **8. The provisions of this section shall not apply to counties of the third or fourth**
60 **classification.**

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

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

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

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

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

16 [(3)] **(5)** Be available twenty-four hours a day, seven days a week. Availability shall
17 mean that an employee of the towing company or an answering service answered by a person is
18 able to respond to a tow request;

19 [(4)] **(6) Have and maintain an operational telephone with the telephone number**
20 **published or available through directory assistance;**

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

25 [(5)] **(8)** Provide workers' compensation insurance for all employees of the towing
26 company if required by chapter 287; [and]

27 [(6)] **(9)** Maintain current motor vehicle registrations on all tow trucks currently operated
28 within the towing company fleet; **and**

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

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

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

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

43 **5. When a motor vehicle has been transferred to a towing company storage lot or**
44 **a vehicle storage facility, such vehicle shall not be transferred from the towing company**
45 **storage lot or vehicle storage facility without providing the owner of such vehicle twenty-**
46 **four-hour advance notice of the planned transfer. The notification shall include the**
47 **address of where the vehicle is being transferred to, and all costs associated with moving**
48 **the vehicle to a different storage lot or vehicle storage facility.**

49 **6. The provisions of subdivisions (3), (4), (6), and (10) of subsection 1 of this section,**
50 **subsections 2, 4, and 5 of this section, and a provision in subdivision (1) of subsection 1 of**
51 **this section requiring towing companies to display an address in a location visible from the**
52 **street or road shall not apply to counties of the third or fourth classification.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (8) "Mechanical breakdown insurance", a policy, contract, or agreement issued by an
31 authorized insurer who provides for the repair, replacement, or maintenance of a motor vehicle

32 or indemnification for repair, replacement, or service, for the operational or structural failure of
33 a motor vehicle due to a defect in materials or workmanship or to normal wear and tear;

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

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

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

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

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

52 (e) **If not inconsistent with other provisions of this section or section 385.206,**
53 **385.300, or 385.306, any other services approved by the director.**

54

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

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

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

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

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

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

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

70 (16) "Reimbursement insurance policy", a policy of insurance issued to a provider and
71 under which the insurer agrees, for the benefit of the motor vehicle extended service contract
72 holders, to discharge all of the obligations and liabilities of the provider under the terms of the
73 motor vehicle extended service contracts in the event of nonperformance by the provider. All
74 obligations and liabilities include, but are not limited to, failure of the provider to perform under
75 the motor vehicle extended service contract and the return of the unearned provider fee in the
76 event of the provider's unwillingness or inability to reimburse the unearned provider fee in the
77 event of termination of a motor vehicle extended service contract;

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

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

83 [(18)] (19) "Warranty", a warranty made solely by the manufacturer, importer, or seller
84 of property or services without charge, that is not negotiated or separated from the sale of the
85 product and is incidental to the sale of the product, that guarantees indemnity for defective parts,
86 mechanical or electrical breakdown, labor, or other remedial measures, such as repair or
87 replacement of the property or repetition of services.

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

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

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

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

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

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

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

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

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

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

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

27 4. Motor vehicle extended service contracts insured under a reimbursement insurance
28 policy under subsection 3 of section 385.202 shall contain a statement in substantially the
29 following form: "Obligations of the provider under this service contract are guaranteed under
30 a service contract reimbursement insurance policy. If the provider fails to pay or provide service
31 on a claim within sixty days after proof of loss has been filed, the contract holder is entitled to
32 make a claim directly against the insurance company." A claim against the provider also shall
33 include a claim for return of the unearned provider fee. The motor vehicle extended service
34 contract also shall state conspicuously the name and address of the insurer.

35 5. Motor vehicle extended service contracts not insured under a reimbursement insurance
36 policy pursuant to subsection 3 of section 385.202 shall contain a statement in substantially the
37 following form: "Obligations of the provider under this service contract are backed only by the
38 full faith and credit of the provider (issuer) and are not guaranteed under a service contract
39 reimbursement insurance policy." A claim against the provider also shall include a claim for
40 return of the unearned provider fee. The motor vehicle extended service contract also shall state
41 conspicuously the name and address of the provider.

42 6. Motor vehicle extended service contracts shall identify any administrator, the provider
43 obligated to perform the service under the contract, the motor vehicle extended service contract
44 seller, and the service contract holder to the extent that the name and address of the service
45 contract holder has been furnished by the service contract holder.

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

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

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

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

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

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

63 13. Motor vehicle extended service contracts shall state that subsequent to the required
64 free look period specified in subsection 14 of this section, a service contract holder may cancel
65 the contract at any time and the provider shall refund to, **or credit to the account of**, the contract
66 holder one hundred percent of the unearned pro rata provider fee, less any claims paid. A
67 reasonable administrative fee may be surcharged by the provider in an amount not to exceed fifty
68 dollars. All terms, restrictions, or conditions governing termination of the service contract by
69 the service contract holder shall be stated. The provider of the motor vehicle extended service
70 contract shall mail a written notice to the contract holder within forty-five days of the date of
71 termination. The written notice required by this subsection may be included with any other
72 correspondence required by this section. **Refunds may be effectuated through a provider or**
73 **a person that is permitted to sell motor vehicle extended service contracts under subsection**
74 **1 of this section.**

75 14. Motor vehicle extended service contracts shall contain a free look period that
76 requires every provider to permit the service contract holder to return the contract to the provider
77 within at least twenty business days of the mailing date of the motor vehicle extended service
78 contract or the contract date if the service contract is executed and delivered at the time of sale
79 or within a longer time period permitted under the contract. If no claim has been made under the
80 contract and the contract is returned, the contract is void and the provider shall refund to, **or**
81 **credit to the account of**, the contract holder the full purchase price of the contract. A ten
82 percent penalty of the amount outstanding per month shall be added to a refund that is not paid
83 within forty-five days of return of the contract to the provider. If a claim has been made under
84 the contract during the free look period and the contract is returned, the provider shall refund to,
85 **or credit to the account of**, the contract holder the full purchase price less any claims that have

86 been paid. The applicable free-look time periods on service contracts shall apply only to the
87 original service contract purchaser. **Refunds may be effectuated through a provider or a**
88 **person that is permitted to sell motor vehicle extended service contracts under subsection**
89 **1 of this section.**

90 15. Motor vehicle extended service contracts shall set forth all of the obligations and
91 duties of the service contract holder, such as the duty to protect against any further damage and
92 the requirement for certain service and maintenance.

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

95 17. The contract requirements of subsections 3 to 16 of this section shall apply to motor
96 vehicle extended service contracts made with consumers in this state. A violation of subsections
97 3 to 16 of this section is a level two violation under section 374.049.

98 18. A violation of subsection 1 or 2 of this section is a level three violation under section
99 374.049.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

57 15. Service contracts shall state any limitations on the number or value of repairs,
58 replacements, or monetary settlements, as applicable, that will be provided during the term of
59 coverage.

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