

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 553

(Chair, Finance Committee)(By Request - Departmental -
Maryland Insurance Administration)

Finance

Economic Matters

Motor Clubs - Scope of Law - Fees

This departmental bill clarifies that provisions of law that govern motor clubs do not apply to certain vehicle manufacturers, other issuers of specified service contracts, or certain property and casualty insurers.

The bill requires that the fees charged to motor club members be filed with the Insurance Commissioner when the motor club initially applies for a license and each time it applies to renew its license. The fees charged and the services or benefits to which members are entitled must also be included in the service contract. The bill clarifies that emergency road service provided as a “motor club service” includes the replacement of a motor vehicle key or key fob if the key becomes inoperable or is lost or stolen.

Additionally, the bill prohibits an unlicensed person from representing to the public that the person is authorized to provide motor club service or engage in the business of a motor club in the State.

Fiscal Summary

State Effect: The bill does not materially affect government operations or finances.

Local Effect: None.

Small Business Effect: The Maryland Insurance Administration (MIA) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The provisions that govern motor clubs do not apply to a motor vehicle manufacturer or distributor (or a wholly owned subsidiary) that sells, furnishes, or procures emergency road service, towing service, or other service that may be offered by a licensed motor club as part of a mechanical repair contract. Furthermore, the provisions that govern motor clubs do not apply to a licensed vehicle dealer or any person that sells, furnishes, or procures emergency road service, towing service, or other service that may be offered by a licensed motor club as part of a mechanical repair contract *only if* the provider of services maintains adequate insurance reserves as defined by the Commissioner and the mechanical repair contract is offered in compliance with State law.

The laws relating to motor clubs do not apply to (1) an authorized property and casualty insurer that provides emergency road service, towing service, or a similar type of protection under a policy that has been filed with the Commissioner and (2) an obligor under a mechanical repair contract that provides emergency road service, towing service, or other service that may be offered by a licensed motor club if the mechanical repair contract is offered in compliance with State law.

Current Law:

Motor Clubs

“Motor club” means any person engaged, either directly or indirectly, in selling, furnishing, or procuring motor club services. A person may not provide motor club service or engage in the business of a motor club in the State unless the person has been licensed by the Commissioner. “Motor club service” means the rendering, furnishing, or procuring of (or the payment or reimbursement for, wholly or partially) any or all of the following services (under specified conditions) to a member or other person entitled to receive service from a motor club: (1) emergency road service; (2) bail bond service; (3) financing service; (4) insurance service; (5) legal reimbursement service; (6) theft service, and (7) towing service.

An applicant for a motor club license must file a specified application with the Commissioner and pay an application fee of \$200. The applicant must submit any information the Commissioner considers reasonably necessary to determine whether to issue a license.

If an applicant is a corporation, the application must include (1) a certificate of good standing from the State Department of Assessments and Taxation; (2) the name and addresses of the officers and directors of the corporation; and (3) the names and addresses of each owner of more than 10% of the capital stock of the corporation issued and

outstanding. If the applicant is not a corporation, the application must include (1) a list of all the owners of interests in the applicant; (2) a list of the officers of the applicant; and (3) a list of the parties to any operating or management agreement that affects the applicant, together with a copy of the agreement. Furthermore, all applications must include (1) a recently certified financial statement that fairly presents the financial position of the applicant and contains the information the Commissioner requires; (2) a copy of the applicant's service contract; and (3) evidence of the required financial security.

An issued license expires on the first December 31 after its effective date unless it is renewed. A licensee may renew the license for an additional one-year period if it is otherwise entitled to a license, files a renewal application with the Commissioner, and provides another financial statement similar to the one filed during the initial application.

After notice and an opportunity for a hearing, the Commissioner may suspend or revoke a license for any violation of the Insurance Law that relates to motor clubs, insolvency, having liabilities that exceed assets, engaging in a fraudulent or deceptive act, or entering into a service contract that is not approved by the Commissioner.

Mechanical Repair Contracts

A "mechanical repair" contract is defined as any agreement or contract sold by a licensed vehicle dealer under which a provider agrees to perform, over a fixed period, for a specific duration, and for an identifiable price, (any) services relating to the maintenance or repair (but not replacement) of a motor vehicle, provided that the purchase of the contract is optional to the purchaser.

The Maryland Vehicle Law establishes several requirements governing mechanical repair contracts. Among other things, a mechanical repair contract must only be offered in addition to any express warranty originally included as part of the contract for sale of a new motor vehicle. A provider of services under a mechanical repair contract must maintain adequate insurance reserves, as defined by the Insurance Commissioner, for each contract for the protection of the purchasing consumer. The provisions of the Maryland Consumer Products Guaranty Act also apply to a mechanical repair contract sold by a licensed vehicle dealer.

Background: A motor club is an organization, either for profit or nonprofit, that drivers and vehicle owners can join to gain the benefits of membership with the club. Generally, motor clubs charge an annual membership fee and provide members with an identification card. For example, members of the Motor Club of America receive discounts on lodging, travel, car rentals, and certain medical services. Members of the American Automobile Association can receive automobile glass repair services and roadside assistance.

MIA advises that the provisions of State law that govern motor clubs have not kept pace with many recent changes in the marketplace. Specifically, Insurance Law defines “motor club” to mean a person engaged directly or indirectly in selling, furnishing, or procuring motor club service. However, numerous vehicle service contracts include motor club services offered through a licensed motor club, as well as vehicle manufacturers that arrange for motor club services as part of their warranties. MIA advises that, even though under current law these entities are considered motor clubs, they are not, in actuality, motor clubs and, therefore, should not be subject to the provisions that govern motor clubs. Even so, they have not been licensed by MIA as such.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Insurance Administration, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2015
md/ljm Revised - Senate Third Reader/Clarification - April 1, 2015

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Motor Clubs – Scope of Law - Fees

BILL NUMBER: SB 553

PREPARED BY: Maryland Insurance Administration

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESS

OR

 WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS