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HOUSE BILL NO. 1508

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on January 31, 2008)

(Patron Prior to Substitute—Delegate Sickles)

*A BILL to amend and reenact § 59.1-435 of the Code of Virginia, relating to extended service contracts.***Be it enacted by the General Assembly of Virginia:****1. That § 59.1-435 of the Code of Virginia is amended and reenacted as follows:**

§ 59.1-435. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the Virginia Board of Agriculture and Consumer Services.

"Commissioner" means the Commissioner of the Department of Agriculture and Consumer Services or his designee.

"Consumer product" means tangible personal property primarily used for personal, family, or household purposes.

"Extended service contract" or "contract" means a written *contract or agreement which is in effect for at least one year whereby the purchaser is indemnified against the cost of repair or replacement of a consumer product which is defective in material or workmanship for a specific duration* in return for the payment of a segregated charge by the purchaser *to perform the repair or replacement of any consumer product, including a motor vehicle, or indemnification for repair or replacement, for the operational or structural failure of any consumer product, including a motor vehicle, due to a defect in materials, workmanship, inherent defect, or normal wear and tear, with or without additional provisions for incidental payment of indemnity under limited circumstances, including, but not limited to, towing, rental, and emergency road service and road hazard protection. Extended service contracts may provide for the repair or replacement of any consumer product for damage resulting from power surges or interruption or accidental damage from handling. Extended service contracts are not insurance in the Commonwealth or otherwise regulated under Title 38.2.*

"Extended service contract provider" or "provider" means any person or entity other than a public service corporation supervised by the State Corporation Commission, who is the original manufacturer or seller and who solicits, offers, advertises, or executes extended service contracts. Such definition includes the obligor of the contract sold, solicited, offered, advertised or executed by the original manufacturer, seller or obligor.

"Obligor" means the person who is contractually obligated to the purchaser to provide services under the extended service contract and who is (i) the original manufacturer or seller of the merchandise covered by the extended service contract, (ii) acting through or with the written consent of the original manufacturer, seller or purchaser of the merchandise covered by the extended service contract, or (iii) acting through or with the written consent of a manufacturer or seller of merchandise similar to the merchandise covered by the extended service contract.

"Purchaser" means a person who enters into an extended service contract with an extended service contract provider.