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HOUSE BILL NO. 417

Offered January 17, 1996

A *BILL to amend and reenact §§ 59.1-435 and 59.1-436 of the Code of Virginia, relating to the Extended Service Contract Act.*

Patrons—Cantor, Albo, Almand, Armstrong, Barlow, Bennett, Callahan, Croshaw, Deeds, Diamonstein, Dickinson, Fisher, Forbes, Guest, Hall, Hamilton, Hargrove, Harris, Heilig, Jones, D.C., Jones, J.C., Keating, McClure, Moore, Morgan, Murphy, Nelms, Parrish, Plum, Reid, Reynolds, Robinson, Scott, Shuler, Tata, Wagner, Watkins, Watts, Wilkins and Woodrum; Senators: Lambert, Lucas, Stosch and Wampler

Referred to Committee on Corporations, Insurance and Banking

Be it enacted by the General Assembly of Virginia:**1. That §§ 59.1-435 and 59.1-436 of the Code of Virginia are 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 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 in return for the payment of a segregated charge by the purchaser.

"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 or seller.*

"Obligor" means the person who is contractually obligated to the purchaser to provide services under the extended service contract and who is acting through or with the written consent of the original manufacturer or seller of 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.

§ 59.1-436. Registration; fees; exemptions.

A. It shall be unlawful for any extended service contract provider to offer, advertise, or execute or cause to be executed by the purchaser any extended service contract for a consumer product in this Commonwealth unless the provider at the time of the solicitation, offer, advertisement, sale, or execution of a contract has been properly registered with the Commissioner. The registration shall (i) disclose the address, ownership, and nature of business of the provider; (ii) be renewed annually; and (iii) be accompanied by a fee of \$100 per registration and annual renewal.

B. All fees shall be remitted to the State Treasurer and shall be placed to the credit and special fund of the Virginia Department of Agriculture and Consumer Services to be used in the administration of this chapter.

C. Any matter subject to the insurance regulatory authority of the State Corporation Commission pursuant to Title 38.2 shall not be subject to the provisions of this chapter.

D. Licensed or registered motor vehicle dealers, as defined in § 46.2-1500, shall not be subject to the provisions of this chapter.

E. *Extended service contract providers who comply with this section and the employees of such providers who market, sell or offer to sell extended service contracts on behalf of the provider shall not be subject to the provisions of Title 38.2 (§ 38.2-100 et seq.).*

INTRODUCED

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