

BILL ANALYSIS

Senate Research Center
85R6515 CLG-F

S.B. 1500
By: Zaffirini
Business & Commerce
3/27/2017
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

It is burdensome to licensees and wasteful of public resources to administer licensing programs that do little to protect the public good. For that reason, the Texas Department of Licensing and Regulation (TDLR) has undertaken a strategic initiative to identify licensing programs that could be deregulated without threatening public health, safety, or welfare. Under current law, vehicle protection product warrantor companies are licensed by the state to offer products to protect vehicles from theft or damage and offer compensation to consumers for the loss or damage to those vehicles. These companies sell various "third-party warranties" to consumers that specifically cover automobiles. Chapter 2306, Occupations Code, requires persons and companies providing third-party vehicle warranties to be licensed. They must pay an initial fee of \$250 and a renewal fee of \$250-\$1,000. What's more, they are subject to disciplinary action in the form of administrative penalties and sanctions. In 2016, the program had only 64 licensees, no complaints filed, and no enforcement actions taken. Deregulation of the license program would present minimal risk to consumers. To address this, S.B. 1500 repeals the statewide licensing requirement but adds consumer protections for purchasers of these warranties to the Deceptive Trade Practices Act.

As proposed, S.B. 1500 amends current law relating to certain vehicle protection products.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 17.45, Business & Commerce Code, by adding Subdivisions (14), (15), and (16), to define "vehicle protection product," "warrantor," and "loss of or damage to the vehicle."

SECTION 2. Reenacts and amends Section 17.46(b), Business & Commerce Code, as amended by Chapters 1023 (H.B. 1265) and 1080 (H.B. 2573), Acts of the 84th Legislature, Regular Session, 2015, as follows:

(b) Provides that, except as provided in Subsection (d) of this section (Deceptive Trade Practices Unlawful), the term "false, misleading, or deceptive acts or practices" includes, but is not limited to, the following acts:

(1) to (28) makes no changes to these subdivisions;

(29) redesignates existing Subdivision (28) as Subdivision (29) and makes no further changes to this subdivision;

(30) to (32) redesignates existing Subdivisions (29), (30), and (31) as Subdivisions (30), (31), and (32), and makes nonsubstantive changes to these subdivisions; or

(33) a warrantor of a vehicle protection product warranty using, in connection with the product, a name that includes "casualty," "surety," "insurance," "mutual," or any other word descriptive of an insurance business, including property or casualty insurance, or a surety business.

SECTION 3. Amends Subchapter A, Chapter 348, Finance Code, by adding Section 348.014, as follows:

Sec. 348.014. TRANSACTION CONDITIONED ON PURCHASE OF VEHICLE PROTECTION PRODUCT PROHIBITED. (a) Defines "vehicle protection product."

(b) Prohibits a retail seller from requiring as a condition of a retail installment transaction or the cash sale of a motor vehicle that the buyer purchase a vehicle protection product that is not installed on the vehicle at the time of the transaction.

(c) Provides that a violation of this section is a false, misleading, or deceptive act or practice within the meaning of Section 17.46, Business & Commerce Code, and is actionable in a public or private suit brought under Subchapter E (Deceptive Trade Practices and Consumer Protection), Chapter 17 (Deceptive Trade Practices), Business & Commerce Code.

SECTION 4. Amends Subchapter A, Chapter 353, Finance Code, by adding Section 353.017, as follows:

Sec. 353.017. TRANSACTION CONDITIONED ON PURCHASE OF VEHICLE PROTECTION PRODUCT PROHIBITED. (a) Defines "vehicle protection product."

(b) Prohibits a retail seller from requiring as a condition of a retail installment transaction or the cash sale of a commercial vehicle that the buyer purchase a vehicle protection product that is not installed on the vehicle at the time of the transaction.

(c) Provides that a violation of this section is a false, misleading, or deceptive act or practice within the meaning of Section 17.46, Business & Commerce Code, and is actionable in a public or private suit brought under Subchapter E, Chapter 17, Business & Commerce Code.

SECTION 5. Repealer: Chapter 2306 (Vehicle Protection Product Warrantors), Occupations Code.

SECTION 6. (a) Provides that on the effective date of this Act:

(1) an action, including a disciplinary or administrative proceeding, pending under Chapter 51 (Texas Department of Licensing and Regulation (TDLR)) or 2306, Occupations Code, on the effective date of this Act related to an alleged violation of Chapter 2306, Occupations Code, as that chapter existed immediately before the effective date of this Act, is dismissed;

(2) the Vehicle Protection Product Warrantor Advisory Board is abolished; and

(3) a registration issued under former Chapter 2306, Occupations Code, expires.

(b) Requires the Texas Commission of Licensing and Regulation (TCLR), as soon as practicable after the effective date of this Act, to repeal all rules regarding the regulation of vehicle protection product warrantors adopted under former Chapter 2306, Occupations Code.

(c) Authorizes collection of an administrative penalty assessed by TCLR or the executive director of TDLR related to a violation of Chapter 2306, Occupations Code, as that

chapter existed immediately before the effective date of this Act, as provided by Chapter 51, Occupations Code.

(d) Provides that the repeal by this Act of Chapter 2306, Occupations Code, does not affect the validity or terms of a vehicle protection product warranty that was issued or renewed before the effective date of this Act.

SECTION 7. Makes application of Section 17.46(b), Business & Commerce Code, as amended by this Act, prospective.

SECTION 8. Makes application of Sections 348.014 and 353.017, Finance Code, as added by this Act, prospective.

SECTION 9. Provides that, to the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 10. Effective date: September 1, 2017.