

HB

154

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## A BILL FOR AN ACT

RELATING TO SERVICE CONTRACTS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 481X-2, Hawaii Revised Statutes, is  
2 amended as follows:

3           1. By adding a new definition to be appropriately inserted  
4 and to read:

5           "Road hazard" means a hazard that is encountered while  
6 driving a motor vehicle, which may include but not be limited to  
7 potholes, rocks, wood debris, metal parts, glass, plastic,  
8 curbs, or composite scraps."

9           2. By amending the definition of "service contract" to  
10 read:

11           "Service contract" means a contract or agreement for a  
12 separately stated consideration and a specific duration[~~7-10~~]:

13           (1) To perform or indemnify the repair, replacement, or  
14           maintenance of property for operational or structure  
15           failure due either to a defect in materials or  
16           artisanship, or to normal wear and tear, with or  
17           without additional provision for incidental payment or



1 indemnity under limited circumstances, including but  
2 not limited to towing, rental, and emergency road  
3 service[-]; or

4 (2) For performance of one or more of the following  
5 services:

6 (A) The repair or replacement of tires or wheels on a  
7 motor vehicle damaged as a result of coming into  
8 contact with a road hazard;

9 (B) The removal of dents, dings, or creases on a  
10 motor vehicle that can be repaired using the  
11 process of paintless dent removal without  
12 affecting the existing paint finish and without  
13 replacing vehicle body panels, sanding, bonding,  
14 or painting;

15 (C) The repair of chips or cracks in a motor vehicle  
16 windshield or the replacement of a motor vehicle  
17 windshield as a result of damage caused by a road  
18 hazard;

19 (D) The replacement of a motor vehicle key or key-fob  
20 in the event that the key or key-fob becomes  
21 inoperable, lost, or stolen; or



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1            (E) Other services which may be approved by the  
2            commissioner, if not inconsistent with other  
3            provisions of this chapter.



4 Service contracts may provide for the repair, replacement, or  
5 maintenance of property damaged by power surges, or accidentally  
6 damaged during handling."

7            SECTION 2. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9            SECTION 3. This Act shall take effect on July 1, 2019.

10

INTRODUCED BY:

JAN 17 2019



# H.B. NO. 154

**Report Title:**

Service Contracts

**Description:**

Clarifies the allowable scope of service contracts regulated by the Insurance Commissioner to include contracts for certain motor vehicle repair and replacement services.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



February 4, 2019

*Via Hand Delivery*

The Honorable Roy M. Takumi, Chair  
The Honorable Linda Ichiyama, Vice Chair  
House Committee on Consumer Protection and Commerce

**Re: Support of House Bill 154**

On behalf of its members, the Motor Vehicle Protection Products Association (MVPPA) would like to express its **support of House Bill 154** when it comes to you for consideration.

By way of background, MVPPA is a national trade association with member companies that include providers, retailers, administrators, and insurers of vehicle service contracts and theft protection products. MVPPA's primary goal is to establish a uniform, balanced regulatory landscape that minimizes confusion or dispute about the regulatory status of these products. MVPPA's member companies offer over 80% of the protection products available in the marketplace today and include Ally Insurance, AmTrust Financial Services, Assurant Solutions, Toyota Motor Insurance Services, and CNA National Warranty Company.

House Bill 154 amends the definition of service contract to expressly authorize a number of products to be offered as service contracts. Typically, these products provide consumers with benefits either not covered under a traditional automobile insurance policy or that may be under their traditional automobile insurance policy's deductible. For example, often times the cost of replacing a vehicle's key-fob in the event it is lost or stolen, although costly, is less than a consumer's insurance deductible and so the consumer may be left paying the cost out of pocket. Instead, a consumer could elect to purchase a service contract with key-fob replacement coverage to avoid the possibility of paying this cost out of pocket. Moreover, it is our understanding that these coverages are offered in Hawaii today as service contracts that are filed with and reviewed by the Department of Commerce and Consumer Affairs' Insurance Division, and that this legislation merely crystalizes in statue the current regulatory treatment of these products.

The MVPPA thanks you in advance for your time and consideration in this matter and reiterates its **support of House Bill 154** as currently drafted. Please do not hesitate to contact me directly with any questions, concerns, or requests for additional information at [jim@meenanlawfirm.com](mailto:jim@meenanlawfirm.com) or (850) 425-4000.

Sincerely,



James P. Burleson  
Assistant Executive Director

*"Tire, wheel, windshield, dent, appearance care and other valuable coverage."*

February 5, 2019

Representative Roy M. Takumi, Chair  
Representative Linda Ichiyama, Vice Chair  
Committee on Consumer Protection and Commerce  
Hawaii State Capitol, Room 320  
Honolulu, HI 96813

**RE: HB 154 – SERVICE CONTRACTS – AMENDMENT PROPOSED**

Dear Chair Takumi, Vice Chair Ichiyama, and Members of the Committee:

AAA Hawaii was founded in 1915 in Honolulu and is a leader in motorist services and roadside assistance and a strong advocate for motorists and traffic safety. With 165,000 members, service to and the safety of our members and all road users is our founding and continuing purpose.

We appreciate that you are considering a proposal to amend existing service contract law 481X-2 to add more services under the definition of “service contracts.” However, given the nature of these additions, we are concerned that the proposed legislation will inadvertently include automobile club services in the definition of service contracts. Automobile clubs in other states are separate from and not part of “service contracts,” as defined.

To ensure these two topics remain appropriately separate and distinct, we respectfully request that the following amendment, in red underline, be included in 481X-1 and 481X-2:

[§ 481X-1.] Application.

- (a) This chapter shall not apply to:
- (1) Express or implied warranties;
  - (2) Maintenance agreements;
  - (3) an agreement issued by an automobile club; and
  - (4)(3) Warranties, service contracts, and maintenance agreements offered by public utilities on their transmission devices to the extent they

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are regulated by the public utilities commission or the department of commerce and consumer affair.

§ 481X-2. Definitions.

As used in this chapter:

“Automobile Club” means a legal entity that, in consideration of dues, assessments, or periodic payments of money, promises its members or subscribers to assist them in matters relating to motor travel or the operation, use, or maintenance of a motor vehicle by supplying services that may include, but are not limited to, towing service and emergency road service.”

We believe this amendment will retain an important distinction between automobile clubs and service contracts.

Thank you very much for your consideration.

Sincerely,

*Liane Sumida*

Liane Sumida  
General Manager

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