

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill regulates a business entity that was previously not regulated.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

State Law and Rules

A Motor Vehicle Service Agreement (MVSA) is defined as any contract or agreement covering the holder against losses incurred by the mechanical failure of a component or part, or the failure of that part to perform as it was originally intended. An MVSA arises out of the ownership, operation and use of a motor vehicle, and covers only the vehicle listed on the specific service agreement.¹ A motor vehicle service agreement is designed to extend an auto manufacturer's warranty to cover mechanical malfunctions through the time specified within the service contract.² Therefore, a paintless dent removal warranty is not considered to be an MVSA in this sense.³ The current definition of an MVSA is not intended to preclude the usual, free-of-charge performance guarantees offered by manufacturers or dealer during the sale of a motor vehicle.⁴

In addition to the service agreements provided by definition, MVSA's also include coverage for additive products as well as payment of vehicle protection expenses.⁵

Under the Florida Insurance Code (Code), an MVSA, by definition, is considered to be "insurance" and a person or company selling an MSVA is considered to be an "insurer".⁶ Any person or corporation wishing to transact, administer, or market the sale of an MVSA in Florida must be authorized via annual licensure for the kind of service it is intending to sell.⁷ To qualify for licensure, a person or corporation must meet the qualifications set forth in statutes.⁸

Persons selling service agreements are not considered "insurers" when an agreement is issued subsequent to the sale of parts and/or service by the provider, when the total premium does not exceed \$50 annually or for the term of the agreement, when the difference in price of a part and/or service does not exceed \$50 annually or for the term of the agreement, or when the person does not issue any other agreements that, when combined, do not exceed \$50 annually or for the term of the agreement.⁹ Any agreements fulfilling these requirements are also not considered to be MVSA's.¹⁰

A paintless dent removal provider would be considered a company whose primary business is to provide paintless dent removal service in the State.¹¹ As with other service warranties, persons holding a service agreement for paintless dent removal would expect the coverage to be honored regardless of the mobility of the vehicle (i.e. if a service agreement was purchased from a provider in Georgia and the vehicle required service in Florida, the holder would expect the service agreement to be fulfilled in the state).¹² The service agreement is guaranteed by the paintless dent removal provider, who in turn

¹ s. 634.011 (7), F.S.

² Office of Insurance Regulation, Legislative Analysis, HB 825

³ Office of Insurance Regulation, Legislative Analysis, HB 825

⁴ s. 634.011 (7), F.S.

⁵ s. 634.011 (7) (a) (b), F.S.

⁶ s. 624.02, F.S.; s. 624.03, F.S.

⁷ s. 634.031 (1) (2) (3) (4), F.S.

⁸ s. 634.041, F.S.

⁹ s. 624.125, F.S.

¹⁰ s. 634.011 (7), F.S.

¹¹ Personal communication, K. Mark Deubner, C.L.O. *Dent Zone International, Inc.*

¹² Personal communication, K. Mark Deubner, C.L.O. *Dent Zone International, Inc.*

makes payment on the work performed by a motor vehicle repair shop.¹³ Therefore, shops performing paintless dent removal service are included within the definition of “motor vehicle repair” as it relates to “all maintenance of and modifications and repairs to motor vehicles...including, but not limited to...body work, painting, warranty work, and other work customarily undertaken by motor vehicle repair shops.”¹⁴ Shops performing paintless dent removal services would thus fall under the governance of the Florida Motor Vehicle Repair Act, and motor vehicle repair shops performing the service are required to register with the Department of Agriculture and Consumer Services.¹⁵ While normal auto collision policies cover physical damage to a vehicle, paintless dent removal service costs may be less than a policy holder’s deductible, and therefore an “out-of-pocket” expense.¹⁶

EFFECT OF PROPOSED CHANGES

The bill amends the definition of motor vehicle service agreements to include paintless dent removal services by a paintless dent removal provider. Paintless dent removal service is the process of removing dents, dings, creases, and hail damage from vehicles without affecting the original paint finish. Paintless dent removal does not include services that involve vehicle panel replacement, sanding, bonding or painting.

A paintless dent removal provider is a company whose primary business consists of providing paintless dent removal services.

C. SECTION DIRECTORY:

Section 1. Amends s. 634.011 (7), F.S. to include paintless dent removal service by a paintless dent removal provider. Defines paintless dent removal services; defines paintless dent removal provider.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: The bill results in an indeterminate increase in revenue. Corporations licensed to specifically issue motor vehicle service agreements are subject to an annual \$100 fee,¹⁷ paid to the Office of Insurance Regulation and deposited into the Insurance Regulatory Trust Fund.¹⁸

2. Expenditures: None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None

2. Expenditures: None

¹³ Personal communication, K. Mark Deubner, C.L.O. *Dent Zone International, Inc.*

¹⁴ s. 559.902 (8), F.S.

¹⁵ s. 559.902 (8), F.S.

¹⁶ Office of Insurance Regulation, Legislative Analysis, HB 825

¹⁷ s. 634.071, F.S.

¹⁸ s. 634.221, F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Office of Insurance Regulation (OIR) notes that the bill “creates a new MVSA product and/or endorsement provision.” There is also licensure and renewal costs for companies that are not currently authorized to cover paintless dent removal services. Such fees include an annual \$100 license continuance fee¹⁹ as well as holding authorized securities with a market value no less than \$200,000 (no less than \$100,000 for companies with a gross written premium of \$750,000 or less) as a required deposit for licensure.²⁰ All insurers are subject to a 3 year examination (new companies licensed for 3 years or less are subject to annual examination) at a cost not to exceed \$25,000.²¹

D. FISCAL COMMENTS: None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other: None

B. RULE-MAKING AUTHORITY: None

C. DRAFTING ISSUES OR OTHER COMMENTS: None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

¹⁹ s. 634.071, F.S.

²⁰ s. 634.052, F.S.

²¹ s. 624.316 (2) (a) (f), F.S.