

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2318

2001 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2318

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2318

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date January 29, 2001

Tape Number	Side A	Side B	Meter #
1	x		0 to 11.5
(March 19/01) 1	x		7.5 to 15.2
Committee Clerk Signature <i>Don E. Pires</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on SB2318 relating to property service contracts.

SENATOR KLEIN: The purpose of this bill is to allow retailers to offer consumers service contracts for their products without needing a license from the insurance department.

RUSS HANSON, ND Retail Association (NDRA), in support of the bill. Written testimony attached. Favor the proposed amendment .

LARRY MASLOWSKI, ND Insurance Department. Neutral position. Offer information and amendments to clarify intent. Written testimony attached.

REP. JIM KASPER: Cosponsor. Favors this bill. These are not insurance contracts, they are not underwritten by insurance companies, so licensing should not be needed.

TERRY WEIS, ND Assn. Of Insurance and Financial Advisors, support this bill.

SENATOR KLEIN: Motion: Adopt amendment. SENATOR EVERY: Second.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2318

Hearing Date January 29 2001.

Roll call vote: 7 yes; 0 no; 0 absent or not voting. Motion carried.

SENATOR ESPEGARD: Motion: Do pass as amended. SENATOR TOLLEFSON: Second.

Roll call vote: 7 yes; 0 no; 0 absent or not voting. Motion carried.

Page 3
Senate Industry, Business and Labor Committee
Bill/Resolution Number SB 2318
Hearing Date ~~January 29, 2001~~.

(March 19, 2001) Tape 1-A-7.5 to 15.2

Committee reconvened. All members, except Senator Espegard, present. House amendments to this bill discussed.

Senator Klein: I introduced this bill for the retail association. Basically what they did was put back what we had amended out.

Bob Lamp, Automobile Assn. of ND. The Insurance Department presented the amendment taking motor vehicles out. After discussions with us they agreed to put it back in, and that is the amendment the House put in. The basic reason is that automobile service contracts in current code have a lot of different interpretations. If a dealer or a manufacturer sells the service contract they are not considered insurance but if a third party does, it is considered insurance. That has caused huge problems for dealers because if it becomes insurance there is a huge tax implication for the dealers. We think it is better that if they do assign this to third parties our consumer is better protected under this type of arrangement. If you can protect the consumer and also help the dealer we think that is appropriate. In this case the contract will not be considered insurance but must be guaranteed by an insurance policy. This is what the amendment does. Urge do concur.
Discussion held, regarding warranties.

Senator Klein: Motion to accede to House amendment. **Senator Every:** Second.

Roll call vote: 6 yes; 0 no; 1 absent not voting. Motion carried.

Floor assignment: **Senator Klein.**

Date: 1/29/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2318

Senate Industry, Business and Labor

Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendment

Motion Made By S. Klein Seconded By S. Every

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espgaard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

To remove "motor vehicles" from this bill

Date: 1/29/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2318

Senate Industry, Business and Labor

Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DPA

Motion Made By S. Espeland Seconded By S. Tollefson

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espeland	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Klein

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2318: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2318 was placed on the Sixth order on the calendar.

Page 1, line 10, after the first "property" insert "if an operational or structural failure is due to a defect in materials, manufacturing, or normal wear and tear"

Page 1, line 11, remove "motor vehicles;"

Page 1, line 15, after the semicolon insert "and"

Page 1, remove lines 16 and 17

Page 1, line 18, replace "d" with "c"

Renumber accordingly

Date: 3/19/01

Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2318

Senate Industry, Business and Labor

Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number

Action Taken Acced to house amendments

Motion Made By Sen Klein Seconded By Sen Every

[illegible]

Total (Yes) _____ No _____

Absent

Floor Assignment Sen Chun

If the vote is on an amendment, briefly indicate intent:

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2318

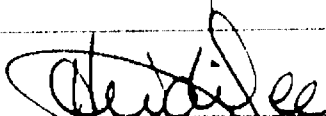
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2318(B)

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date March 12, 2001

Tape Number	Side A	Side B	Meter #
3	X		6.0-16.9
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Rep Lemieux: Explained bill.

Bob Lamp: There are three types of auto-insurance and the third-party issuers are causing the problem **Proposed amendments.**

Vice-Chairman Keiser: What if we exempt third party from being agents?

Lamp: I'm not sure if that's feasible.

Vice-Chairman Keiser: I move the amendments.

Rep Kasper: I second.

Rep Lemieux: I move a do pass as amended.

Rep Severson: I second.

15 yea, 0 nay, 0 absent Carrier Rep Lemieux

3/7/01

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2318

Page 1, line 1, after "contracts" and before the period insert "amend and reenact sections 26.1-40-18 and 26.1-40-22, relating to automobile warranties; and to repeal sections 26.1-40-19, 26.1-40-20, and 26.1-40-21"

Page 1, line 12, after "include" insert "motor vehicle;"

Page 1, after line 18, insert:

"SECTION 2. AMENDMENT. Section 26.1-40-18 of the North Dakota Century Code is amended and reenacted as follows:

26.1-40-18. Automobile warranties construed. An automobile dealer or a third-party administrator that issues an automobile warranty issued by anyone other than the automobile manufacturer or dealer is a contract, automobile mechanical breakdown contract, or automobile service contract of insurance and all warranties must be on a contract form prescribed or approved by the commissioner must maintain a policy of insurance that provides coverage for the dealer's or administrator's contractual obligation.

SECTION 3. AMENDMENT. Section 26.1-40-22 of the North Dakota Century Code is amended and reenacted as follows:

26.1-40-22. Penalty. Any person violating ~~sections~~ section 26.1-40-18 through ~~26.1-40-21~~ is guilty of a class A misdemeanor.

SECTION 4. REPEAL. Sections 26.1-40-19, 26.1-40-20, and 26.1-40-21 of the North Dakota Century Code are repealed."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2318

Page 1, line 1, after "contracts" insert "; and to repeal sections 26.1-40-18, 26.1-40-19, 26.1-40-20, 26.1-40-21, and 26.1-40-22 of the North Dakota Century Code, relating to automobile warranty insurance"

Page 1, line 12, after "Include" insert "motor vehicles;"

Page 1, after line 18, insert:

"SECTION 2. REPEAL. Sections 26.1-40-18, 26.1-40-19, 26.1-40-20, 26.1-40-21, and 26.1-40-22 of the North Dakota Century Code are repealed."

Renumber accordingly

Date: 3-7-01
 Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2318

House Industry, Business and Labor Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Lemieux Seconded By Severson

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg	✓		Rep. Jim Kasper	✓	
Vice-Chairman George Keiser	✓		Rep. Matthew M. Klein	✓	
Rep. Mary Ekstorm	✓		Rep. Myron Koppang	✓	
Rep. Rod Froelich	✓		Rep. Doug Lemieux	✓	
Rep. Glen Froseth	✓		Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen	✓		Rep. Dan Ruby	✓	
Rep. Nancy Johnson	✓		Rep. Dale C. Severson	✓	
			Rep. Elwood Thorpe	✓	

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep Lemieux

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2318, as engrossed: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2318 was placed on the Sixth order on the calendar.

Page 1, line 1, after "contracts" insert "; to amend and reenact sections 26.1-40-18 and 26.1-40-22 of the North Dakota Century Code, relating to automobile warranties; and to repeal sections 26.1-40-19, 26.1-40-20, and 26.1-40-21 of the North Dakota Century Code, relating to automobile warranty insurance"

Page 1, line 3, underscore "Property service contracts - Exemption."

Page 1, underscore lines 4 through 11

Page 1, line 12, underscore "property service contract may include" and insert immediately thereafter "motor vehicle;" and underscore "residential appliances; residential systems,"

Page 1, underscore lines 13 through 18

Page 1, after line 18, Insert:

"SECTION 2. AMENDMENT. Section 26.1-40-18 of the North Dakota Century Code is amended and reenacted as follows:

26.1-40-18. Automobile warranties construed. An automobile dealer or a third-party administrator who issues an automobile warranty issued by anyone other than the automobile manufacturer or dealer is a contract of insurance and all warranties must be on a contract form prescribed or approved by the commissioner, automobile mechanical breakdown contract, or automobile service contract shall maintain a policy of insurance which provides coverage for the dealer's or administrator's contractual obligation.

SECTION 3. AMENDMENT. Section 26.1-40-22 of the North Dakota Century Code is amended and reenacted as follows:

26.1-40-22. Penalty. Any person violating ~~sections~~ section 26.1-40-18 through ~~26.1-40-21~~ is guilty of a class A misdemeanor.

SECTION 4. REPEAL. Sections 26.1-40-19, 26.1-40-20, and 26.1-40-21 of the North Dakota Century Code are repealed."

Renumber accordingly

2001 TESTIMONY

SB 2318

SENATE BILL NO. 2318

Presented by: Larry Maslowski
North Dakota Insurance Department

Before: Industry, Business and Labor Committee
Senator Duane Mutch, Chairman

Date: January 29, 2001

TESTIMONY AND AMENDMENTS

Mr. Chairman and members of the committee:

My name is Larry Maslowski and I am the Senior Property and Casualty Analyst with the North Dakota Insurance Department. The Department has concerns over the language of Senate Bill No. 2318 as proposed. The language as written is very broad and could be interpreted to be applicable to traditional automobile physical damage coverage and homeowners types of policies. We do not believe this is the intent of those proposing the bill.

To clarify that the exemption being created is applicable only to property service contracts and not automobile physical damage or homeowners contracts, we offer the attached amendment for your consideration.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2318

Page 1, line 10, after "property" and before the period insert "if an operational or structural failure is due to a defect in materials, manufacturing, or normal wear and tear"

Page 1, line 11, remove "motor vehicles;"

Page 1, line 15, after the semicolon insert "and"

Page 1, remove lines 16 and 17

Page 1, line 18, replace "d." with "c."

Renumber accordingly



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TESTIMONY SUPPORTING SB 2318

By
TERRY WEIS
January 29, 2001
8:30 am

SENATE IBL COMMITTEE
DUANE MUTCH, CHAIRMAN

Good morning Mister Chairman and members of the Senate Industry, Business and Labor Committee.

For the record, my name is Terry Weis and I am here on behalf of the North Dakota Association of Insurance and Financial Advisors, formerly known as the North Dakota Association of Life Underwriters.

Our association has about 700 member insurance agents from all parts of North Dakota who sell Life, Health, Property insurance as well as other financial products.

Our association stands in support of this Bill. As insurance agents we realize selling a warranty should not be considered an insurance product and therefore one should not need a license to sell a warranty.

We wholeheartedly support the exemption SB 2318 adds to the insurance code and urge a Do Pass.

Thank you for your support.

**SB 2318****Senate Industry, Business, and Labor Committee
January 29, 2001**

Mr. Chairman and members of the Senate IBL Committee, my name is Russ Hanson representing the ND Retail Association (NDRA). On behalf of NDRA, we support SB 2318 as it would exempt property service contracts from the North Dakota Century Code relating to insurance.

Several retailers offering service contracts for consumer goods have brought to our attention that the Insurance Code has a broad definition of insurance and no statute expressly exempts service contracts. The objective of this legislation is to provide legal certainty of having the code define what a service contract is and if one is in this business -- it is exempt from the insurance code. The exemption is requested to allow retailers to offer service contracts for products that are the same or similar to products offered by a retailer but purchased from a different retailer. Service contracts currently are allowed to be purchased from retailers at the point of sale and are not at issue with this legislation.

Many North Dakota retailers are in the business of fixing/repairing products for the consumer buying public. The consumer goods this exemption would encompass is a broad selection of products, including major appliances and electronic goods manufactured by all leading suppliers. Without this exemption, retailers probably will not offer these service contracts or maintenance agreements for products purchased from other retailers if they must be licensed by the insurance department.

I met with the Insurance Department to discuss this issue on behalf of our retailers and their suggestion was that it should be dealt with via legislation. This is an issue that has been dealt with in a similar manner in many other states. Alabama, New York, Illinois,

Vermont, Hawaii, Puerto Rico, South Carolina, Texas, Washington, and Wyoming all have enacted NAIC Model Legislation dealing with service contracts.

Idaho, Montana, South Dakota, and West Virginia in recent years elected to pass laws exempting service contracts from insurance regulation. SB 2318 follows this method and very closely resembles the legislation ^{MONTANA}~~South Dakota~~ recently enacted.

Mr. Chairman, members of the committee, we believe this legislation would enable retailers to easily offer consumers the option to purchase service agreements on consumer goods at the retailer of their choice regardless of where the consumer good was purchased. NDRA would be appreciative of your favorable consideration on SB 2318. I would be happy to attempt to address questions.

SB 2318
House Industry, Business, and Labor Committee
March 6, 2001

Mr. Chairman and members of the House IBL Committee, my name is Russ Hanson representing the ND Retail Association (NDRA). On behalf of NDRA, we support SB 2318 as it would exempt property service contracts from the North Dakota Century Code relating to insurance.

Several retailers offering service contracts for consumer goods have brought to our attention that the Insurance Code has a broad definition of insurance and no statute expressly exempts service contracts. The objective of this legislation is to provide legal certainty of having the code define what a service contract is and if one is in this business -- it is exempt from the insurance code. The exemption is requested to allow retailers to offer service contracts for products that are the same or similar to products offered by a retailer but purchased from a different retailer. Service contracts currently are allowed to be purchased from retailers at the point of sale and are not at issue with this legislation.

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26.1-40-18. Automobile warranties construed. An automobile warranty issued by anyone other than the automobile manufacturer or dealer is a contract of insurance and all warranties must be on a contract form prescribed or approved by the commissioner.

Source: S.L. 1985, ch. 316, § 17.

Derivation: N.D.C.C. 26-31-01.

26.1-40-19. Certificate of authority to issue automobile warranty policy — Issuance — Qualifications — Renewal. No person may engage in the business of providing or writing automobile warranty insurance without a certificate of authority to issue automobile warranty insurance policies. The commissioner may not issue a certificate of authority unless the commissioner is satisfied that the person is qualified, in accordance with the laws of this state governing insurance companies, to transact business in this state. A certificate of authority remains in force in perpetuity if the required renewal fee is paid and the commissioner is satisfied that the requirements of law are met.

Source: S.L. 1985, ch. 316, § 17.

Derivation: N.D.C.C. 26-31-02.

26.1-40-20. Automobile warranties considered insurance — Surety bond. Any person engaged in the issuance of car warranty insurance policies is an insurance company and is subject to the fees specified by law to be paid by insurance companies. Before an automobile warranty insurance company receives a certificate of authority to transact business in this state, the company shall file with the commissioner a cash surety bond in the sum of one hundred thousand dollars on the form prescribed by the commissioner.

Source: S.L. 1985, ch. 316, § 17.

Derivation: N.D.C.C. 26-31-03.

26.1-40-21. Revocation of certificate of authority. The commissioner may revoke the certificate of authority of any person engaged in the sale of automobile warranty insurance when the commissioner determines that a breach of warranty contract has occurred.

26.1-40-22. Penalty. Any person violating sections 26.1-40-18 through 26.1-40-21 is guilty of a class A misdemeanor.

Source: S.L. 1985, ch. 316, § 17.

Derivation: N.D.C.C. 26-31-06.