Chapter 732

1961 REPLACEMENT PART
(1963 reprint)

Motorists' Service Companies

732.010 **"Agent," "bail bond service," "buying and selling service," "commissioner," "company" and "discount service" defined**
732.020 **"Emergency road service," "financial service," "insurance service," "legal service" and "map service" defined**
732.030 **"Motor club service," "service contract," "theft service," "touring service" and "towing service" defined**
732.040 **Chapter not applicable to attorneys or to insurance, bonding, and surety companies**
732.050 **License required**
732.060 **Requirements for issue of license**
732.070 **Duration of license**
732.080 **Revocation or suspension of license**
732.090 **Annual statement of financial condition**
732.100 **Filing and approval of form of service contract**
732.110 **Contracts in duplicate; signing; disposition of copies**
732.120 **Contents of contract**
732.130 **Liability reserve**
732.140 **Solicitation to purchase contracts of unlicensed companies prohibited**
732.150 **Misrepresentation of service contract prohibited**
732.160 **Contract not complying with chapter as valid and binding on company**
732.990 **Penalties**

CROSS REFERENCES

Administrative procedures governing state agencies, 183.310 to 183.510
Discrimination by race, creed, color or national origin prohibited, 30.670
Guaranteed arrest bond certificate, 747.082 to 747.086
Taxation, corporate excise, 317.060
When automobile association membership card is acceptable as bail, 483.620

732.010 "Agent," "bail bond service," "buying and selling service," "commissioner," "company" and "discount service" defined. As used in this chapter, unless the context clearly indicates a different meaning:

(1) "Agent" means any person who solicits the purchase of service contracts, or transmits for another any such contract or application therefor to or from the company, or acts or aids in any manner in the delivery or negotiation of any such contract, or of the renewal or continuance thereof.

(2) "Bail bond service" means any act by a company the purpose of which is to furnish or procure for any person accused of violation of any law of this state, a cash deposit, bond or other undertaking required by law in order that the accused might enjoy his personal freedom pending trial.

(3) "Buying and selling service" means any act by a company whereby the holder of a service contract with any such company is aided in any way in the purchase or sale of an automobile.

(4) "Commissioner" means the Insurance Commissioner, his assistants, deputies or other persons authorized to act for him.

(5) "Company" means any person engaged in selling, furnishing or procuring motor club service, either as principal or agent, for a consideration.

(6) "Discount service" means any act by a company resulting in the giving of special discounts, rebates, or reductions of price on gasoline, oil, repairs, insurance, parts, accessories or service for motor vehicles, to holders of service contracts with any such company.

732.020 "Emergency road service," "financial service," "insurance service," "legal service" and "map service" defined. As used in this chapter, unless the context clearly indicates a different meaning:

(1) "Emergency road service" means any act by a company consisting of adjustment, repair or replacement of the equipment, tires or mechanical parts of an automobile so as to permit it to be operated under its own power.

(2) "Financial service" means any act by a company whereby loans or other advances of money, with or without security, are made to the holders of service contracts with any such company.

(3) "Insurance service" means any act by a company consisting of the selling or giving with a service contract, or as a result of membership in or affiliation with a company, a policy of insurance covering liability or loss by the holder of a service contract with any such company as the result of injury or damage to the person or property of such service contract holder or to any other person following an accident resulting from the ownership, maintenance, operation or use of a motor vehicle.

(4) "Legal service" means any act by a company consisting of the hiring, retaining, engaging or appointing of an attorney or other person to give professional advice to or represent holders of service contracts with any such company, in any court, as the result of liability incurred by the right of action accruing to the holder of a service contract as a result of the ownership, operation, use or maintenance of a motor vehicle.

(5) "Map service" means any act by a company by which road maps are furnished without cost to holders of service contracts with any such company.

732.030 "Motor club service," "service contract," "theft service," "touring service" and "towing service" defined. As used in this chapter, unless the context clearly indicates a different meaning:

(1) "Motor club service" means the rendering, furnishing or procuring of towing service, emergency road service, insurance service, bail bond service, legal service, discount service, financial service, buying and selling service, theft service, map service and touring service, or any one or more thereof, to any person in connection with the ownership, operation, use or maintenance of a motor vehicle by such other person in consideration of such other person being or becoming a member of any company rendering, procuring or furnishing such services, or being or becoming in any manner affiliated therewith, or being or becoming entitled to receive membership or other motor club service therefrom by virtue of any agreement or understanding with any such company.

(2) "Service contract" means any agreement or understanding whereby any company, for a consideration, promises to render, furnish or procure motor club service for any other person, whether or not they are members of such company.

(3) "Theft service" means any act by a company, the purpose of which is to locate, identify or recover a motor vehicle owned or

controlled by the holder of a service contract with any such company which has been or may be stolen or to detect or apprehend the person guilty of such theft.

(4) "Touring service" means any act by a company by which touring information is furnished without cost to holders of service contracts with any such company.

(5) "Towing service" means any act by a company consisting of drafting or moving a motor vehicle from one place to another under other than its own power.

732.040 Chapter not applicable to attorneys or to insurance, bonding, and surety companies. Nothing in this chapter applies to a duly authorized attorney at law acting in the usual course of his profession, nor to any insurance company, bonding company, or surety company duly and regularly licensed and doing business as such under the laws of Oregon.

732.050 License required. No company or agent doing business in this state shall execute, issue or deliver any service contract to any person owning or operating motor vehicles without first having obtained a license from the commissioner as provided for in ORS 732.060, nor shall any company or agent collect or receive from any person in advance of the execution, issuance or delivery of any such service contract any money or other thing of value upon any promise or agreement to execute, issue or deliver any such service contract, without first having obtained a license from the commissioner, as provided for in ORS 732.060.

732.060 Requirements for issue of license. (1) No license shall be issued by the commissioner until the company has filed with him the following:

(a) A formal application in such form and detail as the commissioner may require, executed under oath by its president or other principal officer.

(b) A copy of the form of its contract.

(c) A certified copy of its charter or articles of incorporation and its bylaws, if any.

(d) A financial statement in such form and detail as the commissioner may require, executed on oath by its president or other principal officer.

(e) A certificate from the State Treasurer of Oregon that it has complied with this chapter in all cases where a deposit of cash, securities or a bond is required.

(f) A certificate from the Corporation Commissioner of Oregon, if it is a corporation, that it has complied with the corporation laws of this state.

(2) No license shall be issued by the commissioner until the company has paid to the commissioner $100 as annual license fee, or the pro rata portion thereof necessary to be paid to the end of the current fiscal year from the date of the application for the license.

(3) No license shall be issued by the commissioner until the company has satisfied him by such examination as he may make and such evidence as he may require that such company has complied with the laws of Oregon and that its management is trustworthy and competent. The cost of any examination shall be paid by the company examined.

(4) No license shall be issued by the commissioner until the company has filed with him a bond in the sum of $25,000, running to the State of Oregon, in form to be approved by the commissioner, executed by a surety company licensed to transact its business in this state, and conditioned that the company will faithfully perform its service contracts. In lieu of such bond the company may deposit with the commissioner $25,000 in cash or securities approved by the commissioner.

[Amended by 1961 c.178 §1]

732.070 Duration of license. Every license issued under ORS 732.060 shall expire on April 1 of each year unless sooner revoked or suspended.

732.080 Revocation or suspension of license. If the commissioner, at any time for cause shown and after a hearing, determines that a company has violated any provision of this chapter or is insolvent, or its assets are less than its liabilities, or it or its officers refuse to submit to an examination, or it is transacting business fraudulently, or its management or business methods are improper or hazardous to the holders of its service contracts, he shall thereupon revoke or suspend its license and give notice thereof to the public in such manner as he may deem proper.

732.090 Annual statement of financial condition. Every company shall, on or before February 1 of each year, file with the commissioner a financial statement in such form and detail as he may prescribe, executed on oath by its president or other principal officer,

showing its financial condition on December 31 of the preceding year.

732.100 Filing and approval of form of service contract. No service contract shall be executed, issued or delivered in this state until a copy of the form thereof has been on file for 30 days with the commissioner, unless before the expiration of the 30 days he has approved the form in writing; nor shall any service contract be executed, issued or delivered at any time in this state if the commissioner notifies the company, in writing, within said 30 days, that in his opinion the form of the contract does not comply with the laws of this state, specifying the reasons therefor.

732.110 Contracts in duplicate; signing; disposition of copies. Every service contract, executed, issued or delivered in this state shall be made in duplicate, and shall be signed by the company issuing the same, or by its duly authorized agent, and by the party purchasing the contract. One copy thereof shall be kept by the company and the other copy shall be delivered to the party purchasing the contract.

732.120 Contents of contract. No service contract shall be executed, issued or delivered in this state unless it contains the following:

(1) The exact corporate or other name of the company.

(2) The exact location of its home office and of its usual place of business in this state, giving street number and city.

(3) A provision that the contract may be canceled at any time by either the company or the holder, and that the holder shall, if he has actually paid the consideration, thereupon be entitled to the unused portion of the consideration paid for such contract, calculated on a pro rata basis without any deductions.

(4) A provision plainly specifying the services promised and that the holder shall not be required to pay any sum for any services specified in the contract in addition to the amount specified in the contract, and further specifying the territory wherein such services are to be rendered, and the date when such service shall commence.

732.130 Liability reserve. In addition to the deposit requirement of subsection (4) of ORS 732.060, the company shall maintain a liability reserve equal to 25 percent of the total unearned dues on contracts in force, but in no case less than the total refund of dues made within the preceding 12 months.

732.140 Solicitation to purchase contracts of unlicensed companies prohibited. No person shall solicit or aid in the solicitation of another person to purchase a service contract issued by a company not duly licensed under ORS 732.060.

732.150 Misrepresentation of service contract prohibited. No company, and no officer or agent thereof, shall orally or in writing misrepresent the terms, benefits or privileges of any service contract issued or to be issued by it.

732.160 Contract not complying with chapter as valid and binding on company. Any service contract made, issued or delivered contrary to any provision of this chapter shall nevertheless be valid and binding on the company.

732.170 to 732.980 [Reserved for expansion]

732.990 Penalties. Violation of this chapter is punishable, upon conviction, by a fine of not more than $500, or by imprisonment in the county jail for not more than six months, or both.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1961.

Sam R. Haley
Legislative Counsel

CHAPTERS 733 TO 735

[Reserved for expansion]