Chapter 751

1969 REPLACEMENT PART

(1971 reprint)

Motorist Service Clubs

751.005 **"Motorist service club" defined**

751.015 **"Motor club service" and "service contract" defined**

751.025 **Chapter not applicable to attorneys or insurers**

751.035 **Motor club services**

751.045 **Other services**

751.055 **Certificate of authority required**

751.065 **Issuance of certificate of authority**

751.075 **Filing and approval of form of service contract**

751.085 **Contracts in duplicate; signing; disposition of copies**

751.095 **Contents of contract**

751.105 **Liability reserve**

751.115 **Solicitation to purchase contracts of unauthorized clubs prohibited**

751.125 **Misrepresentation of service contract prohibited**

751.135 **Contract not complying with chapter is valid and binding on club**

751.145 **Other provisions applicable to motorist service clubs**

CROSS REFERENCES

Definitions and general provisions applicable, 731.004 to 731.194

Discrimination by race, creed, color or national origin prohibited, 30.670

Guaranteed arrest bond certificate, 743.762

Home solicitation sales regulation, insurance excepted, 83.710

"Insurance Code" defined, 731.004

When automobile association membership card is acceptable as bail, 483.620

751.005 "Motorist service club" defined. "Motorist service club" means any person engaged in rendering, furnishing or procuring for another motor club service, as defined in ORS 751.015, except an officer, employe or agent of a person holding a subsisting certificate of authority so to act.
[1967 c.359 §660]

751.010 [Amended by 1967 c.359 §259; renumbered 734.030]

751.015 "Motor club service" and "service contract" defined. (1) "Motor club service" means any one or more of the services authorized by ORS 751.035 to a person in connection with the ownership, operation, use or maintenance of a motor vehicle by such person, in consideration of such person's being or becoming a member of the motorist service club rendering, procuring or furnishing such services, or being or becoming in any manner affiliated with such club, or being or becoming entitled to receive such services from such club by virtue of any agreement with such club.

(2) "Service contract" means an agreement whereby a motorist service club, for a consideration, promises to render, furnish or procure for another motor club service.
[Formerly 732.030; 1969 c.336 §19]

751.020 [Amended by 1967 c.359 §275; renumbered 734.210]

751.025 Chapter not applicable to attorneys or insurers. Nothing in this chapter applies to a duly authorized attorney at law acting in the usual course of his profession or to an insurer acting in compliance with a certificate of authority issued pursuant to the Insurance Code exclusive of this chapter.
[Formerly 732.040]

751.030 [Amended by 1967 c.359 §278; renumbered 734.240]

751.035 Motor club services. An authorized motorist service club may provide any one or more of the following services:

(1) "Bail bond service," which means any act by the club the purpose of which is to furnish or procure, for a person accused of violation of any law of this state, a cash deposit, bond or other undertaking required by law for the accused to enjoy his personal freedom pending trial;

(2) "Buying and selling service," which means any act by the club whereby a person is aided in any way in the purchase or sale of an automobile;

(3) "Discount service," which means any act by the club resulting in the giving of special discounts, rebates, or reductions of price on gasoline, oil, repairs, parts, accessories or service for motor vehicles to a person;

(4) "Emergency road service," which means any act by the club 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;

(5) "Financial service," which means any act by the club whereby loans or other advances of money, with or without security, are made to a person;

(6) "Insurance service," which means any act by the club consisting of the selling or giving with a service contract, or as a result of membership in or affiliation with the club, a policy of insurance issued by an authorized insurer covering liability or loss from injury or damage to person or property by an accident resulting from the ownership, maintenance, operation or use of a motor vehicle;

(7) "Legal service," which means any act by the club consisting of the hiring, retaining, engaging or appointing of an attorney or other person to give professional advice to or represent a person in any court, with respect to liability incurred by or right of action accruing to the person as a result of the ownership, operation, use or maintenance of a motor vehicle;

(8) "Map service," which means any act by the club by which road maps are furnished without cost to a person;

(9) "Theft service," which means any act by the club, the purpose of which is to locate, identify or recover a motor vehicle which has been or may have been stolen or to detect or apprehend the person guilty of such theft;

(10) "Touring service," which means any act by the club by which touring information is furnished without cost to a person; and

(11) "Towing service," which means any act by the club consisting of drafting or moving a motor vehicle from one place to another except under its own power.
[1967 c.359 §663]

751.040 [Amended by 1967 c.359 §280; renumbered 734.260]

751.045 Other services. Nothing in this chapter shall be construed as preventing an

authorized motorist service club from engaging in activities and providing services which are outside the scope of its service contracts, if such activities and services are in accordance with law and its charter, articles of incorporation and bylaws, if any.
[1967 c.359 §664]

751.050 [Amended by 1967 c.359 §281; renumbered 734.270]

751.055 Certificate of authority required. A motorist service club shall not execute, issue or deliver any service contract in this state without a subsisting certificate of authority issued pursuant to ORS 751.065, nor shall any such club 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 such contract, unless it has such a certificate of authority.
[Formerly 732.050]

751.060 [Repealed by 1967 c.359 §704]

751.065 Issuance of certificate of authority. A certificate of authority shall be issued by the commissioner to a person authorized to act as a motorist service club when the club:

(1) Has filed with him the following:

(a) An application therefor in such form and detail as he may require, executed under oath by its president or other principal officer;

(b) A copy of the forms of its service contracts;

(c) If it is a corporation, a certified copy of its charter or articles of incorporation and its bylaws;

(d) A financial statement in such form and detail as he may require, executed under oath by its president or other principal officer; and

(e) If it is a corporation, a certificate from the Corporation Commissioner of this state that it has complied with the corporation laws of this state.

(2) Has paid to him the pro rata portion of the fee as provided in ORS 731.804 for the portion of a year from the date of the application to the next following April 1.

(3) Has satisfied him by such examination as he may make and such evidence as he may require that such club has complied with the laws of this state and that its management is trustworthy and competent. The cost of any such examination shall be paid by the club examined.

(4) Has deposited with the State Treasurer $25,000, which shall be held for the faithful performance by the club of its service contracts.
[Formerly 732.060]

751.070 [Repealed by 1967 c.359 §704]

751.075 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. No such service contract shall be executed, issued or delivered in this state if the commissioner notifies the motorist service club, in writing, within such 30 days that the form of the contract does not comply with the laws of this state, specifying the reasons therefor.
[Formerly 732.100]

751.080 [Amended by 1967 c.359 §285; renumbered 734.310]

751.085 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 motorist service club issuing the contract or by its duly authorized agent and by the party purchasing the contract. One copy thereof shall be kept by the club and the other copy shall be delivered to the purchaser.
[Formerly 732.110]

751.090 [Repealed by 1967 c.359 §704]

751.095 Contents of contract. Each service contract shall contain the following:

(1) The exact corporate or other name of the motorist service club.

(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 motorist service club or the holder, and that the holder shall then be entitled to the unused portion of the consideration he actually paid for the 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 services shall commence.
[Formerly 732.120]

751.100 [Repealed by 1967 c.359 §704]

751.105 Liability reserve. A motorist service club shall maintain a liability reserve equal to 25 percent of the total unearned dues on service contracts in force, but in no case less than the total refund of dues made within the preceding 12 months on such contracts.
[Formerly 732.130]

751.110 [Amended by 1967 c.359 §287; renumbered 734.330]

751.115 Solicitation to purchase contracts of unauthorized clubs prohibited. No person shall solicit or aid in the solicitation of another person to purchase a service contract issued by a motorist service club not duly authorized under ORS 751.065.
[Formerly 732.140]

751.120 [Repealed by 1967 c.359 §704]

751.125 Misrepresentation of service contract prohibited. No motorist service club, 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.
[Formerly 732.150]

751.135 Contract not complying with chapter is valid and binding on club. Any service contract made, issued or delivered contrary to any provision of this chapter shall nevertheless be valid and binding on the motorist service club.
[Formerly 732.160]

751.145 Other provisions applicable to motorist service clubs. (1) The following provisions of the Insurance Code shall apply to motorist service clubs to the extent so applicable and not inconsistent with the express provisions of this chapter:

(a) ORS 731.004 to 731.026 and 731.032 to 731.146, 731.204 to 731.280 and 731.284 to 731.354, 731.386, 731.390, 731.398, 731.406 to 731.434, 731.454, 731.512, 731.574, 731.604 to 731.620, 731.640 to 731.652, 731.804, 731.844, 731.988 and 731.992.

(b) ORS 737.205 and 737.330.

(2) For the purpose only of applying the Insurance Code sections listed in subsection (1) of this section to motorist service clubs, such clubs shall be deemed to be insurers and service contracts issued by such clubs shall be deemed to be policies of insurance.
[1967 c.359 §674; 1969 c.336 §20; 1969 c.690 §26]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, 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, 1971.

Robert W. Lundy
Legislative Counsel

CHAPTERS 752 TO 755

[Reserved for expansion]