

# MAINE STATE LEGISLATURE

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# EIGHTY-FIFTH LEGISLATURE

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**Legislative Document**

**No. 492**

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S. P. 388

In Senate, Feb. 11, 1931.

Referred to Committee on Judiciary and 500 copies ordered printed. Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Jackson of Cumberland.

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## STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND THIRTY-ONE

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AN ACT to Define Motor Club and Association Service, and to Define, License, and Regulate Companies Engaged in Selling, Furnishing, or Procuring the Same, for a Consideration, to Owners and Operators of Motor Vehicles, and Providing Penalties for the Violation thereof.

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Be it enacted by the People of the State of Maine, as follows:

Section 1. The following words and phrases when used in this act shall, for the purpose of this act, have the meanings respectively ascribed to them in this section, except in those instances where the context of the act clearly indicates that they shall have a different meaning:

“Commissioner.” The commissioner of insurance of the state of Maine or his assistants or deputies or other persons authorized to act for him;

“Company.” Any person, firm, copartnership, company, association or corporation engaged in selling, furnishing, or procuring, either as principal or agent, for a consideration, motor club service as herein defined;

“Agent.” Whoever solicits the purchase of service contracts as herein defined, 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;

“Towing Service.” Any act or acts by a company as herein

defined, consisting of the drafting or moving of a motor vehicle from one place to another under other than its own power;

“Emergency Road Service.” Any act or acts by a company as herein defined, consisting of the 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;

“Insurance Service.” Any act or acts by a company as herein defined, consisting of the selling or giving with a service contract as herein defined, or as a result of membership in or affiliation with a company as herein defined 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;

“Bail Bond Service.” Any act or acts by a company as herein defined, 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;

“Legal Service.” Any act or acts by a company as herein defined, 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;

“Discount Service.” Any act or acts by a company as herein defined, 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;

“Financial Service.” Any act or acts by a company as herein defined, whereby loans or other advances of money, with or without security, are made to holders of service contracts with any such company;

“Buying and Selling Service.” Any act or acts by a company as herein defined, whereby the holder of a service contract with any such company is aided in any way in the purchase or sale of an automobile;

“Theft Service.” Any act or acts by a company as herein defined, 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;

“Map Service.” Any act or acts by a company as herein defined by which road maps are furnished without cost to holders of service contracts with any such company;

“Touring Service.” Any act or acts by a company as herein defined, by which touring information is furnished without cost to holders of service contracts with any such company;

“Motor Club Service.” 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 three or more thereof, as herein defined, to any person or persons in connection with the ownership, operation, use, or maintenance of a motor vehicle by such other person or persons in consideration of such other person or persons being or becoming a member or members of any company, rendering, procuring or furnishing the same, 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.

“Service Contract.” Any agreement or understanding whereby any company as herein defined, for a consideration promises to render, furnish or procure for any other person or persons, whether they be members of such company or otherwise, motor club service as herein defined.

Sec. 2. No company, nor any agent, as herein defined doing business in this state shall execute, issue or deliver any service contract to any person or persons owning or operating motor vehicles without first having obtained a license from the commissioner as provided for in this act, nor shall any such company or agent collect or receive from any person or persons

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 said commissioner as provided for in this act.

Sec. 3. (a) No license shall be issued by the commissioner until the company has filed with him the following:

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

2. A copy of the form of its contract;

3. A certified copy of its charter or articles of incorporation and its by-laws, if any;

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

5. A certificate from the state treasurer of the state of Maine that it has complied with section four of this act in all cases where a deposit of cash or a bond is required by this act.

6. A certificate from the corporation commissioner of the state of Maine in the event it be a corporation, that it has complied with the corporation laws of said state.

(b). No license shall be issued by the commissioner until the company has paid to the commissioner one hundred dollars as an annual license fee, or the pro rata portion thereof necessary to be paid to the end of the current calendar year from the date of the application for such license.

(c). 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, in his discretion, that such company has complied with the laws of the state of Maine and that its management is trustworthy and competent.

Sec. 4. (a) No license shall be granted to a company as herein defined, except as hereinafter stated, until it has deposited with the state treasurer of the state of Maine the sum of \$25,000 in cash or in lieu thereof a bond in a form prescribed by the commissioner payable to the state of Maine in the sum of \$25,000, with surety approved by the commissioner, conditioned upon the faithful performance of its service contracts and payment of any fines or penalties levied against it for failure to comply with this act; provided, however, that

when any company, as herein defined, shall prove to the commissioner that it has been in continuous, active, operation in the state of Maine for a period of more than five years immediately last past and has a paid membership of more than five thousand members within the state of Maine, or that there are more than five thousand holders of its service contracts within the state of Maine, and that it is being properly managed, is rendering to its members the services promised to them, and is financially responsible, no such cash deposit or bond shall be required while such company remains in such condition. The foregoing cash deposit or bond is not required in any instance as a penalty, but for the protection of the public only.

Sec. 5. Every license issued hereunder shall expire annually on January one of each year, unless sooner revoked or suspended as hereinafter provided.

Sec. 6. If the commissioner shall, at any time for cause shown and after a hearing, determine that a company has violated any provision or provisions of this act, or that it is insolvent, or that its assets are less than its liabilities, or that it or its officers refuse to submit to an examination, or that is transacting business fraudulently, or that 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 shall give notice thereof to the public in such manner as he may deem proper.

Sec. 7. Every company shall annually on or before February one 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 thirty-one of the preceding year.

Sec. 8. No service contract shall be executed, issued or delivered in this state until a copy of the form thereof has been on file for thirty days with the commissioner, unless before the expiration of said thirty days he shall have 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 thirty days, that in his opinion the form of the contract does not comply with the laws of this state, specifying the reasons therefor.

Sec. 9. 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 same, and one copy thereof shall be kept by said company, and the other copy shall be delivered to the party purchasing the same.

Sec. 10. No service contract shall be executed, issued or delivered in this state unless it contains the following:

- (a) The exact corporate or other name of the company;
- (b) The exact location of its home office and of its usual place of business in this state, giving street number and city;
- (c) 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;
- (d) 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.

Sec. 11. 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 this act.

Sec. 12. 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.

Sec. 13. Any service contract made, issued or delivered contrary to any provision of this act shall nevertheless be valid and binding on the company.

Sec. 14. Nothing in this act shall apply 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, now or hereafter duly and regularly licensed and doing business as such under the laws of the state of Maine.

Sec. 15. If any person shall violate the provisions of this act, such person shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not

more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

Sec. 16. If any part or parts of this act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this act, and the legislature hereby declares that it would have passed the remaining parts of this act if it had known that such part or parts thereof would be declared unconstitutional.

Sec. 17. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.