

# SENATE, No. 1198

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

**Sponsored by:**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**Senator STEVEN V. OROHO**

**District 24 (Morris, Sussex and Warren)**

**SYNOPSIS**

Concerning motor vehicle ancillary production products and service contracts.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/13/2020)**

1 AN ACT concerning motor vehicle ancillary production products  
2 and amending and supplementing P.L.2013, c.197

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 1 of P.L.2013, c.197 (C.56:12-87) is amended to  
8 read as follows:

9 1. As used in this act:

10 "Administrator" means a person who performs the third-party  
11 administration of a service contract, pursuant to the provisions of  
12 section 5 of this act, on behalf of a provider.

13 "Consumer" means a natural person who buys other than for  
14 purposes of resale any property that is distributed in commerce and  
15 that is normally used for personal, family, or household purposes  
16 and not for business or research purposes.

17 "Director" means the Director of the Division of Consumer  
18 Affairs in the Department of Law and Public Safety.

19 "Emergency, life safety, or property safety goods" means any  
20 goods provided for installation in, as part of, or for addition to, a  
21 system designed to prevent, respond to, alert regarding, suppress,  
22 control, or extinguish an emergency or the cause of an emergency,  
23 or assist evacuation in the event of an emergency, which emergency  
24 could threaten life or property. Examples of these systems include  
25 fire alarm, fire sprinkler, fire suppression, fire extinguisher,  
26 security, gas detection, intrusion detection, access control, video  
27 surveillance and recording, mass notification, public address,  
28 emergency lighting, patient wandering, infant tagging, and nurse  
29 call.

30 "Leased motor vehicle excess wear and use protection" means  
31 the repair, replacement, or maintenance of property, or  
32 indemnification for repair, replacement, or maintenance, due to  
33 excess wear and use, damage for items such as tires, paint cracks or  
34 chips, interior stains, rips or scratches, exterior dents or scratches,  
35 windshield cracks or chips, missing interior or exterior parts or  
36 excess mileage that results in a lease-end charge, or any other  
37 charge for damage that is deemed as excess wear and use by a  
38 lessor under a motor vehicle lease.

39 "Maintenance agreement" means a contract of limited duration  
40 that provides for scheduled maintenance only, and does not include  
41 repair or replacement of the property subject to the contract.

42 "Motor vehicle ancillary protection product" means a contract or  
43 agreement between a provider and a consumer for a specific  
44 duration, for a provider fee or other separately stated consideration,  
45 to perform one or more of the following with respect to a motor  
46 vehicle:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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1 (1) the repair or replacement of tires or wheels on a motor  
2 vehicle damaged as a result of coming into contact with road  
3 hazards including but not limited to potholes, rocks, wood debris,  
4 metal parts, glass, plastic, curbs, or composite scraps;

5 (2) the removal of dents, dings, or creases on a motor vehicle  
6 that can be repaired using the process of paintless dent removal  
7 without affecting the existing paint finish and without replacing  
8 vehicle body panels, sanding, bonding, or painting;

9 (3) the repair of small motor vehicle windshield chips or cracks  
10 which may include replacement of the windshield for chips or  
11 cracks that cannot be repaired ;

12 (4) the replacement of a motor vehicle key or key-fob in the  
13 event that the key or key-fob becomes inoperable or is lost or  
14 stolen;

15 (5) leased motor vehicle excess wear and use protection; or

16 (6) other services which may be approved by the director, that  
17 are consistent with the provisions of P.L.2013, c.197 (C.56:12-87 et  
18 seq.).

19 "Non-original manufacturer's part" means a replacement part not  
20 made for or by the original manufacturer of the property, commonly  
21 referred to as an "after market part."

22 "Person" means any natural person, company, corporation,  
23 association, society, firm, partnership, or other similar legal entity.

24 "Premium" means the consideration paid to an insurer for a  
25 reimbursement insurance policy, and is subject to any applicable  
26 premium tax.

27 "Provider" means a person who is contractually obligated to the  
28 service contract holder under the terms of the service contract.

29 "Provider fee" means the consideration paid by a consumer for a  
30 service contract, and is not subject to any premium tax.

31 "Reimbursement insurance policy" means a policy of insurance  
32 issued to a provider to either provide reimbursement to, or payment  
33 on behalf of, the provider under the terms of the insured service  
34 contracts issued or sold by the provider, or, in the event of the  
35 provider's non-performance, to provide or pay for, on behalf of the  
36 provider, all covered contractual obligations incurred by the  
37 provider.

38 "Service contract" means a contract or agreement between a  
39 provider and a consumer for any duration, for a provider fee or  
40 other separately stated consideration, to perform, or to provide  
41 indemnification for the performance of, the maintenance, repair,  
42 replacement, or service of property for the operational or structural  
43 failure of the property due to a defect in materials or workmanship  
44 or due to normal wear and tear, and which may include additional  
45 provisions for incidental payment of indemnity under limited  
46 circumstances. In the case of a motor vehicle, such circumstances

1 may include towing, rental, and emergency road services, and other  
2 road hazard protections. A service contract may provide for the  
3 maintenance, repair, replacement, or service of the property for  
4 damage resulting from power surges or interruption, or accidental  
5 damage from handling. A service contract also includes a motor  
6 vehicle ancillary protection product. Service contracts may provide  
7 for leak or repair coverage to house roofing systems. A "service  
8 contract" does not include a contract in writing to maintain  
9 structural wiring associated with the delivery of cable, telephone, or  
10 other broadband communication services or a contract in writing  
11 related to the delivery of satellite television or broadband  
12 communication services.

13 "Service contract holder" or "contract holder" means a consumer  
14 who is the purchaser of a service contract or is entitled to the  
15 contractual benefits under the terms of the contract.

16 "Warranty" means a warranty made solely by the manufacturer,  
17 importer, or seller of property or services without additional  
18 consideration, that is incidental to, and not negotiated or separated  
19 from, the sale of the property or services, that guarantees indemnity  
20 for defective materials, parts, mechanical or electrical breakdown,  
21 labor, or workmanship, or provides other remedial measures,  
22 including repair or replacement of the property or repetition of  
23 services.

24 (cf: P.L.2013, c.197, s.1)

25

26 2. (New section) In the case of a service contract that  
27 provides for leased motor vehicle excess wear and use protection, as  
28 defined in section 1 of P.L.2013, c.197 (C.56:12-87), the contract  
29 shall not provide for a payment for maintenance that exceeds the  
30 purchase price of the vehicle.

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32 3. This act shall take effect immediately.

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#### STATEMENT

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37 This bill expands the definition of "motor vehicle ancillary  
38 production product" to include motor vehicle key fobs that have  
39 become lost or stolen, leased motor vehicle excess wear and use  
40 protection, and other services that may be approved by the director.  
41 The bill defines leased motor vehicle excess wear and use  
42 protection as the repair, replacement, or maintenance of property, or  
43 indemnification for repair, replacement, or maintenance, due to  
44 excess wear and use; damage for items such as tires, paint cracks or  
45 chips, interior stains, rips or scratches, exterior dents or scratches,  
46 windshield cracks or chips, missing interior or exterior parts or  
47 excess mileage that results in a lease-end charge; or any other

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1 charge for damage that is deemed as excess wear and use by a  
2 lessor under a motor vehicle lease;

3 The bill provides that in the case of a service contract that covers  
4 leased motor vehicle excess wear and use protection, a payment  
5 under the contract shall not exceed the purchase price of the  
6 vehicle.