

[First Reprint]

SENATE, No. 1198

STATE OF NEW JERSEY
219th LEGISLATURE

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Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Regulates certain motor vehicle ancillary protection products as service contracts.

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee on July 22, 2020, with amendments.



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

1 AN ACT concerning motor vehicle ancillary ¹**[production]**
 2 protection¹ products and amending and supplementing P.L.2013,
 3 c.197.

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

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

10 1. As used in this act:

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

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

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

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

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

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

43 "Motor vehicle ancillary protection product" means a contract or
 44 agreement between a provider and a consumer for a specific
 45 duration, for a provider fee or other separately stated consideration,

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted July 22, 2020.

1 to perform one or more of the following with respect to a motor
2 vehicle:

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

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

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

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

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

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

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

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

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

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

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

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

40 "Service contract" means a contract or agreement between a
41 provider and a consumer for any duration, for a provider fee or
42 other separately stated consideration, to perform, or to provide
43 indemnification for the performance of, the maintenance, repair,
44 replacement, or service of property for the operational or structural
45 failure of the property due to a defect in materials or workmanship
46 or due to normal wear and tear, and which may include additional
47 provisions for incidental payment of indemnity under limited
48 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.

31

32 3. This act shall take effect **1[immediately] on the first day of**
33 **the third month next following enactment**¹.