

As Reported by the House Technology and Innovation Committee

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Am. S. B. No. 236

Senators Wilson, Lang

**Cosponsors: Senators Reineke, Cirino, Brenner, Blessing, Hackett, Hottinger,
Johnson, McColley, Peterson, Romanchuk, Rulli, Schaffer, Thomas, Yuko**

A BILL

To amend sections 1345.81 and 3901.41 of the 1
Revised Code to enable insurers using an online 2
platform to automatically enroll purchasers in 3
digital communications and to modify a 4
requirement regarding the use of salvage motor 5
vehicle parts in repairs. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1345.81 and 3901.41 of the 7
Revised Code be amended to read as follows: 8

Sec. 1345.81. (A) As used in this section: 9

(1) "Aftermarket crash part" means a replacement for any 10
of the nonmechanical sheet metal or plastic parts that generally 11
constitute the exterior of a motor vehicle, including inner and 12
outer panels. 13

(2) "Nonoriginal equipment manufacturer aftermarket crash 14
part" or "non-OEM aftermarket crash part" means any aftermarket 15
crash part that is not made by or for the manufacturer of the 16
motor vehicle. 17

(3) "Repair facility" means any motor vehicle dealer, 18
garage, body shop, or other commercial entity that undertakes 19
the repair or replacement of those parts that generally 20
constitute the exterior of a motor vehicle. 21

(4) "Installer" means any individual who actually performs 22
the work of replacing or repairing parts of a motor vehicle. 23

(5) "Insurer" means any individual serving as an agent or 24
authorized representative of an insurance company, involved with 25
the coverage for repair of the motor vehicle in question. 26

(B) Any insurer who provides an estimate for the repair of 27
a motor vehicle based in whole or in part upon the use of any 28
non-OEM aftermarket crash part in the repair of the motor 29
vehicle and any repair facility or installer who intends to use 30
a non-OEM aftermarket crash part in the repair of a motor 31
vehicle shall comply with the following provisions, as 32
applicable: 33

(1) If the person requesting the repair chooses to receive 34
a written estimate, the insurer, repair facility, or installer 35
providing the estimate shall identify, clearly in the written 36
estimate, each non-OEM aftermarket crash part and shall contain 37
a written notice with the following language in ten-point or 38
larger type: "This estimate has been prepared based upon the use 39
of one or more aftermarket crash parts supplied by a source 40
other than the manufacturer of your motor vehicle. Warranties 41
applicable to these aftermarket crash parts are provided by the 42
parts manufacturer or distributor rather than by your own motor 43
vehicle manufacturer." Receipt and approval of the written 44
estimate shall be acknowledged by the signature of the person 45
requesting the repair at the bottom of the written estimate. 46

(2) If the person requesting the repair chooses to receive an oral estimate or no estimate at all, the insurer, repair facility, or installer providing the estimate or seeking the person's approval for repair work to commence shall furnish or read to the person a written notice as described in division (B) (1) of this section at the time that the oral estimate is given or when the person requesting the repair gives ~~his~~ approval for the repair work to commence. If the person has chosen to receive an oral estimate or no estimate, the written notice described in division (B) (1) of this section shall be provided with the final invoice for the repair.

(C) Any non-OEM aftermarket crash part manufactured after ~~the effective date of this act~~ October 16, 1990, shall have permanently affixed thereto, or inscribed thereon, prior to the installation of the part, the business name or logo of the manufacturer.

Whenever practical, the location of the affixed or inscribed information upon the part shall ensure that the information shall be accessible after installation.

(D) An insurer, repair facility, or installer may use a salvage motor vehicle part in the repair of a motor vehicle, if the salvage motor vehicle part is of a like kind and quality to the part in need of repair and is ~~removed~~ sourced from a ~~salvage motor vehicle~~ by a salvage motor vehicle dealer licensed under Chapter 4738. of the Revised Code.

(E) Any violation of this section in connection with a consumer transaction as defined in section 1345.01 of the Revised Code is an unfair and deceptive act or practice as defined by section 1345.02 of the Revised Code.

Sec. 3901.41. (A) As used in this section:	76
(1) "Automated transaction" has the same meaning as in section 1306.01 of the Revised Code, and includes electronic transactions between two or more persons conducting business pursuant to the laws of this state relating to insurance.	77 78 79 80
(2) "Contact point" means any electronic identification to which messages can be sent, including, but not limited to, any of the following:	81 82 83
(a) An electronic mail address;	84
(b) An instant message identity;	85
(c) A wireless telephone number, or any other personal electronic communication device;	86 87
(d) A facsimile number.	88
(3) "Insured" means a certificate holder, contract owner, customer, policyholder, or subscriber as those terms are used in the laws of this state relating to insurance.	89 90 91
(4) "Insurer" has the same meaning as in section 3901.32 of the Revised Code.	92 93
(5) "Laws of this state relating to insurance" has the same meaning as in section 3901.04 of the Revised Code.	94 95
(6) "Personally identifiable information" means any individually identifiable information gathered in connection with an insurance transaction, including a person's name, address, social security number, and banking information.	96 97 98 99
(7) "Secure web site" means a web site that meets both of the following criteria:	100 101
(a) The web site uses the hypertext transfer protocol	102

secure communication protocol or other equally secure	103
communication protocol.	104
(b) The web site requires a person to enter a unique user	105
credential to access personally identifiable information for	106
which the person has the legal right to access.	107
(B) Notwithstanding any laws of this state relating to	108
insurance, sections 1306.01 to 1306.23 of the Revised Code, the	109
"Uniform Electronics Transactions Act," apply to the business of	110
insurance in this state.	111
(C) (1) If an insured agrees to conduct the business of	112
insurance via an automated transaction, any information issued	113
or delivered in writing may be issued or delivered	114
electronically to a contact point provided by the insured, as	115
long as both of the following apply:	116
(a) The transmission of information is in compliance with	117
sections 1306.07 and 1306.14 of the Revised Code.	118
(b) The details of the automated transaction are fully	119
disclosed to the insured in the application, policy,	120
certificate, contract of insurance, or by another method that	121
ensures notice to the insured. An insurer's form used only to	122
notify an insured of and obtain consent for an automated	123
transaction does not need to be approved or accepted by the	124
superintendent of insurance.	125
(2) (a) Except for notices of cancellation, nonrenewal, or	126
termination, an insurer may deliver information via a secure web	127
site if the insurer sends an electronic notice to a contact	128
point and the electronic notice includes a hyperlink to the	129
secure web site.	130
(b) If an insurer uses a secure web site to deliver	131

changes in terms or conditions in an insured's policy,	132
certificate, or contract of insurance, including any	133
endorsements or amendments, the electronic notice to the	134
insured's contact point shall include all of the following:	135
(i) A list or summary of the changes;	136
(ii) A link to the complete document located on the	137
insurer's secure web site;	138
(iii) The following or substantially similar statement	139
displayed in a prominent manner:	140
"There are changes in the terms or conditions of your	141
policy, certificate, or contract of insurance."	142
(3) At a minimum, the details of the automated transaction	143
shall include all of the following:	144
(a) A clear and conspicuous statement informing the	145
insured of any right or option of the insured to receive a	146
record on paper;	147
(b) The right of the insured to withdraw the insured's	148
consent, and any consequences or fees if the insured withdraws	149
consent;	150
(c) A description of the procedures the insured must use	151
to withdraw consent and to update the insured's contact point.	152
(4) Agreement to participate in a part of an automated	153
transaction shall not be used to confirm the insured's consent	154
to transact the entire business of insurance pursuant to this	155
section.	156
(5) A withdrawal of consent by an insured shall be	157
effective within a reasonable time period, not to exceed ten	158

business days after the receipt of the withdrawal by the 159
insurer. 160

(D) The insurer shall send all notices of cancellation, 161
nonrenewal, termination, or changes in the terms or conditions 162
of the policy, certificate, or contract of insurance to the last 163
known contact point supplied by the insured. If the insurer has 164
knowledge that the insured's contact point is no longer valid, 165
the insurer shall send the information via regular mail to the 166
last known address furnished to the insurer by the insured. 167

(E) Any insurer conducting the business of insurance via 168
an automated transaction shall allow the insurer's insureds who 169
agree to participate in an automated transaction the option to 170
withdraw consent from participating in the automated 171
transaction. 172

(F) Notwithstanding any laws or regulations of this state 173
relating to insurance, any policy, certificate, or contract of 174
insurance, including any endorsements or amendments, that do not 175
contain personally identifiable information may be posted to the 176
insurer's web site in lieu of any other method of delivery. If 177
the insurer elects to post any policy, certificate, or contract 178
of insurance to the insurer's web site, all of the following 179
shall apply: 180

(1) The policy, certificate, or contract of insurance is 181
readily accessible by the insured and, once the policy, 182
certificate, or contract of insurance is no longer used by the 183
insurer in this state, it is stored in a readily accessible 184
archive; 185

(2) The policy, certificate, or contract of insurance is 186
posted in such a manner that the insured can easily identify the 187

insured's applicable policy, certificate, or contract and print 188
or download the insured's documents without charge and without 189
the use of any special program or application that is not 190
readily available to the public without charge; 191

(3) The insurer provides written notice at the time of 192
issuance of the initial policy, certificate, contract, or any 193
renewal forms of a method by which the insured may obtain upon 194
request a paper or electronic copy of their policy, certificate, 195
or contract without charge; 196

(4) The insurer clearly identifies the applicable policy, 197
endorsements, amendments, certificate, or contract of insurance 198
purchased by the insured on any declaration page, certificate of 199
insurance, summary of benefits, or other evidence of coverage 200
issued to the insured; 201

(5) The insurer gives notice, in the manner it customarily 202
communicates with an insured, of any changes to the policy, 203
certificate, or contract of insurance, including any 204
endorsements or amendments, and of the insured's right to obtain 205
upon request a paper or electronic copy of the policy, 206
endorsements, or amendments without charge. 207

(G) Notwithstanding any other section of Title XXXIX or 208
Chapters 1739. or 1751. of the Revised Code or rules adopted 209
thereunder to the contrary, an insurer may deliver any notices, 210
documents, or information to an insured via an automated 211
transaction pursuant to this section. 212

(H) This section does not supersede any time periods, 213
filing requirements, or content of notices, documents, notices 214
to insureds' agents required pursuant to sections 3937.25, 215
3937.26, and 3937.27 of the Revised Code, or information 216

otherwise required by a law other than this section relating to 217
insurance. This section does not apply to disclosures through 218
electronic media of certificates, explanation of benefit 219
statements, and other mandated materials under the "Employee 220
Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C. 221
1001, as amended, and any regulation adopted thereunder. 222

(I) If the consent of an insured to receive certain 223
notices, documents, or information in an electronic form is on 224
file with an insurer before ~~the effective date of this section~~ 225
September 4, 2014, if the consent was not accompanied by the 226
details of the automated transaction described in division (C) 227
(3) of this section, and if, pursuant to this section, an 228
insurer intends to deliver additional notices, documents, or 229
information to that insured in an electronic form, then, prior 230
to delivering or at the time of delivering such additional 231
notice, documents, or information electronically, the insurer 232
shall notify the insured of the details of the automated 233
transaction in compliance with division (C) (3) of this section. 234

(J) (1) The purchase of a policy of insurance through an 235
online platform shall be considered an agreement to conduct the 236
business of insurance via an automated transaction under this 237
section, and the insured shall be considered to have 238
affirmatively consented to have all notices and documents 239
related to the policy delivered to the insured electronically. 240

(2) Notwithstanding division (J) (1) of this section, if an 241
insured purchasing a policy of insurance via an online platform 242
requests to receive all notices and documents in paper format, 243
the insurer shall provide all notices and other documents 244
related to the policy to the insured in paper format. 245

(3) Nothing in division (J) of this section requires an 246

insurer to offer or otherwise provide an online platform to 247
conduct the business of insurance. 248

(4) As used in division (J) of this section, "online 249
platform" means a web site or other digital application designed 250
to facilitate the purchase of insurance policies by parties from 251
a licensed insurer. 252

(K) The superintendent of insurance may adopt rules in 253
accordance with Chapter 119. of the Revised Code as the 254
superintendent considers necessary to carry out the purposes of 255
this section. 256

Section 2. That existing sections 1345.81 and 3901.41 of 257
the Revised Code are hereby repealed. 258