

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 157

Senator Lang

A BILL

To amend sections 1317.05 and 3905.426 and to enact
section 1310.251 of the Revised Code to modify
the law governing debt suspension products,
extended wear and use waivers, motor vehicle
ancillary product protection contracts, and
vehicle protection agreements.

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

Section 1. That sections 1317.05 and 3905.426 be amended
and section 1310.251 of the Revised Code be enacted to read as
follows:

Sec. 1310.251. (A)(1) As used in this section, "excess
wear and use waiver" means a contractual agreement that is part
of, or a separate addendum to, a lease agreement for use of a
motor vehicle, under which the lessor agrees, with or without a
separate charge, to do one or both of the following:

(a) Cancel or waive all or part of amounts that may become
due under a lessee's lease agreement as a result of excess wear
and use of a motor vehicle;

(b) Cancel or waive amounts due for excess mileage.

(2) "Motor vehicle" has the same meaning as in section 4501.01 of the Revised Code and also includes utility vehicles and under-speed vehicles as defined in that section. 19
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(B) The terms of a related motor vehicle lease shall not be conditioned upon the consumer's payment for any extended wear and use waiver. Extended wear and use waivers may be discounted or given at no extra charge in connection with the purchase of other noncredit related goods or services. 22
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(C) Notwithstanding any provision of the Revised Code to the contrary, an excess wear and use waiver is not an insurance product. 27
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Sec. 1317.05. (A) Any retail seller who, in any retail installment contract, has agreed to purchase insurance for the retail buyer and to extend credit for the price thereof, excluding single interest insurance, shall, prior to the due date of the first installment of the retail installment contract, deliver to the retail buyer personally, or mail or cause to be mailed to the retail buyer at the retail buyer's address as shown on the retail installment contract, the policy of insurance, or in lieu thereof a certificate of insurance, or the retail buyer is not liable on the retail buyer's retail installment contract until the policy, or certificate of insurance, is received, or full refund is made of the insurance premium. 30
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If the premium for insurance of like kind and amount, as fixed in the published manual of a recognized standard rating bureau designated by the retail seller, is less than the amount charged the retail buyer as fixed in the written instrument in compliance with division (D) of section 1317.04 of the Revised Code, the retail buyer may deduct an amount equal to three times 43
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the difference from the amount owed the retail seller, or the 49
retail seller's successor in interest. Sections 1317.01 to 50
1317.11 of the Revised Code do not impair the authority of the 51
superintendent of insurance to grant, renew, or revoke licenses, 52
nor do said sections authorize anyone other than a licensee of 53
the division of insurance to directly or indirectly receive any 54
part of the amount charged for insurance in connection with any 55
retail installment sale. 56

(B) As used in this division, "debt cancellation or debt 57
suspension product" means a contractual agreement in which a 58
retail seller, or its assignee, agrees for a separate charge to 59
cancel or waive all or a part of amounts due on a retail buyer's 60
retail installment contract in the event of a total physical 61
damage loss or unrecovered theft of the motor vehicle that is 62
the subject of the contract. "Debt cancellation or debt 63
suspension product" includes a guaranteed asset protection 64
waiver, guaranteed auto protection waiver, or other similarly 65
named agreement. A "debt cancellation or debt suspension 66
product" may also provide, with or without a separate charge, a 67
benefit that waives an amount, or provides a borrower with a 68
credit, towards the purchase of a replacement motor vehicle. 69

A debt cancellation or debt suspension product, and an 70
addendum to a retail installment contract containing a debt 71
cancellation or debt suspension product, shall be considered a 72
part of the retail installment contract and shall remain a part 73
of that contract upon the assignment, sale, or transfer of that 74
contract. The charge for any optional debt cancellation or debt 75
suspension product shall be listed as a specific good and shall 76
not be considered a finance charge or interest. The purchase 77
price and the terms of the debt cancellation or debt suspension 78
product shall be disclosed in writing to the buyer. The 79

extension of credit, terms of the credit, or the terms of the 80
related motor vehicle sale or lease shall not be conditioned on 81
the purchase of the debt cancellation or debt suspension 82
product. Notwithstanding any other provision of law, a debt 83
cancellation or debt suspension product shall not be considered 84
insurance. 85

(C) Single interest insurance shall be listed as a 86
specific good in a retail installment contract. 87

(D) As used in this section, "single interest insurance" 88
means insurance that covers only the interest of the holder of 89
the retail installment contract. 90

Sec. 3905.426. (A) As used in this section: 91

(1) "Contract holder" means the person who purchased a 92
motor vehicle ancillary product protection contract, any 93
authorized transferee or assignee of the purchaser, or any other 94
person assuming the purchaser's rights under the motor vehicle 95
ancillary product protection contract. 96

(2) "Finance agreement" means a loan, retail installment 97
contract, or lease for the purchase, refinancing, or lease of a 98
motor vehicle. 99

~~(2)~~(3) "Motor vehicle" has the same meaning as in section 100
4501.01 of the Revised Code and also includes utility vehicles 101
and under-speed vehicles as defined in that section. 102

~~(3)(a)~~(4)(a) "Motor vehicle ancillary product protection 103
contract" means a contract or agreement that is effective for a 104
specified duration and paid for by means other than the purchase 105
of a motor vehicle, or its parts or equipment, to perform any 106
one or more of the following services: 107

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| (i) Repair or replacement of glass on a motor vehicle | 108 |
| necessitated by wear and tear or damage caused by a road hazard; | 109 |
| (ii) Removal of a dent, ding, or crease without affecting | 110 |
| the existing paint finish using paintless dent removal | 111 |
| techniques but which expressly excludes replacement of vehicle | 112 |
| body panels, sanding, bonding, or painting; | 113 |
| (iii) Repair to the interior components of a motor vehicle | 114 |
| necessitated by wear and tear but which expressly excludes | 115 |
| replacement of any part or component of a motor vehicle's | 116 |
| interior; | 117 |
| (iv) Repair or replacement of tires or wheels damaged | 118 |
| because of a road hazard; | 119 |
| (v) Replacement of a lost, stolen, or inoperable key or | 120 |
| key fob; | 121 |
| <u>(vi) In conjunction with a motor vehicle leased for use,</u> | 122 |
| <u>the repair, replacement, or maintenance of property, or</u> | 123 |
| <u>indemnification for repair, replacement, or maintenance, due to</u> | 124 |
| <u>excess wear and use, damage for items such as tires, paint</u> | 125 |
| <u>cracks or chips, missing interior or exterior parts, or excess</u> | 126 |
| <u>mileage that results in a lease-end charge, or any other charge</u> | 127 |
| <u>for damage that is deemed as excess wear and use by a lessor</u> | 128 |
| <u>under a motor vehicle lease, provided any such charge shall not</u> | 129 |
| <u>exceed the purchase price of the vehicle at the end of the lease</u> | 130 |
| <u>term;</u> | 131 |
| <u>(vii) Provide a benefit under a vehicle value protection</u> | 132 |
| <u>agreement.</u> | 133 |
| (b) A motor vehicle ancillary product protection contract | 134 |
| may, but is not required to, provide for incidental payment of | 135 |
| indemnity under limited circumstances, including, without | 136 |

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| limitation, towing, rental, and emergency road services. | 137 |
| (c) "Motor vehicle ancillary product protection contract" | 138 |
| does not include any of the following: | 139 |
| (i) A motor vehicle service contract; | 140 |
| (ii) A vehicle protection product warranty as defined in section 3905.421 of the Revised Code; | 141 142 |
| (iii) A home service contract as defined in section 3905.422 of the Revised Code; | 143 144 |
| (iv) A consumer goods service contract as defined in section 3905.423 of the Revised Code; | 145 146 |
| (v) A contract for prepaid routine, scheduled maintenance only. | 147 148 |
| (4) <u>(5)</u> "Motor vehicle service contract" means a contract or agreement to perform or pay for the repair, replacement, or maintenance of a motor vehicle due to defect in materials or workmanship, normal wear and tear, mechanical or electrical breakdown, or failure of parts or equipment of a motor vehicle, with or without additional provisions for incidental payment of indemnity under limited circumstances, including, without limitation, towing, rental, and emergency road services, that is effective for a specified duration and paid for by means other than the purchase of a motor vehicle. | 149 150 151 152 153 154 155 156 157 158 |
| (5) <u>(6)</u> "Provider" means a person who is contractually obligated to a contract holder under the terms of a motor vehicle ancillary product protection contract. | 159 160 161 |
| (6) <u>(7)</u> "Road hazard" means a condition that may cause damage or wear and tear to a tire or wheel on a public or private roadway, roadside, driveway, or parking lot or garage, | 162 163 164 |

including potholes, nails, glass, road debris, and curbs. "Road hazard" does not include fire, theft, vandalism or malicious mischief, or other perils normally covered by automobile physical damage insurance.

~~(7)~~ (8) "Reimbursement insurance policy" means a policy of insurance issued by an insurer authorized or eligible to do business in this state to a provider to pay, on behalf of the provider in the event of the provider's nonperformance, all covered contractual obligations incurred by the provider under the terms and conditions of the motor vehicle ancillary product protection contract.

~~(8)~~ (9) "Supplier" has the same meaning as in section 1345.01 of the Revised Code.

(10) "Vehicle value protection agreement" includes a contractual agreement that provides a benefit towards either the reduction of some or all of the contract holder's current finance agreement deficiency balance, or towards the purchase or lease of a replacement motor vehicle or motor vehicle services, upon the occurrence of an adverse event to the motor vehicle, including loss, theft, damage, obsolescence, diminished value, or depreciation. "Vehicle value protection agreement" includes trade-in-credit agreements, diminished value agreements, depreciation benefit agreements, or other similar agreements. "Vehicle value protection agreement" does not include a debt suspension or debt cancellation product.

(B) All motor vehicle ancillary product protection ~~contracts issued~~ contract providers in this state shall ~~be covered by a~~ comply with one or more of the following:

(1) Insure all motor vehicle ancillary protection

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| <u>contracts under one or more reimbursement insurance</u> | 194 |
| <u>policy-policies;</u> | 195 |
| <u>(2) Maintain a funded reserve account for the contract</u> | 196 |
| <u>provider's obligations under ancillary product protection</u> | 197 |
| <u>contracts issued and outstanding in this state. The reserves</u> | 198 |
| <u>shall not be less than forty per cent of gross consideration</u> | 199 |
| <u>received, less claims paid, on the sale of all motor vehicle</u> | 200 |
| <u>ancillary product protect contracts issued and outstanding in</u> | 201 |
| <u>this state. The reserve account is subject to examination and</u> | 202 |
| <u>review by the superintendent of insurance. The contract provider</u> | 203 |
| <u>shall place in trust with the superintendent of insurance a</u> | 204 |
| <u>financial security deposit valued at not less than twenty-five</u> | 205 |
| <u>thousand dollars, or five per cent of gross consideration</u> | 206 |
| <u>received, less claims paid, on the sale of all motor vehicle</u> | 207 |
| <u>ancillary product protection contracts issued by the contract</u> | 208 |
| <u>provider and outstanding in this state, whichever is greater,</u> | 209 |
| <u>and shall consist of one of the following:</u> | 210 |
| <u>(a) A surety bond;</u> | 211 |
| <u>(b) Securities eligible for deposit by authorized issuers</u> | 212 |
| <u>in this state;</u> | 213 |
| <u>(c) Cash;</u> | 214 |
| <u>(d) A letter of credit issued by a financial institution</u> | 215 |
| <u>qualified to issue the letter of credit;</u> | 216 |
| <u>(e) Another form of security authorized by the</u> | 217 |
| <u>superintendent of insurance.</u> | 218 |
| <u>(3) Maintain independently, or together with the contract</u> | 219 |
| <u>provider's parent company, a net worth or stockholder equity of</u> | 220 |
| <u>one hundred million dollars. The contract provider shall, upon</u> | 221 |
| <u>request, provide the superintendent of insurance with a copy of</u> | 222 |

the provider's or the provider's parent company's most recent 223
form 10-K or form 20-F filed with the securities and exchange 224
commission established by the "Securities Exchange Act of 1934," 225
15 U.S.C. 78a et seq., within the last year or, if the company 226
does not file with the securities and exchange commission, a 227
copy of the company's audited financial statements, which show a 228
net worth of the provider or the provider's parent company of at 229
least one hundred million dollars. If the provider submits a 230
parent company's form 10-K, form 20-F, or audited financial 231
statements to meet the provider's financial security 232
requirement, then the parent company shall agree to guarantee 233
the obligations of the provider relating to vehicle value 234
protection agreements issued by the provider in this state. 235

(C) A motor vehicle ancillary product protection contract 236
issued by a provider that is ~~required to be~~ covered by a 237
reimbursement insurance policy under division (B) of this 238
section shall conspicuously state all of the following: 239

(1) "This contract is not insurance and is not subject to 240
the insurance laws of this state." 241

(2) That the obligations of the provider are guaranteed 242
under a reimbursement insurance policy; 243

(3) That if a provider fails to perform or make payment 244
due under the terms of the contract within sixty days after the 245
contract holder requests performance or payment pursuant to the 246
terms of the contract, the contract holder may request 247
performance or payment directly from the provider's 248
reimbursement insurance policy insurer, including any obligation 249
in the contract by which the provider must refund the contract 250
holder upon cancellation of a contract; 251

(4) The name, address, and telephone number of the provider's reimbursement insurance policy insurer.

(D) A motor vehicle ancillary product protection contract not insured under a reimbursement insurance policy pursuant to division (B) of this section shall contain a statement in substantially the following form: "Obligations of the provider under this contract are backed by the full faith and credit of the provider."

(E) A motor vehicle ancillary product protection contract that includes repair or replacement of glass on a motor vehicle as provided in division ~~(A) (3) (a) (i)~~ (A) (4) (a) (i) of this section, shall conspicuously state: "This contract may provide a duplication of coverage already provided by your automobile physical damage insurance policy."

~~(E)~~ (F) A vehicle value protection agreement may be canceled by the contract holder within thirty days of the effective date of the agreement, and the contract holder shall be entitled to a full refund of the purchase price paid by the contract holder, if any, so long as no benefits have been provided under the contract.

(G) A vehicle value protection agreement that, under the terms of the agreement, may be canceled by the contract holder more than thirty days after the effective date of the agreement must state the conditions under which it may be canceled, including the procedures for requesting any refund of the purchase price paid by the contract holder and the methodology for calculating any refund of the purchase price.

(H) The contract provider of the vehicle value protection agreement shall mail a written notice to the contract holder at

the last known address of the contract holder contained in the 281
records of the contract provider at least five days prior to 282
cancellation by the contract provider. Prior notice is not 283
required if the reason for cancellation is nonpayment of the 284
provider fee, a material misrepresentation by the contract 285
holder to the contract provider or administrator, or a 286
substantial breach of duties by the contract holder relating to 287
the covered product or the use of the covered product. The 288
notice shall state the effective date of the cancellation and 289
the reason for the cancellation. If a vehicle value protection 290
agreement is canceled by the contract provider for a reason 291
other than nonpayment of the provider fee, the provider shall 292
refund to the contract holder one hundred per cent of the 293
unearned provider fee paid by the contract holder, if any. If 294
coverage under the vehicle value protection agreement continues 295
after a claim, then all claims paid may be deducted from any 296
refund required by this division. A reasonable administrative 297
fee of up to seventy-five dollars may be charged by the contract 298
provider and deducted from any refund due under this division or 299
division (G) of this section. 300

(I) Any refund under divisions (F) and (G) of this section 301
shall be paid to the seller or assignee of a retail installment 302
contract unless otherwise agreed to by the contract holder and 303
the seller or assignee. 304

(J) A reimbursement insurance policy that is required to 305
be issued under this section shall contain: 306

(1) A statement that if a provider fails to perform or 307
make payment due under the terms of the motor vehicle ancillary 308
product protection contract within sixty days after the contract 309
holder requests performance or payment pursuant to the terms of 310

the contract, the contract holder may request performance or 311
payment directly from the provider's reimbursement insurance 312
policy insurer, including any obligation in the contract by 313
which the provider must refund the contract holder upon 314
cancellation of a contract. 315

(2) A statement that in the event of cancellation of the 316
provider's reimbursement insurance policy, insurance coverage 317
will continue for all contract holders whose motor vehicle 318
ancillary product protection contracts were issued by the 319
provider and reported to the insurer for coverage during the 320
term of the reimbursement insurance policy. 321

~~(F)~~ (K) The sale or issuance of a motor vehicle ancillary 322
product protection contract is a consumer transaction for 323
purposes of sections 1345.01 to 1345.13 of the Revised Code. The 324
provider is the supplier and the contract holder is the consumer 325
for purposes of those sections. 326

~~(G)~~ (L) Unless issued by an insurer authorized or eligible 327
to do business in this state, a motor vehicle ancillary product 328
protection contract does not constitute a contract substantially 329
amounting to insurance, or the contract's issuance the business 330
of insurance, under section 3905.42 of the Revised Code. 331

~~(H)~~ (M) Unless issued by an insurer authorized or eligible 332
to do business in this state, a contract identified in division 333
(A) (3) (c) (i) or (v) of this section does not constitute a 334
contract substantially amounting to insurance, or the contract's 335
issuance the business of insurance, under section 3905.42 of the 336
Revised Code. 337

~~(I)~~ (N) The rights of a contract holder against a 338
provider's reimbursement insurance policy insurer as provided in 339

this section apply only in regard to a reimbursement insurance 340
policy issued under this section. This section does not create 341
any contractual rights in favor of a person that does not 342
qualify as an insured under any other type of insurance policy 343
described in Title XXXIX of the Revised Code. This section does 344
not prohibit the insurer of a provider's reimbursement insurance 345
policy from assuming liability for contracts issued prior to the 346
effective date of the policy or July 1, 2009. 347

~~(J)~~(O) A contract or agreement described in division (A) 348
(3) (a) (iv) of this section in which the provider is a tire 349
manufacturer shall be exempt from the requirements of division 350
(B) of this section if the contract or agreement conspicuously 351
states all of the following: 352

(1) That the contract or agreement is not an insurance 353
contract; 354

(2) That any covered obligations or claims under the 355
contract or agreement are the responsibility of the provider; 356

(3) The name, address, and telephone number of any 357
administrator responsible for the administration of the contract 358
or agreement, the provider obligated to perform under the 359
contract or agreement, and the contract seller; 360

(4) The procedure for making a claim under the contract or 361
agreement, including a toll-free telephone number for claims 362
service and a procedure for obtaining emergency repairs or 363
replacements performed outside normal business hours. 364

Section 2. That existing sections 1317.05 and 3905.426 of 365
the Revised Code are hereby repealed. 366