

As Passed by the Senate

135th General Assembly

Regular Session

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Sub. S. B. No. 157

Senator Lang

Cosponsors: Senators Cirino, Craig, DeMora, Hackett, Reineke, Schaffer

A BILL

To amend sections 1317.05 and 3905.426 and to enact 1
section 1310.251 of the Revised Code to modify 2
the law governing debt suspension products, 3
excess wear and use waivers, motor vehicle 4
ancillary product protection contracts, and 5
vehicle protection agreements. 6

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

Section 1. That sections 1317.05 and 3905.426 be amended 7
and section 1310.251 of the Revised Code be enacted to read as 8
follows: 9

Sec. 1310.251. (A) (1) As used in this section, "excess 10
wear and use waiver" means a contractual agreement that is part 11
of, or a separate addendum to, a lease agreement for use of a 12
motor vehicle, under which the lessor agrees, with or without a 13
separate charge, to do one or both of the following: 14

(a) Cancel or waive all or part of amounts that may become 15
due under a lessee's lease agreement as a result of excess wear 16
and use of a motor vehicle; 17

(b) Cancel or waive amounts due for excess mileage. 18

(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 excess wear and use waiver. Excess 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 or retail installment 97
contract secured by a motor vehicle or a lease contract for the 98
use of a 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

(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

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 in this state shall be covered by a reimbursement insurance policy.

(C) A motor vehicle ancillary product protection contract

issued by a provider that is required to be covered by a 194
reimbursement insurance policy under division (B) of this 195
section shall conspicuously state all of the following: 196

(1) "This contract is not insurance and is not subject to 197
the insurance laws of this state." 198

(2) That the obligations of the provider are guaranteed 199
under a reimbursement insurance policy; 200

(3) That if a provider fails to perform or make payment 201
due under the terms of the contract within sixty days after the 202
contract holder requests performance or payment pursuant to the 203
terms of the contract, the contract holder may request 204
performance or payment directly from the provider's 205
reimbursement insurance policy insurer, including any obligation 206
in the contract by which the provider must refund the contract 207
holder upon cancellation of a contract; 208

(4) The name, address, and telephone number of the 209
provider's reimbursement insurance policy insurer. 210

(D) A motor vehicle ancillary product protection contract 211
that includes repair or replacement of glass on a motor vehicle 212
as provided in division ~~(A) (3) (a) (i)~~ (A) (4) (a) (i) of this 213
section, shall conspicuously state: "This contract may provide a 214
duplication of coverage already provided by your automobile 215
physical damage insurance policy." 216

(E) A vehicle value protection agreement may be canceled 217
by the contract holder within thirty days of the effective date 218
of the agreement, and the contract holder shall be entitled to a 219
full refund of the purchase price paid by the contract holder, 220
if any, so long as no benefits have been provided under the 221
contract. 222

(F) A vehicle value protection agreement that, under the 223
terms of the agreement, may be canceled by the contract holder 224
more than thirty days after the effective date of the agreement 225
must state the conditions under which it may be canceled, 226
including the procedures for requesting any refund of the 227
purchase price paid by the contract holder and the methodology 228
for calculating any refund of the purchase price. 229

(G) The contract provider of the vehicle value protection 230
agreement shall mail a written notice to the contract holder at 231
the last known address of the contract holder contained in the 232
records of the contract provider at least five days prior to 233
cancellation by the contract provider. Prior notice is not 234
required if the reason for cancellation is nonpayment of the 235
provider fee, a material misrepresentation by the contract 236
holder to the contract provider or administrator, or a 237
substantial breach of duties by the contract holder relating to 238
the covered product or the use of the covered product. The 239
notice shall state the effective date of the cancellation and 240
the reason for the cancellation. If a vehicle value protection 241
agreement is canceled by the contract provider for a reason 242
other than nonpayment of the provider fee, the provider shall 243
refund to the contract holder one hundred per cent of the 244
unearned provider fee paid by the contract holder, if any. If 245
coverage under the vehicle value protection agreement continues 246
after a claim, then all claims paid may be deducted from any 247
refund required by this division. A reasonable administrative 248
fee of up to seventy-five dollars may be charged by the contract 249
provider and deducted from any refund due under this division or 250
division (F) of this section. 251

(H) Any refund under divisions (E) and (F) of this section 252
shall be paid to the seller or assignee of a retail installment 253

contract or lease agreement unless otherwise agreed to by the 254
contract holder and the seller or assignee. 255

(I) A reimbursement insurance policy that is required to 256
be issued under this section shall contain: 257

(1) A statement that if a provider fails to perform or 258
make payment due under the terms of the motor vehicle ancillary 259
product protection contract within sixty days after the contract 260
holder requests performance or payment pursuant to the terms of 261
the contract, the contract holder may request performance or 262
payment directly from the provider's reimbursement insurance 263
policy insurer, including any obligation in the contract by 264
which the provider must refund the contract holder upon 265
cancellation of a contract. 266

(2) A statement that in the event of cancellation of the 267
provider's reimbursement insurance policy, insurance coverage 268
will continue for all contract holders whose motor vehicle 269
ancillary product protection contracts were issued by the 270
provider and reported to the insurer for coverage during the 271
term of the reimbursement insurance policy. 272

~~(F)~~ (J) The sale or issuance of a motor vehicle ancillary 273
product protection contract is a consumer transaction for 274
purposes of sections 1345.01 to 1345.13 of the Revised Code. The 275
provider is the supplier and the contract holder is the consumer 276
for purposes of those sections. 277

~~(G)~~ (K) Unless issued by an insurer authorized or eligible 278
to do business in this state, a motor vehicle ancillary product 279
protection contract does not constitute a contract substantially 280
amounting to insurance, or the contract's issuance the business 281
of insurance, under section 3905.42 of the Revised Code. 282

~~(H)~~ (L) Unless issued by an insurer authorized or eligible 283
to do business in this state, a contract identified in division 284
~~(A) (3) (e) (i)~~ (A) (4) (c) (i) or (v) of this section does not 285
constitute a contract substantially amounting to insurance, or 286
the contract's issuance the business of insurance, under section 287
3905.42 of the Revised Code. 288

~~(I)~~ (M) The rights of a contract holder against a 289
provider's reimbursement insurance policy insurer as provided in 290
this section apply only in regard to a reimbursement insurance 291
policy issued under this section. This section does not create 292
any contractual rights in favor of a person that does not 293
qualify as an insured under any other type of insurance policy 294
described in Title XXXIX of the Revised Code. This section does 295
not prohibit the insurer of a provider's reimbursement insurance 296
policy from assuming liability for contracts issued prior to the 297
effective date of the policy or July 1, 2009. 298

~~(J)~~ (N) A contract or agreement described in division (A) 299
(3) (a) (iv) of this section in which the provider is a tire 300
manufacturer shall be exempt from the requirements of division 301
(B) of this section if the contract or agreement conspicuously 302
states all of the following: 303

(1) That the contract or agreement is not an insurance 304
contract; 305

(2) That any covered obligations or claims under the 306
contract or agreement are the responsibility of the provider; 307

(3) The name, address, and telephone number of any 308
administrator responsible for the administration of the contract 309
or agreement, the provider obligated to perform under the 310
contract or agreement, and the contract seller; 311

(4) The procedure for making a claim under the contract or 312
agreement, including a toll-free telephone number for claims 313
service and a procedure for obtaining emergency repairs or 314
replacements performed outside normal business hours. 315

Section 2. That existing sections 1317.05 and 3905.426 of 316
the Revised Code are hereby repealed. 317