

# AN ACT

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

*Be it enacted by the General Assembly of the State of Ohio:*

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

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

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

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

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

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

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

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

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

(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:

(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.

(2) "Contact point" means any electronic identification to which messages can be sent, including, but not limited to, any of the following:

- (a) An electronic mail address;
- (b) An instant message identity;
- (c) A wireless telephone number, or any other personal electronic communication device;
- (d) A facsimile number.

(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.

(4) "Insurer" has the same meaning as in section 3901.32 of the Revised Code.

(5) "Laws of this state relating to insurance" has the same meaning as in section 3901.04 of the Revised Code.

(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.

(7) "Secure web site" means a web site that meets both of the following criteria:

(a) The web site uses the hypertext transfer protocol secure communication protocol or other equally secure communication protocol.

(b) The web site requires a person to enter a unique user credential to access personally identifiable information for which the person has the legal right to access.

(B) Notwithstanding any laws of this state relating to insurance, sections 1306.01 to 1306.23 of the Revised Code, the "Uniform Electronics Transactions Act," apply to the business of insurance in this state.

(C)(1) If an insured agrees to conduct the business of insurance via an automated transaction, any information issued or delivered in writing may be issued or delivered electronically to a contact point provided by the insured, as long as both of the following apply:

(a) The transmission of information is in compliance with sections 1306.07 and 1306.14 of the Revised Code.

(b) The details of the automated transaction are fully disclosed to the insured in the application, policy, certificate, contract of insurance, or by another method that ensures notice to the insured. An insurer's form used only to notify an insured of and obtain consent for an automated transaction does not need to be approved or accepted by the superintendent of insurance.

(2)(a) Except for notices of cancellation, nonrenewal, or termination, an insurer may deliver information via a secure web site if the insurer sends an electronic notice to a contact point and the electronic notice includes a hyperlink to the secure web site.

(b) If an insurer uses a secure web site to deliver changes in terms or conditions in an insured's policy, certificate, or contract of insurance, including any endorsements or amendments, the electronic notice to the insured's contact point shall include all of the following:

(i) A list or summary of the changes;

(ii) A link to the complete document located on the insurer's secure web site;

(iii) The following or substantially similar statement displayed in a prominent manner:

"There are changes in the terms or conditions of your policy, certificate, or contract of insurance."

(3) At a minimum, the details of the automated transaction shall include all of the following:

(a) A clear and conspicuous statement informing the insured of any right or option of the insured to receive a record on paper;

(b) The right of the insured to withdraw the insured's consent, and any consequences or fees if the insured withdraws consent;

(c) A description of the procedures the insured must use to withdraw consent and to update the insured's contact point.

(4) Agreement to participate in a part of an automated transaction shall not be used to confirm the insured's consent to transact the entire business of insurance pursuant to this section.

(5) A withdrawal of consent by an insured shall be effective within a reasonable time period, not to exceed ten business days after the receipt of the withdrawal by the insurer.

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

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

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

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

(2) The policy, certificate, or contract of insurance is posted in such a manner that the insured can easily identify the insured's applicable policy, certificate, or contract and print or download the insured's documents without charge and without the use of any special program or application that is not readily available to the public without charge;

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

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

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

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

(H) This section does not supersede any time periods, filing requirements, or content of notices, documents, notices to insureds' agents required pursuant to sections 3937.25, 3937.26, and 3937.27 of the Revised Code, or information otherwise required by a law other than this section relating to insurance. This section does not apply to disclosures through electronic media of certificates, explanation of benefit statements, and other mandated materials under the "Employee Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C. 1001, as amended, and any regulation adopted thereunder.

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

(J)(1) The purchase of a policy of insurance through an online platform shall be considered an agreement to conduct the business of insurance via an automated transaction under this section.

and the insured shall be considered to have affirmatively consented to have all notices and documents related to the policy delivered to the insured electronically.

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

(3) Nothing in division (J) of this section requires an insurer to offer or otherwise provide an online platform to conduct the business of insurance.

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

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

SECTION 2. That existing sections 1345.81 and 3901.41 of the Revised Code are hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Am. S. B. No. 236

134th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_