



**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

IS 5/9/08

§§1-3,5-9 -  
C.17:18-19 to  
17:18-26  
§4 - C.56:8-167  
§10 - Note to  
§§1-9

P.L. 2007, CHAPTER 166, *approved September 10, 2007*  
Assembly, No. 2923 (*Second Reprint*)

1 AN ACT concerning vehicle protection product warranties and  
2 supplementing 'P.L.1960, c.39 (C.56:8-1 et seq.) and<sup>1</sup> chapter  
3 18 of Title 17 of the Revised Statutes.

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

7  
8 1. As used in this act:

9 "Administrator" means a third party, other than the warrantor,  
10 who is designated by the warrantor to be responsible for the  
11 administration of vehicle protection product warranties.

12 "Incidental costs" means losses and expenses that are specified in  
13 the vehicle protection product warranty and are incurred by the  
14 warranty holder relating to the failure of the vehicle protection  
15 product to perform as provided in the warranty. Incidental costs  
16 may include, but are not limited to, insurance policy deductibles,  
17 rental vehicle charges, the difference between the actual value of  
18 the stolen vehicle at the time of theft and the cost of a replacement  
19 vehicle, sales taxes, registration fees, transaction fees and  
20 mechanical inspection fees.

21 "Vehicle protection product" means a vehicle protection device,  
22 system or service that:

23 (a) is installed on or applied to a vehicle;

24 (b) is designed to prevent loss or damage to a vehicle from a  
25 specific cause or to facilitate the recovery of the vehicle after it has  
26 been stolen; and

27 (c) includes a written warranty by a warrantor that provides if the  
28 vehicle protection product fails to prevent loss or damage to a  
29 vehicle from a specific cause or to facilitate the recovery of the  
30 vehicle after it has been stolen, the warranty holder shall be paid  
31 specified incidental costs by the warrantor as a result of the failure  
32 of the vehicle protection product to perform pursuant to the terms of  
33 the warranty.

34 <sup>1</sup>The term does not include a vehicle protection device, system,  
35 or service that is installed on or applied to a vehicle by the vehicle  
36 manufacturer at the vehicle assembly facility.<sup>1</sup> Vehicle protection  
37 products include, but are not limited to, alarm systems, body part

**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:

<sup>1</sup>Assembly ACO committee amendments adopted June 12, 2006.

<sup>2</sup>Senate SCM committee amendments adopted May 24, 2007.

1 marking products, steering locks, window etch products, pedal and  
2 ignition locks, fuel and ignition kill switches and electronic, radio  
3 and satellite tracking devices.

4 "Vehicle protection product warrantor" or "warrantor" means a  
5 person who is contractually obligated to the warranty holder under  
6 the terms of the vehicle protection product warranty. Warrantor  
7 does not include a licensed or eligible insurer.

8 "Warranty reimbursement insurance policy" means a policy of  
9 insurance issued to a vehicle protection product warrantor to  
10 provide reimbursement to the warrantor under the terms of the  
11 insured warrantor's vehicle protection product warranty, and to pay  
12 on behalf of the warrantor, in the event of the warrantor's  
13 nonperformance, all covered obligations incurred by the warrantor  
14 under the terms of the warrantor's vehicle protection product  
15 warranty. A licensed or eligible insurer that has filed its policy  
16 form with the Department of Banking and Insurance shall issue the  
17 warranty reimbursement insurance policy.

18

19 2. A vehicle protection product warranty offered or issued in  
20 this State shall:

21 a. Identify the warrantor, the seller, the warranty holder and the  
22 terms of the sale;

23 b. Conspicuously <sup>1</sup>[state that] and in plain English set forth in  
24 writing<sup>1</sup> the obligations of the warrantor to the warranty holder <sup>1</sup>,  
25 and state that those obligations<sup>1</sup> are guaranteed under a warranty  
26 reimbursement insurance policy;

27 c. Conspicuously state that if the payment due under the terms  
28 of the warranty is not provided by the warrantor within sixty days  
29 after proof of loss has been filed pursuant to the terms of the  
30 warranty by the warranty holder, the warranty holder may file  
31 directly with the warranty reimbursement insurance company for  
32 reimbursement;

33 d. Conspicuously state the name and address of the company  
34 issuing the warranty reimbursement insurance policy <sup>1</sup>and, if  
35 different, the complete address at which a claim may be filed<sup>1</sup> ; and

36 e. Contain a disclosure that reads substantially as follows:  
37 THIS AGREEMENT IS A PRODUCT WARRANTY, NOT  
38 INSURANCE, AND IS UNDER THE PURVIEW OF THE  
39 DIVISION OF CONSUMER AFFAIRS.

40

41 3. a. A person may not operate as a warrantor or represent to  
42 the public that the person is a warrantor unless the person is  
43 registered with the Director of the Division of Consumer Affairs, in  
44 such manner as the director deems appropriate, and:

45 (1) Maintains and has filed with the director a copy of a warranty  
46 reimbursement insurance policy which states that:

- 1 (a) The company issuing the warranty reimbursement insurance  
2 policy will reimburse or pay on behalf of the vehicle protection  
3 product warrantor all incidental costs or will provide the service  
4 that the warrantor is legally obligated to perform according to the  
5 warrantor's contractual obligations under the vehicle protection  
6 product warranty; and
- 7 (b) If the payment due under the terms of the warranty is not  
8 provided by the warrantor within sixty days after proof of loss has  
9 been filed according to the terms of the warranty by the warranty  
10 holder, the warranty holder may file for reimbursement directly  
11 with the company issuing the warranty reimbursement insurance  
12 policy and the insurer shall make reimbursement or provide the  
13 service required by the warranty directly to the warranty holder; and
- 14 (2) Has filed a copy of the warranties used by the warrantor in  
15 this State and a copy of the warranty reimbursement insurance  
16 policy with the director.
- 17 b. The director shall require warrantors to register annually, and  
18 to update their registration <sup>1</sup>, the form of warranty, or the warranty  
19 reimbursement insurance policy,<sup>1</sup> within 30 days of any  
20 <sup>1</sup>**['substantive']** change. The registration form shall contain:
- 21 (1) The warrantor's name, and any assumed name under which  
22 the warrantor does business in the State;
- 23 (2) The warrantor's principal office address and telephone  
24 number;
- 25 (3) The name, address, and telephone number of all  
26 administrators designated by the warrantor to be responsible for the  
27 administration of vehicle protection product warranties in this State;  
28 and
- 29 (4) The name, address, and telephone number of the insurance  
30 company providing the warranty reimbursement insurance policy  
31 coverage.
- 32 c. The information required to be provided in the registration  
33 form shall be made available to the public.
- 34 d. The director <sup>2</sup>**['may'] shall**<sup>2</sup> impose a <sup>2</sup>**['reasonable']**<sup>2</sup> fee <sup>1</sup>on  
35 each registered warrantor to defray the costs of administering the  
36 provisions of P.L. , c. (C. ) (pending before the Legislature  
37 as this bill)<sup>1</sup> , in <sup>1</sup>**['an] the'** amount <sup>1</sup>**['not to exceed \$25]** of  
38 <sup>2</sup>**['\$250']** \$1,000<sup>2</sup> annually <sup>1</sup>**[',** on each registered warrantor, to  
39 defray the costs of administering the provisions of P.L. ,  
40 c. (C. ) (pending before the Legislature as this bill)<sup>1</sup>.  
41 <sup>2</sup>**Beginning 12 months after the effective date of P.L. ,**  
42 c. (C. ) (pending before the Legislature as this bill), and  
43 annually thereafter, the director may modify the amount of the fee  
44 imposed pursuant to this subsection, which amount shall not exceed  
45 \$2,000, to reflect the division's actual costs of administration.<sup>2</sup>

1       <sup>1</sup>4. a. It shall be an unlawful practice for a person to sell, or  
2 offer for sale, a vehicle protection product with a warranty issued  
3 by a warrantor that is not registered pursuant to P.L. \_\_\_\_\_,  
4 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill).

5       b. It shall be an unlawful practice for a person who is not  
6 registered pursuant to section 3 of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending  
7 before the Legislature as this bill) to offer or issue a vehicle  
8 protection product warranty.<sup>1</sup>

9  
10       <sup>1</sup>[4] 5<sup>1</sup>. A vehicle protection product warranty issued by the  
11 warrantor of a vehicle protection product does not constitute a  
12 contract substantially amounting to insurance or its issuance the  
13 business of insurance under Title 17 of the Revised Statutes and is  
14 an express warranty, if all of the following conditions are met:

15       a. The warranty is limited to indemnifying the warranty holder  
16 for incidental costs <sup>1</sup>which may be reimbursed under the provisions  
17 of the warranty in either a fixed amount specified in the warranty or  
18 sales agreement or by the use of a formula itemizing specific  
19 incidental costs incurred by the warranty holder<sup>1</sup> ;

20       b. The warranty meets all the requirements set forth in section 2  
21 of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the Legislature as this  
22 bill), including, but not limited to, being guaranteed by a warranty  
23 reimbursement insurance policy; and

24       c. The warrantor meets all the requirements set forth in section 3  
25 of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the Legislature as this  
26 bill).

27  
28       <sup>1</sup>[5.] 6<sup>1</sup>. An administrator or person who sells or solicits a sale  
29 of a vehicle protection product, but who is not a warrantor, shall not  
30 be required to register as a warrantor or be licensed under the  
31 insurance laws of this State to sell vehicle protection products.

32  
33       <sup>1</sup>[6.] 7<sup>1</sup>. A warrantor or seller of vehicle protection products  
34 shall not require, as a condition of sale or financing, a retail  
35 purchaser of a motor vehicle to purchase a vehicle protection  
36 product that is not installed on the motor vehicle at the time of sale.

37  
38       <sup>1</sup>[7.] 8<sup>1</sup>. The failure of a warrantor or other person to comply  
39 with P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the Legislature as this  
40 bill), or otherwise to administer a vehicle protection product in the  
41 manner required by P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the  
42 Legislature as this bill), before its effective date is not admissible in  
43 any court, administrative, arbitration, or alternative dispute  
44 resolution proceeding and may not otherwise be used to prove that  
45 the action of any person or the affected vehicle protection product  
46 was unlawful or otherwise improper.

1       ~~'[8. Any person who violates]~~ 9. A violation of<sup>1</sup> the provisions  
2 of P.L.     , c.     (C.     ) (pending before the Legislature as this  
3 bill) shall be <sup>1</sup>~~'[liable to a civil penalty of not less than \$10,000 for~~  
4 the first violation, and not less than \$20,000 for the second and each  
5 subsequent violation. A civil penalty imposed pursuant to this  
6 section shall be collected in accordance with "The Penalty  
7 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.)~~]~~  
8 an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et  
9 seq.)<sup>1</sup> .

10  
11       <sup>1</sup>~~'[9.]~~ 10.<sup>1</sup> This act shall take effect on the first day of the  
12 seventh month after enactment, provided, however, that it shall only  
13 apply to vehicle protection products purchased on or after such  
14 date, and that vehicle protection products purchased before such  
15 date and subsequently transferred to another consumer on or after  
16 such date are not required to comply with the provisions of this act,  
17 but the Director of the Division of Consumer Affairs may take such  
18 anticipatory acts in advance of that date as may be necessary for the  
19 timely implementation of this act.

20  
21  
22  
23  
24

\_\_\_\_\_

Regulates vehicle protection products.

# ASSEMBLY, No. 2923

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MARCH 21, 2006

**Sponsored by:**

**Assemblyman SEAN T. KEAN**

**District 11 (Monmouth)**

**Assemblyman JOSEPH CRYAN**

**District 20 (Union)**

**SYNOPSIS**

Regulates vehicle protection products.

**CURRENT VERSION OF TEXT**

As introduced.





1 AN ACT concerning vehicle protection product warranties and  
2 supplementing chapter 18 of Title 17 of the Revised Statutes.

3

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

6

7 1. As used in this act:

8 "Administrator" means a third party, other than the warrantor,  
9 who is designated by the warrantor to be responsible for the  
10 administration of vehicle protection product warranties.

11 "Incidental costs" means losses and expenses that are specified in  
12 the vehicle protection product warranty and are incurred by the  
13 warranty holder relating to the failure of the vehicle protection  
14 product to perform as provided in the warranty. Incidental costs  
15 may include, but are not limited to, insurance policy deductibles,  
16 rental vehicle charges, the difference between the actual value of  
17 the stolen vehicle at the time of theft and the cost of a replacement  
18 vehicle, sales taxes, registration fees, transaction fees and  
19 mechanical inspection fees.

20 "Vehicle protection product" means a vehicle protection device,  
21 system or service that:

22 (a) is installed on or applied to a vehicle;

23 (b) is designed to prevent loss or damage to a vehicle from a  
24 specific cause or to facilitate the recovery of the vehicle after it has  
25 been stolen; and

26 (c) includes a written warranty by a warrantor that provides if  
27 the vehicle protection product fails to prevent loss or damage to a  
28 vehicle from a specific cause or to facilitate the recovery of the  
29 vehicle after it has been stolen, the warranty holder shall be paid  
30 specified incidental costs by the warrantor as a result of the failure  
31 of the vehicle protection product to perform pursuant to the terms of  
32 the warranty.

33 Vehicle protection products include, but are not limited to, alarm  
34 systems, body part marking products, steering locks, window etch  
35 products, pedal and ignition locks, fuel and ignition kill switches  
36 and electronic, radio and satellite tracking devices.

37 "Vehicle protection product warrantor" or "warrantor" means a  
38 person who is contractually obligated to the warranty holder under  
39 the terms of the vehicle protection product warranty. Warrantor  
40 does not include a licensed or eligible insurer.

41 "Warranty reimbursement insurance policy" means a policy of  
42 insurance issued to a vehicle protection product warrantor to  
43 provide reimbursement to the warrantor under the terms of the  
44 insured warrantor's vehicle protection product warranty, and to pay  
45 on behalf of the warrantor, in the event of the warrantor's  
46 nonperformance, all covered obligations incurred by the warrantor  
47 under the terms of the warrantor's vehicle protection product  
48 warranty. A licensed or eligible insurer that has filed its policy

1 form with the Department of Banking and Insurance shall issue the  
2 warranty reimbursement insurance policy.

3

4 2. A vehicle protection product warranty offered or issued in  
5 this State shall:

6 a. Identify the warrantor, the seller, the warranty holder and the  
7 terms of the sale;

8 b. Conspicuously state that the obligations of the warrantor to  
9 the warranty holder are guaranteed under a warranty reimbursement  
10 insurance policy;

11 c. Conspicuously state that if the payment due under the terms  
12 of the warranty is not provided by the warrantor within sixty days  
13 after proof of loss has been filed pursuant to the terms of the  
14 warranty by the warranty holder, the warranty holder may file  
15 directly with the warranty reimbursement insurance company for  
16 reimbursement;

17 d. Conspicuously state the name and address of the company  
18 issuing the warranty reimbursement insurance policy; and

19 e. Contain a disclosure that reads substantially as follows:

20 THIS AGREEMENT IS A PRODUCT WARRANTY, NOT  
21 INSURANCE, AND IS UNDER THE PURVIEW OF THE  
22 DIVISION OF CONSUMER AFFAIRS.

23

24 3. a. A person may not operate as a warrantor or represent to  
25 the public that the person is a warrantor unless the person is  
26 registered with the Director of the Division of Consumer Affairs, in  
27 such manner as the director deems appropriate, and:

28 (1) Maintains and has filed with the director a copy of a  
29 warranty reimbursement insurance policy which states that:

30 (a) The company issuing the warranty reimbursement insurance  
31 policy will reimburse or pay on behalf of the vehicle protection  
32 product warrantor all incidental costs or will provide the service  
33 that the warrantor is legally obligated to perform according to the  
34 warrantor's contractual obligations under the vehicle protection  
35 product warranty; and

36 (b) If the payment due under the terms of the warranty is not  
37 provided by the warrantor within sixty days after proof of loss has  
38 been filed according to the terms of the warranty by the warranty  
39 holder, the warranty holder may file for reimbursement directly  
40 with the company issuing the warranty reimbursement insurance  
41 policy and the insurer shall make reimbursement or provide the  
42 service required by the warranty directly to the warranty holder; and

43 (2) Has filed a copy of the warranties used by the warrantor in  
44 this State and a copy of the warranty reimbursement insurance  
45 policy with the director.

46 b. The director shall require warrantors to register annually, and  
47 to update their registration within 30 days of any substantive  
48 change. The registration form shall contain:

1 (1) The warrantor's name, and any assumed name under which  
2 the warrantor does business in the State;

3 (2) The warrantor's principal office address and telephone  
4 number;

5 (3) The name, address, and telephone number of all  
6 administrators designated by the warrantor to be responsible for the  
7 administration of vehicle protection product warranties in this State;  
8 and

9 (4) The name, address, and telephone number of the insurance  
10 company providing the warranty reimbursement insurance policy  
11 coverage.

12 c. The information required to be provided in the registration  
13 form shall be made available to the public.

14 d. The director may impose a reasonable fee, in an amount not  
15 to exceed \$25 annually, on each registered warrantor, to defray the  
16 costs of administering the provisions of P.L. , c. (C. )  
17 (pending before the Legislature as this bill).

18

19 4. A vehicle protection product warranty issued by the warrantor  
20 of a vehicle protection product does not constitute a contract  
21 substantially amounting to insurance or its issuance the business of  
22 insurance under Title 17 of the Revised Statutes and is an express  
23 warranty, if all of the following conditions are met:

24 a. The warranty is limited to indemnifying the warranty holder  
25 for incidental costs;

26 b. The warranty meets all the requirements set forth in section 2  
27 of P.L. , c. (C. ) (pending before the Legislature as this  
28 bill), including, but not limited to, being guaranteed by a warranty  
29 reimbursement insurance policy; and

30 c. The warrantor meets all the requirements set forth in section 3  
31 of P.L. , c. (C. ) (pending before the Legislature as this  
32 bill).

33

34 5. An administrator or person who sells or solicits a sale of a  
35 vehicle protection product, but who is not a warrantor, shall not be  
36 required to register as a warrantor or be licensed under the  
37 insurance laws of this State to sell vehicle protection products.

38

39 6. A warrantor or seller of vehicle protection products shall not  
40 require, as a condition of sale or financing, a retail purchaser of a  
41 motor vehicle to purchase a vehicle protection product that is not  
42 installed on the motor vehicle at the time of sale.

43

44 7. The failure of a warrantor or other person to comply with  
45 P.L. , c. (C. ) (pending before the Legislature as this bill),  
46 or otherwise to administer a vehicle protection product in the  
47 manner required by P.L. , c. (C. ) (pending before the  
48 Legislature as this bill), before its effective date is not admissible in

1 any court, administrative, arbitration, or alternative dispute  
2 resolution proceeding and may not otherwise be used to prove that  
3 the action of any person or the affected vehicle protection product  
4 was unlawful or otherwise improper.

5  
6 8. Any person who violates the provisions of P.L. , c. (C. )  
7 (pending before the Legislature as this bill) shall be liable to a civil  
8 penalty of not less than \$10,000 for the first violation, and not less  
9 than \$20,000 for the second and each subsequent violation. A civil  
10 penalty imposed pursuant to this section shall be collected in  
11 accordance with "The Penalty Enforcement Law of 1999,"  
12 P.L.1999, c.274 (C.2A:58-10 et seq.).

13  
14 9. This act shall take effect on the first day of the seventh month  
15 after enactment, provided, however, that it shall only apply to  
16 vehicle protection products purchased on or after such date, and that  
17 vehicle protection products purchased before such date and  
18 subsequently transferred to another consumer on or after such date  
19 are not required to comply with the provisions of this act, but the  
20 Director of the Division of Consumer Affairs may take such  
21 anticipatory acts in advance of that date as may be necessary for the  
22 timely implementation of this act.

23  
24  
25 STATEMENT

26  
27 This bill would clarify that certain warranties issued for vehicle  
28 protection products are not insurance policies.

29 Under the bill, a vehicle protection product warranty would not  
30 constitute an insurance contract if the warranty:

- 31
- 32 • Is limited to indemnifying the warranty holder for incidental  
33 costs caused by the failure of the vehicle protection product  
34 to deter the theft of the vehicle or facilitate the recovery of  
35 the vehicle after it has been stolen; and
  - 36 • Contains written disclosures specifying that the warranty is  
37 not subject to the insurance laws of this state and that it may  
38 not include all of the benefits or protections of a theft  
39 insurance policy.

40 The bill would also require warrantors to register with the  
41 Director of Consumer Affairs and meet certain requirements.

42 The bill defines "vehicle protection products" as vehicle  
43 protection devices, systems, or services that:

- 44 • are installed on or applied to a vehicle;
- 45 • are designed to deter the theft of a vehicle or facilitate the  
46 recovery of the vehicle after it has been stolen; and
- 47 • include a written warranty by a warrantor that provides the  
warranty holder will be paid specified incidental costs if the

1           vehicle protection products fails to prevent certain loss or  
2           damage or to facilitate the recovery of the vehicle.

3   These products include alarm systems, window etch products, body  
4   part marking products, steering locks, pedal and ignition locks, fuel  
5   and ignition kill switches, and electronic, radio, and satellite  
6   tracking devices.

7       Under the bill, violators would be liable to a civil penalty of not  
8   less than \$10,000 for the first violation, and not less than \$20,000  
9   for the second and each subsequent violation.

# ASSEMBLY CONSUMER AFFAIRS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 2923

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 12, 2006

The Assembly Consumer Affairs Committee reports favorably and with committee amendments Assembly Bill No. 2923.

As amended, Assembly Bill No. 2923 clarifies that certain warranties issued for vehicle protection products are not insurance policies.

Under the bill, a vehicle protection product warranty does not constitute an insurance contract if the warranty:

- Is limited to indemnifying the warranty holder against incidental costs caused by the failure of the vehicle protection product to deter the theft of the vehicle or facilitate the recovery of the vehicle after it has been stolen; and
- Contains written disclosures specifying that the warranty is not subject to the insurance laws of this state and that it may not include all of the benefits or protections of a theft insurance policy.

The bill also requires warrantors to register with the Director of Consumer Affairs and meet certain requirements.

The bill defines “vehicle protection products” as vehicle protection devices, systems, or services that:

- are installed on or applied to a vehicle;
- are designed to deter the theft of a vehicle or facilitate the recovery of the vehicle after it has been stolen; and
- include a written warranty by a warrantor that provides the warranty holder will be paid specified incidental costs if the vehicle protection products fails to prevent certain loss or damage or to facilitate the recovery of the vehicle.

The term does not include devices, systems, or services installed or applied by manufacturers at the vehicle assembly facility. Examples of vehicle protection products include alarm systems, window etch products, body part marking products, steering locks, pedal and ignition locks, fuel and ignition kill switches, and electronic, radio, and satellite tracking devices.

The bill specifies that violations of its provisions are unlawful practices under the Consumer Fraud Act. An unlawful practice is

punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for any subsequent offense. In addition, a violation can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages and the awarding of treble damages and costs to the injured party.

#### COMMITTEE AMENDMENTS

At the sponsor's request, the committee amended the bill to:

- clarify that the term “vehicle protection product” does not include a vehicle protection device, system, or service that is installed on or applied to a vehicle by the vehicle manufacturer at the vehicle assembly facility;
- require warrantors to update their registration, form of warranty, and warranty reimbursement insurance policy whenever a change is made, regardless of whether it is substantive or not;
- raise the warrantor registration fee from \$25 annually, to \$250 annually;
- prohibit the selling, or offering for sale, a vehicle protection product with a warranty issued by a non-registered warrantor, or the offering or issuing a vehicle protection product warranty by a non-registered person;
- allow warrantors to reimburse warranty holders for incidental costs through a fixed amount or the use of a formula; and
- make violations of the bills provisions unlawful practices under the Consumer Fraud Act.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 2923

with committee amendments

# STATE OF NEW JERSEY

DATED: MAY 24, 2007

The Senate Commerce Committee reports favorably and with committee amendments Assembly Bill No. 2923 (1R).

As amended, this bill clarifies that certain warranties issued for vehicle protection products are not insurance policies.

Under the bill, a vehicle protection product warranty does not constitute an insurance contract if the warranty:

- Is limited to indemnifying the warranty holder against incidental costs caused by the failure of the vehicle protection product to deter the theft of the vehicle or facilitate the recovery of the vehicle after it has been stolen; and
- Contains written disclosures specifying that the warranty is not subject to the insurance laws of this State.

The bill also requires warrantors to register with the Director of the Division of Consumer Affairs and meet certain requirements.

The bill defines “vehicle protection products” as vehicle protection devices, systems, or services that:

- are installed on or applied to a vehicle;
- are designed to deter the theft of a vehicle or facilitate the recovery of the vehicle after it has been stolen; and
- include a written warranty by a warrantor that provides the warranty holder will be paid specified incidental costs if the vehicle protection products fail to prevent certain loss or damage or to facilitate the recovery of the vehicle.

The term does not include devices, systems, or services installed or applied by manufacturers at the vehicle assembly facility. Examples of vehicle protection products include alarm systems, window etch products, body part marking products, steering locks, pedal and ignition locks, fuel and ignition kill switches, and electronic, radio, and satellite tracking devices.

The bill specifies that violations of its provisions are unlawful practices under the Consumer Fraud Act. An unlawful practice is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for any subsequent offense. In



addition, a violation can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages and the awarding of treble damages and costs to the injured party.

The committee amended the bill to increase the fee which may be imposed on each registered warrantor to offset administrative costs, from \$250 to \$1,000, and also to authorize the Director of the Division of Consumer Affairs to modify this fee annually, as needed, not to exceed \$2,000, to reflect the division's actual costs of administration beginning one year after the bill takes effect.

As amended, this bill is identical to Senate Bill No. 1685 (1R), also reported by the committee today.

# SENATE, No. 1685

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MARCH 20, 2006

**Sponsored by:**

**Senator RAYMOND J. LESNIAK**

**District 20 (Union)**

**Senator GERALD CARDINALE**

**District 39 (Bergen)**

**SYNOPSIS**

Regulates vehicle protection products.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 5/25/2007)

1 AN ACT concerning vehicle protection product warranties and  
2 supplementing chapter 18 of Title 17 of the Revised Statutes.

3

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

6

7 1. As used in this act:

8 "Administrator" means a third party, other than the warrantor,  
9 who is designated by the warrantor to be responsible for the  
10 administration of vehicle protection product warranties.

11 "Incidental costs" means losses and expenses that are specified in  
12 the vehicle protection product warranty and are incurred by the  
13 warranty holder relating to the failure of the vehicle protection  
14 product to perform as provided in the warranty. Incidental costs  
15 may include, but are not limited to, insurance policy deductibles,  
16 rental vehicle charges, the difference between the actual value of  
17 the stolen vehicle at the time of theft and the cost of a replacement  
18 vehicle, sales taxes, registration fees, transaction fees and  
19 mechanical inspection fees.

20 "Vehicle protection product" means a vehicle protection device,  
21 system or service that:

22 (a) is installed on or applied to a vehicle;

23 (b) is designed to prevent loss or damage to a vehicle from a  
24 specific cause or to facilitate the recovery of the vehicle after it has  
25 been stolen; and

26 (c) includes a written warranty by a warrantor that provides if the  
27 vehicle protection product fails to prevent loss or damage to a  
28 vehicle from a specific cause or to facilitate the recovery of the  
29 vehicle after it has been stolen, the warranty holder shall be paid  
30 specified incidental costs by the warrantor as a result of the failure  
31 of the vehicle protection product to perform pursuant to the terms of  
32 the warranty.

33 Vehicle protection products include, but are not limited to, alarm  
34 systems, body part marking products, steering locks, window etch  
35 products, pedal and ignition locks, fuel and ignition kill switches  
36 and electronic, radio and satellite tracking devices.

37 "Vehicle protection product warrantor" or "warrantor" means a  
38 person who is contractually obligated to the warranty holder under  
39 the terms of the vehicle protection product warranty. Warrantor  
40 does not include a licensed or eligible insurer.

41 "Warranty reimbursement insurance policy" means a policy of  
42 insurance issued to a vehicle protection product warrantor to  
43 provide reimbursement to the warrantor under the terms of the  
44 insured warrantor's vehicle protection product warranty, and to pay  
45 on behalf of the warrantor, in the event of the warrantor's  
46 nonperformance, all covered obligations incurred by the warrantor  
47 under the terms of the warrantor's vehicle protection product  
48 warranty. A licensed or eligible insurer that has filed its policy

1 form with the Department of Banking and Insurance shall issue the  
2 warranty reimbursement insurance policy.

3

4 2. A vehicle protection product warranty offered or issued in  
5 this State shall:

6 a. Identify the warrantor, the seller, the warranty holder and the  
7 terms of the sale;

8 b. Conspicuously state that the obligations of the warrantor to  
9 the warranty holder are guaranteed under a warranty reimbursement  
10 insurance policy;

11 c. Conspicuously state that if the payment due under the terms  
12 of the warranty is not provided by the warrantor within sixty days  
13 after proof of loss has been filed pursuant to the terms of the  
14 warranty by the warranty holder, the warranty holder may file  
15 directly with the warranty reimbursement insurance company for  
16 reimbursement;

17 d. Conspicuously state the name and address of the company  
18 issuing the warranty reimbursement insurance policy; and

19 e. Contain a disclosure that reads substantially as follows:

20 THIS AGREEMENT IS A PRODUCT WARRANTY, NOT  
21 INSURANCE, AND IS UNDER THE PURVIEW OF THE  
22 DIVISION OF CONSUMER AFFAIRS.

23

24 3. a. A person may not operate as a warrantor or represent to  
25 the public that the person is a warrantor unless the person is  
26 registered with the Director of the Division of Consumer Affairs, in  
27 such manner as the director deems appropriate, and:

28 (1) Maintains and has filed with the director a copy of a warranty  
29 reimbursement insurance policy which states that:

30 (a) The company issuing the warranty reimbursement insurance  
31 policy will reimburse or pay on behalf of the vehicle protection  
32 product warrantor all incidental costs or will provide the service  
33 that the warrantor is legally obligated to perform according to the  
34 warrantor's contractual obligations under the vehicle protection  
35 product warranty; and

36 (b) If the payment due under the terms of the warranty is not  
37 provided by the warrantor within sixty days after proof of loss has  
38 been filed according to the terms of the warranty by the warranty  
39 holder, the warranty holder may file for reimbursement directly  
40 with the company issuing the warranty reimbursement insurance  
41 policy and the insurer shall make reimbursement or provide the  
42 service required by the warranty directly to the warranty holder; and

43 (2) Has filed a copy of the warranties used by the warrantor in  
44 this State and a copy of the warranty reimbursement insurance  
45 policy with the director.

46 b. The director shall require warrantors to register annually, and  
47 to update their registration within 30 days of any substantive  
48 change. The registration form shall contain:

S1685 LESNIAK, CARDINALE

4

1 (1) The warrantor's name, and any assumed name under which  
2 the warrantor does business in the State;

3 (2) The warrantor's principal office address and telephone  
4 number;

5 (3) The name, address, and telephone number of all  
6 administrators designated by the warrantor to be responsible for the  
7 administration of vehicle protection product warranties in this State;  
8 and

9 (4) The name, address, and telephone number of the insurance  
10 company providing the warranty reimbursement insurance policy  
11 coverage.

12 c. The information required to be provided in the registration  
13 form shall be made available to the public.

14 d. The director may impose a reasonable fee, in an amount not  
15 to exceed \$25 annually, on each registered warrantor, to defray the  
16 costs of administering the provisions of P.L. , c. (C. )  
17 (pending before the Legislature as this bill).

18

19 4. A vehicle protection product warranty issued by the warrantor  
20 of a vehicle protection product does not constitute a contract  
21 substantially amounting to insurance or its issuance the business of  
22 insurance under Title 17 of the Revised Statutes and is an express  
23 warranty, if all of the following conditions are met:

24 a. The warranty is limited to indemnifying the warranty holder  
25 for incidental costs;

26 b. The warranty meets all the requirements set forth in section 2  
27 of P.L. , c. (C. ) (pending before the Legislature as this bill),  
28 including, but not limited to, being guaranteed by a warranty  
29 reimbursement insurance policy; and

30 c. The warrantor meets all the requirements set forth in section 3  
31 of P.L. , c. (C. ) (pending before the Legislature as this bill).

32

33 5. An administrator or person who sells or solicits a sale of a  
34 vehicle protection product, but who is not a warrantor, shall not be  
35 required to register as a warrantor or be licensed under the  
36 insurance laws of this State to sell vehicle protection products.

37

38 6. A warrantor or seller of vehicle protection products shall not  
39 require, as a condition of sale or financing, a retail purchaser of a  
40 motor vehicle to purchase a vehicle protection product that is not  
41 installed on the motor vehicle at the time of sale.

42

43 7. The failure of a warrantor or other person to comply with  
44 P.L. , c. (C. ) (pending before the Legislature as this bill), or  
45 otherwise to administer a vehicle protection product in the manner  
46 required by P.L. , c. (C. ) (pending before the Legislature as  
47 this bill), before its effective date is not admissible in any court,  
48 administrative, arbitration, or alternative dispute resolution

1 proceeding and may not otherwise be used to prove that the action  
2 of any person or the affected vehicle protection product was  
3 unlawful or otherwise improper.

4  
5 8. Any person who violates the provisions of P.L. , c.  
6 (C. ) (pending before the Legislature as this bill) shall be liable to  
7 a civil penalty of not less than \$10,000 for the first violation, and  
8 not less than \$20,000 for the second and each subsequent violation.  
9 A civil penalty imposed pursuant to this section shall be collected in  
10 accordance with "The Penalty Enforcement Law of 1999,"  
11 P.L.1999, c.274 (C.2A:58-10 et seq.).

12  
13 9. This act shall take effect on the first day of the seventh month  
14 after enactment, provided, however, that it shall only apply to  
15 vehicle protection products purchased on or after such date, and that  
16 vehicle protection products purchased before such date and  
17 subsequently transferred to another consumer on or after such date  
18 are not required to comply with the provisions of this act, but the  
19 Director of the Division of Consumer Affairs may take such  
20 anticipatory acts in advance of that date as may be necessary for the  
21 timely implementation of this act.

22  
23  
24 STATEMENT

25  
26 This bill would clarify that certain warranties issued for vehicle  
27 protection products are not insurance policies.

28 Under the bill, a vehicle protection product warranty would not  
29 constitute an insurance contract if the warranty:

- 30 • Is limited to indemnifying the warranty holder for incidental  
31 costs caused by the failure of the vehicle protection product  
32 to deter the theft of the vehicle or facilitate the recovery of  
33 the vehicle after it has been stolen; and  
34 • Contains written disclosures specifying that the warranty is  
35 not subject to the insurance laws of this state and that it may  
36 not include all of the benefits or protections of a theft  
37 insurance policy.

38 The bill would also require warrantors to register with the  
39 Director of Consumer Affairs and meet certain requirements.

40 The bill defines "vehicle protection products" as vehicle  
41 protection devices, systems, or services that:

- 42 • are installed on or applied to a vehicle;  
43 • are designed to deter the theft of a vehicle or facilitate the  
44 recovery of the vehicle after it has been stolen; and  
45 • include a written warranty by a warrantor that provides the  
46 warranty holder will be paid specified incidental costs if the  
47 vehicle protection products fails to prevent certain loss or  
48 damage or to facilitate the recovery of the vehicle.

**S1685 LESNIAK, CARDINALE**

6

1 These products include alarm systems, window etch products, body  
2 part marking products, steering locks, pedal and ignition locks, fuel  
3 and ignition kill switches, and electronic, radio, and satellite  
4 tracking devices.

5 Under the bill, violators would be liable to a civil penalty of not  
6 less than \$10,000 for the first violation, and not less than \$20,000  
7 for the second and each subsequent violation.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### **SENATE, No. 1685**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 24, 2007

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1685.

As amended, this bill clarifies that certain warranties issued for vehicle protection products are not insurance policies.

Under the bill, a vehicle protection product warranty does not constitute an insurance contract if the warranty:

- Is limited to indemnifying the warranty holder against incidental costs caused by the failure of the vehicle protection product to deter the theft of the vehicle or facilitate the recovery of the vehicle after it has been stolen; and
- Contains written disclosures specifying that the warranty is not subject to the insurance laws of this State.

The bill also requires warrantors to register with the Director of the Division of Consumer Affairs and meet certain requirements.

The bill defines “vehicle protection products” as vehicle protection devices, systems, or services that:

- are installed on or applied to a vehicle;
- are designed to deter the theft of a vehicle or facilitate the recovery of the vehicle after it has been stolen; and
- include a written warranty by a warrantor that provides the warranty holder will be paid specified incidental costs if the vehicle protection products fail to prevent certain loss or damage or to facilitate the recovery of the vehicle.

The term does not include devices, systems, or services installed or applied by manufacturers at the vehicle assembly facility. Examples of vehicle protection products include alarm systems, window etch products, body part marking products, steering locks, pedal and ignition locks, fuel and ignition kill switches, and electronic, radio, and satellite tracking devices.

The bill specifies that violations of its provisions are unlawful practices under the Consumer Fraud Act. An unlawful practice is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for any subsequent offense. In addition, a violation can result in cease and desist orders issued by the



Attorney General, the assessment of punitive damages and the awarding of treble damages and costs to the injured party.

The committee amended the bill to:

- clarify that the term “vehicle protection product” does not include a vehicle protection device, system, or service that is installed on or applied to a vehicle by the vehicle manufacturer at the vehicle assembly facility;
- require warrantors to update their registration, form of warranty, and warranty reimbursement insurance policy whenever a change is made, regardless of whether it is substantive or not;
- raise the warrantor registration fee from \$25 to \$1,000, and to authorize the Director of the Division of Consumer Affairs to modify this fee annually, as needed, not to exceed \$2,000, to reflect the division’s actual costs of administration beginning one year after the bill takes effect;
- prohibit selling, or offering for sale, a vehicle protection product with a warranty issued by a non-registered warrantor, or offering or issuing a vehicle protection product warranty by a non-registered person;
- allow warrantors to reimburse warranty holders for incidental costs through a fixed amount or the use of a formula; and
- make violations of the bill’s provisions unlawful practices under the Consumer Fraud Act.

As amended, this bill is identical to Assembly Bill No. 2923 (2R), also reported by the committee today.