



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3072

by Rep. Robert Martwick

SYNOPSIS AS INTRODUCED:

215 ILCS 5/155.39
215 ILCS 152/5
215 ILCS 152/35

Amends the Illinois Insurance Code in a provision concerning vehicle protection products. Amends the definition of "vehicle protection product" by including protective chemicals and substances and excluding fuel additives, oil additives, or other chemical products applied to the engine, transmission, or fuel system of a motor vehicle. Provides that no vehicle protection products sold or offered for sale in the State shall be subject to the provisions of the Code or the Service Contract Act unless offered as a service contract under the terms of the Service Contract Act. Amends the Service Contract Act. In provisions concerning the definition of "service contract", makes changes concerning service contract coverage related to protective chemicals, substances, devices, or systems. Establishes requirements for refunds of vehicle protection products. Makes other changes.

LRB100 10497 SMS 20711 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Section 155.39 as follows:

6 (215 ILCS 5/155.39)

7 Sec. 155.39. Vehicle protection products.

8 (a) As used in this Section:

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

13 "Incidental costs" means expenses specified in the vehicle
14 protection product warranty incurred by the warranty holder
15 related to the failure of the vehicle protection product to
16 perform as provided in the warranty. Incidental costs may
17 include, without limitation, insurance policy deductibles,
18 rental vehicle charges, the difference between the actual value
19 of the stolen vehicle at the time of theft and the cost of a
20 replacement vehicle, sales taxes, registration fees,
21 transaction fees, and mechanical inspection fees.

22 "Vehicle protection product" means a protective chemical,
23 substance, ~~vehicle protection~~ device, system, or service that

1 is (i) installed on or applied to a vehicle, (ii) is designed
2 to prevent loss or damage to a vehicle from a specific cause,
3 (iii) includes a written warranty by a warrantor that provides
4 if the vehicle protection product fails to prevent loss or
5 damage to a vehicle from a specific cause, that the warranty
6 holder shall be paid specified incidental costs by the
7 warrantor as a result of the failure of the vehicle protection
8 product to perform pursuant to the terms of the warranty, and
9 (iv) the warrantor's liability is covered by a warranty
10 reimbursement insurance policy. The term "vehicle protection
11 product" shall include, without limitation, protective
12 chemicals, alarm systems, body part marking products, steering
13 locks, window etch products, pedal and ignition locks, fuel and
14 ignition kill switches, and electronic, radio, and satellite
15 tracking devices. "Vehicle protection product" does not
16 include fuel additives, oil additives, or other chemical
17 products applied to the engine, transmission, or fuel system of
18 a motor vehicle.

19 "Vehicle protection product warrantor" or "warrantor"
20 means a person who is contractually obligated to the warranty
21 holder under the terms of the vehicle protection product.
22 Warrantor does not include an authorized insurer.

23 "Warranty reimbursement insurance policy" means a policy
24 of insurance issued to the vehicle protection product warrantor
25 to pay on behalf of the warrantor all covered contractual
26 obligations incurred by the warrantor under the terms and

1 conditions of the insured vehicle protection product
2 warranties sold by the warrantor. The warranty reimbursement
3 insurance policy shall be issued by an insurer authorized to do
4 business in this State that has filed its policy form with the
5 Department.

6 (b) No vehicle protection product sold or offered for sale
7 in this State in compliance with this Section shall be subject
8 to the provisions of this Code or the Service Contract Act
9 unless it is offered as a service contract as defined in
10 Section 5 of the Service Contract Act.

11 Vehicle protection product warrantors and related vehicle
12 protection product sellers and warranty administrators
13 complying with this Section are not required to comply with and
14 are not subject to any other provision of this Code or the
15 Service Contract Act unless it is offered as a service contract
16 as defined in Section 5 of the Service Contract Act. The
17 vehicle protection products' written warranties are express
18 warranties and not insurance.

19 (c) This Section applies to all vehicle protection products
20 sold or offered for sale prior to, on, or after the effective
21 date of this amendatory Act of the 93rd General Assembly. The
22 enactment of this Section does not imply that vehicle
23 protection products should have been subject to regulation
24 under this Code prior to the enactment of this Section. The
25 changes made to this Section by this amendatory Act of the
26 100th General Assembly do not imply that vehicle protection

1 products should have been subject to regulation under this Code
2 or the Service Contract Act prior to this amendatory Act of the
3 100th General Assembly.

4 (Source: P.A. 95-331, eff. 8-21-07.)

5 Section 10. The Service Contract Act is amended by changing
6 Sections 5 and 35 as follows:

7 (215 ILCS 152/5)

8 Sec. 5. Definitions.

9 "Department" means the Department of Insurance.

10 "Director" means the Director of Insurance.

11 "Road hazard" means a hazard that is encountered while
12 driving a motor vehicle, including, but not limited to,
13 potholes, rocks, wood debris, metal parts, glass, plastic,
14 curbs, and composite scraps.

15 "Service contract" means a contract or agreement whereby a
16 service contract provider undertakes for a specified period of
17 time, for separate and identifiable consideration, to perform
18 the repair, replacement, or maintenance, or indemnification
19 for such services, of any automobile, system, or consumer
20 product in connection with the operational or structural
21 failure due to a defect in materials or workmanship, or normal
22 wear and tear, with or without additional provision for
23 incidental payment or indemnity under limited circumstances,
24 for related expenses, including, but not limited to, towing,

1 rental, and emergency road service. Service contracts may
2 provide for:

3 (1) the repair, replacement, or maintenance of such
4 property for damage resulting from power surges and
5 accidental damage from handling;

6 (2) the repair or replacement of tires or wheels, or
7 both, on a motor vehicle damaged as the result of coming
8 into contact with road hazards;

9 (3) the removal of dents, dings, or creases on a motor
10 vehicle that can be repaired using the process of paintless
11 dent removal without affecting the existing paint finish
12 and without replacing vehicle body panels, sanding,
13 bonding, or painting;

14 (4) the repair of chips or cracks in or the replacement
15 of motor vehicle windshields as a result of damage caused
16 by road hazards;

17 (5) the replacement of a motor vehicle key or key-fob
18 in the event that the key or key-fob becomes inoperable or
19 is lost or stolen;

20 (6) the payment of specified incidental costs in the
21 event that a protective chemical, substance, device, or
22 system that ~~(A)~~ is installed on or applied to a motor
23 vehicle and ~~, (B)~~ is designed to prevent loss or damage to
24 a motor vehicle from a specific cause, ~~and (C) includes a~~
25 ~~written product warranty providing for payment to or on~~
26 ~~behalf of the warranty holder's incidental costs in the~~

1 ~~event that the product~~ fails to prevent loss or damage as
2 specified; the reimbursement of incidental costs ~~under the~~
3 ~~warranty~~ must be tied to the purchase of a physical product
4 that is formulated or designed to make the specified loss
5 or damage less likely to occur; however, a protective
6 chemical, substance, device, system, or service that is
7 offered in compliance with and meets the definition of
8 "vehicle protection product" in subsection (a) of Section
9 155.39 of the Illinois Insurance Code shall not be required
10 to comply with this Act; or

11 (7) other services that may be approved by the
12 Director, if not inconsistent with other provisions of this
13 Act.

14 Service contracts shall not include:

15 (i) contracts of limited duration that provide for
16 scheduled maintenance only;

17 (ii) fuel additives, oil additives, or other chemical
18 products applied to the engine, transmission, or fuel
19 system of a motor vehicle;

20 (iii) coverage for the repair or replacement, or both,
21 of damage to the interior surfaces of a vehicle, or for
22 repair or replacement, or both, of damage to the exterior
23 paint or finish of a vehicle; however, such coverage may be
24 offered in connection with the sale of a protective
25 chemical, device, or system described in item (6) of this
26 definition.

1 "Service contract holder" means the person who purchases a
2 service contract or a permitted transferee.

3 "Service contract provider" means a person who is
4 contractually obligated to the service contract holder under
5 the terms of the service contract. A service contract provider
6 does not include an insurer.

7 "Service contract reimbursement insurance policy" means a
8 policy of insurance that is issued to the service contract
9 provider to provide reimbursement to the service contract
10 provider or to pay on behalf of the service contract provider
11 all covered contractual obligations incurred by the service
12 contract provider under the terms and conditions of the insured
13 service contracts issued or sold by the service contract
14 provider.

15 "System" means the heating, cooling, plumbing, electrical,
16 ventilation, or any other similar system of a home.

17 (Source: P.A. 98-222, eff. 1-1-14.)

18 (215 ILCS 152/35)

19 Sec. 35. Cancellation and refunds.

20 (a) No service contract may be issued, sold, or offered for
21 sale in this State unless the service contract clearly states
22 that the service contract holder is allowed to cancel the
23 service contract. If the service contract holder elects
24 cancellation, the service contract provider may retain a
25 cancellation fee not to exceed the lesser of 10% of the service

1 contract price or \$50. The service contract cancellation
2 provision must provide that the service contract may be
3 cancelled:

4 (1) within 30 days after its purchase if no service has
5 been provided and that a full refund of the service
6 contract consideration, less any cancellation fee stated
7 in the service contract will be paid to the service
8 contract holder; or

9 (2) at any other time and a pro rata refund of the
10 service contract consideration for the unexpired term of
11 the service contract, based on the number of elapsed
12 months, miles, hours, or such other reasonably applicable
13 measure which is clearly disclosed in the service contract,
14 less the value of any service received, and any
15 cancellation fee stated in the service contract will be
16 paid to the service contract holder.

17 (b) In the event that a service contract includes the
18 coverage described in paragraph (6) of the definition of
19 "service contract" in Section 5 of this Act, the service
20 contract provider must refund the service contract purchase
21 price in accordance with this Section, but is not required to
22 refund the purchase price of the protective chemical,
23 substance, device, system, or service; however, the service
24 contract provider may elect to refund the purchase price of the
25 protective chemical, substance, device, system, or service
26 provided that the terms of that refund are clearly stated in

1 the service contract. The coverage described in paragraph (6)
2 of the definition of "service contract" in Section 5 of this
3 Act may not be offered as or within a service contract unless
4 the service contract clearly states whether or not the service
5 contract holder is entitled to a refund of the purchase price
6 of the protective chemical, substance, device, system, or
7 service and, if applicable, the terms of such refund.

8 (Source: P.A. 90-711, eff. 8-7-98.)