

CHAPTER 166

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

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

C.17:18-19 Definitions relative to vehicle protection product warranties.

1. As used in this act:

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

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

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

- (a) is installed on or applied to a vehicle;
- (b) is designed to prevent loss or damage to a vehicle from a specific cause or to facilitate the recovery of the vehicle after it has been stolen; and
- (c) includes a written warranty by a warrantor that provides if the vehicle protection product fails to prevent loss or damage to a vehicle from a specific cause or to facilitate the recovery of the vehicle after it has been stolen, the warranty holder shall be paid specified incidental costs by the warrantor as a result of the failure of the vehicle protection product to perform pursuant to the terms of the warranty.

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

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

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

C.17:18-20 Requirements for issuance of vehicle protection product warranty.

2. A vehicle protection product warranty offered or issued in this State shall:
 - a. Identify the warrantor, the seller, the warranty holder and the terms of the sale;
 - b. Conspicuously and in plain English set forth in writing the obligations of the warrantor to the warranty holder, and state that those obligations are guaranteed under a warranty reimbursement insurance policy;

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

d. Conspicuously state the name and address of the company issuing the warranty reimbursement insurance policy and, if different, the complete address at which a claim may be filed; and

e. Contain a disclosure that reads substantially as follows:

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

C.17:18-21 Registration for warrantor required.

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

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

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

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

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

b. The director shall require warrantors to register annually, and to update their registration, the form of warranty, or the warranty reimbursement insurance policy, within 30 days of any change. The registration form shall contain:

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

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

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

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

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

d. The director shall impose a fee on each registered warrantor to defray the costs of administering the provisions of P.L.2007, c.166 (C.17:18-19 et al.), in the amount of \$1,000 annually. Beginning 12 months after the effective date of P.L.2007, c.166 (C.17:18-19 et al.), and annually thereafter, the director may modify the amount of the fee imposed pursuant to this subsection, which amount shall not exceed \$2,000, to reflect the division's actual costs of administration.

C.56:8-167 Sale, offer of vehicle protection product by unregistered warrantor, person, deemed unlawful practice.

4. a. It shall be an unlawful practice for a person to sell, or offer for sale, a vehicle protection product with a warranty issued by a warrantor that is not registered pursuant to P.L.2007, c.166 (C.17:18-19 et al.).

b. It shall be an unlawful practice for a person who is not registered pursuant to section 3 of P.L.2007, c.166 (C.17:18-21) to offer or issue a vehicle protection product warranty.

C.17:18-22 Conditions for express warranty.

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

a. The warranty is limited to indemnifying the warranty holder for incidental costs which may be reimbursed under the provisions of the warranty in either a fixed amount specified in the warranty or sales agreement or by the use of a formula itemizing specific incidental costs incurred by the warranty holder;

b. The warranty meets all the requirements set forth in section 2 of P.L.2007, c.166 (C.17:18-20), including, but not limited to, being guaranteed by a warranty reimbursement insurance policy; and

c. The warrantor meets all the requirements set forth in section 3 of P.L.2007, c.166 (C.17:18-21).

C.17:18-23 Registration not required for nonwarrantor.

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

C.17:18-24 Vehicle protection product not required for sale, financing.

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

C.17:18-25 Noncompliance prior to effective date.

8. The failure of a warrantor or other person to comply with P.L.2007, c.166 (C.17:18-19 et al.), or otherwise to administer a vehicle protection product in the manner required by P.L.2007, c.166 (C.17:18-19 et al.), before its effective date is not admissible in any court, administrative, arbitration, or alternative dispute resolution proceeding and may not otherwise be used to prove that the action of any person or the affected vehicle protection product was unlawful or otherwise improper.

C.17:18-26 Violation, unlawful practice.

9. A violation of the provisions of P.L.2007, c.166 (C.17:18-19 et al.) shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.).

10. This act shall take effect on the first day of the seventh month after enactment, provided, however, that it shall only apply to vehicle protection products purchased on or

after such date, and that vehicle protection products purchased before such date and subsequently transferred to another consumer on or after such date are not required to comply with the provisions of this act, but the Director of the Division of Consumer Affairs may take such anticipatory acts in advance of that date as may be necessary for the timely implementation of this act.

Approved September 10, 2007.