



Ohio Revised Code

Section 3905.426 Requirements for ancillary product protection contracts.

Effective: July 1, 2009

Legislation: House Bill 2 - 128th General Assembly

(A) As used in this section:

(1) "Contract holder" means the person who purchased a motor vehicle ancillary product protection contract, any authorized transferee or assignee of the purchaser, or any other person assuming the purchaser's rights under the motor vehicle ancillary product protection contract.

(2) "Motor vehicle" has the same meaning as in section 4501.01 of the Revised Code and also includes utility vehicles as defined in that section.

(3)(a) "Motor vehicle ancillary product protection contract" means a contract or agreement that is effective for a specified duration and paid for by means other than the purchase of a motor vehicle, or its parts or equipment, to perform any one or more of the following services:

(i) Repair or replacement of glass on a motor vehicle necessitated by wear and tear or damage caused by a road hazard;

(ii) Removal of a dent, ding, or crease without affecting the existing paint finish using paintless dent removal techniques but which expressly excludes replacement of vehicle body panels, sanding, bonding, or painting;

(iii) Repair to the interior components of a motor vehicle necessitated by wear and tear but which expressly excludes replacement of any part or component of a motor vehicle's interior.

(b) "Motor vehicle ancillary product protection contract" does not include any of the following:

(i) 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 that is effective for a specified



duration and paid for by means other than the purchase of a motor vehicle;

(ii) A vehicle protection product warranty as defined in section 3905.421 of the Revised Code;

(iii) A home service contract as defined in section 3905.422 of the Revised Code;

(iv) A consumer goods service contract as defined in section 3905.423 of the Revised Code;

(v) A motor vehicle tire or wheel road hazard contract as defined in section 3905.425 of the Revised Code.

(4) "Provider" means a person who is contractually obligated to a contract holder under the terms of a motor vehicle ancillary product protection contract.

(5) "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.

(6) "Supplier" has the same meaning as in section 1345.01 of the Revised Code.

(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 reimbursement insurance policy under division (B) of this section shall conspicuously state all of the following:

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

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

(3) That if a provider fails to perform or make payment due under the terms of the contract within



sixty days after the contract holder requests performance or payment pursuant to the terms of the contract, the contract holder may request performance or payment directly from the provider's reimbursement insurance policy insurer, including any obligation in the contract by which the provider must refund the contract holder upon cancellation of a contract;

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

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

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

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

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

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

(G) Unless issued by an insurer authorized or eligible to do business in this state, a motor vehicle ancillary product protection contract does not constitute a contract substantially amounting to



insurance, or the contract's issuance the business of insurance, under section 3905.42 of the Revised Code.

(H) The rights of a contract holder against a provider's reimbursement insurance policy insurer as provided in this section apply only in regard to a reimbursement insurance policy issued under this section. This section does not create any contractual rights in favor of a person that does not qualify as an insured under any other type of insurance policy described in Title XXXIX of the Revised Code. This section does not prohibit the insurer of a provider's reimbursement insurance policy from assuming liability for contracts issued prior to the effective date of the policy or this statute.