

CHAPTER 222

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 04-1400

BY REPRESENTATIVE(S) Rhodes and Butcher;
also SENATOR(S) Chlouber, Arnold, Jones, and Kester.

AN ACT

CONCERNING THE REGULATION OF WARRANTIES ON VEHICLE PROTECTION PRODUCTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 9.5
Vehicle Protection Products

42-9.5-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "VEHICLE PROTECTION PRODUCTS ACT".

42-9.5-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "INCIDENTAL COSTS" MEANS EXPENSES INCURRED BY THE WARRANTY HOLDER THAT CONCERN THE FAILURE OF THE VEHICLE PROTECTION PRODUCT AND THAT ARE SPECIFIED IN THE VEHICLE PROTECTION PRODUCT WARRANTY. INCIDENTAL COSTS MAY INCLUDE, WITHOUT LIMITATION, 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.

(2) "VEHICLE PROTECTION PRODUCT" MEANS A VEHICLE PROTECTION DEVICE, SYSTEM, OR SERVICE THAT:

(a) IS INSTALLED ON OR APPLIED TO A VEHICLE;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(b) IS DESIGNED TO PREVENT LOSS OR DAMAGE TO A VEHICLE FROM A SPECIFIC CAUSE;

(c) INCLUDES A WRITTEN WARRANTY BY A WARRANTOR STATING THAT, IF THE VEHICLE PROTECTION PRODUCT FAILS TO PREVENT LOSS OR DAMAGE TO A VEHICLE FROM A SPECIFIC CAUSE, THE WARRANTY HOLDER SHALL BE PAID SPECIFIED INCIDENTAL COSTS BY THE WARRANTOR AS A RESULT OF SUCH FAILURE; AND

(d) COMES WITH A WARRANTY REIMBURSEMENT INSURANCE POLICY COVERING THE WARRANTOR'S LIABILITY FROM SUCH PRODUCT.

(3) "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 AGREEMENT. "WARRANTOR" DOES NOT INCLUDE AN AUTHORIZED INSURER.

(4) "WARRANTY" MEANS AN EXPRESS WARRANTY AND SHALL NOT INCLUDE AN INSURANCE POLICY.

(5) "WARRANTY REIMBURSEMENT INSURANCE POLICY" MEANS A POLICY OF INSURANCE ISSUED TO THE VEHICLE PROTECTION PRODUCT WARRANTOR TO PAY, ON BEHALF OF THE WARRANTOR, ALL COVERED CONTRACTUAL OBLIGATIONS INCURRED BY THE WARRANTOR UNDER THE VEHICLE PROTECTION PRODUCT WARRANTY.

42-9.5-103. Vehicle protection products. (1) A WARRANTY CONTRACT ACCOMPANYING A VEHICLE PROTECTION PRODUCT THAT IS SOLD OR OFFERED FOR SALE SHALL:

(a) IDENTIFY IN THE CONTRACT THE WARRANTOR, THE SELLER, THE WARRANTY HOLDER, AND THE TERMS OF THE SALE;

(b) CONSPICUOUSLY STATE THAT THE OBLIGATIONS OF THE WARRANTOR 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 BY THE WARRANTY HOLDER PURSUANT TO THE TERMS OF THE WARRANTY, THE WARRANTY HOLDER MAY FILE A CLAIM FOR REIMBURSEMENT DIRECTLY WITH THE WARRANTY REIMBURSEMENT INSURANCE COMPANY;

(d) CONSPICUOUSLY STATE THE NAME AND ADDRESS OF THE WARRANTY REIMBURSEMENT INSURANCE COMPANY;

(e) CONSPICUOUSLY STATE: "THIS AGREEMENT IS A PRODUCT WARRANTY AND IS NOT INSURANCE.";

(f) GUARANTEE THE WARRANTOR'S PRODUCT WITH A WARRANTY REIMBURSEMENT INSURANCE POLICY; AND

(g) AUTHORIZE THE WARRANTY HOLDER TO FILE A CLAIM DIRECTLY WITH THE WARRANTY REIMBURSEMENT INSURANCE COMPANY 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.

42-9.5-104. Warranty reimbursement insurance policies. (1) A WARRANTY REIMBURSEMENT INSURANCE POLICY SHALL STATE THAT THE WARRANTY REIMBURSEMENT INSURANCE COMPANY WILL REIMBURSE OR PAY ON BEHALF OF THE VEHICLE PROTECTION PRODUCT WARRANTOR ALL COVERED SUMS THAT THE WARRANTOR IS LEGALLY OBLIGATED TO PAY, 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.

(2) A WARRANTY REIMBURSEMENT INSURANCE POLICY SHALL 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 ACCORDING TO THE TERMS OF THE WARRANTY BY THE WARRANTY HOLDER, THE WARRANTY HOLDER MAY FILE DIRECTLY WITH THE WARRANTY REIMBURSEMENT INSURANCE COMPANY FOR REIMBURSEMENT.

42-9.5-105. Warranties - insurance. A VEHICLE PROTECTION WARRANTY THAT COMPLIES WITH THIS SECTION SHALL NOT BE DEEMED TO BE INSURANCE AND SHALL BE EXEMPT FROM REGULATION AS INSURANCE PURSUANT TO TITLE 10, C.R.S.

42-9.5-106. Applicability. THIS ARTICLE SHALL NOT APPLY TO CONTRACTS REGULATED BY ARTICLE 11 OF THIS TITLE, WHICH CONCERNS MOTOR VEHICLE SERVICE CONTRACT INSURANCE.

SECTION 2. Effective date - applicability. This act shall take effect July 1, 2004, and shall apply to vehicle protection products sold and warranty reimbursement insurance policies issued on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 12, 2004