

§ 63-29-1. Short title.

This chapter shall be known and may be cited as the “Mississippi Vehicle Protection Product Act.”

HISTORY:

Laws, 2007, ch. 486, § 1, eff from and after July 1, 2007.

§ 63-29-3. Definitions.

As used in this section:

(a) “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.

(b) “Motor Vehicle Commission” means the Mississippi Motor Vehicle Commission.

(c) “Incidental costs” means expenses specified in the warranty incurred by the warranty holder related to the failure of the vehicle protection product to perform as provided in the 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.

(d) (i) “Vehicle protection product” means a vehicle protection device, system or service that:

- 1.** Is installed on or applied to a vehicle;
- 2.** Is designed to prevent loss or damage to a vehicle from a specific cause; and
- 3.** Includes a written warranty.

(ii) Any product offered without a warranty shall not be considered a vehicle protection product and shall not be covered by the provisions of this chapter.

(e) The term “vehicle protection device, system or service” shall include, without limitation, 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.

(f) “Vehicle protection product warranty” or “warranty” means a written agreement by a warrantor that provides that if the vehicle protection product fails to prevent loss or damage to a vehicle from a specific cause, then 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.

(g) “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.

(h) “Warranty holder” means the person who purchases a vehicle protection product or who is a permitted transferee.

(i) “Warranty reimbursement insurance policy” means a policy of insurance that is issued to the vehicle protection product warrantor to provide reimbursement to the warrantor or to pay on behalf of the warrantor all covered contractual obligations incurred by the warrantor under the terms and conditions of the insured vehicle protection product warranties sold by the warrantor.

HISTORY:

Laws, 2007, ch. 486, § 2, eff from and after July 1, 2007.

§ 63-29-5. Scope; exemptions.

(1) No vehicle protection product may be sold or offered for sale in this state unless the seller, warrantor and administrator, if any, comply with the provisions of this chapter.

(2) A vehicle protection product warranty provided or sold in compliance with this chapter is not a contract of insurance.

(3) Warranties, indemnity agreements and guarantees that are not provided as a part of a vehicle protection product are not subject to the provisions of this chapter.

HISTORY:

Laws, 2007, ch. 486, § 3, eff from and after July 1, 2007.

**§ 63-29-7. Registration and filing requirements of warrantors;
fees; renewal of registration.**

- (1)** 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 Motor Vehicle Commission on a form prescribed by the Motor Vehicle Commission.
- (2)** Warrantor registration records shall be filed annually and shall be updated by the warrantor within thirty (30) days of any change. The registration records shall contain the following information:
- (a)** The warrantor's name, any other names under which the warrantor does business in the state, principal office address and telephone number;
 - (b)** The names of the warrantor's executive officer or officers directly responsible for the warrantor's vehicle protection product business;
 - (c)** The name, address and telephone number of any administrators designated by the warrantor to be responsible for the administration of vehicle protection product warranties in this state;
 - (d)** A copy of the warranty reimbursement insurance policy or policies or other financial information required by Section 63-29-11 below;
 - (e)** A copy of each warranty the warrantor proposes to use in this state; and
 - (f)** A statement indicating under which provision of Section 63-29-9 that the warrantor qualifies to do business in this state as a warrantor.
- (3)** The Motor Vehicle Commission may charge each registrant a reasonable fee to offset the cost of processing the registration and maintaining the records. Such fee shall be set by the Motor Vehicle Commission in an amount not to exceed the amount necessary to defray the Motor Vehicle Commission's expenses in administering this chapter.
- (4)** If a registrant fails to register by the renewal deadline, the Motor Vehicle Commission shall give the registrant written notice of the failure and the registrant will have thirty (30) days to complete the renewal of the registration before the registration is revoked. Revocation for failure to renew a registration does not require any additional notice or a hearing.
- (5)** 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

Miss. Code § 63-29-7 Registration and filing requirements of warrantors; fees; renewal of registration (Mississippi Code (2019 Edition))

register as a warrantor or be licensed under the insurance laws of this state to sell vehicle protection products.

HISTORY:

Laws, 2007, ch. 486, § 4, eff from and after July 1, 2007.

§ 63-29-9. Warrantor required to prove financial solvency or be insured under warranty insurance policy meeting certain conditions.

(1) No vehicle protection product shall be sold or offered for sale in this state unless the vehicle protection product warrantor can prove financial solvency as provided under subsection (2) of this section or is insured under a warranty insurance policy meeting the following conditions in order to ensure adequate performance under the warranty:

(a) The warranty reimbursement insurance policy is issued by an insurer authorized to do business in this state and provides that the insurer will pay to, or on behalf of, the warrantor one hundred percent (100%) of all sums that the warrantor is legally obligated to pay according to the warrantor's contractual obligations under the warrantor's vehicle protection product warranty;

(b) A true and correct copy of the warranty reimbursement insurance policy has been filed with the Motor Vehicle Commission by the warrantor; and

(c) The policy contains the provisions required by Section 63-29-11.

(2) As an alternative to warranty reimbursement insurance under subsection (1) of this section, the vehicle's protection warrantor or its parent company must:

(a) Maintain a net worth of stockholders' equity of Fifty Million Dollars (\$50,000,000.00); and

(b) Provide the Motor Vehicle Commission with a copy of the warrantor's or the warrantor's parent company's most recent Form 10-K or Form 20-F filed with the Securities Exchange Commission within the last calendar year or, if the warrantor does not file with the Securities Exchange Commission, a copy of the warrantor's or the warrantor's parent company's audited financial statements that shows a net worth of the warrantor or its parent company of at least Fifty Million Dollars (\$50,000,000.00). If the warrantor's parent company's Form 10-K, Form 20-F or audited financial statements are filed to meet the warrantor's financial stability requirement, then the parent company shall agree to guarantee the obligations of the warrantor relating to the warranties issued by the warrantor in this state. The audited financial statements filed pursuant to this subsection shall be exempt from public disclosure under the Mississippi Public Records Act of 1983.

Miss. Code § 63-29-9 Warrantor required to prove financial solvency or be insured under warranty insurance policy meeting certain conditions (Mississippi Code (2019 Edition))

HISTORY:

Laws, 2007, ch. 486, § 5, eff from and after July 1, 2007.

§ 63-29-11. Warranty reimbursement insurance policy requirements.

No warranty reimbursement insurance policy shall be issued, sold or offered for sale in this state unless the policy meets the following conditions:

(a) The policy states that the issuer of the policy will reimburse or pay on behalf of the vehicle protection product warrantor all covered sums which the warrantor is legally obligated to pay, or will provide all service that the warrantor is legally obligated to perform according to the warrantor's contractual obligations under the provisions of the insured warranties sold by the warrantor;

(b) The policy states that in the event that payment due under the terms of the warranty is not provided by the warrantor within sixty (60) 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;

(c) The policy provides that a warranty reimbursement insurance company that insures a warranty shall be deemed to have received payment of the premium if the warranty holder paid for the vehicle protection product and the insurer's liability under the policy shall not be reduced or relieved by a failure of the warrantor, for any reason, to report the issuance of a warranty to the insurer; and

(d) The policy has the following provisions regarding cancellation of the policy:

(i) The issuer of a reimbursement insurance policy shall not cancel such policy until a notice of cancellation in writing has been mailed or delivered to the Motor Vehicle Commission and each insured warrantor;

(ii) The cancellation of a reimbursement insurance policy shall not reduce the issuer's responsibility for vehicle protection products sold prior to the date of cancellation; and

(iii) In the event an insurer cancels a policy that a warrantor has filed with the Motor Vehicle Commission, the warrantor shall do either of the following:

1. File a copy of a new policy with the Motor Vehicle Commission, before the termination of the prior policy, provided that there is no lapse in coverage following the termination of the prior policy; or

Miss. Code § 63-29-11 Warranty reimbursement insurance policy requirements (Mississippi Code (2019 Edition))

2. Discontinue acting as a warrantor as of the termination date of the policy until a new policy becomes effective and is accepted by the Motor Vehicle Commission.

HISTORY:

Laws, 2007, ch. 486, § 6, eff from and after July 1, 2007.

§ 63-29-13. Disclosure to warranty holder; contents.

(1) Every vehicle protection product warranty shall be written in clear, understandable language and shall be printed or typed in an easy-to-read point size and font and shall not be sold or offered for sale in the state unless the warranty:

(a) Contains a disclosure that reads substantially as follows: “This agreement is a product warranty and is not insurance.”;

(b) Identifies the warrantor, the administrator (if any), the seller and the warranty holder;

(c) Sets forth the procedure for making a claim, including a telephone number;

(d) Sets forth the total purchase price and the terms under which it is to be paid, however, the purchase price is not required to be preprinted on the vehicle protection product warranty and may be negotiated with the consumer at the time of sale;

(e) Sets forth any terms, restrictions or conditions governing transferability of the warranty, if any;

(f) Conspicuously sets forth all of the obligations and duties of the warranty holder such as the duty to protect against any further damage to the vehicle, the obligation to notify the warrantor in advance of any repair or other similar requirements, if any;

(g) Conspicuously states the existence of a deductible amount, if any;

(h) Specifies the payments or performance to be provided under the warranty including payments for incidental costs, the manner of calculation or determination of payments or performance and any limitations, exceptions or exclusions;

(i) Sets forth the conditions on which substitution will be allowed;

(j) Conspicuously states that the obligations of the warrantor to the warranty holder are insured under a warranty reimbursement insurance policy;

(k) Conspicuously states that, in the event a warranty holder must make a claim against a party other than the warranty reimbursement insurance

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policy issuer, the warranty holder is entitled to make a direct claim against the insurer upon the failure of the warrantor to pay any claim or meet any obligation under the terms of the warranty within sixty (60) days after proof of loss has been filed with the warrantor; and

(1)

Conspicuously states the name and address of the issuer of the warranty reimbursement insurance policy. This information need not be preprinted on the warranty form but may be stamped on the warranty. **(2)** At the time of sale, the seller or warrantor shall provide to the purchaser:

(a) A copy of the vehicle protection product warranty; or

(b) A receipt or other written evidence of the purchase of the vehicle protection product and a copy of the warranty within thirty (30) days of the date of purchase.

HISTORY:

Laws, 2007, ch. 486, § 7, eff from and after July 1, 2007.

Miss. Code § 63-29-15 Disclosure of terms and conditions governing cancellation of sale and warranty; cancellation of warranty only under certain conditions (Mississippi Code (2019 Edition))

§ 63-29-15. Disclosure of terms and conditions governing cancellation of sale and warranty; cancellation of warranty only under certain conditions.

(1) No vehicle protection product may be sold or offered for sale in this state unless the vehicle protection product warranty clearly states the terms and conditions governing the cancellation of the sale and warranty, if any.

(2) The warrantor may only cancel the warranty if the warranty holder does any of the following:

(a) Fails to pay for the vehicle protection product;

(b) Makes a material misrepresentation to the seller or warrantor;

(c) Commits fraud; or

(d) Substantially breaches the warranty holder's duties under the warranty.

(3) A warrantor canceling a warranty shall mail written notice of cancellation to the warranty holder at the last address of the warranty holder in the warrantor's records at least thirty (30) days prior to the effective date of the cancellation. The notice shall state the effective date of the cancellation and the reason for the cancellation.

HISTORY:

Laws, 2007, ch. 486, § 8, eff from and after July 1, 2007.

§ 63-29-17. Prohibited acts of warrantors.

- (1)** Unless licensed as an insurance company, a vehicle protection product warrantor shall not use in its name, contracts or literature the words “insurance,” “casualty,” “surety,” “mutual” or any other word that is descriptive of the insurance, casualty or surety business, or that is deceptively similar to the name or description of any insurance or surety corporation or any other vehicle protection product warrantor. A warrantor may use the term “guaranty” or a similar word in the warrantor’s name.
- (2)** A vehicle protection product warrantor shall not make, permit or cause any false or misleading statements, either oral or written, in connection with the sale, offer to sell or advertisement of a vehicle protection product.
- (3)** A vehicle protection product warrantor shall not permit or cause the omission of any material statement in connection with the sale, offer to sell or advertisement of a vehicle protection product.
- (4)** A vehicle protection product warrantor shall not make, permit or cause any false or misleading statements, either oral or written, about the performance required or payments that may be available under the vehicle protection product warranty.
- (5)** A vehicle protection product warrantor shall not make, permit or cause any statement or practice that has the effect of creating or maintaining a fraud.
- (6)** A vehicle protection product seller or warrantor may not require as a condition of sale or financing that a retail purchaser of a motor vehicle purchase a vehicle protection product that is not installed on the motor vehicle at the time of sale.

HISTORY:

Laws, 2007, ch. 486, § 9, eff from and after July 1, 2007.

§ 63-29-19. Record keeping; contents of warrantor's accounts, books, records.

(1) All vehicle protection product warrantors shall keep accurate accounts, books and records concerning transactions regulated under this chapter.

(2) A vehicle protection product warrantor's accounts, books and records shall include:

(a) Copies of all vehicle protection product warranties;

(b) The name and address of each warranty holder; and

(c) The dates, amounts and descriptions of all receipts, claims and expenditures.

(3) A vehicle protection product warrantor shall retain all required accounts, books and records pertaining to each warranty holder for at least two (2) years after the specified period of coverage has expired. A warrantor discontinuing business in the state shall maintain its records until it furnishes the Motor Vehicle Commission satisfactory proof that it has discharged all obligations to warranty holders in this state.

(4) Vehicle protection product warrantors shall make all accounts, books and records concerning transactions regulated under this chapter available to the Motor Vehicle Commission for the purpose of examination.

HISTORY:

Laws, 2007, ch. 486, § 10, eff from and after July 1, 2007.

§ 63-29-21. Examination of warrantors by Motor Vehicle Commission; enforcement of and penalties for violations of this chapter.

(1)

(a) The Motor Vehicle Commission may conduct examinations of warrantors, administrators or other persons to enforce this chapter and protect warranty holders in this state. Upon request of the Motor Vehicle Commission, a warrantor shall make available to the Motor Vehicle Commission all accounts, books and records concerning vehicle protection products sold by the warrantor that are necessary to enable the Motor Vehicle Commission to reasonably determine compliance or noncompliance with this chapter.

(b) Any person or entity examined shall pay any and all appropriate and reasonable costs incurred by the Motor Vehicle Commission during the examination, including, but not limited to, the compensation of such experts, actuaries, examiners or other persons as may be contracted for by the Motor Vehicle Commission or the Motor Vehicle Commission's designated appointee for the purpose of assisting in the examination. Such compensation shall be fixed at a reasonable amount commensurate with usual compensation for like services and shall be contracted for in accordance with applicable state contracting procedures, if applicable.

(2) The Motor Vehicle Commission may take action that is necessary or appropriate to enforce the provisions of this chapter and the Motor Vehicle Commission's rules and orders and to protect warranty holders in this state. If a person or entity violates this chapter and the Motor Vehicle Commission reasonably believes such violation threatens to cause irreparable loss or injury to the property or business of any person or company located in this state, the Motor Vehicle Commission may:

(a) Issue an order directed to that warrantor to cease and desist from engaging in further acts, practices or transactions that are causing the conduct;

(b) Issue an order prohibiting that warrantor from selling or offering for sale vehicle protection products in violation of this chapter;

(c) Issue an order imposing a civil penalty on that warrantor; or

(d) Issue any combination of paragraphs (a) through (c) of this subsection, as applicable.

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(3) The Motor Vehicle Commission may bring an action in any court of competent jurisdiction for an injunction or other appropriate relief to enjoin threatened or existing violations of this chapter or of the Motor Vehicle Commission's orders or rules. An action filed under this section also may seek restitution on behalf of persons aggrieved by a violation of this chapter or orders or rule of the Motor Vehicle Commission.

(4) A person or entity who is found to have violated this chapter or orders or rules of the Motor Vehicle Commission may be ordered to pay to the Motor Vehicle Commission a civil penalty in an amount, determined by the Motor Vehicle Commission, of not more than Five Hundred Dollars (\$500.00) per violation and not more than Ten Thousand Dollars (\$10,000.00) in the aggregate for all violations of a similar nature. For purposes of this section, violations shall be of a similar nature if the violation consists of the same or similar course of conduct, action or practice, irrespective of the number of times the conduct, action or practice is determined to be a violation of this chapter.

HISTORY:

Laws, 2007, ch. 486, § 11, eff from and after July 1, 2007.

§ 63-29-23. Service of process.

(1) Any warrantor doing business in this state in accordance with this chapter shall be deemed to have appointed the Motor Vehicle Commission its true and lawful attorney upon whom may be served all lawful process in any action or proceeding against it.

(2) Any warrantor doing business in this state, operating without the authority provided by this chapter, shall be deemed to have appointed the Secretary of State to be its true and lawful attorney upon whom may be served all lawful process in any action or proceeding against it.

HISTORY:

Laws, 2007, ch. 486, § 12, eff from and after July 1, 2007.

§ 63-29-25. Rules and regulations.

The Motor Vehicle Commission may adopt rules and regulations to establish procedures for implementing the provisions of this chapter as are necessary. Such rules and regulations shall include disclosures for the benefit of the warranty holder, record keeping requirements, registration fees, penalties and procedures for public complaints. Such rules and regulations shall also include the conditions under which surplus lines insurers may be rejected for the purpose of underwriting vehicle protection product warranty agreements.

HISTORY:

Laws, 2007, ch. 486, § 13, eff from and after July 1, 2007.

§ 63-29-27. Applicability of chapter.

This chapter applies to all vehicle protection products sold or offered for sale on or after July 1, 2007. The failure of any person to comply with this chapter before July 1, 2007, shall not be admissible in any court proceeding, administrative proceeding, 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.

HISTORY:

Laws, 2007, ch. 486, § 14, eff from and after July 1, 2007.

**§ 63-29-29. Effect of chapter on existing vehicle protection
product warranties.**

The adoption of this chapter does not imply that a vehicle protection product warranty constituted insurance prior to July 1, 2007.

HISTORY:

Laws, 2007, ch. 486, § 15, eff from and after July 1, 2007.