



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Yosef Schiff

Am. H.B. 632*

132nd General Assembly

(As Reported by H. Transportation and Public Safety)

Reps. Lang and Holmes, Carfagna, Riedel, Seitz, Wiggam

BILL SUMMARY

- Merges the motor vehicle tire or wheel road hazard contract provisions in the motor vehicle ancillary product protection (MVAPP) contract provisions.
- Adds a contract for key replacement as a type of MVAPP contract.
- Allows MVAPP contracts to provide for incidental payment of indemnity under limited circumstances including towing, rental, and emergency road services.
- Exempts a contract that is only for prepaid routine, scheduled maintenance from the definition of a consumer goods service contract.

CONTENT AND OPERATION

Motor vehicle tire or wheel road hazard contracts

The bill merges the motor vehicle tire or wheel road hazard contract (road hazard contract) provisions into the motor vehicle ancillary product protection (MVAPP) contract provisions. Under continuing law, all road hazard and MVAPP contracts are subject to certain requirements. For example, such a contract must be covered by a reimbursement insurance policy. It must contain certain items, including a disclosure that the contract is not insurance, a disclosure that the obligations are guaranteed under a reimbursement insurance policy, and the contract holder's rights under that policy. The reimbursement policy must include certain statements regarding

* This analysis was prepared before the report of the House Transportation and Public Safety Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

procedures for contract holders (those who purchased the road hazard or MVAPP contract) to collect under the provider's policy and protections in the event of cancellation of the policy. Finally, the sale or issuance of road hazard or MVAPP contracts is subject to the Consumer Sales Practices Act.¹

The bill repeals the existing provisions for road hazard contracts and merges these provisions into MVAPP provisions by classifying a contract for the repair or replacement of tires or wheels damaged because of a road hazard as an MVAPP contract. The bill also incorporates existing road hazard contract provisions that are not applicable to other MVAPPs. For example, a road hazard contract in which the provider is a tire manufacturer is exempt from the reimbursement insurance requirements if the contract contains certain items including a statement that the contract is not insurance, that any obligations are the responsibility of the provider, contact information for the provider and any contract administrators, and the procedure for making a claim.²

The bill merely merges the road hazard contract provisions into the MVAPP provisions; it does not make any substantive changes to the requirements for road hazard contracts.³

Other MVAPP provisions

The bill adds a contract for the replacement of a lost, stolen, or inoperable key or key fob as a type of MVAPP contract.⁴

The bill also provides that an MVAPP contract may, but is not required to, provide for incidental payment of indemnity under limited circumstances, including towing, rental, and emergency road services (an expansion from merely applying to road hazard contracts as under current law).⁵

Under continuing law, unless issued by an Ohio insurer, an MVAPP contract is not considered insurance. Under the bill, a contract explicitly excluded from the definition of an MVAPP contract does not constitute a contract substantially amounting to insurance, or the contract's issuance the business of insurance.⁶

¹ R.C. 3905.425 and 3905.426.

² R.C. 3905.426(J) and R.C. 3905.425 (repealed); conforming change in R.C. 3905.423(A)(3)(d).

³ R.C. 3905.426(A)(3)(a)(iv).

⁴ R.C. 3905.426(A)(3)(a)(v).

⁵ R.C. 3905.426(A)(3)(b).

⁶ R.C. 3905.426(H).



Also, the bill revises the list of contracts that are not considered MVAPP contracts. Under the bill, the excluded contracts are:

- A contract to perform or pay for motor vehicle repairs due to defects, normal wear and tear, or part failures that is effective for a specified duration and paid for by means other than the purchase of a motor vehicle (continuing law, but defined as a "motor vehicle service contract" under the bill);
- A vehicle protection product warranty (continuing law);
- A home service contract (continuing law);
- A consumer goods service contract (continuing law);
- A contract for prepaid routine, scheduled maintenance only (added by the bill).⁷

In addition to exempting a contract for prepaid routine, scheduled maintenance from the definition of an MVAPP contract, the bill also exempts it from the definition of a consumer goods service contract (a contract to perform or pay for repairs, replacement, or maintenance of consumer goods due to a defect in materials or workmanship, normal wear and tear, power surges, or accidental damage from handling, that is effective for a specified duration and paid for by means other than the purchase of the consumer goods).⁸

Motor vehicle service contracts

Under existing law, a contract to perform or pay for motor vehicle repairs due to defects, normal wear and tear, or part failures that is effective for a specified duration and paid for by means other than the purchase of a motor vehicle is excluded from the definition of "consumer goods service contract" and "motor vehicle ancillary product protection (MVAPP) contract." The bill keeps these exclusions in place, but identifies such a contract as a "motor vehicle service contract" (MVSC). In the definition, the bill specifies that an MVSC may, but is not required to, provide for incidental payment of indemnity under limited circumstances including towing, rental, and emergency road services.⁹

⁷ R.C. 3905.426(A)(3)(c).

⁸ R.C. 3905.423(A)(3)(e).

⁹ R.C. 3905.426(A)(4); conforming changes in R.C. 3905.423(A)(3)(a) and 3905.426(A)(3)(c)(i).

Definitions

"**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:

- Repair or replacement of glass on a motor vehicle necessitated by wear and tear or damage caused by a road hazard (continuing law);
- 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 (continuing law);
- 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 (continuing law);
- Repair or replacement of tires or wheels damaged because of a road hazard (added by the bill as part of merging the road hazard contract provisions into the MVAPP contract provisions);
- Replacement of a lost, stolen, or inoperable key or key fob (added by the bill).¹⁰

"**Road hazard**" means a condition that may cause damage or wear and tear to a tire or wheel on a public or private roadway, roadside, driveway, or parking lot or garage, including potholes, nails, glass, road debris, and curbs. "Road hazard" does not include fire, theft, vandalism or malicious mischief, or other perils normally covered by automobile physical damage insurance.¹¹

HISTORY

ACTION

Introduced
Reported, H. Transportation and Public Safety

DATE

05-03-18

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¹⁰ R.C. 3905.426(A)(3)(a).

¹¹ R.C. 3904.426(A)(6).

