

OCCUPATIONS CODE

TITLE 14. REGULATION OF MOTOR VEHICLES AND TRANSPORTATION

SUBTITLE A. REGULATIONS RELATED TO MOTOR VEHICLES

CHAPTER 2306. VEHICLE PROTECTION PRODUCT WARRANTORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2306.001. SHORT TITLE. This chapter may be cited as the Vehicle Protection Product Regulatory Act.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Sec. 2306.002. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(2) "Consumer" means a person in this state who purchases or otherwise possesses a vehicle protection product.

(3) "Department" means the Texas Department of Licensing and Regulation.

(4) "Executive director" means the executive director of the department.

(5) "Person" means an individual or a partnership, company, corporation, association, or other group, however organized.

(6) "Reimbursement insurance policy" means a policy of insurance issued to a warrantor to:

(A) provide reimbursement to the warrantor under the terms of the insured vehicle protection product issued or sold by the warrantor; and

(B) 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 insured vehicle protection product issued or sold by the warrantor.

(7) "Seller" means a person engaged in the business of offering a vehicle protection product for sale to a consumer.

(8) "Vehicle protection product" means a product or system, including a written warranty, that is:

- (A) installed on or applied to a vehicle;
- (B) designed to prevent loss or damage to a vehicle from a specific cause; and
- (C) subject to the limitation of Section [2306.003](#).

(9) "Warrantor" means a person named under the terms of a vehicle protection product warranty as the contractual obligor to the consumer.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Sec. 2306.003. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a vehicle protection product under which, after installation or application of the vehicle protection product, if loss or damage results from the failure of the vehicle protection product to perform as represented in the warranty, the warrantor, to the extent agreed on as part of the warranty, is required to pay expenses to the consumer for the loss of or damage to the vehicle.

(b) Loss of or damage to the vehicle under Subsection (a) may also include unreimbursed incidental expenses that may be incurred by the warrantor, including expenses for a replacement vehicle, temporary vehicle rental expenses, and registration expenses for replacement vehicles.

(c) A vehicle protection product may also include identity recovery, as defined by Section [1304.003](#), if the vehicle protection product is financed under Chapter [348](#) or [353](#), Finance Code.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 36 (S.B. [778](#)), Sec. 4, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 117 (H.B. [2559](#)), Sec. 22, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1207 (S.B. [1388](#)), Sec. 6, eff. September 1, 2013.

Sec. 2306.004. EXEMPTIONS FROM CERTAIN OTHER LAWS.

Marketing, selling, offering for sale, issuing, making, proposing to make, and administering a vehicle protection product are exempt from:

(1) Chapter 1304;

(2) the Insurance Code and other laws of this state regulating the business of insurance; and

(3) Chapter 722, Transportation Code.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Sec. 2306.005. EXEMPTIONS FROM CHAPTER. The following contracts and agreements are exempt from this chapter and are only subject to any other statute or law that specifically applies to them:

(1) warranties or guarantees, other than those provided as part of a vehicle protection product;

(2) service contracts regulated by Chapter 1304; and

(3) agreements issued by an automobile service club that holds a certificate of authority under Chapter 722, Transportation Code.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Sec. 2306.006. APPLICABILITY OF OTHER LAW. Section 51.405 does not apply to this chapter.

Added by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 15.010(a), eff. September 1, 2005.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 2306.051. POWERS AND DUTIES OF EXECUTIVE DIRECTOR.

(a) The commission may adopt rules as necessary to implement this chapter.

(b) The executive director may conduct investigations of warrantors or other persons as reasonably necessary to enforce this chapter and to protect consumers in this state.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept.

1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 15.010(b), eff. September 1, 2005.

Sec. 2306.052. FEES. (a) The department shall develop a tiered fee structure under which registration fees are assessed on warrantors based on the number of vehicle protection products sold within this state in the 12 months preceding the date of registration.

(b) The information submitted to the department under this section regarding the number of vehicle protection products sold by a warrantor may only be used by the department in determining the tiered fee structure. Information concerning the number of vehicle protection products sold by a warrantor submitted under this section is a trade secret and subject to Section 552.110, Government Code.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

SUBCHAPTER C. ADVISORY BOARD

Sec. 2306.101. ADVISORY BOARD. (a) The Vehicle Protection Product Warrantor Advisory Board is an advisory body to the commission.

(b) The advisory board consists of six members appointed by the presiding officer of the commission, with the commission's approval, as follows:

(1) two members who are officers, directors, or employees of a warrantor who has been approved or expects to be approved by the department;

(2) two members who are officers, directors, or employees of a retail outlet or other entity located in this state that sells vehicle protection products and is approved or expected to be approved by the department; and

(3) two members who are residents of this state and, at the time of appointment, are consumers of vehicle protection

products issued by warrantors registered or expected to be registered under this chapter.

(c) The executive director or the executive director's designee serves as an ex officio nonvoting member of the advisory board.

(d) Chapter 2110, Government Code, does not apply to the advisory board.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 15.010(c), eff. September 1, 2005.

Sec. 2306.102. ADVISORY BOARD DUTIES. The advisory board shall advise the commission on adopting rules, enforcing and administering this chapter, and setting fees.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 15.010(d), eff. September 1, 2005.

Sec. 2306.103. TERMS; VACANCY. (a) Members of the advisory board serve staggered six-year terms, with the terms of two members expiring on February 1 of each odd-numbered year.

(b) The presiding officer of the commission, with the commission's approval, shall fill any vacancy on the advisory board by appointing an individual who meets the qualifications for the vacant advisory board position to serve the remainder of the unexpired term.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 15.010(e), eff. September 1, 2005.

Sec. 2306.104. PRESIDING OFFICER. The presiding officer of

the commission, with the commission's approval, shall designate one member of the advisory board to serve as presiding officer of the board for two years.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 15.010(f), eff. September 1, 2005.

Sec. 2306.105. MEETINGS. (a) The advisory board shall meet at least every six months and may meet at other times at the call of the presiding officer of the board or the presiding officer of the commission.

(b) The advisory board shall meet at a location in this state designated by the advisory board.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 15.010(g), eff. September 1, 2005.

Sec. 2306.106. VOTE REQUIRED FOR ACTION. A decision of the advisory board is not effective unless it receives the affirmative vote of at least four members.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Sec. 2306.107. COMPENSATION; REIMBURSEMENT. (a) Advisory board members serve without compensation.

(b) A member of the advisory board appointed under Section 2306.101(b)(3) is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the advisory board, subject to any applicable limitation on reimbursement provided by the General Appropriations Act.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

SUBCHAPTER D. REGISTRATION

Sec. 2306.151. REGISTRATION REQUIRED. (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 department.

(b) A person who sells or solicits a vehicle protection product but who is not a warrantor is not required to register with the department as a warrantor.

(c) A seller is not a warrantor unless, in addition to acting as a seller, the person is named under the terms of a vehicle protection product warranty as the contractual obligor to the consumer.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Sec. 2306.152. APPLICATION. Each applicant for registration must file an application on a form prescribed by the department that includes evidence satisfactory to the department of compliance with the financial security requirements adopted under Section [2306.202](#).

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Sec. 2306.153. REGISTRATION FEE. Each registered warrantor must pay an annual registration fee as set by the commission to cover the costs of administering this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. [2018](#)), Sec. 15.010(h), eff. September 1, 2005.

Sec. 2306.154. RENEWAL OF REGISTRATION. The commission shall adopt rules providing for the renewal of a warrantor's registration.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 15.010(i),
eff. September 1, 2005.

SUBCHAPTER E. PRACTICE BY WARRANTOR

Sec. 2306.201. GENERAL WARRANTOR OPERATION REQUIREMENTS.

(a) A warrantor may appoint a designee to be responsible for any or all of the administration of vehicle protection products and for compliance with this chapter.

(b) A vehicle protection product may not be issued, sold, or offered for sale in this state unless at the time of sale the warrantor provides to the consumer:

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

(2) a receipt for, or other written evidence of, the purchase of the vehicle protection product.

(c) A warrantor who complies with Subsection (b)(2) shall, within a reasonable time after the date of purchase, provide to the consumer a copy of the vehicle protection product warranty.

(d) A warrantor shall indemnify a seller who pays or is obligated to pay a consumer any money the warrantor is obligated to pay under the terms of the vehicle protection product warranty, including damages, attorney's fees, and costs.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Sec. 2306.202. FINANCIAL SECURITY REQUIREMENTS. (a) To ensure the adequate performance of a warrantor's obligations to a consumer, each warrantor must comply with financial security requirements by:

(1) insuring its vehicle protection products under a reimbursement insurance policy issued by an insurer authorized to transact insurance in this state or by a surplus lines insurer eligible to place coverage in this state under Chapter 981, Insurance Code; or

(2) providing any other form of comparable financial

security approved by the executive director.

(b) The department may not require any other financial security requirements or financial standards for warrantors. Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Sec. 2306.2025. FINANCIAL SECURITY REQUIREMENTS; VALET PARKING SERVICES. (a) In this section, "valet parking service" has the meaning assigned by Section 686.001(3), Transportation Code.

(b) A valet parking service must abide by the financial responsibility requirements provided by Chapter 686, Transportation Code.

(c) The department may coordinate with the Texas Department of Insurance to assure consistency with the standard proof of motor vehicle liability insurance form prescribed by Section 601.081, Transportation Code.

Added by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 15.010(j), eff. September 1, 2005.

Sec. 2306.203. REIMBURSEMENT INSURANCE POLICY. (a) In order for a warrantor to comply with Section 2306.202(a)(1), the warrantor's insurance policy must state that:

(1) the insurer that issued the policy shall:

(A) reimburse or pay on behalf of the warrantor any covered amounts the warrantor is legally obligated to pay; or

(B) provide the service that the warrantor is legally obligated to perform according to the warrantor's obligations under the insured vehicle protection product issued or sold by the warrantor; and

(2) if the covered amounts are not paid or the covered service is not provided by the warrantor to a consumer before the 61st day after the date the consumer provides proof of loss, payment shall be made or the service shall be provided directly from the reimbursement insurer to the consumer.

(b) An insurer who issues a reimbursement insurance policy under this chapter may not cancel the policy until the insurer delivers to the warrantor a written notice of cancellation that

complies with the notice requirements prescribed by Subchapters B and C, Chapter 551, Insurance Code, for cancellation of an insurance policy under those subchapters. The warrantor shall forward a copy of the cancellation notice to the department not later than the 15th business day after the date the notice is delivered to the warrantor.

(c) The cancellation of a reimbursement insurance policy does not reduce the insurer's responsibility for vehicle protection products issued by the warrantor and insured under the policy before the date of the cancellation.

(d) For purposes of this section, a warrantor is considered to be the representative of the insurer who issues the reimbursement insurance policy for purposes of obligating the insurer to consumers in accordance with the vehicle protection product and this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.156, eff. September 1, 2005.

Sec. 2306.204. WARRANTOR RECORDS. (a) Each warrantor shall maintain accurate accounts, books, and other records regarding transactions regulated under this chapter. The warrantor's records must include:

(1) a copy of the warranty for each unique form of vehicle protection product sold;

(2) the name and address of each consumer;

(3) a list of the locations where the warrantor's vehicle protection products are marketed, sold, or offered for sale; and

(4) files that contain at least the dates and descriptions of payments to consumers related to the vehicle protection product.

(b) On request of the executive director, a warrantor shall make the warrantor's records maintained under this section regarding vehicle protection products sold by the warrantor

available to the department as necessary to enable the department to reasonably determine compliance with this chapter.

(c) The records required to be maintained under this section may be maintained in an electronic medium or through another recordkeeping technology. If a record is maintained in a format other than paper, the warrantor must be able to reformat the record into a legible paper copy at the request of the department.

(d) Except as provided by Subsection (e), each warrantor shall retain all records required under Subsection (a) until at least the first anniversary of the expiration date of the obligations under the vehicle protection product warranty.

(e) A warrantor who discontinues business in this state shall maintain the warrantor's records until the date the warrantor provides the department with proof satisfactory to the department that the warrantor has discharged all obligations to consumers in this state.

(f) The commission shall adopt rules governing how a warrantor shall protect nonpublic personal information provided by a consumer to the warrantor.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 15.010(k), eff. September 1, 2005.

Sec. 2306.205. FORM OF VEHICLE PROTECTION PRODUCT WARRANTY AND REQUIRED DISCLOSURES. (a) Each Vehicle Protection product warranty marketed, sold, offered for sale, issued, made, proposed to be made, or administered in this state must be written, printed, or typed, in clear, understandable, and easy-to-read language and must disclose the applicable requirements set forth in this section.

(b) A vehicle protection product warranty insured under a reimbursement insurance policy must contain a statement substantially similar to the following:

"Obligations of the warrantor under this vehicle protection product are insured under a reimbursement insurance policy."

(c) The vehicle protection product warranty must state the name and address of the insurer and state that if a covered service is not provided by the warrantor before the 61st day after the date the consumer provides proof of loss, the consumer may apply for reimbursement directly to the vehicle protection product's reimbursement insurer.

(d) A vehicle protection product warranty that is not insured under a reimbursement insurance policy must contain a statement substantially similar to the following:

"Obligations of the warrantor under this vehicle protection product are backed by the full faith and credit of the warrantor."

(e) Each vehicle protection product warranty must state the name, address, and telephone number of the warrantor. All warrantors shall report to the department before the 31st day after the date of any change in the information required to be provided in this subsection.

(f) Each vehicle protection product warranty must identify any administrator, if different from the warrantor, the vehicle protection product seller, and the consumer, if the name of the consumer has been provided by the consumer. The identities of those persons are not required to be preprinted on the warranty and may be added to the warranty at the time of sale.

(g) Each vehicle protection product warranty must state the product's purchase price, or the warrantor's suggested purchase price, and the terms under which the product is sold. 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.

(h) Each vehicle protection product warranty must:

(1) specify the products and services to be provided and any limitations, exceptions, or exclusions;

(2) specify any restrictions governing the transferability of the vehicle protection product;

(3) state the duties of the consumer, including any duty to protect against any further damage and any requirement to follow the warranty's instructions;

(4) state the name, mailing address, and telephone

number of the department; and

(5) include a statement that unresolved complaints concerning a registered warrantor or questions concerning the regulation of a warrantor may be addressed to the department.

(i) The requirements of Subsections (h)(4) and (5) may be stamped on the vehicle protection product warranty.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Sec. 2306.206. CANCELLATION OF WARRANTY. (a) Each vehicle protection product warranty must state the terms, restrictions, or conditions, if any, governing cancellation of the warranty by the warrantor before the expiration date of the warranty. Cancellation may only occur under this section for:

(1) nonpayment by the consumer for the vehicle protection product;

(2) a material misrepresentation by the consumer to the seller or warrantor;

(3) fraud by the consumer; or

(4) a substantial breach of duties by the consumer relating to the warranty.

(b) A warrantor shall mail written notice of cancellation to the consumer at the last address of the consumer contained in the records of the warrantor before the fifth day preceding the effective date of the cancellation. The notice must state the effective date of the cancellation and the reason for the cancellation.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Sec. 2306.207. LIMITATIONS ON WARRANTOR'S NAME. (a) A warrantor may not use a name that:

(1) includes "casualty," "surety," "insurance," or "mutual" or any other word descriptive of the casualty, insurance, or surety business; or

(2) is deceptively similar to the name or description of any insurer or surety corporation or to the name of any other

warrantor.

(b) A warrantor may use the word "guaranty" or a similar word in the warrantor's name.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Sec. 2306.208. PROHIBITED ACTS. (a) A warrantor or a warrantor's representative may not, in the warrantor's vehicle protection product warranty or in an advertisement or literature for the warranty:

(1) make, permit, or cause to be made any false or misleading statement; or

(2) deliberately omit a material statement that would be considered misleading if omitted.

(b) A 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.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

SUBCHAPTER F. ENFORCEMENT AND PENALTY PROVISIONS

Sec. 2306.252. INJUNCTION. The executive director may bring an action against a warrantor for injunctive relief under Section [51.352](#) for a threatened or existing violation of this chapter or of an order or rule adopted under this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. [2018](#)), Sec. 15.010(1), eff. September 1, 2005.

Sec. 2306.253. CIVIL PENALTY. (a) In addition to injunctive relief under Section 2306.252, the executive director may bring an action against a warrantor for a civil penalty as provided by Section [51.352](#).

(b) A civil penalty assessed under this section may not exceed:

(1) \$1,000 for each violation; or

(2) \$50,000 in the aggregate for all violations of a similar nature.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Sec. 2306.254. VIOLATIONS OF A SIMILAR NATURE. For purposes of Section [2306.253](#), violations are of a similar nature if the violations consist of the same or a similar course of conduct, action, or practice, regardless of the number of times the conduct, act, or practice determined to be a violation of this chapter occurred.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.629(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. [2018](#)), Sec. 15.010(m), eff. September 1, 2005.