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**RULE PROPOSALS**

**LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS**

*40 N.J.R. 6404(a)*

**Proposed New Rules: N.J.A.C. 13:45A-30**

[Click here to view Interested Persons Statement](#)

**Vehicle Protection Product Warranties**

Authorized By: Division of Consumer Affairs, David Szuchman, Director.

Authority: P.L. 2007, c. 166, codified as *N.J.S.A. 17:18-19* through *17:18-26*, and *N.J.S.A. 56:8-167*.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2008-371.

Submit comments by January 2, 2009 to:

David Szuchman, Director  
New Jersey Division of Consumer Affairs  
124 Halsey Street  
P.O. Box 45027  
Newark, New Jersey 07101

The agency proposal follows:

**Summary**

The Division of Consumer Affairs is proposing new rules for vehicle protection product warranties, implementing P.L. 2007, c. 166, codified at N.J.A.C. 17:18-19 et seq. The new law requires all warrantors of vehicle protection products sold or offered for sale in the State to be registered with the Division and to satisfy certain requirements prior to selling or offering to sell such warranties in New Jersey.

The proposed new rules at N.J.A.C. 13:45A-30 apply to the warranties sold in connection with the purchase of certain vehicle protection products. For purposes of the new rules, vehicle protection products are those products that

are installed on or applied to a vehicle in order to prevent loss or damage to the vehicle or to facilitate the vehicle's recovery if it is stolen and that are sold with a written warranty covering the failure of the product to perform as intended. Under the new rules, vehicle protection products include 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. The new rules do not apply to any product that is installed on or [page=6405] applied to a vehicle by the vehicle manufacturer at the vehicle assembly facility. The written warranty is a contractual obligation between the warrantor and the consumer/warranty holder providing that if the product fails to prevent loss or damage to the vehicle or fails to facilitate recovery of the vehicle if it is stolen, the consumer/warranty holder will be paid specified incidental costs by the warrantor. Incidental costs may include 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.

Proposed new rule N.J.A.C. 13:45A-30.1 sets forth the purpose and scope of the new subchapter. Proposed new rule N.J.A.C. 13:45A-30.2 provides definitions for relevant terms used throughout the new subchapter. Proposed new rule N.J.A.C. 13:45A-30.3 provides that no person may operate as a vehicle protection product warrantor in New Jersey unless the person is registered with the Division. A warrantor applying for registration must submit a registration application to the Division. As part of this application, the warrantor must submit copies of the form(s) of warranties issued for sale in the State, and the statutorily imposed registration fee of \$ 1,000. In addition, the warrantor must certify that he or she is covered by a warranty reimbursement insurance policy. The purpose of this insurance policy is to reimburse the warrantor for payments made under the terms of the warrantor's vehicle protection product warranties, and to pay, on behalf of the warrantor, the warrantor's covered obligations under the warranties in the event the warrantor fails to perform. The insurance policy must be issued by a licensed insurer that has filed its policy form and rating system with the Department of Banking and Insurance. In addition, the warrantor must certify that the insurance policy that he or she holds meets the requirements outlined in the proposed new rules and must submit a copy of the insurance policy with the registration application. Registration under the new rules will be valid for one year. Warrantors applying for registration renewal will be required to submit a renewal application and a renewal fee of \$ 1,000.

Proposed new rule N.J.A.C. 13:45A-30.3 also requires the warrantor to notify the Division within 30 days of any changes in the information submitted to the Division and to submit revised copies of the form of warranties or the warranty reimbursement insurance policy within 30 days of any changes to these documents. All information submitted in connection with a warrantor's initial registration and registration renewal applications will be made available to the public upon request.

Proposed new rule N.J.A.C. 13:45A-30.4 establishes requirements for vehicle protection product warranties sold or offered for sale in New Jersey. Such warranties must identify the warrantor, the seller, the consumer/warranty holder and the terms of the sale. The warranty must also conspicuously state, in plain language, the obligations of the warrantor to the consumer/warranty holder, including the incidental costs, which may be reimbursed under the agreement and any limitations under the warranty. The warranty must state that those obligations are guaranteed by a warranty reimbursement insurance policy. The warranty must also detail the process that a consumer/warranty holder must follow in order to make a claim under the warranty. The warranty must clearly identify the insurance company issuing the warranty reimbursement insurance policy, and, if the warrantor has chosen a third-party administrator to be responsible for administration of the warranty in the State, the name and address of the administrator must also be disclosed in the warranty. The warranty must provide that if the payment due under the terms of the warranty is not provided by the warrantor within 60 days after proof of loss has been filed by the consumer/warranty holder, the consumer/warranty holder may file a claim for reimbursement directly with the warranty reimbursement insurance company. The process for filing a claim under the warranty reimbursement insurance policy must also be clearly delineated in the warranty.

Proposed new rule N.J.A.C. 13:45A-30.4 requires the warranty to provide the consumer/warranty holder with contact information for the Division and for the Department of Banking and Insurance, so the consumer may obtain information about the warranty and the warranty reimbursement insurance policy, respectively. In addition, the warranty

must contain a written disclosure advising consumers that the warranty is not insurance, but rather a contractual agreement between the consumer and the warrantor. The warrantor or the vehicle protection product seller must ensure that a written copy of the warranty is made available to consumers prior to purchase.

Proposed new rule N.J.A.C. 13:45A-30.5 establishes requirements for any company that issues vehicle protection product warranty reimbursement insurance policies in New Jersey. The company must be licensed by, and have filed a complete rating system of rates, rules and forms, with the New Jersey Department of Banking and Insurance. The company must submit its reimbursement insurance policy to the Department of Banking and Insurance at least 30 days prior to the date the warrantor applies for registration with the Division. The policy must be on an occurrence basis and must specify that coverage is being provided for the Vehicle Protection Warranty Insurance Reimbursement Program. The policy must provide reimbursement for, or pay on behalf of the warrantor, all incidental costs covered under the warranty or provide the service that the warrantor is legally obligated to perform under the warranty. The policy must also specify that the reimbursement or service required under the warranty must be paid by the company directly to the consumer/warranty holder if the warrantor fails to act within 60 days after proof of loss has been filed by the consumer. The cancellation and non-renewal provisions of the policy must comply with Department of Banking and Insurance rules, and any revisions to the policy must be filed with the Department of Banking and Insurance. Upon receipt of a notice of cancellation or non-renewal of the insurance policy, the warrantor must immediately send a copy of the notice to the Director.

Proposed new rule N.J.A.C. 13:45A-30.6 provides that a warranty administrator, if one has been designated by the warrantor, or any person who sells or solicits sales of vehicle protection products are exempt from the registration requirements of the new rules. Vehicle protection product sellers, however, must ensure that a written copy of the warranty is made available to consumers prior to purchase of the warranty.

Proposed new rule N.J.A.C. 13:45A-30.7 makes it an unlawful practice for a person to sell vehicle protection products in the State, or to offer such products for sale, with a warranty issued by a warrantor that is not registered with the Division. It is also an unlawful practice for a warrantor who is not registered with the Division to offer for sale or to issue vehicle protection product warranties in the State. The proposed new rule makes it an unlawful practice for a warrantor or vehicle protection product seller to require a consumer to purchase a vehicle protection product that is not installed on the motor vehicle at the time of sale as a condition of the sale or financing of a motor vehicle.

Proposed new rule N.J.A.C. 13:45A-30.8 provides that any violations of the new rules will be deemed violations of the Consumer Fraud Act that may result in the assessment of penalties by the Division.

Proposed new rule N.J.A.C. 13:45A-30.9 sets forth the fees that will be charged by the Division in connection with the registration of vehicle protection product warrantors. As noted above, the initial registration fee and the registration renewal fee for warrantors will be \$ 1,000, as provided in the statute.

The Division has provided a 60-day comment period for this notice of proposal. Therefore, this notice is excepted from the rulemaking calendar requirement pursuant to *N.J.A.C. 1:30-3.3(a)5*.

### **Social Impact**

The Division believes that the proposed new rules will have a positive impact upon consumers in the State who purchase vehicle protection products that are backed by warranties. The proposed new rules will help to ensure that consumers are provided with relevant information about such warranties prior to purchase, including the procedures that must be followed in order to file a claim under a warranty in the event that a product fails to perform as intended. Consumers will also benefit from the proposed new rules to the extent that the warranties associated with such products must be backed by warranty reimbursement insurance policies that will provide reimbursement to consumers if warrantors fail to meet their obligations under the terms of the warranties.

**Economic Impact**

The proposed new rules will have an economic impact upon warrantors who issue warranties covering vehicle protection products sold or offered for sale in the State. Such warrantors will be required to register with the Division and pay an initial registration fee of \$ 1,000. [page=6406] Warrantors will also be required to pay an annual registration renewal fee of \$ 1,000. The Division believes that warrantors may also incur administrative expenses in connection with submitting required documentation to the Division and in ensuring that the warrantor's form of warranties comply with the requirements in the new rules. Warrantors may also be economically impacted by the new rules if they do not currently have and, therefore, must obtain, warranty reimbursement insurance policy coverage. Companies providing warranty reimbursement insurance policies may also be economically impacted by the new rules to the extent that such companies incur costs in connection with making the required submissions to the Department of Banking and Insurance in New Jersey.

**Federal Standards Statement**

A Federal standards analysis is not required because the proposed new rules are governed by P.L. 2007, c. 166, codified as *N.J.S.A. 17:18-19* through 26 and 56:8-167 and are not subject to any Federal requirements or standards.

**Jobs Impact**

The Division does not believe that the proposed new rules will result in the creation or the loss of jobs in the State.

**Agriculture Industry Impact**

The Division does not believe that the proposed new rules will have any impact on the agriculture industry of the State.

**Regulatory Flexibility Analysis**

The Division cannot estimate the number of warrantors currently issuing warranties for vehicle protection products sold or offered for sale in the State who will be required to register with the Division under the proposed new rules. However, if these warrantors are considered "small businesses" within the meaning of the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq., then the following analysis applies.

The proposed new rules will not impose any reporting or recordkeeping requirements upon warrantors. The proposed new rules will, however, impose various compliance requirements upon warrantors. These requirements are discussed in the Summary above.

No additional professional services will be needed to comply with the proposed new rules. The costs of compliance with the proposed new rules are discussed in the Summary and Economic Impact above. The Division believes that the proposed new rules should be uniformly applied to all warrantors issuing warranties covering vehicle protection products sold or offered for sale in New Jersey to ensure that consumers who purchase these product warranties are adequately protected. Therefore, no differing compliance requirements for any warrantor is provided based upon the size of the business.

**Smart Growth Impact**

The Division does not believe that the proposed new rules will have any impact upon the achievement of smart growth or upon the implementation of the State Development and Redevelopment Plan.

**Housing Affordability Impact**

The proposed new rules will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the proposed new rules concern warranties for vehicle protection products sold or offered for sale in the State.

### **Smart Growth Development Impact**

The proposed new rules will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because the proposed new rules concern warranties for vehicle protection products sold or offered for sale in the State.

**Full text** of the proposed new rules follows:

## **SUBCHAPTER 30. VEHICLE PROTECTION PRODUCT WARRANTIES**

### **13:45A-30.1 Purpose and scope**

(a) The rules in this subchapter implement the provisions of P.L. 2007, c. 166, concerning vehicle protection product warranties, and shall apply to all warrantors issuing warranties covering vehicle protection products sold or offered for sale in the State.

(b) The rules in this subchapter shall apply only to vehicle protection products purchased by a consumer on or after (the effective date of this subchapter). Vehicle protection products purchased by a consumer before this date and subsequently transferred to another consumer on or after this date shall not be subject to the provisions of this subchapter.

### **13:45A-30.2 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context indicates otherwise.

"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.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Incidental costs" means losses and expenses that are specified in the vehicle protection product warranty and are incurred by the warranty holder relating to the failure of the vehicle protection product to perform as provided in the warranty. Incidental costs may include, but are not limited to, 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.

"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 or to facilitate the recovery of the vehicle after it has been stolen; and

3. Includes a written warranty by a warrantor that if the vehicle protection product fails to prevent loss or damage to the vehicle from a specific cause or to facilitate the recovery of the vehicle after it has been stolen, 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.

The term includes, but is not limited to, 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. The term does not include a vehicle protection device, system or service that is installed on or applied to a vehicle by the vehicle manufacturer at the vehicle assembly facility.

"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. Warrantor does not include a licensed insurer.

"Vehicle protection product warranty" or "warranty" means an agreement that is limited to indemnifying the warranty holder for incidental costs, which may be reimbursed under the provisions of the agreement in either a fixed amount specified in the agreement or by the use of a formula itemizing specific incidental costs incurred by the warranty holder. A "vehicle protection product warranty" is not a contract for insurance.

"Warranty holder" means a person who has purchased a vehicle protection product and has entered into a contractual agreement with a vehicle protection product warrantor that obligates the warrantor to perform under the terms of the vehicle protection product warranty.

"Warranty reimbursement insurance policy" means a policy of insurance issued to a vehicle protection product warrantor to provide reimbursement to the warrantor for payments made under the terms of the insured warrantor's vehicle protection product warranty, and to pay on behalf of the warrantor, in the event of the warrantor's nonperformance, [page=6407] all covered obligations incurred by the warrantor under the terms of the warrantor's vehicle protection product warranty.

#### 13:45A-30.3 Registration and renewal requirements

(a) No person shall operate as, or represent or advertise to the public, that the person is a warrantor of vehicle protection products sold or offered for sale in this State unless the person is registered with the Division of Consumer Affairs pursuant to the rules in this subchapter.

(b) An applicant for registration as a warrantor of vehicle protection products shall submit the following to the Division:

1. A completed application for registration, which shall contain:

i. The warrantor's name and any assumed name under which the warrantor does business in the State;

ii. The warrantor's principal office street address and telephone number;

iii. The name, address and telephone number of all administrators designated by the warrantor to be responsible for the administration of vehicle protection product warranties in this State;

iv. The name, address and telephone number of the insurance company providing the warranty reimbursement insurance policy coverage;

v. A certification by the applicant for registration that the applicant is covered by a warranty reimbursement insurance

policy issued by a licensed insurer in accordance with *N.J.S.A. 17:17-1* that has filed a complete rating system of rates, rules and forms in accordance with *N.J.S.A. 17:29A-7* with the Department of Banking and Insurance at least 30 days prior to the date of application and that the insurer has not been notified by the Department of Banking and Insurance that the filing was disapproved, and that the warranty reimbursement insurance policy meets the requirements of N.J.A.C. 13:45A-30.5; and

vi. The name and address of a designated agent in the State for service of process;

2. A copy of the applicant's warranty reimbursement insurance policy, which shall comply with the requirements of N.J.A.C. 13:45A-30.5;

3. A copy of the form of warranties issued by the warrantor for sale in this State, which shall comply with the requirements of N.J.A.C. 13:45A-30.4; and

4. A registration fee, as set forth at N.J.A.C. 13:45A-30.9.

(c) A registration issued under this section shall be renewed annually. Applicants for registration renewal shall submit a renewal application containing the information specified in (b) above and the renewal fee set forth at N.J.A.C. 13:45A-30.9.

(d) Falsification of any information on the registration or renewal application may result in the denial of registration or the suspension or revocation of registration and the assessment of penalties pursuant to the Consumer Fraud Act, *N.J.S.A. 56:8-1* et seq.

(e) A registrant shall notify the Division within 30 days of any changes in the information originally submitted as part of the application for registration. An applicant shall file with the Division revised copies of the registrant's form of warranties or warranty reimbursement insurance policy within 30 days of any changes to the documents.

(f) The information submitted as part of the registration and renewal applications shall be made available to the public.

#### 13:45A-30.4 Vehicle protection product warranty requirements

(a) A vehicle protection product warranty sold or offered for sale in this State shall:

1. Identify the warrantor, the seller, the warranty holder and the terms of the sale;

2. Conspicuously and in plain language, as defined in *N.J.S.A. 56:12-1* et seq., state in writing:

i. The obligations of the warrantor to the warranty holder, including the incidental costs, which may be reimbursed under the provisions of the agreement in either a fixed amount specified in the agreement or by the use of a formula itemizing specific incidental costs incurred by the warranty holder, any limitations under the warranty, and state that those obligations are guaranteed under a warranty reimbursement insurance policy;

ii. The process that shall be followed by the warranty holder in order to make a claim under the warranty, including what evidence will be required to establish proof of loss under the warranty and the name, address and telephone number of the warranty administrator, if applicable;

iii. That if the payment due under the terms of the warranty is not provided by the warrantor within 60 days after proof of loss has been filed pursuant to the terms of the warranty by the warranty holder, the warranty holder may file directly with the warranty reimbursement insurance company for reimbursement;

iv. The name and address of the company issuing the warranty reimbursement insurance policy and, if different, the complete address at which a claim may be filed;

v. The process that shall be followed by the warranty holder in order to make a claim under the reimbursement insurance policy;

vi. That questions about the warranty may be directed to the Division, and shall include the Division address, phone number and website as 124 Halsey Street, Newark, New Jersey 07101, (973) 504-6200, [www.njconsumeraffairs.gov](http://www.njconsumeraffairs.gov); and

vii. That questions about the warranty reimbursement insurance policy may be directed to the Department of Banking and Insurance, and shall include the Department's address, phone number and website as 20 West State Street, PO Box 325, Trenton, NJ 08625, (800) 446-7467, [www.state.nj.us/dobi/index.html](http://www.state.nj.us/dobi/index.html).

(b) A warranty that meets the requirements set forth in this subchapter shall not constitute insurance. Such warranty shall contain a written disclosure that reads substantially as follows: "THIS AGREEMENT IS A PRODUCT WARRANTY, NOT INSURANCE, AND IS UNDER THE PURVIEW OF THE DIVISION OF CONSUMER AFFAIRS." The disclosure statement shall be in 10-point bold face type.

(c) The warrantor or seller of vehicle protection products shall ensure that a written copy of the warranty is made available to consumers prior to purchase, at the point of sale.

#### 13:45A-30.5 Warranty reimbursement insurance policy requirements for registration of warrantors

(a) A vehicle protection product warranty reimbursement insurance policy filed by a warrantor pursuant to N.J.A.C. 13:45A-30.3(b)2 shall meet the following requirements:

1. The vehicle protection product warranty reimbursement insurance policy shall be submitted to the Department of Banking and Insurance at least 30 days prior to becoming effective in accordance with *N.J.S.A. 17:29AA-6*;

2. The vehicle protection product warranty reimbursement insurance policy shall be on an occurrence basis;

3. The vehicle protection product warranty reimbursement insurance policy form shall specify that coverage is being provided for the Vehicle Protection Warranty Insurance Reimbursement Program;

4. The vehicle protection product warranty reimbursement insurance policy shall provide reimbursement for or pay on behalf of the warrantor all incidental costs as specified in *N.J.S.A. 17:18-19* or provide the service that the warrantor is legally obligated to perform in accordance with the warrantor's contractual obligations under the warranty, as specified in *N.J.S.A. 17:18-22*;

5. The vehicle protection product warranty reimbursement insurance policy form shall specify that reimbursement or service required by the warranty shall be paid by the insurer directly to the warranty holder if payment is not made by the warrantor within 60 days after proof of loss has been filed;

6. A copy of the vehicle protection product warranty shall be provided with the filing submission to the Department of Banking and Insurance;

7. Cancellation and non-renewal provisions of the policy shall comply with N.J.A.C. 11:1-20; and

8. Any revisions to the vehicle protection product warranty reimbursement insurance policy shall be filed with the Department of Banking and Insurance in accordance with *N.J.S.A. 17:29AA-5* and 6.

(b) Upon receipt of a notice of cancellation or non-renewal of the vehicle protection product warranty reimbursement insurance policy, the warrantor shall immediately send the Director a copy of such notice.

13:45A-30.6 Registration exemptions

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 register as a warrantor under this subchapter in order to act as an [page=6408] administrator of vehicle protection product warranties or to sell vehicle protection products. Consistent with N.J.A.C. 13:45A-30.4(c), however, the seller of vehicle protection products shall ensure that a written copy of the warranty is made available to consumers prior to purchase, at the point of sale.

13:45A-30.7 Unlawful practices

(a) It shall be an unlawful practice for a person to sell, or offer for sale, a vehicle protection product in this State with a warranty issued by a warrantor that is not registered with the Division pursuant to this subchapter.

(b) It shall be an unlawful practice for a person who is not registered pursuant to this subchapter to offer or issue a vehicle protection product warranty in this State.

(c) It shall be an unlawful practice for a warrantor or seller of vehicle protection products to require a retail purchaser of a motor vehicle to purchase a vehicle protection product that is not installed on the motor vehicle at the time of sale as a condition of sale or financing.

13:45A-30.8 Violations

Any violations of the rules in this subchapter shall be deemed a violation of the Consumer Fraud Act and may subject a person to the assessment of penalties pursuant to *N.J.S.A. 56:8-1* et seq.

13:45A-30.9 Fees

(a) The Division shall charge the following non-refundable vehicle protection product warrantor registration fees:

- 1. Initial registration fee. . . . . \$ 1,000;
- 2. Renewal registration fee. . . . . \$ 1,000.