

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1054

Introduced by McCoy, 39.

Read first time January 18, 2012

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to ancillary product contracts; to define terms;
2 to exempt ancillary product contracts from state
3 insurance laws; and to authorize the sale of ancillary
4 product contracts in conjunction with other contracts as
5 prescribed.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) For purposes of this section:

2 (a) Administrator means the person who is responsible for
3 the administration of the ancillary product contracts;

4 (b) Ancillary product contract means an ancillary service
5 contract or ancillary protection product warranty;

6 (c) Ancillary product provider includes providers and
7 warrantors;

8 (d) Ancillary protection product means a protective
9 chemical, substance, device, system, or service that (i) is installed
10 on or applied to a motor vehicle, (ii) is designed to prevent loss or
11 damage to a motor vehicle from a specific cause, and (iii) includes
12 an ancillary protection product warranty. Ancillary protection
13 product includes, but is not limited to, chemical additives, alarm
14 systems, body part marking products, steering locks, window etch
15 products, pedal and ignition locks, fuel and ignition kill switches,
16 and electronic, radio, and satellite tracking devices;

17 (e) Ancillary protection product warranty means a written
18 agreement by a warrantor that provides if the ancillary protection
19 product fails to prevent loss or damage to a motor vehicle from a
20 specific cause, that the warrantor will pay to or on behalf of the
21 warranty holder specified incidental costs as a result of the failure
22 of the ancillary protection product to perform pursuant to the terms
23 of the ancillary protection product warranty;

24 (f) Ancillary service contract means an agreement that is
25 effective for a specified duration and paid for by means other than

1 the purchase of a motor vehicle to perform any one or more of the
2 following services:

3 (i) The repair or replacement of tires or wheels on a
4 motor vehicle damaged as a result of coming into contact with road
5 hazards;

6 (ii) The removal of dents, dings, or creases on a motor
7 vehicle that can be repaired using the process of paintless dent
8 removal without affecting the existing paint finish and without
9 replacing vehicle body panels, sanding, bonding, or painting;

10 (iii) The repair of chips or cracks in or the replacement
11 of motor vehicle windshields as a result of damage caused by road
12 hazards;

13 (iv) The replacement of a motor vehicle key or key fob in
14 the event that the key or key fob becomes inoperable or is lost or
15 stolen; or

16 (v) Other services approved by the director;

17 (g) Contract holder means the person who purchases an
18 ancillary service contract, any authorized transferee or assignee of
19 the purchaser, or any other person legally assuming the purchaser's
20 rights under the ancillary service contract;

21 (h) Director means the Director of Insurance;

22 (i) Incidental costs means expenses specified in an
23 ancillary protection product warranty that are incurred by the
24 warranty holder due to the failure of an ancillary protection product
25 to perform as provided in the contract. Incidental costs include, but

1 are not limited to, insurance policy deductibles, rental vehicle
2 charges, the difference between the actual value of the stolen
3 vehicle at the time of theft and the cost of a replacement vehicle,
4 sales taxes, registration fees, transaction fees, and mechanical
5 inspection fees. Incidental costs may be reimbursed in either a fixed
6 amount specified in the ancillary protection product warranty or by
7 use of a formula itemizing specific incidental costs incurred by the
8 warranty holder;

9 (j) Motor vehicle has the same meaning as in section
10 60-123;

11 (k) Person means an individual, company, association,
12 organization, partnership, business trust, corporation, or any other
13 form of legal entity;

14 (l) Provider means a person who is contractually
15 obligated to a contract holder under the terms of an ancillary
16 service contract;

17 (m) Road hazard means a hazard that is encountered while
18 driving a motor vehicle, including, but not limited to, potholes,
19 rocks, wood debris, metal parts, glass, plastic, curbs, or composite
20 scraps;

21 (n) Warrantor means a person who is contractually
22 obligated to the warranty holder under the terms of the ancillary
23 protection product warranty; and

24 (o) Warranty holder means the person who purchases an
25 ancillary protection product, any authorized transferee or assignee

1 of the purchaser, or any other person legally assuming the
2 purchaser's rights under the ancillary product contract.

3 (2) The marketing, sale, offering for sale, issuance,
4 making, proposing to make, and administration of ancillary product
5 contracts by ancillary product providers and related ancillary
6 product contract sellers, administrators, and other persons shall be
7 exempt from all provisions of the insurance laws of this state.

8 (3) An ancillary product contract may be sold in
9 conjunction with a motor vehicle service contract as defined in
10 section 44-3521. A motor vehicle service contract form may include an
11 ancillary protection product warranty and may also include any one or
12 more of the services available under an ancillary service contract as
13 defined in subsection (1) of this section. Nothing in this section
14 shall make ancillary product contracts subject to the requirements of
15 the Motor Vehicle Service Contract Reimbursement Insurance Act.