

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 602**

Introduced by Pahls, 31.

Read first time January 20, 2021

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to motor vehicles; to define terms; to provide
- 2 duties for insurers relating to aftermarket parts and total loss
- 3 declarations; and to provide requirements for consumer care of a
- 4 motor vehicle relating to aftermarket parts.
- 5 Be it enacted by the people of the State of Nebraska,

1           Section 1. For purposes of sections 2 and 3 of this act:

2           (1) Aftermarket part means a part for a motor vehicle that is not an  
3 original equipment manufacturer part;

4           (2) Consumer care has the definition found in section 60-1401.10;

5           (3) Insurer means any insurance company, adjustor, or agent;

6           (4) Frame has the definition found in section 60-2601;

7           (5) Manufacturer has the definition found in section 60-1401.24;

8           (6) Original equipment manufacturer part means a part for a motor  
9 vehicle that is manufactured by a manufacturer; and

10          (7) Person has the definition found in section 60-1401.31.

11          Sec. 2. (1) No insurer shall require consumer care of a motor  
12 vehicle manufactured within thirty-six months of the date of damage to  
13 the motor vehicle to be completed with aftermarket parts.

14          Sec. 3. (1)(a) An insurer may include the following notice in a  
15 policy which covers consumer care of a motor vehicle manufactured more  
16 than thirty-six months prior to the date of the policy in capitalized  
17 ten-point font and without other policy language on the page:

18           IN THE REPAIR OF YOUR COVERED MOTOR VEHICLE UNDER THE DAMAGE  
19 COVERAGE PROVISIONS OF THIS POLICY, WE MAY REQUIRE OR SPECIFY THE USE OF  
20 AFTERMARKET PARTS NOT MADE BY THE ORIGINAL EQUIPMENT MANUFACTURER. SUCH  
21 AFTERMARKET PARTS ARE REQUIRED TO BE AT LEAST EQUAL IN TERMS OF FIT,  
22 QUALITY, PERFORMANCE, AND WARRANTY TO ORIGINAL EQUIPMENT MANUFACTURER  
23 PARTS.

24          (b) If an insurer includes the policy language specified in  
25 subdivision (a) of this subsection in a policy, the owner of the motor  
26 vehicle shall acknowledge and sign below such policy language.

27          (c) If the owner of a motor vehicle makes a claim on an insurance  
28 policy which includes the policy language specified in subdivision (a) of  
29 this subsection, the insurer shall provide written notice to the owner of  
30 the motor vehicle, including an appraisal from the person performing the  
31 consumer care of the cost to complete such consumer care. Such notice

1 shall inform the owner of the motor vehicle whether the consumer care was  
2 completed with original equipment manufacturer parts or aftermarket  
3 parts.

4 (2) When consumer care provided to a motor vehicle relates to the  
5 repair of an original equipment manufacturer part, an insurer shall not  
6 require such consumer care to be completed in a manner which is contrary  
7 to the specifications of the manufacturer of the motor vehicle.

8 Sec. 4. (1) An insurer shall not designate a motor vehicle as a  
9 total loss if the cost to repair the motor vehicle is less than seventy-  
10 five percent of the fair market value of the motor vehicle at the time of  
11 the insurance claim.

12 (2)(a) Fair market value shall be determined (i) as set forth in a  
13 current edition of any nationally recognized compilation, including  
14 automated data bases, of retail values or (ii) pursuant to a market  
15 survey of comparable vehicles with respect to condition and equipment.

16 (b) The following shall not be included for purposes of determining  
17 the cost to repair the motor vehicle: Air bags, air bag components,  
18 wheels, tires, accessories or modifications added to the motor vehicle  
19 after such motor vehicle was manufactured, towing expenses, diagnostic  
20 scans, or tax on the consumer care of the motor vehicle.

21 Sec. 5. (1) For purposes of this section:

22 (a) Aftermarket part means a part for a motor vehicle that is not an  
23 original equipment manufacturer part;

24 (b) Consumer care has the definition found in section 60-1401.10;

25 (c) Insurer means any insurance company, adjustor, or agent;

26 (d) Frame has the definition found in section 60-2601;

27 (e) Manufacturer has the definition found in section 60-1401.24;

28 (f) Original equipment manufacturer part means a part for a motor  
29 vehicle that is manufactured by a manufacturer; and

30 (g) Person has the definition found in section 60-1401.31.

31 (2)(a) When consumer care provided to a motor vehicle relates to the

1 repair of an original equipment manufacturer part, such repair shall be  
2 made in accordance with the specifications of the manufacturer of the  
3 motor vehicle.

4 (b) Subdivision (a) of this subsection may be waived by the owner of  
5 the vehicle in a written confirmation from such owner.

6 (c) Written confirmation provided pursuant to subdivision (b) of  
7 this subsection shall be invalid if such owner was not provided a written  
8 notice of consumer care to be performed.

9 (d) A person who provides consumer care shall provide a written  
10 notice to the owner of the motor vehicle:

11 (i) Identifying each aftermarket part intended to be used in  
12 consumer care and the origin of such aftermarket part; and

13 (ii) Informing the owner of the motor vehicle that warranties  
14 applicable to the aftermarket part are provided by the maker of the  
15 aftermarket part and not the manufacturer of the motor vehicle.