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Bill Analysis

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Primary Sponsor: Sen. Lang

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SUMMARY

Financial products involving motor vehicles

- Exempts “excess wear and use waivers,” i.e., contracts that nullify fees that might otherwise be owed at the end of a motor vehicle lease agreement for driving too many miles or damaging the vehicle, from state insurance laws.
- Prohibits conditioning terms of a motor vehicle lease on the consumer’s payment for an excess wear and use waiver.
- Expands the existing insurance law exemption for motor vehicle “debt cancellation or debt suspension products” to include products that provide a financial benefit for the purchase of a new vehicle.
- Limits the current requirement that debt cancellation or debt suspension products be listed as a specific good when invoiced to the consumer to “optional” products that are not a condition of the sale.
- Exempts optional debt cancellation or debt suspension products from state law limitations on interest and finance charges.
- Expands the types of agreements that qualify as “ancillary product protection contracts” and, thus, are exempted from state insurance laws to include certain contracts that protect against lease-end charges, vehicle value protection agreements, and contracts involving under-speed vehicles.
- Requires providers of “vehicle value protection agreements,” i.e., agreements that provide a benefit to the purchaser when a vehicle is lost, stolen, damaged, obsolete, or diminished in value, to allow a 30-day period for the contract holder to cancel the agreement so long as no benefits have been paid.

- Establishes procedures and requirements for contract providers that seek to cancel a vehicle value protection agreement.

Replica motor vehicles

- Authorizes a person to register a replica motor vehicle (which is a vehicle that intends to replicate another motor vehicle that is at least 25 years old), for limited operation on public roads and highways.
- Authorizes the owner of a replica motor vehicle to request that the certificate of title indicate that the vehicle is a replica vehicle, and establishes procedures for issuance of the certificate of title.
- Exempts replica motor vehicles from certain motor vehicle equipment requirements (e.g., emissions, noise control, and fuel usage) that were not in effect in the year of manufacture that the vehicle replicates.

Expired rental vehicle registration

- Exempts the operator of a rental vehicle from the prohibition against driving without a valid motor vehicle registration under certain conditions.
- Places the liability for fees, fines, and penalties arising from the violation on the registered owner of the rental vehicle.

Ohio Assigned Risk Insurance Plan

- Requires insurance agents to take certain actions to confirm that a person seeking automobile insurance through the Ohio Assigned Risk Insurance Plan is unable to secure coverage through private insurers.

Uninsured drivers

- Expands the persons who may report a driver or owner of a motor vehicle involved in an accident to the Bureau of Motor Vehicles for failure to maintain financial responsibility to include any person who suffers injury or property damage, as opposed to only persons who are also drivers of a vehicle involved in the accident.

DETAILED ANALYSIS

Financial products involving motor vehicles

Overview

Continuing law exempts certain maintenance, value protection, and repair products offered in connection with the sale or lease of a motor vehicle from state insurance laws. The bill expands the types of products that qualify for that exemption. It also modifies some of the requirements associated with those products, including requirements involving invoicing, cancellation, and surety.

Excess wear and use waivers

The bill creates a new class of motor vehicle products, referred to as “excess wear and use waivers,” that are exempt from state insurance laws. A vehicle lease agreement typically stipulates how many miles the person leasing the vehicle may drive the vehicle each year for the duration of the lease. For example, it is common for leases to allow up to 10,000 or 12,000 miles per year. At the end of the lease, a fee is paid for each mile driven beyond the allotted amount. Excess wear and use waivers effectively nullify those fees.

Under the bill, an “excess wear and use waiver” is defined as any contractual agreement that is part of, or a separate addendum to, a lease agreement for use of a motor vehicle, under which the lessor (the entity providing the vehicle) agrees, with or without a separate charge, to do one or both of the following:

- Cancel or waive all or part of amounts that may become due under a lease agreement as a result of excess wear and use of a motor vehicle;
- Cancel or waive amounts due for excess mileage.

The bill specifies that the terms of a lease are not to be conditioned upon the consumer’s payment for any excess wear and use waiver. Excess wear and use waivers may be discounted or given at no extra charge in connection with the purchase of other noncredit related goods or services.¹

Debt cancellation or debt suspension products

A “debt cancellation or debt suspension product” is an agreement, exempt from state insurance laws, that cancels any debt associated with a motor vehicle that is destroyed or stolen. Under continuing law, the term includes a guaranteed asset protection waiver, guaranteed auto protection waiver, or any other similarly named agreement. The bill adds that a debt cancellation or debt suspension product may also provide a benefit that waives an amount, or provides a borrower with a credit, towards the purchase of a replacement motor vehicle. Such a benefit may be included with or without a separate charge.

Current law requires the charges associated with debt cancellation or debt suspension products to be listed as a specific good. In other words, the charge cannot be lumped in with the total purchase price for the vehicle. Under the bill, this requirement applies only to “optional” debt cancellation or debt suspension products. Consequently, it appears that when a retail seller conditions the sale of a motor vehicle on the consumer’s purchase of a debt cancellation or debt suspension product, that product need not be itemized, and may be lumped into the total purchase price.

Furthermore, the bill specifies that optional debt cancellation or debt suspension products are not to be considered a finance charge or interest. Under continuing law, a finance charge is an amount paid or contracted to a retail seller for the privilege of paying the principal balance of the transaction in installments over time. Ohio law caps the amount that a retail seller

¹ R.C. 1310.251.

may collect as a finance charge or interest. The bill seemingly exempts optional debt cancellation or debt suspension products from those limits. In addition, finance charges are subject to certain disclosure requirements under the federal “Truth in Lending Act” (TILA). It is not clear what, if any, affect the bill would have on the application of TILA to debt cancellation or debt suspension products.²

Protection against lease-end charges

The bill expands the services that qualify as motor vehicle ancillary product protection contracts to include, in conjunction with a leased vehicle, both of the following:

- The repair, replacement, or maintenance of property, or indemnification for repair, replacement, or maintenance, due to excess wear and use, damage for items such as tires, paint cracks or chips, missing interior or exterior parts, or excess mileage that results in a lease-end charge; and
- Any other charge for damage that is deemed as excess wear and use by a lessor under a motor vehicle lease.

The bill specifies that such services do not qualify as a motor vehicle ancillary product protection contract if the charge exceeds the purchase price of the vehicle at the end of the lease term. It appears that an excess wear and use waiver, described above, would qualify as an ancillary product protection contract in at least some cases.³

Vehicle value protection agreements

The bill also specifies that a motor vehicle ancillary product protection contract includes a vehicle value protection agreement.

Characteristics

When a motor vehicle is damaged, lost, stolen, or otherwise depreciates in value, these agreements provide a benefit towards either the reduction of some or all of the contract holder’s current finance agreement deficiency balance (such as an amount still owed on a vehicle loan or lease agreement), or towards the purchase or lease of a replacement motor vehicle or motor vehicle services. Under the bill, “vehicle value protection agreement” includes trade-in-credit agreements, diminished value agreements, depreciation benefit agreements, or other similar agreements. “Vehicle value protection agreement” does not include a debt suspension or debt cancellation product.⁴ “Finance agreement” is defined as a loan or retail installment contract secured by a motor vehicle or a lease.⁵

² R.C. 1317.05(B); R.C. 1317.01, 1317.06, and 1343.01, not in the bill; 15 United States Code 1601, *et. seq.*

³ R.C. 3905.426(A)(4)(a)(vi).

⁴ R.C. 3905.426(A)(2), (A)(4)(a)(vii), and (A)(10).

⁵ R.C. 3905.426(A)(2).

Cancellation by contract holder

The bill specifies that a vehicle value protection agreement may be canceled by the contract holder within 30 days of the effective date of the agreement. If the agreement is cancelled, the contract holder is entitled to a full refund of the purchase price, so long as no benefits have been paid under the agreement.⁶

For those vehicle value protection agreements that allow the contract holder to cancel the agreement *more* than 30 days after the effective date of the agreement, the agreement must state the conditions under which it may be canceled, including the procedures for requesting any refund of the purchase price paid by the contract holder and the methodology for calculating any refund of the purchase price.⁷

Any refund provided in response to a cancellation initiated by the contract holder is required to be paid to the seller or assignee of a retail installment contract or lease agreement unless otherwise agreed to by the contract holder and the seller or assignee.⁸

Cancellation by contract provider

If a vehicle value protection agreement is cancelled by the contract provider, the provider is required to mail a written notice to the contract holder at the holder's last known address at least five days prior to cancellation. Prior notice is not required if the reason for cancellation is nonpayment of the provider fee, a material misrepresentation by the contract holder to the contract provider or administrator, or a substantial breach of duties by the contract holder relating to the covered product or the use of the covered product. Such a notice must state the effective date of the cancellation and the reason for the cancellation.

If a vehicle value protection agreement is canceled by the contract provider for a reason other than nonpayment of the provider fee, the provider is required to refund to the contract holder 100% of the "unearned" provider fee paid by the contract holder, if any. The bill does not specify how or when all, or a portion of, the fee is earned by the contract provider. If coverage under the vehicle value protection agreement continues after a claim, then the bill specifies that all paid claims may be deducted from any required refund. A reasonable administrative fee of up to \$75 may be charged by the contract provider and deducted from any refund due to cancellation.⁹

Under-speed vehicles

The bill amends the definition of "motor vehicle" to include an under-speed vehicle, which is a three- or four-wheeled vehicle that can go less than 20 miles per hour and has a weight

⁶ R.C. 3905.426(E).

⁷ R.C. 3905.426(F).

⁸ R.C. 3905.426(H).

⁹ R.C. 3905.426(G).

of less than 3,000 pounds.¹⁰ In effect, this change exempts ancillary product protection contracts involving under-speed vehicles from insurance laws.

Replica motor vehicles

The bill establishes requirements for registration, title, and use of replica motor vehicles. A “replica motor vehicle” is a motor vehicle that is constructed, assembled, or modified to replicate the make, model, and model year of a motor vehicle that is at least 25 years old.¹¹ The bill authorizes specific exemptions related to motor vehicle registration and equipment requirements for replica motor vehicles. However, to take advantage of these exemptions, the replica motor vehicle must be titled as a replica motor vehicle and may not be used for general transportation. Replica motor vehicles that are not titled pursuant to the bill’s procedures are subject to general motor vehicle registration, titling, and equipment requirements.¹²

Replica motor vehicle registration

To register the replica motor vehicle, the owner must execute an affidavit that the replica motor vehicle will be used only for the following purposes:

1. Club activities, exhibitions, tours, parades, and similar uses; and
2. Travel to and from a location where maintenance is performed on the replica motor vehicle.¹³

Additionally, the affidavit must declare that the State Highway Patrol inspected the replica motor vehicle and found it safe to operate on public roads and highways. In lieu of the regular registration taxes and fees, the owner must pay a one-time, \$10 license fee to the Registrar or deputy registrar for the registration of the replica vehicle, similar to the fee for historical vehicles. Proceeds of the fee must be deposited in the existing Public Safety – Highway Purposes Fund.¹⁴

The owner of a replica motor vehicle must display a replica motor vehicle license plate in plain view on the rear of the vehicle. A replica motor vehicle license plate must display the inscription “Replica Vehicle – Ohio” and the registration number assigned to the replica vehicle. Unlike a historical vehicle, no vehicle date of manufacture is listed on a replica vehicle license plate. While a replica motor vehicle does not require annual registration, if the owner transfers the replica motor vehicle to a new owner, the new owner must re-register the replica motor vehicle through the same procedures.¹⁵

¹⁰ R.C. 3905.426(A).

¹¹ R.C. 4501.01(JJ).

¹² R.C. 4505.072(E).

¹³ R.C. 4503.183(A) and (C).

¹⁴ R.C. 4503.183(B) and (C).

¹⁵ R.C. 4503.183(D) and (E).

Replica motor vehicle designation on certificate of title

Under the bill, a person who wants the certificate of title to indicate that a motor vehicle is a replica motor vehicle must do the following:

1. Have the State Highway Patrol inspect the vehicle;
2. Obtain an inspection report from the Patrol;
3. Obtain a signed written statement from a person or nonprofit corporation with expertise in historical motor vehicles that the motor vehicle reasonably replicates the motor vehicle that the owner intends to replicate; and
4. Sign and notarize the written statement.¹⁶

If these conditions are met, and the owner requests that the certificate of title indicate that the motor vehicle is a replica motor vehicle, the clerk of a court of common pleas must issue to the owner the requested certificate of title. If a motor vehicle is titled as replica motor vehicle, any future owner of the motor vehicle must title it as a replica motor vehicle. The Registrar must ensure that this certificate of title:

1. Is in the same form as the original certificate of title;
2. Displays the word “REPLICA” in black boldface letters;
3. Includes the make, model, and model year of the motor vehicle the owner intends to replicate; and
4. Includes the year the replica motor vehicle was constructed, assembled, or modified.¹⁷

The Registrar must develop an automated procedure within the automated title processing system for this process.¹⁸ The owner of a replica motor vehicle that is titled pursuant to these procedures must obtain replica motor vehicle license plates and comply with the general registration and operation limitations of a replica motor vehicle.¹⁹

Equipment exemptions for replica motor vehicles

The bill exempts replica motor vehicles, that are titled as such, from the following:

1. The general provision that motor vehicles must have stop lights (if the replica motor vehicle replicates a motor vehicle that was not originally manufactured with stop lights);
2. Emissions, noise control, and fuel usage provisions that were enacted or adopted after the year of manufacture that the vehicle replicates.²⁰

¹⁶ R.C. 4505.072(A).

¹⁷ R.C. 4505.072(B), (C), and (D) and 4505.08.

¹⁸ R.C. 4505.072(D)(2).

¹⁹ R.C. 4505.072(E)(1).

²⁰ R.C. 4513.071 and 4513.41.

Additionally, the bill specifies that a person cannot be prohibited from owning or operating a replica motor vehicle that is equipped with an item that did not violate a motor vehicle equipment law that was in effect in the calendar year it replicates. Similarly, the person cannot be prohibited from owning or operating a replica motor vehicle that fails to comply with an equipment requirement that was adopted in a year subsequent to the year of manufacture of the vehicle that the replica motor vehicle replicates. For example, if a replica motor vehicle replicates a 1955 Ford Thunderbird, the owner of the replica motor vehicle does not need to comply with equipment requirements adopted after 1955.²¹

Expired rental vehicle registration

The bill exempts the operator of a rental vehicle from the prohibition against driving without a valid motor vehicle registration under certain conditions. Under current law, the owner *and operator* of a motor vehicle must ensure that the rear license plate displays the distinctive number and registration mark assigned to that motor vehicle, a county identification sticker, and a validation sticker that indicates the vehicle's registration has not expired. Failure to meet these requirements is a minor misdemeanor.²²

In circumstances when the motor vehicle is a rental vehicle, however, the operator of the vehicle has significantly less control over ensuring or knowing if the vehicle is properly registered. Thus, the bill exempts the rental vehicle operator from the general prohibition if all the following apply:

1. The operator has a valid written rental agreement with a motor vehicle renting dealer and the agreement is in effect at the time of the offense;
2. At the time of the offense or at the time of a court hearing regarding the offense, the operator provides the rental agreement to the peace officer, Ohio State Highway Patrol trooper, or court that is enforcing the prohibition; and
3. The operator has not removed, concealed, or modified the license plate or validation sticker as placed or attached by the motor vehicle renting dealer or its affiliate.

If the operator is exempt, then the registered owner of the rental vehicle is solely liable for any fees, fines, or penalties for the violation.²³

Ohio Assigned Risk Insurance Plan

The bill requires insurance agents to meet certain due diligence requirements prior to submitting an application for automobile insurance to the Ohio Assigned Risk Insurance Plan (OARIP). The OARIP provides automobile insurance to licensed drivers that are unable to purchase automobile insurance through Ohio's voluntary market due to a variety of factors, such as driving history or first-time driver status.

²¹ R.C. 4513.38.

²² R.C. 4503.21.

²³ R.C. 4503.211.

Due diligence under the bill requires an insurance agent to contact at least five of the insurers the agents represents or, if the agent does not represent five insurers that generally provide automobile insurance, as many of such insurers as the agent represents. An insurance agent may assume that insurance coverage cannot be obtained after each insurer contacted declines coverage. An insurer is deemed to have declined coverage if the insurer fails to respond within ten days after the agent makes contact. Insurance agents are further prohibited from submitting an application to the OARIP if any other insurer eligible to do business in this state has in any way communicated a willingness to insure the applicant, even if the coverage provided by OARIP costs less than other insurers.

The OARIP may revoke the authority of any agent who fails to comply with these requirements to submit applications to the OARIP, with OARIP having sole authority over making final determinations as to whether an insurance agent has met the due diligence requirement.²⁴

Uninsured drivers

The bill expands the persons who may report a driver or owner of a motor vehicle involved in an accident to the Bureau of Motor Vehicles (BMV) for failure to maintain financial responsibility. Under current law, the driver of any motor vehicle which is in any manner involved in a motor vehicle accident may, within six months after the accident, forward a written report of the accident to the BMV alleging that the driver or owner of any other vehicle involved in the accident was uninsured at the time of the accident. Under the bill, any person who is involved in such an accident, including as the driver of a motor vehicle, the owner of property, or any other person sustaining bodily injury or property damage as a result of the accident, may make such a report to the BMV.²⁵

Under continuing law, maintained by the bill, any person who is unable to provide proof of insurance or other form of financial responsibility are subject to the following civil penalties:

- For a first offense – suspension of the person’s driver’s license until specified conditions are met and a reinstatement fee of \$40;
- For a second offense within one year of the first offense – suspension of the person’s driver’s license for a period of one year and a reinstatement fee of \$300;
- For a third or subsequent offense within one year of the first offense – suspension of the person’s driver’s license for a period of two years and a reinstatement fee of \$600.²⁶

²⁴ R.C. 4509.70(H)(6).

²⁵ R.C. 4509.06(A).

²⁶ R.C. 4509.101(A), not in the bill.

HISTORY

Action	Date
Introduced	02-04-25
