

Rulemaking Hearing Rules  
of  
Tennessee Department of Commerce and Insurance  
Insurance Division

Chapter 0780-01-80  
Tennessee Vehicle Protection Product Act Regulations

New Rules

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0780-01-80-.01 Purpose.

- (1) The purpose of this Chapter is to set standards to assist the commissioner of commerce and insurance in administering the Tennessee Vehicle Protection Product Act (“Act”), as provided for in T.C.A. § 56-55-113.

Authority: T.C.A. §§ 56-55-101, *et seq.*

0780-01-80-.02 Scope.

- (1) This Chapter shall not be interpreted to limit the powers granted the commissioner by any laws or parts of laws of this State, nor shall this Chapter be interpreted to supersede any laws or parts of laws of this State.

Authority: T.C.A. § 56-55-113.

0780-01-80-03 Authority.

- (1) This Chapter is issued pursuant to the authority vested in the commissioner of Commerce and Insurance of the State of Tennessee pursuant to T.C.A. §§ 56-55-101 through 56-55-115.

Authority: T.C.A. §§ 56-55-101, *et seq.*

0780-01-80-.04 Definitions.

- (1) “Act” means the Tennessee Vehicle Protection Product Act, T.C.A. §§ 56-55-101, *et seq.*;
- (2) “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;

- (3) "Commissioner" means the commissioner of the Tennessee Department of Commerce and Insurance;
- (4) "Department" means the Tennessee Department of Commerce and Insurance;
- (5) "Incidental costs" means expenses resulting from loss or damage to a vehicle, as specified in the warranty, incurred by the warranty holder, related to the failure of the vehicle protection product to perform as provided in the warranty. "Incidental costs" may include, but not be 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. "Incidental costs" do not include the costs specified in the warranty to repair, replace or provide a refund for a vehicle protection product that fails to perform as provided in the warranty. "Incidental costs" may be determined by a formula or by a fixed amount, either of which must be set forth in the warranty;
- (6) "Person" means any natural or artificial person including, but not limited to, an individual, partnership, association, trust or corporation;
- (7) (a) "Vehicle protection product" means a vehicle protection device, system, or service that:
  - (i) Is installed on or applied to a vehicle;
  - (ii) Is designed to prevent loss or damage to a vehicle from a specific cause; and
  - (iii) Includes a written warranty;(b) "Vehicle protection product" 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;
- (8) "Vehicle protection product warranty" or "warranty" means a written agreement by a warrantor that provides that, if the vehicle protection product fails to prevent loss or damage to a vehicle from a specific cause, then 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;
- (9) "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 agreement. "Warrantor" does not include an authorized insurer;
- (10) "Warranty holder" means the person who purchases a vehicle protection product or who is a permitted transferee; and
- (11) "Warranty reimbursement insurance policy" means a policy of insurance that is issued to the vehicle protection product warrantor to provide reimbursement to the warrantor, or to pay on behalf of the warrantor, all covered contractual obligations incurred by the warrantor under the terms and conditions of the insured vehicle protection product warranties sold by the warrantor.

Authority: T.C.A. §§ 56-55-102 and 56-55-113.

0780-01-80-.05 Warrantor Filing Requirements.

- (1) The following items are required to be submitted upon the initial registration of any person wishing to register to operate as a warrantor of vehicle protection products, and annually thereafter in order to renew the registration:
  - (a) The information required by T.C.A. § 56-55-104(b). This information shall be submitted on a form created by the commissioner;
  - (b) Copies of any warranty reimbursement insurance policy or policies which are to cover any vehicle protection product warranties provided in this State. Such policies must conform to the requirements found in T.C.A. §§ 56-55-105 and 56-55-106;
  - (c) Two (2) copies of each warranty the registrant proposes to use in this State, including each warranty already registered for use that the renewal applicant proposes to use;
  - (d) An appointment of the commissioner and the commissioner's deputies and successors as true and lawful attorneys upon whom any and all lawful process may be served on behalf of the warrantor in connection with any business done by the warrantor under T.C.A. §§ 56-55-101, *et seq.* Such appointment shall be made on a form created by the commissioner;
  - (e) A registration fee in the amount of five hundred fifteen dollars (\$515.00); and
  - (f) A self addressed stamped envelope.
- (2) A complete copy of each registration form, including all required exhibits and other papers and documents filed as a part thereof, shall be filed with the commissioner by personal delivery or mail addressed to: Department of Commerce and Insurance, State of Tennessee, 500 James Robertson Parkway, Davy Crockett Tower, Fourth Floor, Nashville, Tennessee 37243, Attention: Vehicle Protection Product Specialist. The registration form shall be manually signed.
- (3) Should the registration form submitted upon the initial registration of a warrantor be deficient in any information required by T.C.A. §§ 56-55-105 or 56-55-106 and Paragraphs (1) and (2) of this Rule, the commissioner shall notify that initial registrant immediately of all such deficiencies. The initial registrant shall have forty-five (45) days from the date the notice was sent by the commissioner to correct all deficiencies. Should the initial registrant not correct all deficiencies within the forty-five (45) days, the commissioner shall deem the application abandoned. Any registrant who has abandoned an application must reapply as set forth in Paragraphs (1) and (2) of this Rule in order to register as a warrantor.
- (4) Should there be any change(s) in a registrant's information provided pursuant to this Rule prior to the registrant's renewal, the commissioner must be notified, in writing, within thirty (30) days of such change(s) by personal delivery or mail addressed to: Department of Commerce and Insurance, State of Tennessee, 500 James Robertson Parkway, Davy Crockett Tower, Fourth Floor, Nashville, Tennessee 37243, Attention: Vehicle Protection Product Specialist. The written notice shall state any change(s) to the information and what the information stated before the change(s). The written notice shall be manually signed. Changes in a registrant's information include, but are not limited to, changes to any of the warranties previously registered and changes to the warranty reimbursement insurance policy. A change in a registrant's information does not include the use of any additional warranties not previously registered. Such warranties must be submitted for registration prior to use.

- (5) If a registrant fails to properly renew its registration by July 1 of each year, the commissioner shall give the registrant written notice of the failure to properly register. The registrant shall then have thirty (30) days from the date of the receipt of the notice of the failure to properly register to complete the registration before the registration is canceled. Any registrant with a canceled registration must reapply as set forth in Paragraphs (1) and (2) of this Rule in order to obtain a new registration.

Authority: T.C.A. §§ 56-55-104, 56-55-105, 56-55-106, 56-55-112 and 56-55-113.

0780-01-80-.06 Use of Surplus Lines Insurers.

- (1) A warrantor may secure a warranty reimbursement insurance policy or policies which are to cover any vehicle protection product warranties provided in this State from a surplus lines insurer. Such policies must conform to the requirements found in T.C.A. §§ 56-55-105 and 56-55-106, and must be secured through a licensed surplus lines agent who represents a surplus lines insurer that is domiciled in the United States, and eligible under T.C.A. §§ 56-14-101, *et seq.*, to provide such coverage.

Authority: T.C.A. §§ 56-55-105, 56-55-106, 56-55-113 and 56-14-101, *et seq.*

0780-01-80-.07 Vehicle Protection Product Warranty Form Requirements.

- (1) All vehicle protection product warranty forms required to be submitted under T.C.A. § 56-55-104(b) and Rule 0780-01-80-.05 shall contain the language and disclosures required by T.C.A. § 56-55-107, and may not contain any of the language or statements prohibited by T.C.A. § 56-55-109.
- (2) No vehicle protection product warranty shall contain any typeface smaller than twelve (12) point font, and the typeface chosen must be easily readable. All vehicle protection product warranties must be written in English but may be written in other languages as well so long as the translation of the warranty is a reasonable translation; any discrepancies in a translated warranty should be read in favor of the purchaser of the warranty.

Authority: T.C.A. §§ 56-55-104, 56-55-107, 56-55-109 and 56-55-113.

0780-01-80-.08 Record Keeping Requirements.

- (1) Each vehicle protection product warrantor shall maintain its accounts, books and records in the manner outlined in T.C.A. § 56-55-110.

Authority: T.C.A. §§ 56-55-110 and 56-55-113.

0780-01-80-.09 Procedures for Public Complaints.

- (1) Complaints concerning vehicle protection product warranties and/or the warrantors who provide such warranties shall be handled by the Consumer Insurance Services Section (or successor organizational unit) of the Department's Insurance Division.
- (2) The Consumer Insurance Services Section (or successor organizational unit) shall record and review all complaints received under this Rule, and the process for such review and disposition shall be the same as that for all other complaints submitted to the Consumer Insurance Services Section.

Authority: T.C.A. §§ 56-8-107, 56-8-118, 56-55-109, 56-55-111 and 56-55-113.

0780-01-80-.10 Cease and Desist Orders and Penalties.

- (1) If the commissioner determines that any person is violating any section of the Act or any of the provisions of this Chapter, the commissioner may issue an order directing the warrantor to cease and desist from engaging in those acts, practices or transactions that are found to violate the Act or this Chapter, and may issue an order prohibiting the warrantor from continuing to offer any vehicle protection product in violation of the Act or the provisions of this Chapter.
- (2) The commissioner may, after notice and a hearing, levy a civil penalty in an amount not to exceed five thousand dollars (\$5,000) against the warrantor of a vehicle protection product or person required to be registered to provide a vehicle protection product, upon a finding that the warrantor or the person required to be registered as a warrantor has violated any provision of the Act or of this Chapter. Each vehicle protection product warranty provided in violation of the Act and/or this Chapter and/or each day of continued violation shall constitute a separate violation for purposes of determining the possible amount of penalty under this section.

Authority: T.C.A. §§ 56-55-111 and 56-55-113.

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 22nd day of April, 2008, and will become effective on the ~~6th day of July, 2008~~\*. (FS 04-12-08; DBID 2865)

\*The GOC stayed the effective date. The new effective date is August 16, 2008.

**Economic Impact Statement:**

1. Types of small businesses directly affected:

The types of small businesses that may be directly affected by these proposed rules would include insurance companies and producers offering warranty reimbursement insurance policies to the vehicle protection product warrantor to provide reimbursement to the warrantor or to pay on behalf of the warrantor. Warrantors of vehicle protection products would also be affected by having to comply with the proposed rules.

2. Projected reporting, recordkeeping, and other administrative costs:

All warrantors are required to: 1) register, both initially and annually, information in accordance with T.C.A. § 56-55-104(b); 2) submit copies of any warranty reimbursement insurance policies; 3) submit two (2) copies of each warranty the registrant proposes to use; 4) appoint the commissioner and the commissioner's deputies and successors upon whom lawful process may be served on behalf of warrantor; 5) pay a registration fee of five hundred fifteen dollars (\$515); and 6) submit a self-addressed stamped envelope.

Each warrantor shall also maintain its accounts, books and records for a period of not less than two (2) years in accordance with T.C.A. § 56-55-110.

3. Probable effect on small businesses:

The probable effect on small businesses will be borne by all small businesses having to comply with these regulations. Small businesses will have to ensure compliance with these regulations so that the public has full and complete disclosure regarding the warranties associated with the vehicle protection products purchased

and the manner in which to exercise its rights in accordance with the warranties.

4. Less burdensome, intrusive, or costly alternative methods:

Alternative means to accomplish the intent of the regulation, which is to ensure that every warrantor of a vehicle protection product does so in a manner consistent with these regulations, do not exist.

5. Comparison with federal and state counterparts:

The following states have adopted similar regulations: Hawai'i, Texas and Wisconsin. The following states have adopted statutes similar to Tennessee's Vehicle Protection Product Act: Alabama, Arizona, Colorado, Georgia, Hawai'i, Illinois, Louisiana, Massachusetts, Michigan, Mississippi, New Jersey, Ohio, Texas and Wisconsin.

6. Effect of possible exemption of small businesses:

The Department must ensure that all vehicle protection products comply with these regulations. An exemption to small businesses would not be prudent because consumers of vehicle protection products would not be protected from the harm associated with unregulated vehicle protection products.