

LEGISLATIVE UPDATES / SERVICE CONTRACTS

August 2023

The information provided in this legislative update summarizes legislation recently passed, introduced and currently pending. Each bill has been summarized to highlight the pertinent parts that may have an effect on certain F&I products.

This legislative update is created for internal purposes, based on information provided by service contract industry trade association publications and industry discussions conducted by such trade associations. As a courtesy, this legislative update is made available to certain clients to share with their regulatory advisors. Clients should use this information only as a guide for topics to be discussed in more detail with their legal and regulatory advisors.

CALIFORNIA

Bill No.: Draft Rule PRO 03-21

Subject: Complaint and Inquiry Handling and Reporting

Date Filed: 5/20/2022

Effective Date: Will be effective upon adoption

Summary:

The California Department of Consumer Financial Protection (Department) has published draft rules on complaint and inquiry handling and reporting for certain providers of consumer financial products or services.

These rules are being promulgated pursuant to a legislative mandate passed in the California Financial Protection Law in 2021 under CA AB 1864. The California Consumer Financial Protection Law Section 90005 defines a covered person as persons offering or providing consumer financial products or services or affiliates providing a material service to a person offering or providing such products or services.

The proposed rule establishes highly detailed requirements for covered persons to respond to consumer complaints and inquires and to develop and implement written policies and procedures.

CALIFORNIA

Bill No.: AB 1519

Subject: Motor Dealers / Repair Facilities

Date Filed: 02/17/2023

Effective Date: PENDING (TBD)

Summary:

The California Vehicle Code is amended to add sections 10753 and 24020 and amended to add Section 9880.5 to the Business and Professions Code. The bill prohibits a dealer or retail seller from selling a vehicle equipped with a catalytic converter unless it has been permanently marked with the VIN. The dealer may charge a reasonable fee for complying with the requirement. Additionally, an automotive repair facility that installs or replaces a catalytic converter must ensure the part is permanently marked with the VIN with a label or an engraving. The automotive repair facility may charge a reasonable fee.

CALIFORNIA

Bill No.: SB 55

Subject: Catalytic Converter Etching

Date Filed: 12/06/2022 (reported to members in May 2023)

Effective Date: PENDING (If passed, will be effective 01/01/2025)

Summary:

The California Vehicle Code is amended to add sections 24020. The bill prohibits a dealer or retail seller from selling a vehicle equipped with a catalytic converter unless it has been permanently marked with the VIN. This section does not include a vehicle where the buyer has declined the seller's offer of etching.

CALIFORNIA

Bill No.: AB 1140

Subject: VSC Providers - Fingerprints
Date Filed: 02/15/2023
Effective Date: PENDING (If passed, will be effective 01/01/2025)

Summary:

Section 1652 of the California Insurance Code would be amended to include vehicle service contract providers in the list of applicants for which the Department of Insurance is required to transmit fingerprint images and related information to the Department of Justice.

ILLINOIS

Bill No.: SB 2090 (NEW)

Subject: Service Contract Repairs
Date Filed: 02/09/2023
Effective Date: PENDING (TBD)

Summary:

This bill was filed in February and just reported to members in August. The bill amends the Consumer Fraud and Deceptive Business Practices Act by adding Section 2BBBB "Advance driving assistance system repair." The bill creates requirements for service repair providers, insurers, and third party administrators relating to the repair and calibration of advanced driving assistance systems (ADAS).

MASSACHUSETTS

Bill No.: SB 701

Subject: Third Party obligor Vehicle Service Contracts
Date Filed: 02/16/2023
Effective Date: PENDING (TBD)

Summary:

Pursued by the SCIC to authorize 3rd party motor vehicle service contracts under the existing service contract law. The bill includes "ancillary" (i.e., T&W, PDR, Key, Windshield r/r) within the definition of a service contract.

MINNESOTA

Bill No.: HB 1804 / SB 2046

Subject: Vehicle Motor Sales – GPS Interrupt Devices
Date Filed: 02/15/2023
Effective Date: PENDING (If passed, will be effective 08/01/2023)

Summary:

Among other items related to retail installment sales contracts, the bill amends subsection 1a of the Minnesota Statutes, Section 53C.08, to add that a GPS starter interrupt device regardless of cost is required to be disclosed in a retail installment contract. It also requires all disclosures under this section to be in the language of the buyer under certain conditions.

NEW YORK

Bill No.: AB 5651

Subject: Service Contract – Excess Wear
Date Filed: 03/20/2023
Effective Date: PENDING (If passed would be effective immediately upon passage)

Summary:

This bill amends the excess wear and use portion of the service contract definition to add express authorization for service contracts to cover tires, paint cracks or chips, exterior dents or scratches, windshield cracks or chips, and exterior parts. Current law only authorizes coverage for "interior stains, rips or scratches, or missing interior parts that result in a lease end charge..."

NEW YORK

Bill No.: AB 1095 / SB 2799

Subject: PDR/Windshield – Rate filing

Date Filed: 01/24/2023

Effective Date: PENDING (If passed would be effective immediately upon passage)

Summary:

Current law requires provider fees (retail rates) for Windshield and Paintless Dent Repair (“PDR”) service contracts be filed with the State. This bill would amend this requirement. Per SCIC, due to lack of movement last year, this bill will be amended to include a requirement for a “max” retail rate filing and not to remove the requirements in its entirety.

NEW YORK

Bill No.: SB 2798 / AB 1231

Subject: Multiple CLIPS

Date Filed: 01/24/2023

Effective Date: PENDING (If passed would be effective immediately upon passage)

Summary:

This bill expands existing law under Section 465 of the Vehicle Traffic Law to require a franchisor to use the labor and time guide used by the franchisee for non-warranty work to determine a reasonable time allowance for work and services. This bill prohibits franchisors from establishing restrictions or limitations of customer repair frequency due to failure rate indexes or averages.

NEW YORK

Bill No.: A 4066

Subject: Franchisor Warranty Service Agreements

Date Filed: 02/09/2023

Effective Date: PENDING (If passed would be effective immediately upon passage)

Summary:

In material part, amends NY General Business Law, Section 399-nn 6. to add that warranties for consumer products that are governed by the Federal Magnuson-Moss Warranty Act (15 U.S.C. ch. 50 § 2301), cannot require that maintenance and repairs be performed only by authorized repair providers.

NEW YORK

Bill No.: A1285 / S1320

Subject: Warranties

Date Filed: 01/17/2023

Effective Date: PENDING (If passed would be effective immediately upon passage)

Summary:

Current law requires a service contract Provider must insure ALL its obligations under 1 CLIP, thus prohibiting a Provider from using multiple insurers to insure their obligations.

NEW YORK

Bill No.: AB 1366

Subject: Consumer Protection

Date Filed: 01/17/2023

Effective Date: PENDING (If passed would be effective 180 days after passage)

Summary:

NY General Business law is amended to add Section 390-e, The Online Consumer Protection Act. In pertinent part, The Act prohibits the collection of personally identifiable information for online preference marketing without consumer consent.

OKLAHOMA

Bill No.: SB 543

Subject: Data Security Act

Date Filed: 01/17/2023

Effective Date: PENDING (If passed, would be effective 11/01/2023)

Summary:

Creates the Insurance Data Security Act. The act requires licensees (licensed under Title 36 of the O.S) to implement a security program based on the risk assessment of each licensee (includes use of a third-party provider (i.e., administrator)). Additionally, insurers (Domestic) are required to submit a written statement affirming their compliance before March 1 every year and maintain records for a minimum of five years. If there is a breach in cybersecurity, the licensee is required to conduct a prompt investigation of the event and keep a record of it for a minimum of five years. The bill exempts any licensee with less than five million in gross annual revenue.