

**ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE AMENDING
AND CREATING A RULE**

To create Ins 14 and 15.01(3)(d) and amend Ins 7.02, Wis. Adm. Code, relating to vehicle protection product warranties.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

1. Statutes interpreted:

ss. 100.203, 600.01 and 632.185, Stats.

2. Statutory authority:

ss. 100.203, 600.01(2), 601.31(1)(km), 601.41(3), 601.42 and 632.185, Stats.

3. Explanation of the OCI's authority to promulgate the proposed rule under these statutes:

These statutes define certain requirements for vehicle protection product warranties to be implemented by the Office of the Commissioner of Insurance. The statutes specifically require the Office to set the fees to be paid for regulation. These vehicle protection product warranties would currently be regulated as full fledged insurers and thus these statutes and implementing rule will lessen substantially the costs to the vehicle protection product warranties and the regulations that they are subject to.

Late filing fees are specifically set in this rule. Section 100.203(8)(f), Stats. permits the commissioner to order a forfeiture of up to \$500 per violation. Failing to file the annual registration and pay the appropriate fees is a violation and subject to this penalty set in the rule.

4. Related Statutes or rules:

None.

5. The plain language analysis and summary of the proposed rule:

This rule implements new statutes regulating vehicle protection product warranties by setting the fees which the statutes required be set by rule by the commissioner. The fees are set at a level to attempt to cover the agency's costs incurred in relation to the review, data storage, monitoring and regulation of these vehicle protection product warranties.

6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

No federal regulation addresses the activities of vehicle protection product warranties.

7. Comparison of similar rules in adjacent states as found by OCI:

Iowa: There is no similar rule in Iowa.

Illinois: Warranties on vehicle protection product warranties are not considered insurance pursuant to s. 155.39, Illinois Insurance Code. Consequently, such vehicle protection products are not regulated by the Illinois Insurance Department.

Minnesota: There is no similar rule in Minnesota

Michigan: There is no similar rule in Michigan.

8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:

This rule implements the provisions of 2003 Wisconsin Act 302.

9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:

Given the following the following facts, OCI has determined that detailed analysis of the rule's effect on small business was not reasonable or necessary.

- 1) This rule does not impose any additional requirements on small businesses beyond those required or allowed by the applicable statutes.
- 2) The applicable statutes and the proposed rule actually reduce the regulatory burden on warrantors offering vehicle protection product warranties. Prior to the enactment of the statutes, such warrantors were subject to a much broader range of regulation because the warranties being offered are considered to be an insurance product.
- 3) Given that the statutes requiring the registration of warrantors offering vehicle protection product warranties have not yet become effective, it is not possible to accurately determine to what extent such warrantors are small businesses.

10. If these changes may have a significant fiscal effect on the private sector, the anticipated costs that will be incurred by private sector in complying with the rule:

As described above, this rule does not impose any additional requirements on small businesses beyond those required or allowed by the applicable statutes and in fact implements statutory provisions that reduce anticipated costs that would otherwise apply in the absence of the statutory provisions.

11. A description of the Effect on Small Business:

This rule will have little or no effect on small businesses.

12. Agency contact person:

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the WEB sites at: <http://oci.wi.gov/ocirules.htm>

or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110

Email: Inger.Williams@OCI.State.WI.US

Address: 125 South Webster St – 2nd Floor Madison WI 53702

Mail: PO Box 7873, Madison WI 53707-7873

13. Place where comments are to be submitted and deadline for submission:

The deadline for submitting comments is 4:00 p.m. on the 14th day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

Robert Luck
Legal Unit - OCI Rule Comment for Rule 15
Office of the Commissioner of Insurance
PO Box 7873
Madison WI 53707-7873

Street address:

Robert Luck
Legal Unit - OCI Rule Comment for Rule 15
Office of the Commissioner of Insurance
125 South Webster St – 2nd Floor
Madison WI 53702

WEB Site: <http://oci.wi.gov/ocirules.htm>

The rule changes are:

SECTION 1. Section Ins 7.02 is amended to read:

Ins 7.02

21-050 Initial Registration for Vehicle Protection Product Warranty

21-051 Vehicle Protection Product Warranty Annual Registration

(Revisors Note: Insert these 2 items in the proper numerical order)

SECTION 2. Chapter Ins 14 is created to read:

CHAPTER INS 14 VEHICLE PROTECTION PRODUCT WARRANTIES.

Ins 14.01 Purpose and Scope. (1) PURPOSE. This section interprets ss. 100.203, 600.01(1)(b)11., 601.31(1)(km) and 632.185, Stats. The commissioner finds that a warrantor issuing a vehicle protection product warranty is doing the business of insurance, subject to full application of chs. 600 to 646, Stats. If the warrantor issuing a vehicle protection product warranty registers and complies with this rule and the applicable statutes, only those sections of chs. 600 to 646, Stats., as expressly provided in the enabling statutes will apply.

(2) SCOPE. (a) This chapter applies to all vehicle protection product warranties operating or offering a vehicle protection plan in this state.

(b) This chapter does not apply to licensed insurers who operate or offer to operate a vehicle protection plan pursuant to an authorization to transact insurance in this state.

Ins 14.10 Initial registration. A fee of \$250 shall be paid to the Office of the Commissioner of Insurance at the time the initial warrantor registration form (OCI 21-050) is filed with the Office of the Commissioner of Insurance.

Note: This form may be obtained at no charge from the Office of the Commissioner of Insurance, P. O. Box 7873, Madison WI 53707-7873 or on the web at <http://oci.wi.gov/ociforms/21-050.pdf>.

Ins 14.20 Annual renewal registration. (1) The annual warrantor renewal registration form (OCI 21-051) and an annual fee of \$250 shall be filed and paid at the Office of the Commissioner of Insurance on or before April 30 of each year.

(2) If the renewal form and fee are not filed and paid on or before April 30, a late filing fee of an \$100 is due. For each consecutive 7 day period after April 30 that the form and fee are not filed or paid, an additional \$100 is due.

Note: This form may be obtained at no charge from the Office of the Commissioner of Insurance, P. O. Box 7873, Madison WI 53707-7873 or on the web at <http://oci.wi.gov/ociforms/21-051.pdf>.

Ins 14.80 Enforcement. This chapter may be enforced under ss. 100.203, 601.41, 601.64, 601.65 or 632.185, Stats.

SECTION 3. Paragraph Ins 15.01(3)(d) is created to read:

Ins 15.01(3)(d) Any vehicle protection product warranty properly registered under Chapter Ins 14.

SECTION 4. These rules first apply to any vehicle protection product warranty registering in Wisconsin or doing business in Wisconsin on or after the effective date of this rule.

SECTION 5. These rules will take effect on the first day of the month after publication, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, this 21st day of April, 2005.

Jorge Gomez
Commissioner of Insurance

Office of the Commissioner of Insurance
Private Sector Fiscal Analysis

for Rule Ins 14 relating to vehicle protection product warranties

This rule change will have no significant effect on the private sector regulated by OCI.