

MOTOR VEHICLE PROTECTION PRODUCTS IN ALBERTA: NEW GUIDANCE ON WHAT CONSTITUTES INSURANCE

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On December 23, 2024, the Alberta Superintendent of Insurance (“**Superintendent**”) and the Alberta Insurance Council (“**AIC**”) released bulletins providing guidance on the treatment of motor vehicle protection products (“**Superintendent’s Bulletin**” and “**AIC’s Bulletin**” respectively, and collectively, “**Bulletins**”)[1]. The Superintendent’s Bulletin addresses certain regulatory approval requirements, including that the wording of any contracts deemed to be automobile insurance must be approved by the Superintendent, with the associated rating program approved by the Alberta Automobile Insurance Rate Board. The AIC’s Bulletin outlines licensing requirements for selling certain motor vehicle warranty products that are considered insurance products.

Characterization of Motor Vehicle Protection Products

The Superintendent’s Bulletin characterizes motor vehicle protection products as (i) motor vehicle warranty contracts, (ii) motor vehicle dealership loyalty programs, or (iii) ancillary motor vehicle protection products.

(i) Motor vehicle warranty contracts

Motor vehicle warranty contracts respond to inherent deficiencies in the workmanship or materials arising from the production of the vehicle. Motor vehicle warranty contracts (including extended warranties) issued by OEMs or a wholly-owned subsidiary are not considered insurance. Similarly, warranties provided by repair facilities covering inherent deficiencies in their workmanship are not considered insurance. However, motor vehicle warranty contracts issued by third parties are considered insurance.

(ii) Motor vehicle dealership loyalty programs

These products provide a dealership discount on a future replacement motor vehicle in the event of damage or total loss of the vehicle. Since they indemnify consumers for part of the cost of a replacement vehicle upon the occurrence of risks or perils such as theft or collision, the Superintendent considers them to be insurance. Note that a debt waiver underwritten by the relevant finance company is not considered insurance.

(iii) Ancillary motor vehicle protection products

The Superintendent's Bulletin provides the following non-exhaustive list of common ancillary motor vehicle protection products that the Superintendent considers to be insurance, with the specific class of insurance set out in the AIC's Bulletin

Description	Class of Insurance
Motor vehicle dealership loyalty programs that provide a dealership discount on a future replacement motor vehicle in the event of damage or total loss of the original motor vehicle.	Property insurance
Deductible reimbursement and/or monetary credits given in the event of loss, damage, or theft of a motor vehicle	Property insurance
Non-manufacturer tire and rim warranties providing for tire and rim replacement (does not include warranties provided by the OEM for tires and rims it included in the vehicle's assembly)	Automobile insurance
Glass protection products promising to pay some or all of the cost of a windshield replacement	Automobile insurance
Anti-theft products promising to make a payment in the event of theft and/or non-recovery of the motor vehicle or any part thereof (includes etching/tagging and catalytic converter anti-theft devices that include a promise to pay if the product fails)	Automobile insurance
Key fob replacement	Property insurance
Payment for a motor vehicle rental provided in conjunction with a vehicle protection product that is considered to be insurance	Same class as the vehicle protection product the coverage is attached to

Licensing Requirements

Motor vehicle protection contracts that are considered insurance must be underwritten by insurers licensed to conduct the relevant class of insurance in the province of Alberta and sold either by licensed insurance agents or by employees of automobile dealerships or equipment dealers that hold a Restricted Certificate of Authority ("RCA") of the appropriate type.

The relevant RCA types available are (i) equipment warranty insurance or (ii) dealership loyalty programs and vehicle protection products (a new type as of January, 2025). Further information relating to the application process is set out in the AIC's Bulletin.

Service Plans: What is Not Insurance?

The Superintendent has carved out motor vehicle and roadside service plans that provide for minor repairs for reasonable and expected wear and tear routine to the ownership of a motor vehicle from the gambit of insurance. Examples include scuff, ding, chip, cut, tear, and scratch repairs (interior or exterior), windshield repairs, tire and rim repairs, oil changes, wiper blade replacement and air filter replacement. This differentiates the Superintendent's Bulletin from the recent Regulatory Statement issued by the British Columbia Financial Services Authority ("**BCFSA**") which does not contain a similar carve-out.

The Path Forward for OEMs, Dealers, and Third-Party Providers

Faced with the interpretations set out in the Bulletins, OEMs, dealers and third-party providers should carefully review their programs to ensure compliance. For products that are considered insurance, providers are faced with the difficult decision of whether to modify or pull "offending" motor vehicle protection products from the market, or to engage with an insurer authorized to conduct insurance business in Alberta to underwrite the contracts. This comes at a time when the industry is still reeling from the BCFSA's Regulatory Statement issued in April of 2024 and adds to the significant and mounting compliance burden for these types of contracts.

[1] The Superintendent's Bulletin is as an update to the version initially dated October 10, 2024, which was subsequently redacted.

by [Darcy Ammerman](#), [Mathurhaen Siri](#)

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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