

## ONEILL, EILEEN

---

**From:** Christianson, Peter C. [PCC@quarles.com]  
**Sent:** Monday, March 01, 2004 5:11 PM  
**To:** ONEILL, EILEEN  
**Cc:** franken@hamilton-consulting.com; McManamy, Sean  
**Subject:** Explanation of proposed amendment LRBa2442/1 (to Senate Bill 446)



03a24421.pdf

Eileen -

The amendment is very simple to explain:

Warranties by law are offered without consideration and not separate from the product that is warranted. As such they are not sold. That is the rationale for all three elements of LRB-a2442/1.

Thank you for your very prompt assistance in procuring the amendment. I will be at the hearing tomorrow morning to speak in favor of the bill and the amendment.

## **The Value of Vehicle Protection Products**

### **National Vehicle Protection Association (NVPA)**

The National Vehicle Protection Association (NVPA) is the trade association representing businesses engaged in the production, manufacturing, distribution and/or installation of vehicle protection products or systems designed to prevent loss or damage to a vehicle.

#### **NVPA Mission Statement**

The NVPA mission is to represent the vehicle protection industry by advocating sound public policies that promote a favorable business climate and ensure that consumers continue to have access to a variety of vehicle protection products to protect their valuable personal property.

#### **Vehicle Protection Products Defined**

The principle purposes of vehicle protection products are (1) the deterrent of vehicle theft and (2) assistance in the recovery of the vehicle in the event theft does occur. In fact, national statistics support the theft deterrent value of these products and law enforcement agencies throughout the country recognize their value in vehicle theft prevention.

The principal purpose of these products is the prevention of vehicle theft and aid in the recovery of the vehicle in the event theft does occur. These products are clearly beneficial to consumers as they greatly reduce the time, expense, and anguish of coping with vehicle theft.

Vehicle protection products include:

**IGNITION CUT-OFF:** A key-operated or hidden manual switch that interrupts the power supply from the battery to the ignition.

**FUEL CUT-OFF:** Integrated into the fuel line, this device prevents the flow of gasoline once the fuel in the gas line is used. Only a special key deactivates the cut-off.

**IGNITION COLUMN GUARD:** This security device can provide protection to the ignition starting system. The device fits around the steering column and over the ignition starting system.

**HOOD LOCK:** A secondary hood lock that prevents access to the power source, battery or siren, for an alarm system, via a key-operated bolt accessible from inside the car.

**DOOR LOCKS:** Visible inside door lock buttons that are smooth and tapered.

**RADIO SECURITY:** Slide mount removable radio devices. The idea is simple: If you do not want it stolen, take it with you.

**ANTI-THEFT STEERING WHEEL LOCK:** Locks on and prevents steering wheel from turning. Its high visibility deters theft.

**VEHICLE ETCHING:** Vehicle identification numbers (VIN) or code numbers etched onto vehicle windows.

**BODY PART MARKING:** Code numbers, which are permanently affixed to the painted metal body panels such as doors, trunks, hoods, and fenders.

Some vehicle protection products, such as steering wheel locking devices and other locking devices, are advertised and sold directly to consumers.

Window-etching products, however, are sold directly to automobile dealers and are used to etch the VIN into the window of the vehicle.

### **The Vehicle Protection Product Warranty**

The vehicle protection product company's warranty provides for a specified payment to the vehicle owner if the product fails to perform. The warranty is specifically designed to cover the vehicle owner's costs that are a direct result of a failure of the theft prevention product to perform.

The warranty is an integral part of the single product being sold. Simply put, the company is selling a vehicle protection product, which it warrants will do the job it is intended to do--to prevent theft and to aid in recovery if the vehicle is stolen.

For example, once the automobile dealer applies the VIN number to the vehicle with the window-etching product, the dealer provides the customer with the company's warranty. The company warrants that having the VIN number etched on the vehicle will deter theft. The company's warranty provides for a specified payment to the new vehicle owner if having the VIN number etched on the vehicle fails to deter theft or aid in recovery.

If the vehicle were subsequently stolen and not recovered, the company's product would then have failed to reduce the risk of theft according to the express representation of the company with respect to its product. The company's warranty provides that the company back up its warranty by paying to the customer a specified maximum amount of damages incurred by the customer as a result of the failure of the product to prevent theft.

## **The Vehicle Protection Product Warranty is not Insurance**

The vehicle protection product warranty and payment to the customer for damages sustained by the customer as a result of the failure of the product to prevent theft, is not a replacement for, or in lieu of, the customer's insurance coverage, if any, under the customer's comprehensive insurance policy.

The customer's insurance company—not the vehicle protection product company—is liable to the customer according to the comprehensive theft provisions, if any, of the customer's insurance policy. The vehicle protection product company is only warranting its product for damages caused by failure of that product.

A warranty and a contract of insurance, though sometimes confused, have fundamental differences in their intent, application and potential benefits:

The vehicle protection product warranty is not intended as a replacement for insurance. In fact, warranties require the consumer to carry comprehensive auto insurance.

A warranty is a benefit paid to the consumer for direct expenses resulting from product failure—in this case, failure to prevent theft or aid in recovery.

Insurance is a contract by which one party for consideration assumes particular risks on behalf of another party and promises to pay that person a certain or ascertainable sum of money on the occurrence of a specified contingency.

Insurance is an undertaking by one party, usually called the "insurer", to protect the other party, generally designated as the "insured", from loss arising from named risks, for the consideration, and on the terms and under the conditions, recited in the insurance contract.

While a contract of insurance may accompany and be a part of a larger transaction, it is important to remember that insurance is a separate contract that results from a separate payment (premium) by the insured to the insurer for the insurer to assume a risk that the insured otherwise would have.

Warranties are not considered contracts of insurance although they may contain all of the essential elements of an insurance contract. The distinction is that a warranty is issued to provide protection against defects or failures in a product whereas an insurance policy is issued to provide reimbursement or indemnity based on an accident or occurrence unrelated to any defect or failure in the product.

A warranty pays the consumer for the expenses directly arising out of the failure of the vehicle protection product, including the costs associated with an insurance deductible, the down payment for a replacement vehicle, tax, title and license costs for the replacement vehicle, etc.

Insurance, on the other hand, is a benefit paid to the policy holder as the result of a "fortuitous event" resulting from perils outside of and unrelated to a failure of, or defect in, a product, i.e., the cash value of the vehicle.

### **The Value to Consumers**

"Vehicle theft...has a direct impact on over four million victims a year. The cost of theft and looting is staggering-more than \$7 billion in out-of pocket expenses, higher insurance premiums and taxes to support better law enforcement"

### **1997 Auto Theft Statistics**

3,709 auto thefts every day of the year

1,353,707 motor vehicle thefts

Cost to the American Consumer: \$7.6 Billion

Most costly property crime in the United States

--National Automobile Theft Bureau (NATB)

---

### **Contact Information**

**National Vehicle Protection Association**  
**7455 Natural Bridge Caverns Road --Schertz, Texas 78154-3210**  
**TEL 210.871 7390-- FAX 210. 871. 7391**  
**Email: victors@nvpa.net**



## Anti-Theft Devices

Common sense is the simplest and most cost-effective way to thwart thieves. Motorists with high-risk vehicles, should also consider using several "layers" of protection.

### Layer #1 – Common Sense

#### **Ignition Keys**

If removed from the ignition after every use, ordinary ignition keys can significantly reduce the likelihood of theft.

Cost: Standard in all models  
Benefits: Easy to use

#### **Door Locks/Closed Windows**

Door locks, the original anti-theft device, and closed windows effectively limit access to the vehicle's interior.

Cost: Standard in all models  
Benefits: Prevents easy access

#### **Park in a Well-Lit Area**

Parking in a well-lit area discourages thieves from approaching a vehicle because of visibility.

Cost: None  
Benefits: Prevents easy access

### Layer #2 – Warning Devices

#### **Audible Alarms**

Audible alarms are typically equipped with motion or impact sensors which trigger a 120-decibel siren.

Cost: \$150 - \$1,000  
Benefits: Effective in preventing thefts, burglaries and vandalism

#### **Steering Column Collars**

Steering column collars prevent thieves from "hot-wiring" the vehicle. Some collars are installed permanently. Others must be continuously activated.

Cost: \$100 - \$200 installed  
Benefits: Excellent protection for older vehicles

#### **Steering Wheel Locks**

A steering wheel lock is a metal bar designed to prevent the steering wheel from turning.

Cost: \$25 - \$100  
Benefits: Excellent visual deterrent

#### **Steering Wheel/Brake Pedal Lock**

Prevents depression of the brake pedal.

Cost: \$15 - \$80  
Benefits: Excellent visible deterrent

#### **Wheel Locks**

Similar to the circular steel "boots" used by many large city police departments, tire locks prevent the vehicle from being driven.

Cost: \$80 - \$200  
Benefits: Excellent visible deterrent

#### **Tire Locks/Tire Deflators**

Attaches to the tire valve stem and causes the tire to go flat if the tire rotates before they are removed.

Cost: Under \$50  
Benefits: Easy and inexpensive to use.

#### **Theft Deterrent Decals**

Theft deterrent decals visually warn thieves the vehicle is protected by an alarm or other anti-theft devices.

Cost: \$2 - \$5  
Benefits: Inexpensive but effective

#### **Identification markers in or on vehicle**

Security labels marking various vehicle parts enabling the part to be identified if removed from the vehicle.

Cost: \$2 - \$15  
Benefits: Inexpensive, discourages thieves from stealing the vehicle and aids in recovery

#### **Window Etching**

Etching the vehicle identification number or other traceable number onto the vehicle's windows makes it difficult for thieves to resell the vehicle or its parts.

Cost: Free to \$100  
Benefits: Discourages thieves from stealing the vehicle and aids in recovery

### **Laminated Glass**

Impact resistant protective glazing applied to vehicle windows designed to fortify the windows against penetration or splintering.

Cost: Standard  
Benefits: Excellent protection for vehicle windows

### **Layer #3 – Immobilizing Devices**

#### **Smart Keys**

Smart keys contain specially coded computer chips or radio frequencies. Without the exact key, the vehicle's engine cannot be started.

Cost: Standard in some models  
Benefits: Effective and extremely easy to use

#### **Fuse cut-offs**

Short circuits the electrical system, preventing the vehicle from starting.

Cost: \$40 - \$90  
Benefits: Inexpensive and relatively easy to install

#### **Kill Switches**

Kill switches inhibit the flow of electricity or fuel to the engine until a hidden switch is activated.

Cost: \$10 - \$125  
Benefits: Inexpensive and relatively easy to install

#### **Starter, ignition and fuel disablers**

Short circuits the electrical or fuel system, preventing the vehicle from starting, or causes the vehicle to stop running within a short time.

Cost: Standard in some models  
Benefits: Inexpensive and easy to use

### **Layer #4 – Tracking Devices**

#### **Tracking Devices**

Most tracking devices are electronic transmitters hidden in the vehicle which emit signals to the police or monitoring stations when the vehicle is reported stolen.

Cost: \$400 to \$1,500  
Benefits: Effective in recovering stolen vehicles