

**1983 Senate Bill 255**

Date of enactment: **May 9, 1984**  
Date of publication: **May 17, 1984**

**1983 Wisconsin Act 428**

AN ACT *to create* 100.205 of the statutes, *relating to* motor vehicle rustproofing, granting rule-making authority and providing a penalty.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 100.205 of the statutes is created to read:

**100.205 Motor vehicle rustproofing warranties.** (1) In this section:

(a) "Advertisement" means any oral, written, printed or graphic statement, claim or representation concerning rustproofing which is made in connection with the solicitation or sale of rustproofing.

(b) "Retail customer" means the person for whom rustproofing is ultimately intended.

(c) "Rustproofing" means the application of materials and processes intended or represented to prevent or control rusting or corrosion of a motor vehicle as defined in s. 340.01 (35).

(d) "Seller" means any person who sells rustproofing to a retail customer, including a person who sells a motor vehicle which has rustproofing listed as an element of the total selling price, whether or not ordered by the retail customer.

(e) "Warranted party" means the retail customer or another person to whom warranty rights have been assigned or transferred under the warranty.

(f) "Warrantor" means any person who gives or offers to give a warranty.

(g) "Warranty" means any written representation, made to a retail customer, which asserts that the rustproofing will meet a specified level of performance or duration or establishes conditions under which the warrantor will compensate the retail customer or rectify any failure to meet the specified level of performance or duration.

(2) All rustproofing warranties shall be in writing and contain the following provisions:

(a) The duration of the warranty.

(b) Clear identification of all warrantors and their addresses, the name and address of the person to whom warranty claims are to be made and the place where inspection of the warranted motor vehicle is to be made.

(c) Each condition limiting the warranted party's rights under the warranty.

(d) The name and address of the insurer of the warranty in the event of the warrantor's insolvency or bankruptcy.

(3) No rustproofing warranty may contain:

(a) A limit on the number of claims which can be made under the warranty.

(b) A warrantor's option of returning the purchase price in lieu of other remedies under the warranty.

(c) A limit on the liability of the warrantor for any reason relating to misapplication of the rustproofing product.

(d) An invalidation of the warranty on failure of the retail customer or the seller to register the warranty with the warrantor, if the retail customer or the seller has documentary proof that the rustproofing was paid for.

(e) An exclusion of warranty coverage for manufacturer defects unless the part of the motor vehicle excluded and the basis for exclusion is specified in the warranty.

(f) A limit on the transferability of a warranty during the specified term of the warranty.

(4) Nothing in this section prevents a warrantor from designating a representative to perform duties under the warranty or relieves a warrantor of his or her responsibilities to a warranted party. A representative designated to perform duties under a warranty is not a warrantor unless he or she gives or offers to give a warranty.

(5) (a) No person may make any warranty advertisement which is untrue, deceptive or misleading as provided in s. 100.18.

(b) The specified term of a warranty shall be limited to that period preceding an inspection by the warrantor which is required to maintain the validity or original coverage of the warranty.

(c) Use of "lifetime" or similar terms may not be used in an advertisement or warranty unless the term refers to the motor vehicle receiving the rustproofing and is not limited by the transfer of ownership of the motor vehicle.

(d) No warrantor may fail to have a motor vehicle inspected within 30 days after receiving a claim under the warranty, if the warranted party makes the motor vehicle available for inspection to the warrantor or the warrantor's designee within that period. The inspection shall be within 30 miles of the place of business of the seller of the rustproofing, unless waived by the warranted party.

(e) No warrantor may fail to notify a warranted party in writing within 30 business days after inspecting the motor vehicle whether the warranty claim will be allowed or denied. If a claim is denied in whole or in part, the reason for that denial shall be stated in writing. Notification is effective on mailing the warrantor's determination to the last address supplied to the warrantor by the warranted party or on personal delivery to the warranted party.

(f) No warrantor may fail to comply with the terms of its warranty.

(g) No warrantor or seller may impose a charge or require the purchase of any additional service by the warranted party in order to have an inspection completed if the continued validity of the warranty requires the inspection.

(6) Every warrantor shall purchase a policy of insurance covering the financial integrity of its warranties. The policy of insurance shall be in an amount and form determined annually by the commissioner of insurance and shall have the following minimum provisions:

(a) The insurer shall be licensed to do business in this state or shall be an unauthorized foreign insurer, as defined in s. 600.03 (27), accepted by the office of the commissioner of insurance for surplus lines insurance in this state.

(b) Each warranty issued in this state shall be covered by the policy of insurance for the full amount of any claim payable under the warranty.

(c) In case of insolvency or bankruptcy of the warrantor, a warranted party may file a claim directly with the insurer.

(d) In case of insolvency or bankruptcy of the warrantor, the insurer, upon receipt of a claim, shall cause a warranted party's vehicle to be inspected at the insurer's expense.

(e) The termination provision shall state that the insurance provided shall continue with respect to all warranties issued before the date of termination.

(7) The department of justice, or any district attorney on informing the department of justice, may commence an action in circuit court in the name of the state to restrain by temporary or permanent injunction any violation of this section. The court may, before entry of final judgment and after satisfactory proof, make orders or judgments necessary to restore to any person any pecuniary loss suffered because of a violation of this section. The department of justice may conduct hearings, administer oaths, issue subpoenas and take testimony to aid in its investigation of violations of this section.

(8) The department of justice or any district attorney may commence an action in the name of the state to recover a forfeiture to the state of not more than \$10,000 for each violation of this section.

(9) (a) In addition to other remedies, any person injured by a violation of this section may bring a civil action for damages under s. 100.20 (5).

(b) Any person injured by a breach of a contract for rustproofing may bring an action against the warrantor or its insurer or both to recover damages, costs and disbursements, including reasonable attorney fees, and other relief determined by the court.

**SECTION 2. Program responsibility changes.** In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

A	B	C
Statute Sections	References Deleted	References Inserted
15.251 (intro.)	none	100.205 (7) and (8)
15.731	none	100.205 (6)

**SECTION 3. Initial applicability.** The treatment of section 100.205 of the statutes by this act first applies to any rustproofing advertisement or warranty made on or after the effective date of this act.

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**SECTION 4. Effective date.** This act takes effect on the first day of the 6th month commencing after its publication.

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