

111TH CONGRESS
1ST SESSION

S. 202

To improve consumer access to passenger vehicle loss data held by insurers.

IN THE SENATE OF THE UNITED STATES

JANUARY 12, 2009

Mr. ENSIGN (for himself, Mr. NELSON of Florida, Mr. FEINGOLD, Mr. DORGAN, and Mr. CORKER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To improve consumer access to passenger vehicle loss data held by insurers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Passenger Vehicle Loss
5 Disclosure Act of 2009”.

6 **SEC. 2. DISCLOSURE OF TOTAL LOSS DATA.**

7 (a) IN GENERAL.—Section 32303 of title 49, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

1 “(d) DISCLOSURE OF LOSS DATA FOR PASSENGER
2 MOTOR VEHICLES.—

3 “(1) SPECIFIC TOTAL LOSS DATA TO BE DIS-
4 CLOSED.—The Secretary of Transportation shall by
5 regulation require all insurers and self-insurers of
6 passenger motor vehicles to disclose to the public in
7 a commercially reasonable, electronically accessible
8 manner the following information for every pas-
9 senger motor vehicle described in paragraph (3) that
10 has been declared a total loss by such an insurer or
11 determined to be a total loss by such a self-insurer:

12 “(A) The vehicle identification number of
13 the vehicle.

14 “(B) The date of declaration or determina-
15 tion of the total loss.

16 “(C) The odometer reading on the date of
17 the declaration or determination of total loss.

18 “(D) A statement as to whether the pri-
19 mary reason for the declaration or determina-
20 tion of total loss is—

21 “(i) flood or water damage;

22 “(ii) collision or fire damage;

23 “(iii) theft and recovery; or

24 “(iv) some other reason.

1 “(E) A statement as to whether, as a re-
2 sult of the incident that prompted the declara-
3 tion or determination of total loss, 1 or more
4 airbags were deployed.

5 “(2) TIME FOR DISCLOSURE.—The Secretary
6 shall require the disclosure described in paragraph
7 (1) to be made not later than—

8 “(A) the date on which the insurer termi-
9 nates coverage on the vehicle due to the total
10 loss of the vehicle; or

11 “(B) the date on which the self-insurer de-
12 termines the vehicle to be a total loss.

13 “(3) VEHICLES TO WHICH DISCLOSURE RE-
14 QUIREMENT APPLIES.—

15 “(A) INSURERS.—Paragraph (1) applies to
16 a declaration of total loss by an insurer for any
17 passenger motor vehicle with respect to which—

18 “(i) the insurer obtains from an in-
19 sured pursuant to a settlement resulting in
20 the termination of the current coverage by
21 the insurer for that vehicle;

22 “(ii) the insurer permits the insured
23 to retain pursuant to a settlement result-
24 ing in the termination of the current cov-
25 erage by the insurer for that vehicle; or

1 “(iii) the insurer terminates coverage
2 following the theft of, damage to, or other
3 circumstances that adversely affect the fair
4 market value of that vehicle.

5 “(B) SELF-INSURERS.—Paragraph (1) ap-
6 plies to a determination of total loss by a self-
7 insurer for any passenger motor vehicle that the
8 self-insurer determines has sustained sufficient
9 damage to be a total loss.

10 “(4) APPLICATION WITH STATE LAWS.—The
11 disclosure required by this subsection applies with-
12 out regard to whether—

13 “(A) the insurer or self-insurer obtains a
14 certificate of title for the passenger motor vehi-
15 cle under State motor vehicle titling law;

16 “(B) the insurer or self-insurer obtains a
17 branded certificate of title for a passenger
18 motor vehicle under State motor vehicle titling
19 law to connote the type of damage or condition
20 conveyed by the disclosure of total loss data;

21 “(C) the insurer or self-insurer files any
22 other notification with a State motor vehicle ti-
23 tling agency with respect to the passenger
24 motor vehicle; or

1 “(D) the insurer or self-insurer disposes of
2 or receives proceeds from the disposition of a
3 passenger motor vehicle upon termination of
4 coverage following the theft of, damage to, or
5 other circumstances that adversely affect the
6 fair market value of that vehicle.

7 “(5) USE OF PRIVATE SECTOR RESOURCES.—

8 “(A) IN GENERAL.—The Secretary shall
9 rely on the private sector to collect, aggregate,
10 and disclose to the public the data required to
11 be disclosed under this subsection.

12 “(B) LOOKUP IDENTIFIER.—The Sec-
13 retary shall ensure that all total loss data dis-
14 closed in accordance with subparagraph (A) is
15 accessible by vehicle identification number.

16 “(6) LIABILITY PROTECTION FOR PUBLIC DIS-
17 CLOSURE.—Any person performing any activity re-
18 lated to the public disclosure of the data under this
19 subsection in good faith and with the reasonable be-
20 lief that such activity was in accordance with this
21 subsection shall be immune from any civil action re-
22 specting such activity seeking money damages or eq-
23 uitable relief in any court of the United States or of
24 a State.

25 “(7) DEFINITIONS.—In this subsection:

1 “(A) PASSENGER MOTOR VEHICLE.—The
2 term ‘passenger motor vehicle’ means a motor
3 vehicle with motive power designed for carrying
4 10 or fewer persons, including multipurpose
5 passenger vehicles, light trucks, and motor-
6 cycles, but not including trailers.

7 “(B) SELF-INSURER.—The term ‘self-in-
8 surer’ means a person that retains all or part
9 of the risk of loss with respect to passenger
10 motor vehicles it owns instead of using an in-
11 surer.”.

12 (b) REGULATIONS.—The Secretary of Transportation
13 shall promulgate the regulations required by section
14 32303(d) of title 49, United States Code, as added by sub-
15 section (a), not later than 1 year after the date of the
16 enactment of this Act.

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