

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 121 (Delegate Kullen)
Economic Matters

Task Force to Study Changes to the Automotive Warranty Enforcement Act

This bill establishes the Task Force to Study Changes to the Automotive Warranty Enforcement Act (AWEA) staffed by the Office of the Attorney General. The task force must report on its findings and recommendations to the Governor and the General Assembly by December 1, 2009.

The bill takes effect June 1, 2009 and terminates May 31, 2010.

Fiscal Summary

State Effect: Given the State's fiscal difficulties, agency budgets have been constrained. Thus, the requirement to staff the task force is not absorbable within the existing budgeted resources of the Office of the Attorney General. Instead, general fund expenditures increase minimally in FY 2010 for part-time contractual staff to support the task force. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The task force has to study and make recommendations on:

- the appropriate amount for a refund of motor vehicles with incurable defects;
- the need to clarify what is considered a repair attempt under AWEA;

- what a plaintiff's burden of proof should be in a civil action under AWEA;
- whether a court should be required to award costs and reasonable attorneys' fees to a prevailing plaintiff under AWEA;
- additional disclosures that a manufacturer, factory branch, or dealer should be required to make to a consumer seeking repair of a motor vehicle defect;
- whether the provisions of AWEA should be expanded to include used or commercial vehicles;
- extending the manufacturer's warranty period beyond 15 months based on the time a vehicle is under repair;
- the Motor Vehicle Administration's titling and recordation of vehicles subject to AWEA;
- dealer practices relating to AWEA; and
- whether a State-run arbitration program should be created to resolve disputes under AWEA.

Task force members may not receive compensation but are entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget.

Current Law/Background: The Automotive Warranty Enforcement Act, or "lemon law," provides legal remedies to anyone who purchases a new car, small truck, or multipurpose vehicle (including motorcycles). It also applies when a vehicle is transferred to another person during the vehicle's warranty period. That warranty period is 15 months after the car was originally delivered by the dealer or 15,000 miles, whichever comes first.

A vehicle is considered a lemon if, during the warranty period, a defect or condition that substantially impairs its use and market value cannot be repaired after a reasonable number of attempts.

If a vehicle qualifies as a lemon, the manufacturer must replace the vehicle or provide a full refund, minus an allowance for use, not to exceed 15% of the purchase price. A "reasonable number of attempts" means once, in the case of the braking or steering system, and four times in the case of other defects. The "reasonable number of attempts" requirement is satisfied if the car is out of service for repair of defects for a total of 30 or more days during the warranty period. The dealer must correct the defect within 30 days after receiving notice. If the car is returned to the dealer four times to repair the same defect or is out of service for more than 20 days due to defects, the dealer must notify the manufacturer and the Motor Vehicle Administration. If the consumer remains dissatisfied, he or she may submit the dispute to arbitration or file a claim in court.

Additional Information

Prior Introductions: SB 133 is identical to SB 412 of 2008, as amended by the House. The versions of the bills as passed by both chambers were not reconciled prior to the end of the 2008 session.

Cross File: SB 133 (Senators Forehand and Miller) - Finance.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - February 2, 2009
ncs/ljm

Analysis by: Jason F. Weintraub

Direct Inquiries to:
(410) 946-5510
(301) 970-5510