

SENATE BILL 462

R4

5lr2021

By: **Senator Feldman**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Mechanical Repair Contracts – Definition and Requirements**

3 FOR the purpose of altering the definition of “mechanical repair contract” for purposes of
4 certain provisions of law establishing requirements for mechanical repair contracts
5 and persons who sell or offer them; establishing that an agreement or contract sold
6 by the person obligated under the agreement or contract may be a mechanical repair
7 contract under certain circumstances; specifying services that may be offered under
8 a mechanical repair contract; establishing that certain warranties under a certain
9 federal law and agreements for regular maintenance are not mechanical repair
10 contracts; establishing that a mechanical repair contract is not required to be filed
11 for approval with the Insurance Commissioner; prohibiting certain persons who sell
12 mechanical repair contracts from making certain false, deceptive, or misleading
13 statements; making stylistic changes; and generally relating to mechanical repair
14 contracts.

15 BY repealing and reenacting, with amendments,
16 Article – Transportation
17 Section 15–311.2
18 Annotated Code of Maryland
19 (2012 Replacement Volume and 2014 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That the Laws of Maryland read as follows:

Article – Transportation

22 15–311.2.

24 (a) (1) [For the purposes of] **IN** this section, [the term] “mechanical repair
25 contract” means any agreement or contract sold by a licensed vehicle dealer **OR THE**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **PERSON OBLIGATED UNDER THE AGREEMENT OR CONTRACT** under which a [specified]
2 provider agrees to perform over a fixed period of time, for a specific duration, and for a
3 specific identifiable price, [services relating to the maintenance or repair of a motor vehicle,
4 provided that the purchase of the contract is optional to the purchaser] **ANY OF THE**
5 **FOLLOWING SERVICES:**

6 (I) **THE REPAIR, REPLACEMENT, OR MAINTENANCE OF A**
7 **MOTOR VEHICLE, OR THE INDEMNIFICATION FOR THE REPAIR OR MAINTENANCE OF**
8 **A MOTOR VEHICLE, FOR STRUCTURAL FAILURE OF THE MOTOR VEHICLE DUE TO A**
9 **DEFECT IN MATERIALS, WORKMANSHIP, OR NORMAL WEAR AND TEAR, WITH OR**
10 **WITHOUT ADDITIONAL PROVISIONS FOR INCIDENTAL PAYMENT OF INDEMNITY FOR**
11 **SERVICES INCLUDING TOWING, RENTAL AND EMERGENCY ROAD SERVICE, AND ROAD**
12 **HAZARD PROTECTION;**

13 (II) **THE REPAIR, REPLACEMENT, OR MAINTENANCE OF A**
14 **MOTOR VEHICLE FOR THE OPERATIONAL OR STRUCTURAL FAILURE OF ONE OR**
15 **MORE PARTS OR SYSTEMS OF THE MOTOR VEHICLE;**

16 (III) **THE REPAIR OR REPLACEMENT OF TIRES OR WHEELS ON A**
17 **MOTOR VEHICLE DAMAGED AS A RESULT OF COMING INTO CONTACT WITH ROAD**
18 **HAZARDS, INCLUDING POTHoles, ROCKS, WOOD DEBRIS, METAL PARTS, GLASS,**
19 **PLASTIC, CURBS, OR COMPOSITE SCRAPS;**

20 (IV) **THE REMOVAL AND REPAIR OF DENTS, DINGS, OR CREASES**
21 **ON A MOTOR VEHICLE USING THE PROCESS OF PAINLESS DENT REMOVAL;**

22 (V) **THE REPAIR OF CHIPS OR CRACKS IN, OR THE**
23 **REPLACEMENT OF, MOTOR VEHICLE WINDSHIELDS AS A RESULT OF DAMAGE**
24 **CAUSED BY ROAD HAZARDS;**

25 (VI) **THE REPLACEMENT OF A MOTOR VEHICLE KEY OR KEY FOB**
26 **IF THE KEY OR KEY FOB BECOMES INOPERABLE OR IS LOST OR STOLEN; OR**

27 (VII) **OTHER SERVICES OR PRODUCTS THAT MAY BE APPROVED**
28 **BY THE INSURANCE COMMISSIONER IF CONSISTENT WITH THE PROVISIONS OF THIS**
29 **SECTION.**

30 (2) [The term “mechanical” **“MECHANICAL repair contract”** includes[, but
31 is not limited to,] extended warranties and extended service contracts.

32 (3) **“MECHANICAL REPAIR CONTRACT” DOES NOT INCLUDE**
33 **WARRANTIES UNDER THE MAGNUSON–MOSS WARRANTY ACT, 15 U.S.C. § 2301, ET**
34 **SEQ., OR CONTRACTS OR AGREEMENTS FOR REGULAR MAINTENANCE.**

1 (b) (1) (I) A provider of services under a mechanical repair contract shall
2 maintain adequate insurance reserves, as defined by the Insurance Commissioner, for each
3 such contract for the protection of the purchasing consumer.

4 (II) A policy of insurance providing coverage for all obligations and
5 liabilities incurred by a provider under the terms of a mechanical repair contract shall
6 constitute adequate insurance reserves.

7 (2) The reserves shall be maintained with an insurer authorized to do
8 business in Maryland on an admitted or surplus lines basis.

9 (3) A purchaser of a mechanical repair contract shall be entitled to make a
10 direct claim against the insurer issuing a policy of insurance under this subsection upon
11 failure of the specified provider to pay any claim or make any refund or consideration due
12 within 60 days after the proof is filed with the provider.

13 (4) **A MECHANICAL REPAIR CONTRACT IS NOT REQUIRED TO BE FILED**
14 **FOR APPROVAL WITH THE INSURANCE COMMISSIONER.**

15 (c) A mechanical repair contract shall be offered in addition to any express
16 warranty originally included as part of the contract for sale of a new motor vehicle.

17 (d) A mechanical repair contract shall clearly and conspicuously set forth the date
18 when the warranty begins.

19 (e) A mechanical repair contract shall clearly and conspicuously set forth the date
20 or the odometer reading at which the warranty expires and the name and address of the
21 insurer issuing the policy of insurance as described in subsection (b) of this section.

22 (f) The repair of a malfunction or defect covered under a mechanical repair
23 contract shall include the cost of the teardown and diagnosing the malfunction or defect.

24 (g) The provisions of the Maryland Consumer Products Guaranty Act, Title 14,
25 Subtitle 4 of the Commercial Law Article, apply to a mechanical repair contract sold by a
26 licensed vehicle dealer.

27 (h) The provisions of this section do not apply to mechanical repair contracts
28 issued by the motor vehicle manufacturer or the distributor or a wholly owned subsidiary
29 of the manufacturer or the distributor as defined in § 15–201 of this title.

30 (i) Notwithstanding subsection (h) of this section, licensed vehicle dealers who
31 sell mechanical repair contracts shall have the same obligations as a seller under § 2–314
32 of the Commercial Law Article.

33 (J) **A PERSON WHO IS NOT A MANUFACTURER, DISTRIBUTOR, FACTORY**
34 **BRANCH, OR DEALER AND WHO SELLS A MECHANICAL REPAIR CONTRACT MAY NOT,**

1 DIRECTLY OR INDIRECTLY, MAKE A FALSE, DECEPTIVE, OR MISLEADING STATEMENT
2 WITH RESPECT TO:

3 (1) THE PERSON'S AFFILIATION WITH A MOTOR VEHICLE
4 MANUFACTURER, DISTRIBUTOR, FACTORY BRANCH, OR DEALER;

5 (2) THE PERSON'S POSSESSION OF INFORMATION REGARDING THE
6 MANUFACTURER'S ORIGINAL EQUIPMENT WARRANTY FOR A MOTOR VEHICLE;

7 (3) THE EXPIRATION OF A MANUFACTURER'S ORIGINAL EQUIPMENT
8 WARRANTY FOR A MOTOR VEHICLE; OR

9 (4) A REQUIREMENT THAT A MOTOR VEHICLE OWNER REGISTER FOR
10 A NEW MECHANICAL REPAIR CONTRACT WITH THE PERSON IN ORDER TO MAINTAIN
11 COVERAGE UNDER THE OWNER'S CURRENT MECHANICAL REPAIR CONTRACT OR
12 THE MANUFACTURER'S ORIGINAL EQUIPMENT WARRANTY.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2015.