
By: Delegates Branch, Fulton, and C. Mitchell
Introduced and read first time: January 15, 1996
Assigned to: Commerce and Government Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: February 13, 1996

CHAPTER ____

1 AN ACT concerning

2 **Motor Vehicle Dealers - Extended Warranties - Coverage**

3 [TAG ftpo]FOR the purpose of ~~requiring providing that a repair of a malfunction or defect covered~~
4 ~~under~~ a mechanical repair contract sold by a motor vehicle dealer ~~to cover all costs~~
5 ~~related to determining whether a malfunction or defect is covered under the~~
6 ~~warranty; requiring a mechanical repair contract to continue to cover certain~~
7 ~~malfunctions or defects under certain circumstances after the warranty period~~
8 ~~terminates; requiring a mechanical repair contract to specify certain procedures;~~
9 ~~includes the cost of the teardown and diagnosing the malfunction or defect;~~
10 ~~specifying that the Maryland Consumer Products Guaranty Act applies to a~~
11 ~~mechanical repair contract sold by a licensed vehicle dealer; requiring that the~~
12 ~~provider of services under a mechanical repair contract pay to the purchaser a~~
13 ~~specified payment plus certain court costs and attorney fees under specified~~
14 ~~circumstances; providing for the application of this Act; making stylistic changes;~~
15 and generally relating to mechanical repair contracts.

16 BY repealing and reenacting, with amendments,

- 17 Article - Transportation
- 18 Section 15-311.2
- 19 Annotated Code of Maryland
- 20 (1992 Replacement Volume and 1995 Supplement)

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

2

1 **Article - Transportation**

2 15-311.2.

3 (a) (1) For the purposes of this section, the term "mechanical repair contract"
4 means any agreement or contract sold by a licensed vehicle dealer under which a specified
5 provider agrees to perform over a fixed period of time, for a specific duration and for a
6 specific identifiable price, services relating to the maintenance or repair of a motor
7 vehicle; provided that the purchase of the contract is optional to the purchaser.

8 (2) The term "mechanical repair contract" includes, but is not limited to,
9 extended warranties and extended service contracts.

10 (b) (1) [Any] A provider of services under a mechanical repair contract shall
11 maintain adequate insurance reserves, as defined by the Insurance Commissioner, for
12 each such contract for the protection of the purchasing consumer. A policy of insurance
13 providing coverage for all obligations and liabilities incurred by a provider under the
14 terms of a mechanical repair contract shall constitute adequate insurance reserves.

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

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

21 (c) [Any extended warranty or] A mechanical repair contract shall be offered in
22 addition to any express warranty originally included as part of the contract for sale of a
23 new motor vehicle.

24 (d) [Any extended warranty or] A mechanical repair contract shall clearly and
25 conspicuously set forth the date when the warranty begins.

26 (e) [Any extended warranty or] A mechanical repair contract shall clearly and
27 conspicuously set forth the date or the odometer reading at which the warranty expires
28 and the name and address of the insurer issuing the policy of insurance as described in
29 subsection (b) of this section.

30 ~~(F) A MECHANICAL REPAIR CONTRACT SHALL COVER THE COST OF~~
31 ~~DETERMINING WHETHER A MALFUNCTION OR DEFECT IS COVERED UNDER THE~~
32 ~~WARRANTY.~~

33 ~~(G) (1) AFTER THE WARRANTY PERIOD TERMINATES, A MECHANICAL~~
34 ~~REPAIR CONTRACT SHALL CONTINUE TO COVER THE REPAIR OF A MALFUNCTION~~
35 ~~OR DEFECT THAT WAS COVERED UNDER THE WARRANTY IF, DURING THE~~
36 ~~WARRANTY PERIOD, THE CONSUMER HAS SENT WRITTEN NOTICE OF THE~~
37 ~~MALFUNCTION OR DEFECT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO~~
38 ~~THE SPECIFIED PROVIDER OF SERVICES.~~

39 ~~(2) A MECHANICAL REPAIR CONTRACT SHALL CLEARLY AND~~
40 ~~CONSPICUOUSLY SPECIFY THE NOTIFICATION PROCEDURE TO BE FOLLOWED~~
41 ~~UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

3

1 (F) THE REPAIR OF A MALFUNCTION OR DEFECT COVERED UNDER A
2 MECHANICAL REPAIR CONTRACT SHALL INCLUDE THE COST OF THE TEARDOWN
3 AND DIAGNOSING THE MALFUNCTION OR DEFECT.

4 (G) THE PROVISIONS OF THE MARYLAND CONSUMER PRODUCTS GUARANTY
5 ACT, TITLE 14, SUBTITLE 4 OF THE COMMERCIAL LAW ARTICLE, APPLY TO A
6 MECHANICAL REPAIR CONTRACT SOLD BY A LICENSED VEHICLE DEALER.

7 (H) IF, AFTER A REQUEST BY THE PURCHASER OF A MECHANICAL REPAIR
8 CONTRACT, THE PROVIDER OF SERVICES FAILS TO HONOR THE TERMS OF THE
9 MECHANICAL REPAIR CONTRACT, THE PROVIDER SHALL PAY TO THE PURCHASER
10 TWO TIMES THE COST OF REPAIR OF THE VEHICLE, PLUS COURT COSTS AND
11 REASONABLE ATTORNEY FEES INCURRED IN ENFORCING THE PROVISIONS OF THE
12 MECHANICAL REPAIR CONTRACT.

13 [(f)] ~~(H)~~ (I) The provisions of this section do not apply to mechanical repair
14 contracts issued by the motor vehicle manufacturer or the distributor or a wholly owned
15 subsidiary of the manufacturer or the distributor as defined in § 15-201 of this title.

16 [(g)] ~~(H)~~ (J) Notwithstanding subsection [(f)] ~~(H)~~ (I) of this section, licensed
17 vehicle dealers who sell mechanical repair contracts shall have the same obligations as a
18 seller under § 2-314 of the Commercial Law Article.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
20 construed only prospectively and may not be applied or interpreted to alter the effect of
21 any mechanical repair contract entered into before the effective date of this Act.

22 SECTION 2- ~~3.~~ AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 1996.