

SENATE BILL 634

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2001 Regular Session
(11r1643)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senator Van Hollen**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Automotive Warranty Enforcement Act - Jurisdiction**

3 FOR the purpose of establishing that the District Court and the circuit court have
4 concurrent jurisdiction in a proceeding for a replacement *motor* vehicle under
5 the Automotive Warranty Enforcement Act under certain circumstances.

6 BY repealing and reenacting, without amendments,
7 Article - Commercial Law
8 Section 14-1502(c)
9 Annotated Code of Maryland
10 (2000 Replacement Volume and 2000 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Courts and Judicial Proceedings
13 Section 4-401(14) and (15) and 4-402
14 Annotated Code of Maryland

1 (1998 Replacement Volume and 2000 Supplement)

2 BY adding to

3 Article - Courts and Judicial Proceedings

4 Section 4-401(16)

5 Annotated Code of Maryland

6 (1998 Replacement Volume and 2000 Supplement)

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

9 **Article - Commercial Law**

10 14-1502.

11 (c) (1) If, during the warranty period, the manufacturer or factory branch,
12 its agent, or its authorized dealer is unable to repair or correct any defect or condition
13 that substantially impairs the use and market value of the motor vehicle to the
14 consumer after a reasonable number of attempts, the manufacturer or factory branch,
15 at the option of the consumer, shall:

16 (i) Replace the motor vehicle with a comparable motor vehicle
17 acceptable to the consumer; or

18 (ii) Accept return of the motor vehicle from the consumer and
19 refund to the consumer the full purchase price including all license fees, registration
20 fees, and any similar governmental charges, less:

21 1. A reasonable allowance for the consumer's use of the
22 vehicle not to exceed 15 percent of the purchase price; and

23 2. A reasonable allowance for damage not attributable to
24 normal wear but not to include damage resulting from a nonconformity, defect, or
25 condition.

26 (2) The manufacturer or factory branch shall make refunds under this
27 section to the consumer and lienholder, if any, as their interests appear on the records
28 of ownership maintained by the Motor Vehicle Administration.

29 (3) It is an affirmative defense to any claim under this section that the
30 nonconformity, defect, or condition:

31 (i) Does not substantially impair the use and market value of the
32 motor vehicle; or

33 (ii) Is the result of abuse, neglect, or unauthorized modifications or
34 alterations of the motor vehicle.

1 **Article - Courts and Judicial Proceedings**

2 4-401.

3 Except as provided in § 4-402 of this subtitle, and subject to the venue
4 provisions of Title 6 of this article, the District Court has exclusive original civil
5 jurisdiction in:

6 (14) A proceeding for a temporary peace order or peace order under Title
7 3, Subtitle 15 of this article; [and]

8 (15) A proceeding for condemnation and immediate possession of and title
9 to abandoned, blighted, and deteriorated property under authority granted in the
10 Code of Public Local Laws of a county, including Baltimore City, where the estimated
11 value of the property does not exceed \$25,000[.]; AND

12 (16) A PROCEEDING FOR A REPLACEMENT *MOTOR* VEHICLE UNDER §
13 ~~14-502(C)(1)(I)~~ § 14-1502(C)(1)(I) OF THE COMMERCIAL LAW ARTICLE.

14 4-402.

15 (a) Except as provided in §§ 4-401 and 4-404 of this subtitle, the District
16 Court does not have equity jurisdiction.

17 (b) Except as provided in § 4-401 of this subtitle, the District Court does not
18 have jurisdiction to decide the ownership of real property or of an interest in real
19 property.

20 (c) The District Court does not have jurisdiction to render a declaratory
21 judgment.

22 (d) (1) (i) Except in a case under paragraph (2), (4), (5), or (6) of § 4-401 of
23 this subtitle, the plaintiff may elect to file suit in the District Court or in a trial court
24 of general jurisdiction, if the amount in controversy exceeds \$2,500, exclusive of
25 prejudgment or postjudgment interest, costs, and attorney's fees if attorney's fees are
26 recoverable by law or contract.

27 (ii) In the case of a class action, the separate claims of the proposed
28 members of the class may be aggregated to meet the minimum amount in controversy
29 required under subparagraph (i) of this paragraph.

30 (2) In a case under § 4-401(7) or (8) of this subtitle, the plaintiff may
31 elect to file a petition for injunctive relief either in the District Court or the circuit
32 court.

33 (3) IN A CASE UNDER § 4-401(16) OF THIS SUBTITLE, THE PLAINTIFF MAY
34 ELECT TO FILE A CLAIM FOR A REPLACEMENT *MOTOR* VEHICLE IN EITHER THE
35 DISTRICT COURT OR THE CIRCUIT COURT.

1 (e) (1) In a civil action in which the amount in controversy exceeds \$10,000,
2 exclusive of attorney's fees if attorney's fees are recoverable by law or contract, a party
3 may demand a jury trial pursuant to the Maryland Rules.

4 (2) Except in a replevin action, if a party is entitled to and files a timely
5 demand, in accordance with the Maryland Rules, for a jury trial, jurisdiction is
6 transferred forthwith and the record of the proceeding shall be transmitted to the
7 appropriate court. In a replevin action, if a party is entitled to and files a timely
8 demand for a jury trial, the District Court may conduct a hearing on the show cause
9 order prior to issuing the writ, enforce an injunction issued by it in the action, and
10 issue, renew, and receive returns upon the writ of replevin. The action shall be
11 transmitted to the appropriate court only after the writ has been returned, stating
12 that the property sought has been seized or eloigned, and the time for filing a notice
13 of intention to defend has expired.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
15 effect October 1, 2001.