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By: **Senator Van Hollen**

Introduced and read first time: February 2, 2001

Assigned to: Judicial Proceedings

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A BILL ENTITLED

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 vehicle under the  
5 Automotive Warranty Enforcement Act.

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  
15 (1998 Replacement Volume and 2000 Supplement)

16 BY adding to  
17 Article - Courts and Judicial Proceedings  
18 Section 4-401(16)  
19 Annotated Code of Maryland  
20 (1998 Replacement Volume and 2000 Supplement)

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

23 **Article - Commercial Law**

24 14-1502.

25 (c) (1) If, during the warranty period, the manufacturer or factory branch,  
26 its agent, or its authorized dealer is unable to repair or correct any defect or condition  
27 that substantially impairs the use and market value of the motor vehicle to the

1 consumer after a reasonable number of attempts, the manufacturer or factory branch,  
2 at the option of the consumer, shall:

3 (i) Replace the motor vehicle with a comparable motor vehicle  
4 acceptable to the consumer; or

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

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

10 2. A reasonable allowance for damage not attributable to  
11 normal wear but not to include damage resulting from a nonconformity, defect, or  
12 condition.

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

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

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

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

22 **Article - Courts and Judicial Proceedings**

23 4-401.

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

27 (14) A proceeding for a temporary peace order or peace order under Title  
28 3, Subtitle 15 of this article; [and]

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

33 (16) A PROCEEDING FOR A REPLACEMENT VEHICLE UNDER §  
34 14-502(C)(1)(I) OF THE COMMERCIAL LAW ARTICLE.

1 4-402.

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

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

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

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

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

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

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

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

26 (2) Except in a replevin action, if a party is entitled to and files a timely  
27 demand, in accordance with the Maryland Rules, for a jury trial, jurisdiction is  
28 transferred forthwith and the record of the proceeding shall be transmitted to the  
29 appropriate court. In a replevin action, if a party is entitled to and files a timely  
30 demand for a jury trial, the District Court may conduct a hearing on the show cause  
31 order prior to issuing the writ, enforce an injunction issued by it in the action, and  
32 issue, renew, and receive returns upon the writ of replevin. The action shall be  
33 transmitted to the appropriate court only after the writ has been returned, stating  
34 that the property sought has been seized or elogned, and the time for filing a notice  
35 of intention to defend has expired.

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