
By: **Delegate Feldman**

Introduced and read first time: February 17, 2006

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law - Consumer Protection - Vehicle Protection Products Act**

3 FOR the purpose of providing that a vehicle protection product may not be sold or
4 offered for sale in the State unless the seller and the warrantor of the vehicle
5 protection product comply with the provisions of this Act; providing that a seller
6 or warrantor that complies with this Act is not required to comply with certain
7 provisions of law; requiring a warrantor of a vehicle protection product sold or
8 offered for sale in the State to be insured under a certain warranty
9 reimbursement insurance policy or to maintain a certain amount of net worth or
10 stockholders' equity; requiring a warranty reimbursement insurance policy to
11 contain certain provisions; requiring a vehicle protection product warranty to be
12 written in a certain manner; specifying certain contents of a vehicle protection
13 product warranty; providing for cancellation of a vehicle protection product
14 warranty; requiring a seller or warrantor of a vehicle protection product to
15 provide a written copy of a vehicle protection product warranty to a purchaser at
16 a certain time; prohibiting a vehicle protection product warrantor from using
17 certain words in its name, contracts, or literature; authorizing a vehicle
18 protection product warrantor to use a certain word in its name; prohibiting a
19 vehicle protection product seller or warrantor from requiring as a condition of
20 sale or financing that a purchaser of a vehicle protection product purchase a
21 vehicle protection product that is not installed on a motor vehicle at the time of
22 sale; providing for the resolution of disputes between a vehicle protection
23 product warrantor and a warranty holder; providing that a violation of this Act
24 is an unfair or deceptive trade practice under the Maryland Consumer
25 Protection Act and is subject to certain enforcement and penalty provisions and
26 certain remedies; establishing a certain short title; providing for the application
27 of this Act; defining certain terms; and generally relating to the Vehicle
28 Protection Products Act.

29 BY adding to

30 Article - Commercial Law

31 Section 14-4A-01 through 14-4A-11, inclusive, to be under the new subtitle

32 "Subtitle 4A. Vehicle Protection Products Act"

33 Annotated Code of Maryland

34 (2005 Replacement Volume)

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

3 **Article - Commercial Law**

4 **SUBTITLE 4A. VEHICLE PROTECTION PRODUCTS ACT.**

5 14-4A-01.

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (B) (1) "VEHICLE PROTECTION PRODUCT" MEANS A VEHICLE PROTECTION
9 DEVICE, SYSTEM, OR SERVICE THAT:

10 (I) IS INSTALLED ON OR APPLIED TO A VEHICLE; AND

11 (II) IS DESIGNED TO PREVENT LOSS OR DAMAGE TO A VEHICLE
12 FROM A SPECIFIC CAUSE.

13 (2) "VEHICLE PROTECTION PRODUCT" INCLUDES:

14 (I) AN ALARM SYSTEM;

15 (II) A BODY PART MARKING PRODUCT;

16 (III) A STEERING LOCK;

17 (IV) A WINDOW ETCH PRODUCT;

18 (V) A PEDAL OR IGNITION LOCK;

19 (VI) A FUEL OR IGNITION KILL SWITCH; AND

20 (VII) AN ELECTRONIC, RADIO, OR SATELLITE TRACKING DEVICE.

21 (C) "VEHICLE PROTECTION PRODUCT WARRANTY" MEANS A WRITTEN
22 AGREEMENT BY A WARRANTOR THAT PROVIDES THAT IF THE VEHICLE PROTECTION
23 PRODUCT FAILS TO PREVENT LOSS OR DAMAGE TO A VEHICLE FROM A SPECIFIC
24 CAUSE, THE WARRANTY HOLDER SHALL BE PAID SPECIFIED INCIDENTAL COSTS BY
25 THE WARRANTOR AS A RESULT OF THE FAILURE OF THE VEHICLE PROTECTION
26 PRODUCT TO PERFORM UNDER THE TERMS OF THE WARRANTY.

27 (D) (1) "WARRANTOR" MEANS A PERSON THAT IS CONTRACTUALLY
28 OBLIGATED TO THE WARRANTY HOLDER UNDER THE TERMS OF THE VEHICLE
29 PROTECTION PRODUCT WARRANTY AGREEMENT.

30 (2) "WARRANTOR" DOES NOT INCLUDE AN AUTHORIZED INSURER THAT
31 ISSUES A WARRANTY REIMBURSEMENT INSURANCE POLICY.

1 (E) "WARRANTY HOLDER" MEANS A PERSON THAT PURCHASES A VEHICLE
2 PROTECTION PRODUCT WARRANTY OR A PERMITTED TRANSFEREE.

3 (F) "WARRANTY REIMBURSEMENT INSURANCE POLICY" MEANS A POLICY OF
4 INSURANCE THAT IS ISSUED TO A WARRANTOR TO:

5 (1) PROVIDE REIMBURSEMENT TO THE WARRANTOR; OR

6 (2) PAY ON BEHALF OF THE WARRANTOR ALL COVERED CONTRACTUAL
7 OBLIGATIONS INCURRED BY THE WARRANTOR UNDER THE TERMS AND CONDITIONS
8 OF THE INSURED VEHICLE PROTECTION PRODUCT WARRANTIES SOLD BY THE
9 WARRANTOR.

10 14-4A-02.

11 (A) A VEHICLE PROTECTION PRODUCT MAY NOT BE SOLD OR OFFERED FOR
12 SALE IN THE STATE UNLESS THE SELLER AND THE WARRANTOR COMPLY WITH THE
13 PROVISIONS OF THIS SUBTITLE.

14 (B) A SELLER OR WARRANTOR OF A VEHICLE PROTECTION PRODUCT THAT
15 COMPLIES WITH THIS SUBTITLE IS NOT REQUIRED TO COMPLY WITH ANY PROVISION
16 OF THE INSURANCE ARTICLE.

17 (C) A SERVICE CONTRACT PROVIDER THAT DOES NOT SELL VEHICLE
18 PROTECTION PRODUCTS IS NOT SUBJECT TO THE REQUIREMENTS OF THIS
19 SUBTITLE.

20 (D) VEHICLE PROTECTION PRODUCT WARRANTIES ARE EXEMPT FROM THE
21 REQUIREMENTS OF SUBTITLE 4 OF THIS TITLE.

22 (E) WARRANTIES, INDEMNITY AGREEMENTS, AND GUARANTEES THAT ARE
23 NOT PROVIDED IN CONNECTION WITH THE SALE OF A VEHICLE PROTECTION
24 PRODUCT ARE NOT SUBJECT TO THE PROVISIONS OF THIS SUBTITLE.

25 14-4A-03.

26 (A) A WARRANTOR OF A VEHICLE PROTECTION PRODUCT SOLD OR OFFERED
27 FOR SALE IN THE STATE SHALL:

28 (1) BE INSURED UNDER A WARRANTY REIMBURSEMENT INSURANCE
29 POLICY; OR

30 (2) MAINTAIN A NET WORTH OR STOCKHOLDERS' EQUITY OF NOT LESS
31 THAN \$50,000,000.

32 (B) IF A WARRANTOR ELECTS TO CARRY WARRANTY REIMBURSEMENT
33 INSURANCE UNDER SUBSECTION (A)(1) OF THIS SECTION, THE WARRANTY
34 REIMBURSEMENT INSURANCE POLICY PURCHASED BY THE WARRANTOR SHALL
35 PROVIDE:

1 (1) THAT THE INSURER WILL PAY TO, OR ON BEHALF OF, THE
2 WARRANTOR 100% OF ALL SUMS THAT THE WARRANTOR IS LEGALLY OBLIGATED TO
3 PAY A WARRANTY HOLDER ACCORDING TO THE WARRANTOR'S CONTRACTUAL
4 OBLIGATIONS UNDER THE WARRANTOR'S VEHICLE PROTECTION PRODUCT
5 WARRANTY;

6 (2) THAT, IN THE EVENT PAYMENT DUE UNDER THE TERMS OF THE
7 VEHICLE PROTECTION PRODUCT WARRANTY IS NOT PROVIDED BY THE WARRANTOR
8 WITHIN 60 DAYS AFTER PROOF OF LOSS HAS BEEN FILED BY THE WARRANTY
9 HOLDER IN ACCORDANCE WITH THE TERMS OF THE VEHICLE PROTECTION PRODUCT
10 WARRANTY, THE WARRANTY HOLDER MAY FILE A CLAIM FOR REIMBURSEMENT
11 DIRECTLY WITH THE INSURER;

12 (3) THAT THE INSURER SHALL BE DEEMED TO HAVE RECEIVED
13 PAYMENT OF THE PREMIUM IF THE WARRANTY HOLDER PAID THE WARRANTOR FOR
14 THE VEHICLE PROTECTION PRODUCT WARRANTY;

15 (4) THAT THE INSURER'S LIABILITY UNDER THE WARRANTY
16 REIMBURSEMENT INSURANCE POLICY SHALL NOT BE REDUCED OR RELIEVED BY A
17 FAILURE OF THE WARRANTOR, FOR ANY REASON, TO REPORT THE ISSUANCE OF A
18 WARRANTY TO THE INSURER; AND

19 (5) THAT, WITH REGARD TO CANCELLATION OF THE WARRANTY
20 REIMBURSEMENT INSURANCE POLICY:

21 (I) THE INSURER MAY NOT CANCEL THE WARRANTY
22 REIMBURSEMENT INSURANCE POLICY UNTIL A WRITTEN NOTICE OF CANCELLATION
23 HAS BEEN MAILED OR DELIVERED TO THE INSURED WARRANTOR;

24 (II) THE CANCELLATION OF A WARRANTY REIMBURSEMENT
25 INSURANCE POLICY MAY NOT REDUCE THE INSURER'S RESPONSIBILITY FOR
26 VEHICLE PROTECTION PRODUCTS SOLD BEFORE THE DATE OF CANCELLATION; AND

27 (III) IN THE EVENT AN INSURER CANCELS A WARRANTY
28 REIMBURSEMENT INSURANCE POLICY, THE WARRANTOR SHALL DISCONTINUE
29 ACTING AS A WARRANTOR AS OF THE TERMINATION DATE OF THE WARRANTY
30 REIMBURSEMENT INSURANCE POLICY UNTIL A NEW WARRANTY REIMBURSEMENT
31 INSURANCE POLICY BECOMES EFFECTIVE.

32 14-4A-04.

33 (A) A VEHICLE PROTECTION PRODUCT WARRANTY SHALL BE WRITTEN IN
34 CLEAR, UNDERSTANDABLE LANGUAGE.

35 (B) A VEHICLE PROTECTION PRODUCT WARRANTY SHALL STATE:

36 (1) ONE OF THE FOLLOWING, AS APPLICABLE:

1 (I) "THE OBLIGATIONS OF THE WARRANTOR TO THE WARRANTY
2 HOLDER UNDER THIS WARRANTY ARE GUARANTEED UNDER A WARRANTY
3 REIMBURSEMENT INSURANCE POLICY"; OR

4 (II) "THE OBLIGATIONS OF THE WARRANTOR TO THE WARRANTY
5 HOLDER UNDER THIS WARRANTY ARE BACKED BY THE FULL FAITH AND CREDIT OF
6 THE WARRANTOR";

7 (2) ONE OF THE FOLLOWING, AS APPLICABLE:

8 (I) "IN THE EVENT PAYMENT DUE UNDER THE TERMS OF THE
9 VEHICLE PROTECTION PRODUCT WARRANTY IS NOT PROVIDED BY THE WARRANTOR
10 WITHIN 60 DAYS AFTER PROOF OF LOSS HAS BEEN FILED BY THE WARRANTY
11 HOLDER IN ACCORDANCE WITH THE TERMS OF THE VEHICLE PROTECTION PRODUCT
12 WARRANTY, THE WARRANTY HOLDER MAY FILE A CLAIM DIRECTLY WITH THE
13 INSURER THAT ISSUED THE WARRANTY REIMBURSEMENT INSURANCE POLICY"; OR

14 (II) "IF THE OBLIGATIONS OF THE WARRANTOR ARE BACKED BY
15 THE FULL FAITH AND CREDIT OF THE WARRANTOR, THE WARRANTY HOLDER IS
16 ENTITLED TO MAKE A CLAIM FOR REIMBURSEMENT DIRECTLY AGAINST THE
17 WARRANTOR";

18 (3) THE NAME AND ADDRESS OF THE INSURER THAT ISSUED THE
19 WARRANTY REIMBURSEMENT INSURANCE POLICY TO THE WARRANTOR, IF
20 APPLICABLE;

21 (4) THE NAME AND ADDRESS OF THE WARRANTOR, THE SELLER OF THE
22 VEHICLE PROTECTION PRODUCT, AND THE WARRANTY HOLDER;

23 (5) THE PURCHASE PRICE AND TERMS OF THE VEHICLE PROTECTION
24 PRODUCT WARRANTY, INCLUDING A RECITAL OF THE WARRANTOR'S OBLIGATIONS
25 UNDER THE VEHICLE PROTECTION PRODUCT WARRANTY;

26 (6) THE DURATION OF THE WARRANTY PERIOD MEASURED BY TIME OR,
27 IF PRACTICAL, BY SOME MEASURE OF USAGE SUCH AS MILEAGE;

28 (7) THE PROCEDURE FOR MAKING A CLAIM, INCLUDING A TELEPHONE
29 NUMBER THE WARRANTY HOLDER MAY CALL TO MAKE A CLAIM;

30 (8) THE AMOUNT OF THE DEDUCTIBLE, IF ANY, UNDER THE VEHICLE
31 PROTECTION PRODUCT WARRANTY;

32 (9) THE PAYMENTS OR SERVICES TO BE PROVIDED UNDER THE
33 WARRANTY, THE MANNER OF CALCULATING OR DETERMINING THE PAYMENTS TO BE
34 PROVIDED, AND ANY LIMITATIONS, EXCEPTIONS, OR EXCLUSIONS;

35 (10) THE DUTIES OF THE WARRANTY HOLDER, SUCH AS TO PROTECT
36 AGAINST DAMAGE TO THE VEHICLE, TO NOTIFY THE WARRANTOR IN ADVANCE OF
37 ANY REPAIR, AND ANY OTHER SIMILAR DUTY;

1 (11) ANY TERMS, RESTRICTIONS, OR CONDITIONS RELATING TO
2 TRANSFER OF THE WARRANTY; AND

3 (12) THE TERMS AND CONDITIONS GOVERNING CANCELLATION OF THE
4 VEHICLE PROTECTION PRODUCT WARRANTY.

5 (C) A VEHICLE PROTECTION PRODUCT WARRANTY SHALL INCLUDE, IN A
6 PROMINENT LOCATION, THE FOLLOWING STATEMENT:

7 "THIS AGREEMENT IS A PRODUCT WARRANTY AND IS NOT INSURANCE."

8 (D) IF THE SALE OF A VEHICLE PROTECTION PRODUCT INCLUDES A VEHICLE
9 PROTECTION PRODUCT WARRANTY, THE SELLER OF THE VEHICLE PROTECTION
10 PRODUCT OR THE WARRANTOR SHALL PROVIDE TO THE PURCHASER:

11 (1) AT THE TIME OF SALE, A WRITTEN COPY OF THE VEHICLE
12 PROTECTION PRODUCT WARRANTY; OR

13 (2) (I) AT THE TIME OF SALE, A RECEIPT OR OTHER WRITTEN
14 EVIDENCE OF THE PURCHASE OF THE VEHICLE PROTECTION PRODUCT; AND

15 (II) WITHIN 30 DAYS AFTER THE DATE OF THE PURCHASE, A
16 WRITTEN COPY OF THE VEHICLE PROTECTION PRODUCT WARRANTY.

17 14-4A-05.

18 (A) A WARRANTOR MAY CANCEL THE VEHICLE PROTECTION PRODUCT
19 WARRANTY ONLY IF THE WARRANTY HOLDER:

20 (1) FAILS TO PAY FOR THE VEHICLE PROTECTION PRODUCT;

21 (2) MAKES A MATERIAL MISREPRESENTATION TO:

22 (I) THE WARRANTOR; OR

23 (II) IF A VEHICLE PROTECTION PRODUCT IS SOLD WITH A VEHICLE
24 PROTECTION PRODUCT WARRANTY, THE SELLER OF THE VEHICLE PROTECTION
25 PRODUCT;

26 (3) COMMITS FRAUD RELATING TO THE PURCHASE OF THE VEHICLE
27 PROTECTION PRODUCT OR VEHICLE PROTECTION PRODUCT WARRANTY; OR

28 (4) SUBSTANTIALLY BREACHES THE WARRANTY HOLDER'S DUTIES
29 UNDER THE VEHICLE PROTECTION PRODUCT WARRANTY.

30 (B) (1) AT LEAST 30 DAYS BEFORE THE EFFECTIVE DATE OF THE
31 CANCELLATION OF A VEHICLE PROTECTION PRODUCT WARRANTY, THE WARRANTOR
32 UNDER THE VEHICLE PROTECTION PRODUCT WARRANTY SHALL MAIL WRITTEN
33 NOTICE OF CANCELLATION TO THE WARRANTY HOLDER AT THE MOST RECENT
34 ADDRESS OF THE WARRANTY HOLDER IN THE WARRANTOR'S RECORDS.

7

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1 (2) THE NOTICE OF CANCELLATION SHALL STATE:

2 (I) THE EFFECTIVE DATE OF THE CANCELLATION; AND

3 (II) THE REASON FOR THE CANCELLATION.

4 14-4A-06.

5 (A) UNLESS AUTHORIZED BY THE MARYLAND INSURANCE COMMISSIONER TO
6 ENGAGE IN INSURANCE BUSINESS IN THE STATE, A WARRANTOR MAY NOT USE THE
7 FOLLOWING WORDS IN ITS NAME, CONTRACTS, OR LITERATURE:

8 (1) "INSURANCE";

9 (2) "CASUALTY";

10 (3) "SURETY";

11 (4) "MUTUAL"; OR

12 (5) ANY OTHER WORDS THAT ARE:

13 (I) DESCRIPTIVE OF THE INSURANCE, CASUALTY, OR SURETY
14 BUSINESS; OR

15 (II) DECEPTIVELY SIMILAR TO THE NAME OR DESCRIPTION OF AN
16 INSURER, A SURETY CORPORATION, OR ANOTHER WARRANTOR.

17 (B) A WARRANTOR MAY USE THE TERM "GUARANTY" OR A SIMILAR WORD IN
18 THE WARRANTOR'S NAME.

19 14-4A-07.

20 A VEHICLE PROTECTION PRODUCT SELLER OR A WARRANTOR MAY NOT
21 REQUIRE AS A CONDITION OF SALE OR FINANCING THAT A PURCHASER OF A
22 VEHICLE PROTECTION PRODUCT BUY A VEHICLE PROTECTION PRODUCT THAT IS
23 NOT INSTALLED ON A MOTOR VEHICLE AT THE TIME OF SALE.

24 14-4A-08.

25 A WARRANTOR THAT ESTABLISHES AN INFORMAL DISPUTE SETTLEMENT
26 PROCEDURE MAY ELECT TO SETTLE VEHICLE PROTECTION PRODUCT WARRANTY
27 DISPUTES IN COORDINATION WITH A PRIVATE MEDIATION SERVICES PROVIDER OR
28 THE CONSUMER PROTECTION DIVISION IN THE OFFICE OF THE ATTORNEY GENERAL.

29 14-4A-09.

30 A WARRANTOR IS LIABLE TO THE WARRANTY HOLDER FOR ANY WRONGFUL
31 BREACH OF A VEHICLE PROTECTION PRODUCT WARRANTY AND IS UNDER A DUTY
32 TO:

1 (1) COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE; AND

2 (2) COMPENSATE THE WARRANTY HOLDER FOR ALL REASONABLE
3 INCIDENTAL EXPENSES INCURRED AS A RESULT OF THE BREACH.

4 14-4A-10.

5 (A) A VIOLATION OF THIS SUBTITLE:

6 (1) IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE
7 MEANING OF TITLE 13 OF THIS ARTICLE; AND

8 (2) IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS
9 CONTAINED IN TITLE 13 OF THIS ARTICLE.

10 (B) IN ADDITION TO THE REMEDIES PROVIDED UNDER § 13-408 OF THIS
11 ARTICLE, AN INDIVIDUAL WHO IS AFFECTED BY A VIOLATION OF THIS SUBTITLE MAY
12 FILE AN ACTION AGAINST A PERSON THAT VIOLATES THIS SUBTITLE TO RECOVER:

13 (1) DAMAGES IN THE AMOUNT OF THE GREATER OF:

14 (I) \$500 FOR EACH VIOLATION; OR

15 (II) ACTUAL DAMAGES SUSTAINED AS A RESULT OF THE
16 VIOLATION; AND

17 (2) COURT COSTS AND REASONABLE ATTORNEY'S FEES.

18 (C) FOR PURPOSES OF THIS SECTION, EACH INDIVIDUAL FAILURE TO COMPLY
19 WITH THE REQUIREMENTS OF THIS SUBTITLE IS A SEPARATE VIOLATION.

20 14-4A-11.

21 THIS SUBTITLE MAY BE CITED AS THE VEHICLE PROTECTION PRODUCTS ACT.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
23 construed to apply only prospectively and may not be applied or interpreted to have
24 any effect on or application to any vehicle protection product sold or warranted before
25 the effective date of this Act.

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
27 effect October 1, 2006.