

# HOUSE BILL 888

I3

71r2329

---

By: **Delegate Kaiser**

Introduced and read first time: February 9, 2007

Assigned to: Economic Matters

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Used Motor Vehicle Warranty Enforcement Act**

3 FOR the purpose of prohibiting a certain dealer from selling a used motor vehicle to a  
4 consumer without providing a written warranty for certain warranty periods;  
5 requiring a warranty to include certain provisions; requiring a dealer to  
6 repurchase a used motor vehicle and refund a certain amount to a consumer if,  
7 during the warranty period, the dealer is unable to repair or correct certain  
8 nonconforming defects or conditions of the used motor vehicle; establishing a  
9 certain affirmative defense to a certain claim; providing for the extension of a  
10 warranty under certain circumstances; authorizing a consumer to waive a  
11 dealer's obligation to provide a warranty for a used motor vehicle under certain  
12 circumstances; providing that if a dealer fails to provide a consumer with a  
13 warranty as required under this Act, it shall be presumed that the dealer  
14 provided the consumer with a warranty as a matter of law, unless a certain  
15 waiver has been signed by the consumer; requiring the Motor Vehicle  
16 Administration to develop and make available a certain notice; requiring the  
17 Administration to adopt certain regulations; clarifying that this Act does not  
18 limit certain other rights of or remedies available to a consumer; prohibiting a  
19 dealer from engaging in certain acts; providing that a violation of this Act is an  
20 unfair or deceptive trade practice within the meaning of the Maryland  
21 Consumer Protection Act; authorizing a court to award certain damages to a  
22 consumer under certain circumstances; providing for the application of this Act;  
23 defining certain terms; and generally relating to the Used Motor Vehicle  
24 Warranty Enforcement Act.

25 BY adding to

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Commercial Law

2 Section 14–3501 through 14–3509 to be under the new subtitle “Subtitle 35.  
3 Used Motor Vehicle Warranty Enforcement Act”

4 Annotated Code of Maryland

5 (2005 Replacement Volume and 2006 Supplement)

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

8 **Article – Commercial Law**

9 **SUBTITLE 35. USED MOTOR VEHICLE WARRANTY ENFORCEMENT ACT.**

10 **14–3501.**

11 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
12 INDICATED.

13 (B) “AS IS” MEANS A USED MOTOR VEHICLE SOLD BY A DEALER TO A  
14 CONSUMER WITHOUT A WARRANTY, EITHER EXPRESSED OR IMPLIED.

15 (C) “CONSUMER” HAS THE MEANING STATED IN § 13–101 OF THIS  
16 ARTICLE.

17 (D) (1) “COVERED ITEM” MEANS THE MECHANICAL COMPONENTS OF  
18 A USED MOTOR VEHICLE.

19 (2) “COVERED ITEM” INCLUDES:

20 (I) AN ENGINE;

21 (II) A TRANSMISSION;

22 (III) FRONT–WHEEL DRIVE COMPONENTS; AND

23 (IV) REAR–WHEEL DRIVE COMPONENTS.

24 (E) “DEALER” MEANS A PERSON THAT SELLS OR OFFERS FOR SALE  
25 THREE OR MORE USED MOTOR VEHICLES DURING ANY 12–MONTH PERIOD.



1           (3) HAS BEEN DECLARED A TOTAL LOSS BY AN INSURANCE  
2 COMPANY; OR

3           (4) HAS MORE THAN 100,000 MILES.

4           (B) THIS SUBTITLE APPLIES TO A LESSOR WHO IS A DEALER AND WHO  
5 SELLS OR OFFERS FOR SALE A USED MOTOR VEHICLE, SUBJECT TO A MOTOR  
6 VEHICLE LEASE AGREEMENT THAT WAS IN EFFECT FOR MORE THAN 90 DAYS, TO  
7 A CONSUMER WHO IS NOT THE LESSEE, A FAMILY MEMBER OF THE LESSEE, OR  
8 AN EMPLOYEE OF THE LESSEE ON THE TERMINATION OF THE LEASE  
9 AGREEMENT.

10 **14-3503.**

11           A DEALER MAY NOT SELL A USED MOTOR VEHICLE TO A CONSUMER  
12 WITHOUT GIVING THE CONSUMER A WRITTEN WARRANTY FOR THE FOLLOWING  
13 WARRANTY PERIODS:

14           (1) IF THE USED MOTOR VEHICLE HAS 24,000 MILES OR LESS,  
15 FOR A MINIMUM OF 90 DAYS OR 3,000 MILES, WHICHEVER OCCURS FIRST;

16           (2) IF THE USED MOTOR VEHICLE HAS MORE THAN 24,000 MILES  
17 BUT LESS THAN 60,000 MILES, FOR A MINIMUM OF 60 DAYS OR 2,000 MILES,  
18 WHICHEVER OCCURS FIRST; OR

19           (3) IF THE USED MOTOR VEHICLE HAS BETWEEN 60,000 AND  
20 100,000 MILES, FOR A MINIMUM OF 30 DAYS OR 1,000 MILES, WHICHEVER  
21 OCCURS FIRST.

22 **14-3504.**

23           (A) A WARRANTY SHALL PROVIDE THAT:

24           (1) IF A USED MOTOR VEHICLE DOES NOT CONFORM TO ALL  
25 APPLICABLE WARRANTIES DURING THE WARRANTY PERIOD, THE CONSUMER  
26 SHALL REPORT THE NONCONFORMITY, DEFECT, OR CONDITION TO THE DEALER  
27 DURING THE WARRANTY PERIOD;

28           (2) THE CONSUMER SHALL PROVIDE AN OPPORTUNITY FOR THE

1 DEALER TO CORRECT THE NONCONFORMITY, DEFECT, OR CONDITION SUBJECT  
2 TO A DEDUCTIBLE OF \$50 FOR EACH REPAIR OF A COVERED ITEM; AND

3 (3) THE FOLLOWING REPAIRS ARE NOT COVERED UNDER A USED  
4 MOTOR VEHICLE WARRANTY:

5 (I) REPAIRS COVERED BY A MANUFACTURER'S WARRANTY;

6 (II) REPAIRS COVERED BY A RECALL PROGRAM;

7 (III) REPAIRS REQUIRED BECAUSE OF COLLISION, ABUSE,  
8 OR THE CONSUMER'S FAILURE TO PROPERLY MAINTAIN THE USED MOTOR  
9 VEHICLE IN ACCORDANCE WITH THE MANUFACTURER'S RECOMMENDED  
10 MAINTENANCE SCHEDULE;

11 (IV) REPAIRS REQUIRED BECAUSE OF DAMAGE CAUSED TO A  
12 COVERED ITEM AS A RESULT OF THE COMMERCIAL USE OF THE USED MOTOR  
13 VEHICLE; AND

14 (V) REPAIRS REQUIRED AS A RESULT OF THE MISUSE,  
15 NEGLIGENCE, OR ALTERATION OF THE USED MOTOR VEHICLE BY A PERSON  
16 THAT IS NOT THE DEALER OR THE DEALER'S AGENT.

17 (B) IF, DURING THE WARRANTY PERIOD, A DEALER IS UNABLE AFTER A  
18 REASONABLE NUMBER OF ATTEMPTS TO REPAIR OR CORRECT ANY  
19 NONCONFORMITY, DEFECT, OR CONDITION THAT SUBSTANTIALLY IMPAIRS THE  
20 USE, VALUE, OR SAFETY OF A USED MOTOR VEHICLE SOLD TO A CONSUMER, THE  
21 DEALER SHALL:

22 (1) REPURCHASE THE USED MOTOR VEHICLE; AND

23 (2) REFUND TO THE CONSUMER THE FULL PURCHASE PRICE  
24 EXCLUDING SALES TAXES, TITLE AND REGISTRATION FEES, AND ANY SIMILAR  
25 GOVERNMENTAL CHARGES, LESS:

26 (I) A REASONABLE ALLOWANCE FOR THE CONSUMER'S USE  
27 OF THE USED MOTOR VEHICLE; AND

28 (II) A REASONABLE ALLOWANCE FOR DAMAGE NOT

1 **ATTRIBUTABLE TO NORMAL WEAR BUT NOT TO INCLUDE DAMAGE RESULTING**  
2 **FROM A NONCONFORMITY, DEFECT, OR CONDITION.**

3 **(C) A DEALER SHALL MAKE REFUNDS UNDER SUBSECTION (B)(2) OF**  
4 **THIS SECTION TO THE CONSUMER AND LIENHOLDER, IF ANY, AS THEIR**  
5 **INTERESTS APPEAR ON THE RECORDS OF OWNERSHIP MAINTAINED BY THE**  
6 **MOTOR VEHICLE ADMINISTRATION.**

7 **(D) IT IS AN AFFIRMATIVE DEFENSE TO ANY CLAIM UNDER THIS**  
8 **SECTION THAT THE NONCONFORMITY, DEFECT, OR CONDITION:**

9 **(1) DOES NOT SUBSTANTIALLY IMPAIR THE USE, VALUE, OR**  
10 **SAFETY OF THE USED MOTOR VEHICLE; OR**

11 **(2) IS THE RESULT OF ABUSE, NEGLIGENCE, OR UNAUTHORIZED**  
12 **MODIFICATIONS OR ALTERATIONS OF THE USED MOTOR VEHICLE BY A PERSON**  
13 **THAT IS NOT THE DEALER OR THE DEALER'S AGENT.**

14 **(E) IT SHALL BE PRESUMED THAT A REASONABLE NUMBER OF**  
15 **ATTEMPTS HAVE BEEN UNDERTAKEN TO CONFORM A USED MOTOR VEHICLE TO**  
16 **THE APPLICABLE WARRANTIES IF:**

17 **(1) THE SAME NONCONFORMITY, DEFECT, OR CONDITION HAS**  
18 **BEEN SUBJECT TO REPAIR THREE OR MORE TIMES BY THE DEALER OR THE**  
19 **DEALER'S AGENT WITHIN THE WARRANTY PERIOD BUT THE NONCONFORMITY,**  
20 **DEFECT, OR CONDITION CONTINUES TO EXIST; OR**

21 **(2) THE VEHICLE IS OUT OF SERVICE BY REASON OF REPAIR OF**  
22 **ONE OR MORE NONCONFORMITIES, DEFECTS, OR CONDITIONS FOR A**  
23 **CUMULATIVE TOTAL OF 20 OR MORE DAYS DURING THE WARRANTY PERIOD.**

24 **(F) THE TERM OF A WARRANTY OFFERED BY A DEALER SHALL BE**  
25 **EXTENDED BY ANY TIME PERIOD DURING WHICH THE CONSUMER IS WAITING**  
26 **FOR THE DEALER OR THE DEALER'S AGENT TO BEGIN REPAIRS OF THE**  
27 **NONCONFORMITY, DEFECT, OR CONDITION OF THE USED MOTOR VEHICLE.**

28 **14-3505.**

29 **(A) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS**

1 **SUBTITLE, A CONSUMER, AS A RESULT OF PRICE NEGOTIATION FOR THE**  
2 **PURCHASE OF A USED MOTOR VEHICLE WITH MORE THAN 60,000 MILES, MAY**  
3 **ELECT TO WAIVE THE DEALER'S OBLIGATION TO PROVIDE A WARRANTY ON THE**  
4 **USED MOTOR VEHICLE.**

5 **(2) THE WAIVER SHALL:**

6 **(I) BE IN WRITING;**

7 **(II) BE SEPARATELY STATED IN THE SALES CONTRACT;**

8 **(III) BE SIGNED BY THE CONSUMER;**

9 **(IV) STATE THE DEALER'S OBLIGATION TO PROVIDE A**  
10 **WARRANTY ON USED MOTOR VEHICLES OFFERED FOR SALE;**

11 **(V) STATE THAT THE CONSUMER NEGOTIATED THE**  
12 **PURCHASE PRICE OF THE USED MOTOR VEHICLE WITH MORE THAN 60,000**  
13 **MILES, AND ELECTS TO WAIVE THE DEALER'S OBLIGATION TO PROVIDE A**  
14 **WARRANTY ON THE USED MOTOR VEHICLE; AND**

15 **(VI) STATE THAT THE CONSUMER ELECTS TO PURCHASE**  
16 **THE USED MOTOR VEHICLE "AS IS".**

17 **(B) IF A DEALER FAILS TO PROVIDE A CONSUMER WITH A WRITTEN**  
18 **WARRANTY AS REQUIRED UNDER THIS SUBTITLE, IT SHALL BE PRESUMED THAT**  
19 **THE DEALER PROVIDED THE CONSUMER WITH A WRITTEN WARRANTY AS A**  
20 **MATTER OF LAW, UNLESS A WAIVER HAS BEEN SIGNED BY THE CONSUMER IN**  
21 **ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.**

22 **14-3506.**

23 **(A) THE MOTOR VEHICLE ADMINISTRATION SHALL:**

24 **(1) DEVELOP A NOTICE THAT DESCRIBES THE RIGHTS PROVIDED**  
25 **TO CONSUMERS UNDER THIS SUBTITLE;**

26 **(2) MAKE THE NOTICE AVAILABLE TO ALL DEALERS THAT SELL**  
27 **USED MOTOR VEHICLES IN THE STATE; AND**

1           **(3) ADOPT REGULATIONS TO CARRY OUT THIS SECTION.**

2           **(B) THE NOTICE UNDER SUBSECTION (A) OF THIS SECTION SHALL:**

3           **(1) BE WRITTEN IN SIMPLE AND READABLE PLAIN LANGUAGE;**

4 **AND**

5           **(2) CONTAIN SUFFICIENT DETAIL TO FULLY INFORM CONSUMERS**  
6 **ABOUT THE RIGHTS AND REMEDIES AVAILABLE UNDER THIS SUBTITLE AND THE**  
7 **PROCEDURES TO FOLLOW TO ENFORCE THOSE RIGHTS AND REMEDIES.**

8           **(C) EACH DEALER THAT SELLS A USED MOTOR VEHICLE IN THE STATE**  
9 **SHALL PROVIDE TO THE PURCHASER, AT THE TIME OF THE SALE OR DELIVERY**  
10 **OF THE USED MOTOR VEHICLE, A COPY OF THE NOTICE DEVELOPED BY THE**  
11 **MOTOR VEHICLE ADMINISTRATION UNDER THIS SECTION.**

12 **14-3507.**

13           **A DEALER MAY NOT:**

14           **(1) MISREPRESENT THE MECHANICAL CONDITION OF A USED**  
15 **MOTOR VEHICLE;**

16           **(2) FAIL TO DISCLOSE, PRIOR TO SALE, ANY NONCONFORMITY,**  
17 **DEFECT, OR CONDITION IN THE MECHANICAL CONDITION OF A USED MOTOR**  
18 **VEHICLE THAT IS KNOWN TO THE DEALER;**

19           **(3) REPRESENT THAT A USED MOTOR VEHICLE OR ANY**  
20 **COMPONENT OF A USED MOTOR VEHICLE IS FREE OF ANY NONCONFORMITIES,**  
21 **DEFECTS, OR CONDITIONS AT THE TIME OF SALE, UNLESS THE DEALER HAS A**  
22 **REASONABLE BASIS FOR THE REPRESENTATION AT THE TIME IT IS MADE;**

23           **(4) FAIL TO DISCLOSE PRIOR TO SALE, IF KNOWN TO THE**  
24 **DEALER, THE EXISTENCE AND TERMS OF ANY WARRANTY, SERVICE CONTRACT,**  
25 **OR REPAIR INSURANCE THAT IS:**

26           **(I) IN EFFECT AT THE TIME OF THE SALE OF A USED MOTOR**  
27 **VEHICLE;**



1                   (II) PROVIDED BY A PERSON OTHER THAN THE DEALER;  
2 AND

3                   (III) SUBJECT TO TRANSFER TO A CONSUMER;

4                   (5) MISREPRESENT THE TERMS OF ANY WARRANTY, SERVICE  
5 CONTRACT, OR REPAIR INSURANCE THAT IS:

6                   (I) IN EFFECT AT THE TIME OF THE SALE OF A USED MOTOR  
7 VEHICLE;

8                   (II) PROVIDED BY A PERSON OTHER THAN THE DEALER;  
9 AND

10                  (III) SUBJECT TO TRANSFER TO A CONSUMER;

11                  (6) FAIL TO DISCLOSE, PRIOR TO SALE, THE EXISTENCE AND  
12 TERMS OF ANY WARRANTY, SERVICE CONTRACT, OR REPAIR INSURANCE ON A  
13 USED MOTOR VEHICLE THAT IS OFFERED BY THE DEALER;

14                  (7) MISREPRESENT THE TERMS OF ANY WARRANTY, SERVICE  
15 CONTRACT, OR REPAIR INSURANCE ON A USED MOTOR VEHICLE THAT IS  
16 OFFERED BY THE DEALER;

17                  (8) REPRESENT, PRIOR TO SALE, THAT A USED MOTOR VEHICLE  
18 IS SOLD WITH A WARRANTY, SERVICE CONTRACT, OR REPAIR INSURANCE WHEN  
19 THE USED MOTOR VEHICLE IS SOLD WITHOUT ANY WARRANTY, SERVICE  
20 CONTRACT, OR REPAIR INSURANCE;

21                  (9) FAIL TO DISCLOSE, PRIOR TO SALE, THAT A USED MOTOR  
22 VEHICLE IS SOLD WITHOUT ANY WARRANTY, SERVICE CONTRACT, OR REPAIR  
23 INSURANCE; OR

24                  (10) FAIL TO PROVIDE, PRIOR TO SALE, A CLEARLY WRITTEN  
25 EXPLANATION, OF WHAT IS MEANT BY THE TERM "AS IS", IF THE USED MOTOR  
26 VEHICLE IS SOLD "AS IS".

27 14-3508.

1           **(A) A VIOLATION OF THIS SUBTITLE IS AN UNFAIR OR DECEPTIVE**  
2 **TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE.**

3           **(B) IN ADDITION TO ANY OTHER REMEDIES THAT MAY BE AVAILABLE**  
4 **UNDER THIS SUBTITLE, IF A DEALER IS FOUND TO HAVE ACTED IN BAD FAITH,**  
5 **THE COURT MAY AWARD TO THE CONSUMER DAMAGES NOT EXCEEDING \$10,000.**

6 **14-3509.**

7           **THIS SUBTITLE DOES NOT LIMIT ANY OTHER RIGHTS OF OR REMEDIES**  
8 **AVAILABLE TO A CONSUMER UNDER ANY OTHER PROVISION OF LAW.**

9           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2007.