

Department of Legislative Services
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FISCAL AND POLICY NOTE

House Bill 574
Economic Matters

(Delegate Olszewski, *et al.*)

Motor Vehicle Liability Insurance - Replacement Parts for Damaged Motor
Vehicles

This bill requires insurers that issue or deliver motor vehicle liability policies that cover the repair of physical damage to an insured vehicle in the State to authorize repairs using “genuine crash parts” that will maintain the manufacturer’s warranty if the motor vehicle is within five years of its manufacture date. For this type of vehicle, the insurer may not require repairs to be made with “aftermarket crash parts,” but an insured motorist may consent in writing during repair for the use of this type of part.

The bill also prohibits insurance adjusters, appraisers, producers, and employees of insurers from requiring a repair facility to use a specific vendor or process in the procurement of parts or other materials needed for the repair of a motor vehicle.

Fiscal Summary

State Effect: Minimal increase in Maryland Insurance Administration (MIA) special fund revenues in FY 2015 due to \$125 rate and form filings. General fund revenues increase to the extent that the bill results in increased premiums for motor vehicle insurance policyholders due to the 2% tax collected on all premiums in the State. Review of the filings can be handled with existing resources.

Maryland Automobile Insurance Fund (MAIF) Effect: Nonbudgeted expenditures increase in FY 2015 and subsequent years to account for the additional cost to purchase genuine crash parts instead of aftermarket crash parts for certain damaged vehicles.

Local Effect: The bill does not directly impact local finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill defines “crash parts” as exterior or interior sheet metal or fiberglass panels and parts that form the structure or body of a motor vehicle. “Crash parts” includes (1) fenders; (2) bumpers; (3) door panels; (4) hoods; (5) grills; (6) wheel wells; and (7) front and rear lamp display panels.

The bill defines “aftermarket crash parts” as crash parts manufactured by a person other than the original manufacturer of a motor vehicle and for which the original manufacturer has not authorized the use of its name or trademark for the parts.

The bill defines “genuine crash parts” as crash parts manufactured by or for the original manufacturer of a motor vehicle that is being repaired and that is authorized to carry the name or trademark of the original manufacturer of the motor vehicle.

Current Law: The owner of a motor vehicle that is required to be registered in the State must maintain insurance for the vehicle during the registration period. The Motor Vehicle Administration may not issue or transfer the registration of a motor vehicle unless the owner or prospective owner of the vehicle furnishes evidence satisfactory to MVA that the required insurance is in effect. Maryland drivers are not required to carry proof of insurance. The required insurance must provide specified coverage that includes property damage liability coverage of \$15,000.

Insurance adjusters, appraisers, producers, and employees of insurers for a motor vehicle insurance policy may not (1) recommend the use of a specific repair service or source for repair or replacement of motor vehicle damage without informing the claimant or insured that he or she does not have to use the recommended service; (2) require that an appraisal or repair be made in a specific repair shop; (3) require that a claimant or insured use a specific contractor or repair shop for a repair service or repair product; or (4) intimidate, coerce, or threaten a claimant or insured to use a specific contractor or repair shop for a repair service or product. An adjuster or appraiser may not accept a gratuity or other form of remuneration from a repair service for recommending that repair service to a claimant or insured. Intentional violation of these prohibitions can result in a penalty of up to \$1,000 per violation, as well as denial, suspension, or revocation of an insurance license.

An automotive repair facility must prepare an invoice for all work done, including all warranty work, and all parts supplied by the facility. If the parts used by an automotive repair facility are aftermarket crash parts, the facility must include with its estimate a specified written statement to inform the customer that aftermarket parts were used. An automotive repair facility must, on request of the customer, provide a copy of the warranty for the aftermarket crash parts used in the repair of a vehicle, if available. An

insurer must also, on request of the insured, provide a copy of the warranty for any aftermarket crash parts used in the repair of a vehicle, if available.

Background: According to the Automotive Service Association, in the United States, 44 states have laws governing the use of replacement crash parts. Of these 44 states, 36 require notice to consumers when aftermarket crash parts are used and 7 states require notice and consent on the part of the consumer.

MAIF advises that, under its current practices, it does not write estimates using aftermarket parts unless the vehicle is more than two years old or has more than 25,000 miles on its odometer. MAIF advises that, when it does write estimates for aftermarket parts, the parts used are certified to match the original equipment manufacturer's standards and it warrants the repairs it pays for as long as the insured continues to own the car.

MAIF Expenditures: MAIF expenditures increase starting in fiscal 2015 and in all future years due to the requirement that it authorize repairs using genuine crash parts for a vehicle during the five-year period after it is manufactured and because its current practice is only to authorize repairs using genuine crash parts for a vehicle during the two-year period after it is manufactured. Because any expenditure increase depends on the number of policyholder accidents, the age of any involved vehicle, and the amount of damage sustained by any involved vehicle, the expenditure increase cannot be reliably estimated. However, given the prevalence of motor vehicle accidents and collisions in society at large, any expenditure increase is expected to be meaningful.

MAIF reports that, in 2013, a total of 2,309 estimates were written for vehicles built in model years 2009, 2010, and 2011, accounting for an age of three to five years after the manufacture date. In those years, MAIF reports the average difference between a claim using aftermarket parts and genuine crash parts was \$117.32. *For illustrative purposes*, if the bill's provisions were in effect in 2013, MAIF expenditures would have increased by about \$270,890 to account for the increased costs for genuine crash parts (2,309 claims x \$117.32). MAIF reports that this increase in expenditures would be reflected in higher insurance premiums for its policyholders.

State Revenues: General fund revenues increase to the extent that the bill results in increased premiums for policyholders of motor vehicle insurance in the State due to the 2% tax collected on all insurance premiums paid in the State. This increase depends on how insurance premiums rates are altered by insurers in the State as a result of the bill and, thus, cannot be reliably estimated at this time.

For illustrative purposes, if the MAIF expenditures discussed above (\$270,890) were passed on to policyholders in their entirety, general fund revenues would have increased

by \$5,418 in 2013. Other insurers in the State would most likely pass any increased costs onto policyholders through increased premiums as well. MAIF reports that it insures approximately 2% of all insured motor vehicles in the State. If premiums had increased for MAIF and all other policyholders of motor vehicle insurance in the State using MAIF's estimates, general fund revenues from the 2% premium tax for 2013 would have increased by as much as \$270,900.

Additional Information

Prior Introductions: House Bill 1375 of 2013 was referred to the House Economic Matters Committee but did not receive a hearing.

Cross File: Although designated as a cross file, SB 487 (Senator Astle, *et al.* – Finance) is not identical.

Information Source(s): Maryland Insurance Administration, Maryland Automobile Insurance Fund, Maryland Department of Transportation, Office of the Attorney General (Consumer Protection Division), Automotive Service Association, Department of Legislative Services

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