

SENATE BILL 414

R4

6lr1926
CF 6lr2802

By: **Senator Brochin**

Introduced and read first time: January 29, 2016

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Mechanical Repair Contracts**

3 FOR the purpose of altering the definition of “mechanical repair contract”; authorizing a
4 designated agent of an obligor under a mechanical repair contract to offer, sell, or
5 negotiate a mechanical repair contract; and generally relating to mechanical repair
6 contracts.

7 BY repealing and reenacting, with amendments,
8 Article – Transportation
9 Section 15–311.2(a) and (c)
10 Annotated Code of Maryland
11 (2012 Replacement Volume and 2015 Supplement)

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

14 **Article – Transportation**

15 15–311.2.

16 (a) (1) In this section the following words have the meanings indicated.

17 (2) (i) “Mechanical repair contract” means any agreement or contract
18 sold by a licensed vehicle dealer [or], an obligor, **OR A DESIGNATED AGENT OF AN**
19 **OBLIGOR** under which the obligor agrees to perform over a fixed period of time, for a
20 specific duration, and for a specific identifiable price, provided that the purchase of the
21 contract is optional to the purchaser, any of the following services:

22 1. The repair, replacement, or maintenance of a motor
23 vehicle, or the indemnification for the repair, replacement, or maintenance of a motor

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 vehicle, for the operational or structural failure of the motor vehicle due to a defect in
2 materials, workmanship, or normal wear and tear, with or without additional provisions
3 for incidental payment of indemnity for services including towing, rental and emergency
4 road service, and road hazard protection;

5 2. The repair, replacement, or maintenance of a motor
6 vehicle for the operational or structural failure of one or more parts or systems of the motor
7 vehicle brought about by the failure of an additive product to perform as represented;

8 3. The repair or replacement of tires or wheels on a motor
9 vehicle damaged as a result of coming into contact with road hazards, including potholes,
10 rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps;

11 4. The removal and repair of dents, dings, or creases on a
12 motor vehicle using the process of paintless dent removal;

13 5. The repair of chips or cracks in, or the replacement of,
14 motor vehicle windshields as a result of damage caused by road hazards;

15 6. The replacement of a motor vehicle key or key fob if the
16 key or key fob becomes inoperable or is lost or stolen; or

17 7. Other services or products that may be approved by the
18 Insurance Commissioner if consistent with the provisions of this section.

19 (ii) “Mechanical repair contract” includes extended warranties and
20 extended service contracts.

21 (iii) “Mechanical repair contract” does not include:

22 1. Warranties under the Magnuson–Moss Warranty Act, 15
23 U.S.C. § 2301, et seq.;

24 2. Contracts or agreements for regular maintenance only; or

25 3. An agreement between a motor club, as defined in
26 § 26–101 of the Insurance Article, and a member or subscriber of the motor club.

27 (3) (i) “Obligor” means the person specified in a mechanical repair
28 contract that is contractually obligated to perform the services set forth in the mechanical
29 repair contract.

30 (ii) “Obligor” does not include an insurer that provides insurance
31 coverage in accordance with subsection (b) of this section.

32 (c) (1) An obligor shall register with the Insurance Commissioner each year.

1 (2) As part of registration, an obligor shall provide the following
2 information for registration with the Commissioner:

3 (i) The name, corporate address, and telephone number of the
4 obligor;

5 (ii) The name, address, and telephone number of an individual
6 designated to receive correspondence on behalf of the obligor; and

7 (iii) The name and address of a designated agent authorized to accept
8 service on behalf of the obligor in the State.

9 (3) An obligor shall notify the Commissioner within 30 days of any change
10 to the registration information required under this subsection.

11 (4) An obligor that is required to register under this section shall pay an
12 annual registration fee as provided in § 2–112(a)(11) of the Insurance Article.

13 (5) (i) Other than a licensed vehicle dealer **OR A DESIGNATED AGENT**
14 **OF AN OBLIGOR**, a person that is not a registered obligor under this subtitle may not offer,
15 sell, or negotiate a mechanical repair contract.

16 (ii) The Commissioner may pursue an action against a person that
17 violates this paragraph.

18 (6) Subject to paragraph (7) of this subsection, the Commissioner shall
19 register each obligor that meets the requirements of this section.

20 (7) The Commissioner may deny a registration to an applicant or refuse to
21 renew, suspend, or revoke the registration of a registrant, after notice and an opportunity
22 for a hearing under §§ 2–210 through 2–214 of the Insurance Article, if the applicant or
23 registrant, or an officer, director, or employee of the applicant or registrant:

24 (i) Makes a material misstatement or misrepresentation in an
25 application for registration;

26 (ii) Fraudulently or deceptively obtains or attempts to obtain a
27 registration for the applicant, the registrant, or another person;

28 (iii) Has been convicted of a felony or of a misdemeanor involving
29 moral turpitude in connection with the sale, solicitation, negotiation, or administration of
30 a mechanical repair contract;

31 (iv) Commits fraud or engages in illegal or dishonest activities in
32 connection with the administration of a mechanical repair contract; or

1 (v) Has violated any provision of this section or a regulation adopted
2 under this section.

3 (8) Instead of, or in addition to, suspending or revoking a registration, the
4 Commissioner may impose on the registrant a civil penalty of not less than \$100 but not
5 exceeding \$1,000 for each violation of this section.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2016.