
By: Delegate Leopold

Introduced and read first time: January 15, 1996

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Optional Limited Tort Motor Vehicle Coverage**

3 FOR the purpose of permitting owners of motor vehicles in the State to elect limited tort
4 motor vehicle insurance benefits in lieu of certain other coverages under the State
5 Motor Vehicle Security Law; limiting the right to recover certain damages in a civil
6 action in certain circumstances for certain persons covered under a limited tort
7 policy; specifying certain benefits; expanding the scope of uninsured motor vehicle
8 coverage to a motor vehicle whose owner has elected limited tort benefits; limiting
9 civil action for damages by or on behalf of an insured against an owner of certain
10 vehicles to the extent the insured is eligible for benefits under an uninsured
11 motorist policy; requiring a written election of limited tort benefits; specifying
12 procedures for the election; imposing certain penalties on insurers for failure to
13 follow certain procedures; authorizing an insurer to exclude certain limited tort
14 coverages; coordinating coverages among insurers liable to pay benefits for the same
15 injury to the same person; defining certain terms; requiring insurers to reflect
16 savings from limited tort coverages in their rates for motor vehicle liability
17 insurance; providing for future codification of certain provisions of this Act; and
18 generally relating to optional limited tort motor vehicle insurance.

19 BY repealing and reenacting, with amendments,
20 Article - Transportation
21 Section 17-103
22 Annotated Code of Maryland
23 (1992 Replacement Volume and 1995 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article 48A - Insurance Code
26 Section 541 and 542(a)
27 Annotated Code of Maryland
28 (1994 Replacement Volume and 1995 Supplement)

29 BY adding to
30 Article 48A - Insurance Code
31 Section 242(c)(9), 244D(e)(7), 539(h); and 547B through 547G, inclusive, to be
32 under the new subtitle "35A. Optional Limited Tort Motor Vehicle

2

1 Insurance"
2 Annotated Code of Maryland
3 (1994 Replacement Volume and 1995 Supplement)

4 BY adding to

5 Article - Insurance
6 Section 19-505(d), 19-509(k); and 19-5A-01 through 19-5A-06, inclusive, to be
7 under the new subtitle "Subtitle 19-5A. Motor Vehicle No-Fault Coverage"
8 Annotated Code of Maryland
9 (1995 Volume)
10 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
11 1996)

12 BY repealing and reenacting, with amendments,

13 Article - Insurance
14 Section 19-502(d) and 19-509(a)
15 Annotated Code of Maryland
16 (1995 Volume)
17 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
18 1996)

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

21 **Article - Transportation**

22 17-103.

23 (a) (1) Except as provided in paragraph (2) of this subsection, the form of
24 security required under this subtitle is a vehicle liability insurance policy written by an
25 insurer authorized to write these policies in this State.

26 (2) The Administration may accept another form of security in place of a
27 vehicle liability insurance policy if it finds that the other form of security adequately
28 provides the benefits required by subsection (b) of this section.

29 (3) The Administration shall, by regulation, assess each self-insurer an
30 annual sum which may not exceed \$750, and which shall be used for actuarial studies and
31 audits to determine financial solvency.

32 (b) The security required under this subtitle shall provide for at least:

33 (1) The payment of claims for bodily injury or death arising from an
34 accident of up to \$20,000 for any one person and up to \$40,000 for any two or more
35 persons, in addition to interest and costs;

36 (2) The payment of claims for property of others damaged or destroyed in
37 an accident of up to \$10,000, in addition to interest and costs;

3

1 (3) (I) Unless waived, the benefits described under Article 48A, § 539 of
2 the Code as to basic required primary coverage; [and] OR

3 (II) BENEFITS REQUIRED UNDER ARTICLE 48A, § 547C OF THE
4 CODE; AND

5 (4) The benefits required under Article 48A, § 541 of the Code as to
6 required additional coverage.

7 **Article 48A - Insurance Code**

8 242.

9 (c) All rates shall be made in accordance with the following principles:

10 (9) ANY PREDICTED OR REALIZED REDUCTION IN INCURRED CLAIMS,
11 LOSS ADJUSTMENT EXPENSES, OR GENERAL EXPENSES THAT RESULT FROM ISSUING
12 LIMITED TORT INSURANCE POLICIES IN THE STATE SHALL BE PROMPTLY
13 REFLECTED IN AN INSURER'S RATE FOR MOTOR VEHICLE LIABILITY INSURANCE
14 COVERAGE.

15 244D.

16 The following standards apply to the making and use of rates pertaining to all
17 classes of insurance to which this subtitle is applicable:

18 (e) All rates shall be made in accordance with the following special principles:

19 (7) ANY PREDICTED OR REALIZED REDUCTION IN INCURRED CLAIMS,
20 LOSS ADJUSTMENT EXPENSES, OR GENERAL EXPENSES THAT RESULT FROM ISSUING
21 LIMITED TORT INSURANCE POLICIES IN THE STATE SHALL BE PROMPTLY
22 REFLECTED IN AN INSURER'S RATE FOR MOTOR VEHICLE LIABILITY INSURANCE
23 COVERAGE.

24 539.

25 (H) THE COVERAGE REQUIRED BY THIS SECTION SHALL NOT APPLY TO A
26 MOTOR VEHICLE WHOSE OWNER HAS ELECTED INSURANCE COVERAGE UNDER §
27 547C OF THIS ARTICLE.

28 541.

29 (a) Nothing in this subtitle affects or limits the provisions of Title 17 of the
30 Transportation Article, and every policy of motor vehicle liability insurance issued, sold,
31 or delivered in this State shall provide the minimum liability coverages specified therein.

32 (b) (1) Nothing in this subtitle or in Title 17 of the Transportation Article
33 prevents an insurer from issuing, selling, or delivering a policy of motor vehicle liability
34 insurance providing liability coverage in excess of the requirements of the Maryland
35 Vehicle Law.

36 (2) Nothing in this subtitle shall be construed to prohibit an insurer from
37 providing Christian Science care and treatment, and such Christian Science care and
38 treatment shall constitute economic loss.

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1 (c) (1) In this subsection "uninsured motor vehicle" means:

2 (I) [a] A motor vehicle whose ownership, maintenance, or use has
3 resulted in the bodily injury or death of an insured, and for which the sum of the limits of
4 liability under all valid and collectible liability insurance policies, bonds, and securities
5 applicable to bodily injury or death:

6 [(i)] 1. Is less than the amount of coverage provided under this
7 subsection; or

8 [(ii)] 2. Has been reduced by payment to other persons of claims
9 arising from the same occurrence to an amount less than the coverage provided under this
10 subsection; OR

11 (II) A MOTOR VEHICLE WHOSE OWNER HAS ELECTED INSURANCE
12 COVERAGE UNDER § 547C OF THIS ARTICLE.

13 (2) In addition to any other coverage required by this subtitle, every policy
14 of motor vehicle liability insurance issued, sold, or delivered in this State after July 1,
15 1975 shall contain coverage in at least the amounts required under Title 17 of the
16 Transportation Article, for damages, subject to the policy limits, which:

17 (i) The insured is entitled to recover from the owner or operator of an
18 uninsured motor vehicle because of bodily injuries sustained in an accident arising out of
19 the ownership, maintenance, or use of such uninsured motor vehicle.

20 (ii) The surviving relatives, as defined in § 3-904 of the Courts Article,
21 of the insured are entitled to recover from the owner or operator of an uninsured motor
22 vehicle because of the death of the insured as the result of an accident arising out of the
23 ownership, maintenance, or use of the uninsured motor vehicle.

24 (iii) The coverage required under this subsection (c) shall be in such
25 form and subject to such conditions as may be approved by the Commissioner of
26 Insurance.

27 (iv) Any provision in any policy of motor vehicle liability insurance
28 issued after July 1, 1975, with respect to the coverage provided for damages sustained by
29 the insured as a result of the operation of an uninsured motor vehicle, which commands
30 or requires the submission of any dispute between the insured and the insurer to binding
31 arbitration, is prohibited and shall be of no legal force or effect.

32 (v) In no case shall the uninsured motorist coverage be less than the
33 coverage afforded a qualified person under Article 48A, §§ 243H and 243-I. However, the
34 insurer may exclude from coverage benefits for:

35 1. The named insured or members of his family residing in the
36 household when occupying, or struck as a pedestrian by, an uninsured motor vehicle that
37 is owned by the named insured or a member of his immediate family residing in his
38 household; and

39 2. The named insured, members of his family residing in the
40 household, and all other persons having other applicable automobile insurance and

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1 occupying, or struck as a pedestrian by, the insured motor vehicle operated or used by a
2 person excluded from coverage under § 240C-1 of this article.

3 (vi) The coverage required under this subsection shall be primary to
4 any right to recovery from the Maryland Automobile Insurance Fund pursuant to § 243H
5 of this article.

6 (3) The limit of liability for an insurer providing uninsured motorist
7 coverage under this subsection is the amount of that coverage less the amount paid to the
8 insured that exhausts any applicable liability insurance policies, bonds, and securities on
9 behalf of any person who may be held liable for the bodily injuries or death of the
10 insured.

11 (d) (1) All insurers shall offer collision coverage for damage to insured motor
12 vehicles subject to deductibles of \$50 to \$250 in \$50 increments.

13 (2) An insurer may offer to its insured optional coverage for damages
14 incurred by the insured as a result of the loss of use of a rental vehicle that sustains
15 collision damage while rented by the insured.

16 (3) Collision coverage shall provide insurance without regard to fault
17 against accidental property damage to the insured motor vehicle caused by physical
18 contact of the insured motor vehicle with another motor vehicle or with another object or
19 by upset of the insured motor vehicle, if the accident occurs within the United States of
20 America, its territories or possessions, Canada or Mexico.

21 (4) (i) For purposes of this paragraph, "passenger car" means any motor
22 vehicle that is a Class A (passenger) vehicle under § 13-912 of the Transportation Article,
23 or any motor vehicle that is a Class M (multipurpose) vehicle under § 13-937 of the
24 Transportation Article if the vehicle is used primarily for transporting passengers.

25 (ii) Whenever a private passenger automobile insurance policy issued,
26 sold, or delivered in this State includes collision coverage under this subsection, the motor
27 vehicles insured under such coverage shall include any passenger car that is rented by an
28 insured for a period of 30 days or less under a rental agreement as otherwise defined in
29 § 14-2101 of the Commercial Law Article.

30 (iii) Every insurer providing a policy with such coverage shall notify its
31 insured in a separate written notice in bold type that the insured will not need any
32 additional such coverages or a collision damage waiver whenever the insured rents a
33 private passenger car for a period of 30 days or less during the term of the policy.

34 (iv) An insurer may not deny coverage to an insured for collision
35 damage to a rental vehicle because:

- 36 1. The accident involved an uninsured motorist; or
37 2. The identity of the motor vehicle causing the damage cannot
38 be ascertained.

39 (e) The coverage required by subsection (c) of this section does not apply to a
40 policy of liability insurance that insures a motor vehicle that is not subject to registration

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1 under § 13-402 of the Transportation Article, because it is not driven on a highway or it
2 is exempt under § 13-402(c)(10) of the Transportation Article.

3 (f) Policies of insurance that have as their primary purpose to provide coverage in
4 excess of other valid and collectible insurance or qualified self insurance may include
5 uninsured motorist coverage as provided in subsection (c) of this section.

6 (g) (1) Unless waived by the first named insured under this subsection, the
7 amount of uninsured motorist coverage under a policy of private passenger motor vehicle
8 insurance shall be equal to the amount of liability coverage provided under the policy.

9 (2) Where the liability insurance coverage under a policy or binder of
10 private passenger motor vehicle insurance is in excess of that required under § 17-103 of
11 the Transportation Article, if the first named insured does not wish to obtain uninsured
12 motorist benefits in the same amount as the liability insurance coverage, the first named
13 insured shall make an affirmative written waiver of having uninsured motorist benefits in
14 the same amount as the liability coverage.

15 (3) (i) Before a first named insured makes a waiver under this subsection,
16 the first named insured must be informed in writing of the nature, extent, benefit, and
17 cost of the level of the uninsured motorist coverage being waived.

18 (ii) A waiver made under this subsection shall be made on a form
19 required by the Commissioner.

20 (iii) The form may be part of the contract of insurance.

21 (iv) The form shall clearly and concisely explain in 10 point boldface
22 type:

23 1. The nature, extent, benefit, and cost of the level of the
24 uninsured motorist coverage that would be provided under the policy if not waived by the
25 first named insured;

26 2. That a failure of the first named insured to make a waiver
27 requires an insurer to provide uninsured motorist coverage in an amount equal to the
28 amount of the liability coverage, where the liability insurance coverage under a policy or
29 binder of private passenger motor vehicle insurance is in excess of that required under §
30 17-103 of the Transportation Article;

31 3. That an insurer may not refuse to underwrite a person
32 because the person refuses to make a waiver of the excess uninsured motorist coverage
33 under this subsection; and

34 4. That a waiver made under this subsection must be an
35 affirmative, written waiver.

36 (4) Failure of the first named insured to make an affirmative written waiver
37 under this subsection requires an insurer to provide uninsured motorist coverage in an
38 amount equal to the amount of the liability coverage, where the liability insurance
39 coverage under a policy or binder of private passenger motor vehicle insurance is in
40 excess of that required under § 17-103 of the Transportation Article.

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1 (5) (i) An insurer may not refuse to underwrite a person because the
2 person refuses to make a waiver of the excess uninsured motorist coverage under this
3 subsection.

4 (ii) A violation of this paragraph is subject to the penalties provided
5 under §§ 55 and 55A of this article.

6 (6) A waiver made under this subsection by persons continuously insured by
7 an insurer or by the Maryland Automobile Insurance Fund shall be construed to be
8 effective until withdrawn in writing.

9 (7) Subject to approval by the Commissioner, the waiver made under this
10 subsection may be made on the same form as the waiver made under § 539(f) of this
11 subtitle.

12 (h) The amount of uninsured motorist coverage under a motor vehicle insurance
13 policy may not exceed the amount of the liability coverage under the same policy.

14 (I) (1) FOR PURPOSES OF THIS SUBSECTION, "INSURED" MEANS AN
15 INSURED WHO IS COVERED UNDER THIS SECTION BUT WHO IS NOT COVERED
16 UNDER § 547C OF THIS ARTICLE.

17 (2) IN ANY CIVIL ACTION OR CLAIM BY AN INSURED OR ON BEHALF OF
18 AN INSURED AGAINST AN OWNER OR OPERATOR OF AN UNINSURED MOTOR
19 VEHICLE DEFINED UNDER SUBSECTION (C)(1)(II) OF THIS SECTION ARISING OUT OF
20 A MOTOR VEHICLE ACCIDENT:

21 (I) RECOVERY SHALL BE REDUCED TO THE EXTENT THAT THE
22 INSURED IS ELIGIBLE FOR BENEFITS UNDER THIS SECTION; AND

23 (II) THE INSURED MAY NOT RECOVER NONECONOMIC DAMAGES.

24 542.

25 (a) [Nothing] EXCEPT AS PROVIDED IN § 541(I) OF THIS SUBTITLE, NOTHING
26 in this subtitle shall be deemed to affect the right of any person to claim and sue for
27 damages or losses sustained by him as the result of a motor vehicle accident.

28 35A. OPTIONAL LIMITED TORT MOTOR VEHICLE INSURANCE

29 547B.

30 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
31 INDICATED.

32 (B) (1) "BASIC ECONOMIC LOSS" MEANS:

33 (I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ALL
34 REASONABLE EXPENSES, UP TO \$50,000 FOR EACH INDIVIDUAL, FOR:

35 1. MEDICAL, HOSPITAL, SURGICAL, NURSING, DENTAL,
36 AMBULANCE, X-RAY, PRESCRIPTION DRUG, AND PROSTHETIC SERVICES;

37 2. PSYCHIATRIC SERVICES;

8

1 3. SUBJECT TO § 547E OF THIS SUBTITLE, CHIROPRACTIC,
2 PHYSICAL, AND OCCUPATIONAL THERAPY AND REHABILITATION SERVICES; AND

3 4. OTHER NECESSARY PROFESSIONAL HEALTH SERVICES;

4 (II) LOSS OF EARNINGS FROM WORK THAT THE PERSON WOULD
5 HAVE PERFORMED HAD THE PERSON NOT BEEN INJURED, AND REASONABLE AND
6 NECESSARY EXPENSES INCURRED BY SUCH PERSON IN OBTAINING SERVICES IN
7 LIEU OF THOSE THAT THE PERSON WOULD HAVE PERFORMED FOR INCOME, UP TO
8 \$2,000 PER MONTH FOR NOT MORE THAN 3 YEARS FROM THE DATE OF THE
9 ACCIDENT CAUSING THE INJURY; AND

10 (III) FUNERAL, BURIAL, OR CREMATION EXPENSES IN AN AMOUNT
11 NOT TO EXCEED \$2,000 FOR EACH INDIVIDUAL.

12 (2) "BASIC ECONOMIC LOSS" INCLUDES AN ADDITIONAL AMOUNT FOR
13 WHICH OPTIONAL ADDITIONAL COVERAGE HAS BEEN PURCHASED.

14 (C) "BUS" HAS THE MEANING STATED IN § 11-105 OF THE TRANSPORTATION
15 ARTICLE.

16 (D) "COVERED PERSON" MEANS A PERSON WHO HAS COVERAGE UNDER THE
17 SECURITY REQUIREMENTS OF § 17-103 OF THE TRANSPORTATION ARTICLE.

18 (E) "FIRST PARTY BENEFITS" MEANS PAYMENTS TO REIMBURSE A PERSON,
19 OTHER THAN AN OCCUPANT OF ANOTHER MOTOR VEHICLE, A BUS, OR A TAXI, FOR
20 BASIC ECONOMIC LOSS FROM PERSONAL INJURY ARISING OUT OF THE USE OR
21 OPERATION OF A MOTOR VEHICLE, LESS AMOUNTS RECOVERED OR RECOVERABLE
22 FROM:

23 (1) STATE OR FEDERAL LAWS PROVIDING SOCIAL SECURITY
24 DISABILITY BENEFITS;

25 (2) WORKERS' COMPENSATION BENEFITS; AND

26 (3) MEDICARE BENEFITS, TO THE EXTENT MEDICARE BENEFITS DO NOT
27 RESULT IN A REDUCTION OF AN INDIVIDUAL'S MEDICARE BENEFITS FOR
28 SUBSEQUENT INJURY.

29 (F) (1) "MOTOR VEHICLE" HAS THE MEANING STATED IN § 11-135 OF THE
30 TRANSPORTATION ARTICLE.

31 (2) "MOTOR VEHICLE" DOES NOT INCLUDE A VEHICLE DEFINED IN §
32 11-105 OR § 11-165 OF THE TRANSPORTATION ARTICLE.

33 (G) "NONECONOMIC LOSS" MEANS PAIN, SUFFERING, INCONVENIENCE,
34 PHYSICAL IMPAIRMENT, DISFIGUREMENT, LOSS OF CONSORTIUM, OR OTHER
35 NONPECUNIARY INJURY.

36 (H) "RELATIVE RESIDING IN THE SAME HOUSEHOLD" MEANS A RELATIVE OF
37 ANY DEGREE BY BLOOD OR BY MARRIAGE WHO USUALLY MAKES A HOME IN THE
38 SAME FAMILY UNIT, AS THE NAMED INSURED, EVEN IF TEMPORARILY LIVING
39 ELSEWHERE.

1 (I) "SERIOUS INJURY" MEANS A PERSONAL INJURY THAT RESULTS IN DEATH,
2 DISMEMBERMENT, SIGNIFICANT DISFIGUREMENT, A FRACTURE, LOSS OF A FETUS,
3 PERMANENT LOSS OF USE OF A BODY ORGAN, MEMBER, FUNCTION OR SYSTEM,
4 PERMANENT CONSEQUENTIAL LIMITATION OF USE OF A BODY ORGAN OR MEMBER,
5 SIGNIFICANT LIMITATION OF USE OF A BODY FUNCTION OR SYSTEM, OR A
6 MEDICALLY DETERMINED INJURY OR IMPAIRMENT OF A NONPERMANENT NATURE
7 THAT PREVENTS THE INJURED PERSON FROM PERFORMING SUBSTANTIALLY ALL
8 OF THE MATERIAL ACTS THAT CONSTITUTE THE PERSON'S USUAL AND CUSTOMARY
9 DAILY ACTIVITIES FOR NOT LESS THAN 90 DAYS DURING THE 180 DAYS
10 IMMEDIATELY FOLLOWING THE OCCURRENCE OF THE INJURY OR IMPAIRMENT.

11 (J) "TAXICAB" HAS THE MEANING STATED IN § 11-165 OF THE
12 TRANSPORTATION ARTICLE.

13 547C.

14 (A) IN ORDER TO OBTAIN COVERAGE UNDER THIS SUBTITLE, AN OWNER
15 SHALL MAKE AN AFFIRMATIVE WRITTEN ELECTION OF BENEFITS.

16 (B) AN ELECTION MADE UNDER THIS SECTION SHALL BE MADE ON A FORM
17 APPROVED BY OR PROVIDED BY THE COMMISSIONER.

18 (C) THE FORM MAY BE PART OF THE CONTRACT FOR INSURANCE.

19 (D) THE ELECTION MADE UNDER THIS SUBTITLE SHALL BE BINDING ON ALL
20 NAMED INSUREDS AND OTHER INSUREDS COVERED BY THE POLICY.

21 (E) THE FORM SHALL CLEARLY AND CONCISELY EXPLAIN:

22 (1) THE NATURE AND EXTENT OF BENEFITS PROVIDED UNDER THIS
23 SUBTITLE;

24 (2) THE LIMITATION ON CIVIL ACTIONS FOR NONECONOMIC LOSS AND
25 BASIC ECONOMIC LOSS UNDER §§ 541(I) AND 547E OF THIS ARTICLE; AND

26 (3) AN EXPLANATION THAT ALTERNATIVE COVERAGE UNDER § 539 OF
27 THIS ARTICLE MEETS THE STATE FINANCIAL SECURITY REQUIREMENTS WITHOUT
28 LIMITING CIVIL ACTIONS FOR NONECONOMIC LOSS OR BASIC ECONOMIC LOSS.

29 (F) AN INSURER THAT VIOLATES THIS SECTION IS SUBJECT TO THE
30 PENALTIES PROVIDED UNDER §§ 55 AND 55A OF THIS ARTICLE.

31 547D.

32 (A) EVERY OWNER'S INSURANCE POLICY ISSUED UNDER THIS SUBTITLE
33 SHALL PROVIDE FOR PAYMENT OF FIRST PARTY BENEFITS, WITHOUT REGARD TO
34 FAULT, TO:

35 (1) THE NAMED INSURED;

36 (2) RELATIVES RESIDING IN THE SAME HOUSEHOLD AS THE NAMED
37 INSURED;

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1 (3) PERSONS OPERATING THE INSURED MOTOR VEHICLE WITH
2 EXPRESS OR IMPLIED PERMISSION OF THE NAMED INSURED;

3 (4) PASSENGERS IN THE INSURED MOTOR VEHICLE; AND

4 (5) PEDESTRIANS INJURED BY THE INSURED MOTOR VEHICLE.

5 (B) AN INSURER MAY EXCLUDE FROM COVERAGE REQUIRED UNDER
6 SUBSECTION (A) OF THIS SECTION ANY PERSON THAT:

7 (1) INTENTIONALLY CAUSES HIS OWN INJURY; OR

8 (2) IS INJURED WHILE:

9 (I) COMMITTING A FELONY OR AN ACT THAT WOULD
10 CONSTITUTE A FELONY;

11 (II) FLEEING OR ELUDING POLICE IN VIOLATION OF § 21-904 OF
12 THE TRANSPORTATION ARTICLE;

13 (III) OPERATING OR OCCUPYING A MOTOR VEHICLE KNOWN TO BE
14 STOLEN;

15 (IV) REPAIRING, SERVICING, OR OTHERWISE MAINTAINING A
16 MOTOR VEHICLE IF THE INJURY OCCURRED WITHIN THE COURSE OF A BUSINESS OF
17 REPAIRING, SERVICING, OR OTHERWISE MAINTAINING A MOTOR VEHICLE; OR

18 (V) OPERATING A MOTOR VEHICLE IN A RACE OR SPEED CONTEST.

19 (C) A POLICY ISSUED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE
20 OFFERED TO AN INSURED:

21 (1) WITHOUT A DEDUCTIBLE; OR

22 (2) WITH A DEDUCTIBLE OF NOT MORE THAN \$300 FOR BASIC
23 ECONOMIC LOSS, APPLICABLE ONLY TO THE NAMED INSURED OR RELATIVES
24 RESIDING IN THE SAME HOUSEHOLD AS THE NAMED INSURED.

25 (D) A POLICY ISSUED UNDER THIS SECTION SHALL PROVIDE FIRST PARTY
26 BENEFITS, OTHER THAN PROPERTY LOSS, FOR BODILY INJURY SUSTAINED BY THE
27 OWNER OR RELATIVE OF THE OWNER RESIDING IN THE SAME HOUSEHOLD THAT
28 OCCURRED OUTSIDE THIS STATE, BUT WITHIN THE UNITED STATES OF AMERICA OR
29 ITS TERRITORIES OR POSSESSIONS OR CANADA, WHILE OCCUPYING THE OWNER'S
30 MOTOR VEHICLE.

31 (E) A PERSON DESCRIBED IN SUBSECTION (A) OF THIS SECTION MAY NOT
32 MAINTAIN AN ACTION FOR NONECONOMIC LOSS UNLESS THE PERSON SUFFERS A
33 SERIOUS INJURY.

34 547E.

35 FOR MEDICAL SERVICES FOR AN INJURY THAT IS NOT OBJECTIVELY
36 VERIFIABLE, A POLICY ISSUED UNDER THIS SUBTITLE SHALL PAY THE LESSER OF:

11

1 (1) THE PROVIDER'S USUAL, CUSTOMARY, AND REASONABLE CHARGE;
2 OR

3 (2) 110% OF THE APPLICABLE CHARGE FOR COMPARABLE SERVICES
4 UNDER THE MEDICARE PROGRAM IN THE STATE.

5 547F.

6 IN ANY CIVIL ACTION BY OR ON BEHALF OF A NAMED INSURED, OR A
7 RELATIVE RESIDING IN THE SAME HOUSEHOLD, WHO IS ENTITLED TO BENEFITS
8 UNDER THIS SUBTITLE AGAINST A COVERED PERSON FOR PERSONAL INJURIES
9 ARISING OUT OF NEGLIGENCE IN THE USE OR OPERATION OF A MOTOR VEHICLE IN
10 THIS STATE, THERE MAY NOT BE ANY RIGHT OF RECOVERY FOR NONECONOMIC
11 LOSS OR BASIC ECONOMIC LOSS.

12 547G.

13 (A) IF TWO OR MORE INSURERS ARE LIABLE TO PAY FIRST PARTY BENEFITS
14 FOR THE SAME INJURY TO ANY ONE PERSON, THE MAXIMUM SHALL BE THE
15 AMOUNT SPECIFIED IN § 547B(B) OF THIS SUBTITLE.

16 (B) ANY INSURER PAYING BENEFITS UNDER SUBSECTION (A) OF THIS
17 SECTION SHALL BE ENTITLED TO RECOVER, FROM EACH OF THE OTHER INSURERS,
18 AN EQUITABLE PRO RATA SHARE OF THE BENEFITS PAID AND EXPENSES INCURRED
19 IN PROCESSING THE CLAIM.

20 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
21 read as follows:

22 **Article - Transportation**

23 17-103.

24 (a) (1) Except as provided in paragraph (2) of this subsection, the form of
25 security required under this subtitle is a vehicle liability insurance policy written by an
26 insurer authorized to write these policies in this State.

27 (2) The Administration may accept another form of security in place of a
28 vehicle liability insurance policy if it finds that the other form of security adequately
29 provides the benefits required by subsection (b) of this section.

30 (3) The Administration shall, by regulation, assess each self-insurer an
31 annual sum which may not exceed \$750, and which shall be used for actuarial studies and
32 audits to determine financial solvency.

33 (b) The security required under this subtitle shall provide for at least:

34 (1) The payment of claims for bodily injury or death arising from an
35 accident of up to \$20,000 for any one person and up to \$40,000 for any two or more
36 persons, in addition to interest and costs;

37 (2) The payment of claims for property of others damaged or destroyed in
38 an accident of up to \$10,000, in addition to interest and costs;

12

1 (3) (I) Unless waived, the benefits described under [Article 48A, § 539 of
2 the Code] § 19-505 OF THE INSURANCE ARTICLE as to basic required primary coverage;
3 [and] OR

4 (II) BENEFITS REQUIRED UNDER § 19-5A-02 OF THE INSURANCE
5 ARTICLE; AND

6 (4) The benefits required under [Article 48A, § 541 of the Code] § 19-509
7 OF THE INSURANCE ARTICLE as to required additional coverage.

8 **Article - Insurance**

9 19-502.

10 (d) [This] EXCEPT AS PROVIDED IN § 19-509(K) OF THIS SUBTITLE, THIS
11 subtitle does not affect the right of a person to claim and sue for damages or losses that
12 the person sustains as the result of a motor vehicle accident.

13 19-505.

14 (D) THE COVERAGE DESCRIBED UNDER THIS SECTION DOES NOT APPLY TO A
15 MOTOR VEHICLE WHOSE OWNER HAS MADE AN ELECTION FOR COVERAGE UNDER
16 SUBTITLE 19-5A OF THIS TITLE.

17 19-509.

18 (a) In this section, "uninsured motor vehicle" [means a motor vehicle:] MEANS:

19 (1) A MOTOR VEHICLE:

20 [(1)] (I) the ownership, maintenance, or use of which has resulted in the
21 bodily injury or death of an insured; and

22 [(2)] (II) for which the sum of the limits of liability under all valid and
23 collectible liability insurance policies, bonds, and securities applicable to bodily injury or
24 death:

25 [(i)] 1. is less than the amount of coverage provided under this
26 section; or

27 [(ii)] 2. has been reduced by payment to other persons of claims
28 arising from the same occurrence to an amount less than the amount of coverage provided
29 under this section; OR

30 (2) A MOTOR VEHICLE WHOSE OWNER HAS MADE AN ELECTION FOR
31 COVERAGE UNDER SUBTITLE 19-5A OF THIS TITLE.

32 (K) (1) IN THIS SUBSECTION, "INSURED" MEANS AN INDIVIDUAL WHO IS
33 COVERED UNDER THIS SECTION AND WHO IS NOT SUBJECT TO AN ELECTION FOR
34 COVERAGE UNDER SUBTITLE 19-5A OF THIS TITLE.

35 (2) IN A CIVIL ACTION OR CLAIM BY OR ON BEHALF OF AN INSURED
36 AGAINST AN OWNER OR OPERATOR OF AN UNINSURED MOTOR VEHICLE
37 DESCRIBED UNDER SUBSECTION (A)(2) OF THIS SECTION ARISING OUT OF A MOTOR
38 VEHICLE ACCIDENT:

13

1 (I) RECOVERY SHALL BE REDUCED TO THE EXTENT THAT THE
2 INSURED IS ELIGIBLE FOR BENEFITS UNDER THIS SECTION; AND

3 (II) THE INSURED MAY NOT RECOVER NONECONOMIC DAMAGES.

4 SUBTITLE 19-5A. MOTOR VEHICLE NO-FAULT COVERAGE.

5 19-5A-01.

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

8 (B) "BASIC ECONOMIC LOSS" MEANS:

9 (1) ALL REASONABLE EXPENSES, UP TO \$50,000 FOR EACH INDIVIDUAL
10 INJURED IN A MOTOR VEHICLE ACCIDENT, FOR:

11 (I) MEDICAL, HOSPITAL, SURGICAL, NURSING, DENTAL,
12 AMBULANCE, X-RAY, PRESCRIPTION DRUG, AND PROSTHETIC SERVICES;

13 (II) PSYCHIATRIC SERVICES;

14 (III) SUBJECT TO § 19-5A-04 OF THIS SUBTITLE, CHIROPRACTIC,
15 PHYSICAL, AND OCCUPATIONAL THERAPY AND REHABILITATION SERVICES; AND

16 (IV) OTHER NECESSARY PROFESSIONAL HEALTH SERVICES;

17 (2) LOSS OF EARNINGS FROM WORK THAT THE INDIVIDUAL WOULD
18 HAVE PERFORMED;

19 (3) REASONABLE AND NECESSARY EXPENSES INCURRED BY THE
20 PERSON IN OBTAINING SERVICES UP TO \$2,000 PER MONTH FOR NOT MORE THAN 3
21 YEARS FROM THE DATE OF THE ACCIDENT CAUSING THE INJURY; AND

22 (4) FUNERAL, BURIAL, OR CREMATION EXPENSES IN AN AMOUNT NOT
23 TO EXCEED \$2,000 FOR EACH INDIVIDUAL.

24 (C) "BUS" HAS THE MEANING STATED IN § 11-105 OF THE TRANSPORTATION
25 ARTICLE.

26 (D) "COVERED PERSON" MEANS A PERSON WHO HAS COVERAGE UNDER THE
27 SECURITY REQUIREMENTS OF § 17-103 OF THE TRANSPORTATION ARTICLE.

28 (E) "FIRST PARTY BENEFITS" MEANS PAYMENTS TO REIMBURSE AN
29 INDIVIDUAL, OTHER THAN AN OCCUPANT OF ANOTHER MOTOR VEHICLE, A BUS, OR
30 A TAXI, FOR BASIC ECONOMIC LOSS FROM PERSONAL INJURY ARISING OUT OF THE
31 USE OR OPERATION OF A MOTOR VEHICLE, LESS AMOUNTS RECOVERED OR
32 RECOVERABLE FROM:

33 (1) STATE OR FEDERAL LAWS PROVIDING SOCIAL SECURITY
34 DISABILITY BENEFITS;

35 (2) WORKERS' COMPENSATION BENEFITS; AND

14

1 (3) MEDICARE BENEFITS, TO THE EXTENT MEDICARE BENEFITS DO NOT
2 RESULT IN A REDUCTION OF AN INDIVIDUAL'S MEDICARE BENEFITS FOR
3 SUBSEQUENT INJURY.

4 (F) "MOTOR VEHICLE" HAS THE MEANING STATED IN § 19-501(B) OF THIS
5 TITLE.

6 (G) "NONECONOMIC LOSS" MEANS PAIN, SUFFERING, INCONVENIENCE,
7 PHYSICAL IMPAIRMENT, DISFIGUREMENT, LOSS OF CONSORTIUM, OR OTHER
8 NONPECUNIARY INJURY.

9 (H) "RELATIVE RESIDING IN THE SAME HOUSEHOLD" MEANS A RELATIVE OF
10 ANY DEGREE BY BLOOD OR BY MARRIAGE WHO USUALLY MAKES A HOME IN THE
11 SAME FAMILY UNIT AS THE NAMED INSURED, EVEN IF TEMPORARILY LIVING
12 ELSEWHERE.

13 (I) "TAXICAB" HAS THE MEANING STATED IN § 11-165 OF THE
14 TRANSPORTATION ARTICLE.

15 19-5A-02.

16 (A) TO OBTAIN COVERAGE UNDER THIS SUBTITLE, AN OWNER SHALL MAKE
17 AN AFFIRMATIVE WRITTEN ELECTION OF BENEFITS UNDER A CONTRACT FOR
18 INSURANCE.

19 (B) AN ELECTION SHALL BE MADE ON A FORM APPROVED BY OR PROVIDED
20 BY THE COMMISSIONER THAT CLEARLY AND CONCISELY EXPLAINS:

21 (1) THE NATURE AND EXTENT OF BENEFITS PROVIDED UNDER THIS
22 SUBTITLE;

23 (2) THE LIMITATION ON CIVIL ACTIONS FOR NONECONOMIC LOSS AND
24 BASIC ECONOMIC LOSS UNDER § 19-509(K) OF THIS TITLE AND § 19-5A-04 OF THIS
25 SUBTITLE; AND

26 (3) ALTERNATIVE COVERAGE UNDER § 19-505 OF THIS TITLE MEETS
27 THE STATE FINANCIAL SECURITY REQUIREMENTS WITHOUT LIMITING CIVIL
28 ACTIONS FOR NONECONOMIC LOSS OR BASIC ECONOMIC LOSS.

29 (C) THE FORM MAY BE PART OF THE CONTRACT FOR INSURANCE.

30 (D) AN ELECTION SHALL BE BINDING ON ALL NAMED INSUREDS AND OTHER
31 INSUREDS COVERED BY THE POLICY.

32 (E) AN INSURER THAT VIOLATES THIS SECTION IS SUBJECT TO THE
33 PENALTIES PROVIDED UNDER § 4-113 OF THIS ARTICLE.

34 19-5A-03.

35 (A) EACH POLICY ISSUED UNDER THIS SUBTITLE SHALL PROVIDE FOR
36 PAYMENT OF FIRST PARTY BENEFITS, WITHOUT REGARD TO FAULT, TO:

37 (1) THE NAMED INSURED;

38 (2) RELATIVES RESIDING IN THE SAME HOUSEHOLD;

15

1 (3) PERSONS OPERATING THE INSURED MOTOR VEHICLE WITH
2 EXPRESS OR IMPLIED PERMISSION OF THE NAMED INSURED;

3 (4) PASSENGERS IN THE INSURED MOTOR VEHICLE; AND

4 (5) A PEDESTRIAN INJURED BY THE INSURED MOTOR VEHICLE.

5 (B) A POLICY MAY EXCLUDE FROM COVERAGE REQUIRED UNDER
6 SUBSECTION (A) OF THIS SECTION ANY INDIVIDUAL WHO:

7 (1) INTENTIONALLY CAUSES THE INDIVIDUAL'S OWN INJURY; OR

8 (2) IS INJURED WHILE:

9 (I) COMMITTING A FELONY OR AN ACT THAT WOULD
10 CONSTITUTE A FELONY;

11 (II) FLEEING OR ELUDING POLICE IN VIOLATION OF § 21-904 OF
12 THE TRANSPORTATION ARTICLE;

13 (III) OPERATING OR OCCUPYING A MOTOR VEHICLE KNOWN TO BE
14 STOLEN;

15 (IV) REPAIRING, SERVICING, OR OTHERWISE MAINTAINING A
16 MOTOR VEHICLE IF THE INJURY OCCURRED WITHIN THE COURSE OF A BUSINESS OF
17 REPAIRING, SERVICING, OR OTHERWISE MAINTAINING A MOTOR VEHICLE; OR

18 (V) OPERATING A MOTOR VEHICLE IN A RACE OR SPEED CONTEST.

19 (C) A POLICY ISSUED UNDER THIS SUBTITLE SHALL BE OFFERED TO AN
20 INSURED:

21 (1) WITHOUT A DEDUCTIBLE; OR

22 (2) WITH A DEDUCTIBLE OF NOT MORE THAN \$300 FOR BASIC
23 ECONOMIC LOSS, APPLICABLE ONLY TO THE NAMED INSURED OR RELATIVES
24 RESIDING IN THE SAME HOUSEHOLD.

25 (D) A POLICY ISSUED UNDER THIS SECTION SHALL PROVIDE FIRST PARTY
26 BENEFITS, OTHER THAN PROPERTY LOSS, FOR BODILY INJURY SUSTAINED BY THE
27 NAMED INSURED OR RELATIVE RESIDING IN THE SAME HOUSEHOLD THAT
28 OCCURRED OUTSIDE THIS STATE, BUT WITHIN THE UNITED STATES OR ITS
29 TERRITORIES OR POSSESSIONS OR CANADA, WHILE OCCUPYING THE MOTOR
30 VEHICLE.

31 (E) A PERSON DESCRIBED IN SUBSECTION (A) OF THIS SECTION MAY NOT
32 MAINTAIN AN ACTION FOR NONECONOMIC LOSS UNLESS THE PERSON SUFFERS A
33 SERIOUS INJURY.

34 19-5A-04.

35 FOR MEDICAL SERVICES FOR AN INJURY THAT IS NOT OBJECTIVELY
36 VERIFIABLE, A POLICY ISSUED UNDER THIS SUBTITLE SHALL PAY THE LESSER OF:

16

1 (1) THE PROVIDER'S USUAL, CUSTOMARY, AND REASONABLE CHARGE;
2 OR

3 (2) 110% OF THE APPLICABLE CHARGE FOR COMPARABLE SERVICES
4 UNDER THE MEDICARE PROGRAM IN THE STATE.

5 19-5A-05.

6 IN A CIVIL ACTION AGAINST A COVERED PERSON BY OR ON BEHALF OF A
7 NAMED INSURED OR A RELATIVE RESIDING IN THE SAME HOUSEHOLD WHO IS
8 ENTITLED TO BENEFITS UNDER THIS SUBTITLE FOR PERSONAL INJURIES ARISING
9 OUT OF NEGLIGENCE IN THE USE OR OPERATION OF A MOTOR VEHICLE IN THIS
10 STATE, THERE IS NO RIGHT OF RECOVERY FOR NONECONOMIC LOSS OR BASIC
11 ECONOMIC LOSS.

12 19-5A-06.

13 (A) IF TWO OR MORE INSURERS ARE LIABLE TO PAY FIRST PARTY BENEFITS
14 FOR THE SAME INJURY TO ANY ONE PERSON, THE MAXIMUM SHALL BE THE
15 AMOUNT SPECIFIED IN § 19-5A-01(B) OF THIS SUBTITLE.

16 (B) ANY INSURER PAYING BENEFITS UNDER SUBSECTION (A) OF THIS
17 SECTION SHALL BE ENTITLED TO RECOVER, FROM EACH OF THE OTHER INSURERS,
18 AN EQUITABLE PRO RATA SHARE OF THE BENEFITS PAID AND EXPENSES INCURRED
19 IN PROCESSING THE CLAIM.

20 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
21 take effect October 1, 1996.

22 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
23 take effect October 1, 1997.