
By: Delegates Kach, McClenahan, Wood, Arnick, Crumlin, Donoghue, Boston, V. Mitchell, Bozman, W. Baker, Mossburg, Minnick, Walkup, La Vay, Love, Eckardt, Rudolph, Kittleman, Kirk, Harrison, Krysiak, Kelly, and Schade

Introduced and read first time: February 2, 1996

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Uninsured Motorists - Waiver of Right to Noneconomic Damages**

3 FOR the purpose of establishing that an individual driving a motor vehicle that is not
4 covered by insurance is considered to have waived the right to recover noneconomic
5 loss damages under certain circumstances; exempting certain individuals from the
6 waiver under certain circumstances; creating a rebuttable presumption that an
7 individual knows that the motor vehicle is not covered by insurance under certain
8 circumstances; prohibiting an individual who is considered to have waived the right
9 to noneconomic loss damages from presenting certain evidence to the trier of fact;
10 prohibiting any party from informing the trier of fact of the waiver and the effect the
11 waiver may have on the individual's recovery; making stylistic changes; making
12 technical changes; and generally relating to operating a motor vehicle that does not
13 have insurance coverage.

14 BY repealing and reenacting, with amendments,
15 Article - Transportation
16 Section 17-107
17 Annotated Code of Maryland
18 (1992 Replacement Volume and 1995 Supplement)

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 17-107.

23 (a) [A person] AN INDIVIDUAL who knows or has reason to know that a motor
24 vehicle is not covered by the required security may not:

25 (1) Drive the vehicle; or

26 (2) If [he] THE INDIVIDUAL is an owner of the vehicle, knowingly permit
27 another [person] INDIVIDUAL to drive it.

1 (b) (1) In [any] A prosecution under subsection (a) of this section the
2 introduction of the official records of the [Motor Vehicle] Administration showing the
3 absence of a record that the vehicle is covered by the security required under § 17-104 of
4 this subtitle shall be prima facie evidence that [a person] AN INDIVIDUAL knows or has
5 reason to know that a motor vehicle is not covered by the required security.

6 (2) The introduction of evidence of the records of the Administration may
7 not limit the introduction of other evidence bearing upon whether the vehicle was covered
8 by the required security.

9 (c) An owner or lessee of [any] A motor vehicle registered under Title 13 of this
10 article may not raise the defense of sovereign or governmental immunity as described
11 under § 5-399.4 of the Courts [and Judicial Proceedings] Article.

12 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN
13 INDIVIDUAL WHO IS INJURED IN A VEHICULAR ACCIDENT WHILE OPERATING A
14 MOTOR VEHICLE IN VIOLATION OF SUBSECTION (A) OF THIS SECTION IS
15 CONSIDERED TO HAVE WAIVED THE RIGHT TO RECOVER FOR NONECONOMIC LOSS
16 IN AN ACTION AGAINST A PERSON OPERATING A MOTOR VEHICLE THAT IS
17 COVERED BY THE REQUIRED SECURITY.

18 (2) THIS SUBSECTION DOES NOT APPLY TO:

19 (I) AN INDIVIDUAL WHO DOES NOT KNOW OR HAVE REASON TO
20 KNOW THAT THE MOTOR VEHICLE IS NOT COVERED BY THE REQUIRED SECURITY;
21 OR

22 (II) AN INDIVIDUAL WHOSE INJURIES ARE CAUSED BY AN
23 INDIVIDUAL WHO IS:

24 1. OPERATING A MOTOR VEHICLE IN VIOLATION OF § 21-902
25 OF THIS ARTICLE;

26 2. CONVICTED OF A VIOLATION OF ARTICLE 27, § 388A OF
27 THE CODE IN CONNECTION WITH THE ACCIDENT; OR

28 3. CONVICTED OF VEHICULAR ASSAULT IN CONNECTION
29 WITH THE ACCIDENT.

30 (3) FOR PURPOSES OF THIS SUBSECTION, THERE IS A REBUTTABLE
31 PRESUMPTION THAT AN INDIVIDUAL KNOWS OR HAS REASON TO KNOW THAT A
32 MOTOR VEHICLE IS NOT COVERED BY THE REQUIRED SECURITY IF THE SECURITY
33 PREVIOUSLY IN EFFECT HAD LAPSED, TERMINATED, OR WAS INEFFECTIVE FOR A
34 PERIOD OF AT LEAST 30 DAYS BEFORE THE ACCIDENT.

35 (4) (I) A PERSON CONSIDERED UNDER THIS SUBSECTION TO HAVE
36 WAIVED THE RIGHT TO RECOVER NONECONOMIC LOSSES MAY NOT PRESENT
37 EVIDENCE OF NONECONOMIC LOSSES TO THE TRIER OF FACT; AND

38 (II) THE TRIER OF FACT MAY NOT BE INFORMED OF THE
39 EXISTENCE OF THE WAIVER OR ITS EFFECT ON THE TOTAL AMOUNT OF THE
40 INDIVIDUAL'S RECOVERY.

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1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 1996.