
By: Delegates Kach, Love, McClenahan, Crumlin, Kirk, Eckardt, Donoghue, V. Mitchell, Walkup, Kelly, La Vay, Schade, and M. Burns

Introduced and read first time: January 31, 1997

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Uninsured Motorists and Drunk or Drugged Drivers - Prohibition Against**
3 **Recovery of Noneconomic Damages**

4 FOR the purpose of prohibiting a person from recovering certain noneconomic damages
5 for personal injuries sustained while driving a motor vehicle that is not covered by
6 the required security or while driving a motor vehicle in violation of certain
7 provisions relating to drunk or drugged driving; providing that the prohibition
8 against recovery of noneconomic damages under this Act does not apply under
9 certain circumstances; creating, for certain purposes, a rebuttable presumption that
10 a person knows or has reason to know that a motor vehicle is not covered by the
11 required security under certain circumstances; prohibiting a person who is barred
12 under this Act from recovering noneconomic damages from presenting certain
13 evidence and information to the trier of fact; defining a certain term; making
14 stylistic changes; and generally relating to a prohibition against recovery of
15 noneconomic damages for injuries sustained, under certain circumstances, by
16 uninsured and drunk or drugged drivers.

17 BY repealing and reenacting, with amendments,
18 Article - Transportation
19 Section 17-107 and 21-902
20 Annotated Code of Maryland
21 (1992 Replacement Volume and 1996 Supplement)

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

24 **Article - Transportation**

25 17-107.

26 (a) A person who knows or has reason to know that a motor vehicle is not covered
27 by the required security may not:

28 (1) Drive the vehicle; or

29 (2) If [he] THE PERSON is an owner of the vehicle, knowingly permit
30 another person to drive it.

1 (b) (1) In any prosecution under subsection (a) of this section the introduction
2 of the official records of the [Motor Vehicle] Administration showing the absence of a
3 record that the vehicle is covered by the security required under § 17-104 of this subtitle
4 shall be prima facie evidence that a person knows or has reason to know that a motor
5 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 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) IN THIS SUBSECTION, "NONECONOMIC DAMAGES" MEANS DAMAGES
13 FOR NONPECUNIARY LOSS INCLUDING PAIN, SUFFERING, INCONVENIENCE,
14 PHYSICAL IMPAIRMENT, DISFIGUREMENT, AND LOSS OF CONSORTIUM.

15 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A
16 PERSON WHO SUSTAINS PERSONAL INJURIES WHILE DRIVING A MOTOR VEHICLE
17 THAT IS NOT COVERED BY THE REQUIRED SECURITY IN VIOLATION OF SUBSECTION
18 (A) OF THIS SECTION MAY NOT RECOVER NONECONOMIC DAMAGES FOR THE
19 INJURIES FROM ANOTHER PERSON WHO, AT THE TIME OF THE ACCIDENT
20 RESULTING IN THE INJURIES, WAS OPERATING A MOTOR VEHICLE THAT WAS
21 COVERED BY THE REQUIRED SECURITY.

22 (3) THIS SUBSECTION DOES NOT APPLY TO A PERSON WHOSE INJURIES
23 WERE CAUSED BY ANOTHER PERSON WHO, AS A RESULT OF THE ACCIDENT
24 RESULTING IN THE INJURIES, WAS CONVICTED OF:

25 (I) A VIOLATION OF § 21-902 OF THIS ARTICLE;

26 (II) HOMICIDE BY MOTOR VEHICLE WHILE INTOXICATED OR
27 INTOXICATED PER SE, OR WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS, OR
28 A CONTROLLED DANGEROUS SUBSTANCE UNDER ARTICLE 27, § 388A OF THE CODE;

29 (III) CAUSING A LIFE-THREATENING INJURY BY MOTOR VEHICLE
30 WHILE INTOXICATED OR INTOXICATED PER SE, OR WHILE UNDER THE INFLUENCE
31 OF ALCOHOL, DRUGS, OR A CONTROLLED DANGEROUS SUBSTANCE UNDER
32 ARTICLE 27, § 388B OF THE CODE; OR

33 (IV) VEHICULAR ASSAULT.

34 (4) FOR PURPOSES OF THIS SUBSECTION, THERE IS A REBUTTABLE
35 PRESUMPTION THAT A PERSON KNOWS OR HAS REASON TO KNOW THAT A MOTOR
36 VEHICLE IS NOT COVERED BY THE REQUIRED SECURITY IF THE SECURITY
37 PREVIOUSLY IN EFFECT HAD LAPSED, TERMINATED, OR WAS INEFFECTIVE FOR A
38 PERIOD OF AT LEAST 30 DAYS BEFORE THE ACCIDENT THAT RESULTED IN THE
39 PERSON'S INJURIES.

40 (5) IF A PERSON IS PROHIBITED FROM RECOVERING NONECONOMIC
41 DAMAGES UNDER THIS SUBSECTION, THE PERSON MAY NOT:

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1 (I) PRESENT ANY EVIDENCE OF NONECONOMIC DAMAGES TO THE
2 TRIER OF FACT; OR

3 (II) INFORM THE TRIER OF FACT OF:

4 1. THE APPLICATION OF THE PROHIBITION UNDER THIS
5 SUBSECTION TO THE PERSON; OR

6 2. THE EFFECT OF THE PROHIBITION ON THE TOTAL
7 AMOUNT OF THE PERSON'S RECOVERY.

8 21-902.

9 (a) (1) A person may not drive or attempt to drive any vehicle while intoxicated.

10 (2) A person may not drive or attempt to drive any vehicle while the person
11 is intoxicated per se.

12 (b) A person may not drive or attempt to drive any vehicle while under the
13 influence of alcohol.

14 (c) (1) A person may not drive or attempt to drive any vehicle while he is so far
15 under the influence of any drug, any combination of drugs, or a combination of one or
16 more drugs and alcohol that he cannot drive a vehicle safely.

17 (2) It is not a defense to any charge of violating this subsection that the
18 person charged is or was entitled under the laws of this State to use the drug, combination
19 of drugs, or combination of one or more drugs and alcohol, unless the person was
20 unaware that the drug or combination would make him incapable of safely driving a
21 vehicle.

22 (d) A person may not drive or attempt to drive any vehicle while he is under the
23 influence of any controlled dangerous substance, as that term is defined in Article 27, §
24 279 of the Code, if the person is not entitled to use the controlled dangerous substance
25 under the laws of this State.

26 (E) (1) IN THIS SUBSECTION, "NONECONOMIC DAMAGES" HAS THE
27 MEANING STATED IN § 17-107 OF THIS ARTICLE.

28 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A
29 PERSON WHO SUSTAINS PERSONAL INJURIES WHILE OPERATING A MOTOR VEHICLE
30 IN VIOLATION OF THIS SECTION MAY NOT RECOVER NONECONOMIC DAMAGES FOR
31 THE INJURIES.

32 (3) THIS SUBSECTION DOES NOT APPLY TO A PERSON WHOSE INJURIES
33 WERE CAUSED BY ANOTHER PERSON WHO, AS A RESULT OF THE ACCIDENT
34 RESULTING IN THE INJURIES, WAS CONVICTED OF:

35 (I) A VIOLATION OF THIS SECTION;

36 (II) HOMICIDE BY MOTOR VEHICLE WHILE INTOXICATED OR
37 INTOXICATED PER SE, OR WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS, OR
38 A CONTROLLED DANGEROUS SUBSTANCE UNDER ARTICLE 27, § 388A OF THE CODE;

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1 (III) CAUSING A LIFE-THREATENING INJURY BY MOTOR VEHICLE
2 WHILE INTOXICATED OR INTOXICATED PER SE, OR WHILE UNDER THE INFLUENCE
3 OF ALCOHOL, DRUGS, OR A CONTROLLED DANGEROUS SUBSTANCE UNDER
4 ARTICLE 27, § 388B OF THE CODE; OR

5 (IV) VEHICULAR ASSAULT.

6 (4) IF A PERSON IS PROHIBITED FROM RECOVERING NONECONOMIC
7 DAMAGES UNDER THIS SUBSECTION, THE PERSON MAY NOT:

8 (I) PRESENT ANY EVIDENCE OF NONECONOMIC DAMAGES TO THE
9 TRIER OF FACT; OR

10 (II) INFORM THE TRIER OF FACT OF:

11 1. THE APPLICATION OF THE PROHIBITION UNDER THIS
12 SUBSECTION TO THE PERSON; OR

13 2. THE EFFECT OF THE PROHIBITION ON THE TOTAL
14 AMOUNT OF THE PERSON'S RECOVERY.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 1997.