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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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 1997

CHAPTER ____

1 AN ACT concerning

2 **Vehicle Laws - Uninsured Motorists and Drunk or Drugged Drivers—Prohibition Against**
3 **Recovery of - Waiver of Right to 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~~ establishing that an individual driving a
17 motor vehicle that is not covered by insurance is considered to have waived the right
18 to recover noneconomic loss damages under certain circumstances; exempting
19 certain individuals from the waiver under certain circumstances; creating a
20 rebuttable presumption that an individual knows or has reason to know that the
21 motor vehicle is not covered by insurance under certain circumstances; making
22 stylistic changes; making technical changes; providing for the termination of this
23 Act; and generally relating to operating a motor vehicle that does not have
24 insurance coverage.

25 BY repealing and reenacting, with amendments,
26 Article - Transportation

2

1 Section 17-107 ~~and 21-902~~
2 Annotated Code of Maryland
3 (1992 Replacement Volume and 1996 Supplement)

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

6 **Article - Transportation**

7 ~~17-107.~~

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

10 (1) ~~Drive the vehicle; or~~

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

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

18 (2) ~~The introduction of evidence of the records of the Administration may~~
19 ~~not limit the introduction of other evidence bearing upon whether the vehicle was covered~~
20 ~~by the required security.~~

21 (c) ~~An owner or lessee of any motor vehicle registered under Title 13 of this~~
22 ~~article may not raise the defense of sovereign or governmental immunity as described~~
23 ~~under § 5-399.4 of the Courts and Judicial Proceedings Article.~~

24 ~~17-107.~~

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

27 (1) Drive the vehicle; or

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

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

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

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

4 (D) (1) IN THIS SUBSECTION, "NONECONOMIC DAMAGES" MEANS DAMAGES
5 FOR NONPECUNIARY LOSS INCLUDING PAIN, SUFFERING, INCONVENIENCE,
6 PHYSICAL IMPAIRMENT; AND DISFIGUREMENT; AND LOSS OF CONSORTIUM.

7 ~~(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A~~
8 ~~PERSON WHO SUSTAINS PERSONAL INJURIES WHILE DRIVING A MOTOR VEHICLE~~
9 ~~THAT IS NOT COVERED BY THE REQUIRED SECURITY IN VIOLATION OF SUBSECTION~~
10 ~~(A) OF THIS SECTION MAY NOT RECOVER NONECONOMIC DAMAGES FOR THE~~
11 ~~INJURIES FROM ANOTHER PERSON WHO, AT THE TIME OF THE ACCIDENT~~
12 ~~RESULTING IN THE INJURIES, WAS OPERATING A MOTOR VEHICLE THAT WAS~~
13 ~~COVERED BY THE REQUIRED SECURITY.~~

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

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

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

21 ~~(III) CAUSING A LIFE THREATENING INJURY BY MOTOR VEHICLE~~
22 ~~WHILE INTOXICATED OR INTOXICATED PER SE, OR WHILE UNDER THE INFLUENCE~~
23 ~~OF ALCOHOL, DRUGS, OR A CONTROLLED DANGEROUS SUBSTANCE UNDER~~
24 ~~ARTICLE 27, § 388B OF THE CODE; OR~~

25 ~~(IV) VEHICULAR ASSAULT.~~

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

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

34 ~~(I) PRESENT ANY EVIDENCE OF NONECONOMIC DAMAGES TO THE~~
35 ~~TRIER OF FACT; OR~~

36 ~~(II) INFORM THE TRIER OF FACT OF:~~

37 ~~1. THE APPLICATION OF THE PROHIBITION UNDER THIS~~
38 ~~SUBSECTION TO THE PERSON; OR~~

39 ~~2. THE EFFECT OF THE PROHIBITION ON THE TOTAL~~
40 ~~AMOUNT OF THE PERSON'S RECOVERY.~~

1 ~~21-902.~~

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

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

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

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

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

15 (d) ~~A person may not drive or attempt to drive any vehicle while he is under the~~
16 ~~influence of any controlled dangerous substance, as that term is defined in Article 27, §~~
17 ~~279 of the Code, if the person is not entitled to use the controlled dangerous substance~~
18 ~~under the laws of this State.~~

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

21 (2) ~~EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A~~
22 ~~PERSON WHO SUSTAINS PERSONAL INJURIES WHILE OPERATING A MOTOR VEHICLE~~
23 ~~IN VIOLATION OF THIS SECTION MAY NOT RECOVER NONECONOMIC DAMAGES FOR~~
24 ~~THE INJURIES.~~

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

28 (i) ~~A VIOLATION OF THIS SECTION;~~

29 (ii) ~~HOMICIDE BY MOTOR VEHICLE WHILE INTOXICATED OR~~
30 ~~INTOXICATED PER SE, OR WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS, OR~~
31 ~~A CONTROLLED DANGEROUS SUBSTANCE UNDER ARTICLE 27, § 388A OF THE CODE;~~

32 (iii) ~~CAUSING A LIFE THREATENING INJURY BY MOTOR VEHICLE~~
33 ~~WHILE INTOXICATED OR INTOXICATED PER SE, OR WHILE UNDER THE INFLUENCE~~
34 ~~OF ALCOHOL, DRUGS, OR A CONTROLLED DANGEROUS SUBSTANCE UNDER~~
35 ~~ARTICLE 27, § 388B OF THE CODE; OR~~

36 (iv) ~~VEHICULAR ASSAULT.~~

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

5

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 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, AN
9 INDIVIDUAL WHO IS INJURED IN A VEHICULAR ACCIDENT WHILE OPERATING A
10 MOTOR VEHICLE IN VIOLATION OF SUBSECTION (A) OF THIS SECTION AND WHO IS
11 THE OWNER AND DRIVER OF THE MOTOR VEHICLE IS CONSIDERED TO HAVE
12 WAIVED THE RIGHT TO RECOVER FOR NONECONOMIC LOSS IN AN ACTION AGAINST
13 A PERSON OPERATING A MOTOR VEHICLE THAT IS COVERED BY THE REQUIRED
14 SECURITY.

15 (3) THIS SUBSECTION DOES NOT APPLY TO:

16 (I) AN INDIVIDUAL WHO DOES NOT KNOW OR HAVE REASON TO
17 KNOW THAT THE MOTOR VEHICLE IS NOT COVERED BY THE REQUIRED SECURITY;
18 OR

19 (II) AN INDIVIDUAL WHOSE INJURIES ARE CAUSED BY AN
20 INDIVIDUAL WHO, IN CONNECTION WITH THE ACCIDENT, IS:

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

23 2. CONVICTED OF A VIOLATION OF ARTICLE 27, § 388A OF
24 THE CODE;

25 3. CONVICTED OF VEHICULAR ASSAULT;

26 4. CONVICTED OF A VIOLATION OF ARTICLE 27, § 388B OF
27 THE CODE;

28 5. CONVICTED OF RECKLESS DRIVING UNDER § 21-901.1(A)
29 OF THIS ARTICLE; OR

30 6. FOUND TO HAVE BEEN DRIVING IN A MANNER THAT
31 SHOWS CONTEMPT FOR THE SAFETY OF OTHERS UNDER CIRCUMSTANCES THAT
32 WOULD PROBABLY CAUSE HARM.

33 (4) FOR PURPOSES OF THIS SUBSECTION, THERE IS A REBUTTABLE
34 PRESUMPTION THAT A PERSON KNOWS OR HAS REASON TO KNOW THAT A MOTOR
35 VEHICLE IS NOT COVERED BY THE REQUIRED SECURITY IF THE SECURITY
36 PREVIOUSLY IN EFFECT HAD LAPSED OR TERMINATED AND HAD BEEN
37 INEFFECTIVE FOR A PERIOD OF AT LEAST 60 DAYS AFTER THE DATE OF
38 NOTIFICATION BY THE MOTOR VEHICLE ADMINISTRATION ABOUT THE LAPSE OR

6

1 TERMINATION AND ABOUT SPECIFIC CONSEQUENCES OF THE LAPSE OR
2 TERMINATION UNDER THIS SUBSECTION.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 1997. It shall remain effective for a period of 5 years and, at the end of
5 September 30, 2002, with no further action required by the General Assembly, this Act
6 shall be abrogated and of no further force and effect.