

HOUSE BILL 142

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HB 1394/97 - ECM

1998 Regular Session
8lr0138

By: **Delegates Pendergrass, Gordon, Exum, and Goldwater**

Introduced and read first time: January 19, 1998

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Motor Vehicle Liability Insurance - Uninsured Motorist Coverage -**
3 **Arbitration**

4 FOR the purpose of requiring an insurer to offer that certain disputes be submitted to
5 arbitration under certain circumstances; providing for selection of an arbitrator
6 and for payment of costs of arbitration under certain circumstances; and
7 generally relating to arbitration of disputes about uninsured motorist coverage
8 under policies of motor vehicle liability insurance.

9 BY repealing and reenacting, with amendments,

10 Article - Insurance

11 Section 19-509

12 Annotated Code of Maryland

13 (1997 Volume)

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

16 **Article - Insurance**

17 19-509.

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

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

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

24 (i) is less than the amount of coverage provided under this section;

25 or

1 (ii) has been reduced by payment to other persons of claims arising
2 from the same occurrence to an amount less than the amount of coverage provided
3 under this section.

4 (b) The uninsured motorist coverage required by this section does not apply to
5 a motor vehicle liability insurance policy that insures a motor vehicle that:

6 (1) is not subject to registration under § 13-402 of the Transportation
7 Article because it is not driven on a highway; or

8 (2) is exempt from registration under § 13-402(c)(10) of the
9 Transportation Article.

10 (c) In addition to any other coverage required by this subtitle, each motor
11 vehicle liability insurance policy issued, sold, or delivered in the State after July 1,
12 1975, shall contain coverage for damages, subject to the policy limits, that:

13 (1) the insured is entitled to recover from the owner or operator of an
14 uninsured motor vehicle because of bodily injuries sustained in a motor vehicle
15 accident arising out of the ownership, maintenance, or use of the uninsured motor
16 vehicle; and

17 (2) a surviving relative of the insured, who is described in § 3-904 of the
18 Courts Article, is entitled to recover from the owner or operator of an uninsured motor
19 vehicle because the insured died as the result of a motor vehicle accident arising out
20 of the ownership, maintenance, or use of the uninsured motor vehicle.

21 (d) The uninsured motorist coverage required by this section shall be in the
22 form and subject to the conditions that the Commissioner approves.

23 (e) (1) The uninsured motorist coverage contained in a motor vehicle
24 liability insurance policy:

25 (i) shall at least equal:

26 1. the amounts required by Title 17 of the Transportation
27 Article; and

28 2. the coverage provided to a qualified person under Title 20,
29 Subtitle 6 of this article; and

30 (ii) may not exceed the amount of liability coverage provided under
31 the policy.

32 (2) Unless waived in accordance with § 19-510 of this subtitle, the
33 amount of uninsured motorist coverage provided under a private passenger motor
34 vehicle liability insurance policy shall equal the amount of liability coverage provided
35 under the policy.

1 (f) An insurer may exclude from the uninsured motorist coverage required by
2 this section benefits for:

3 (1) the named insured or a family member of the named insured who
4 resides in the named insured's household for an injury that occurs when the named
5 insured or family member is occupying or is struck as a pedestrian by an uninsured
6 motor vehicle that is owned by the named insured or an immediate family member of
7 the named insured who resides in the named insured's household; and

8 (2) the named insured, a family member of the named insured who
9 resides in the named insured's household, and any other individual who has other
10 applicable motor vehicle insurance for an injury that occurs when the named insured,
11 family member, or other individual is occupying or is struck as a pedestrian by the
12 insured motor vehicle while the motor vehicle is operated or used by an individual
13 who is excluded from coverage under § 27-606 of this article.

14 (g) The limit of liability for an insurer that provides uninsured motorist
15 coverage under this section is the amount of that coverage less the amount paid to the
16 insured, that exhausts any applicable liability insurance policies, bonds, and
17 securities, on behalf of any person that may be held liable for the bodily injuries or
18 death of the insured.

19 (h) (1) A policy that, as its primary purpose, provides coverage in excess of
20 other valid and collectible insurance or qualified self-insurance may include the
21 uninsured motorist coverage provided for in this section.

22 (2) The uninsured motorist coverage required by this section is primary
23 to any right to recovery from the Maryland Automobile Insurance Fund under Title
24 20, Subtitle 6 of this article.

25 (i) An endorsement or provision that protects the insured against damages
26 caused by an uninsured motor vehicle that is contained in a policy issued and
27 delivered in the State is deemed to cover damages caused by a motor vehicle insured
28 by a liability insurer that is insolvent or otherwise unable to pay claims to the same
29 extent and in the same manner as if the damages were caused by an uninsured motor
30 vehicle.

31 (j) A provision in a motor vehicle liability insurance policy issued after July 1,
32 1975, about coverage for damages sustained by the insured as a result of the
33 operation of an uninsured motor vehicle that requires a dispute between the insured
34 and the insurer to be submitted to binding arbitration is prohibited and is of no legal
35 effect.

36 (K) (1) IN A DISPUTE ARISING OUT OF A CLAIM UNDER THE UNINSURED
37 MOTORIST COVERAGE OF A MOTOR VEHICLE LIABILITY POLICY, BEFORE AN INSURER
38 HIRES AN ATTORNEY TO REPRESENT THE UNINSURED MOTORIST, THE INSURER
39 SHALL OFFER FOR THE DISPUTE TO BE SUBMITTED TO ARBITRATION.

40 (2) WHEN A DISPUTE IS SUBMITTED TO ARBITRATION UNDER THIS
41 SUBSECTION:

1 (I) THE PARTIES SHALL SELECT AN ARBITRATOR BY MUTUAL
2 AGREEMENT, AND IF THEY ARE UNABLE TO REACH A MUTUAL AGREEMENT, AN
3 ARBITRATOR SHALL BE SUPPLIED BY THE AMERICAN ARBITRATION ASSOCIATION BY
4 ITS PROCEDURES; AND

5 (II) THE COSTS OF ARBITRATION SHALL BE SHARED EQUALLY BY
6 THE INSURER AND THE INSURED, UNLESS OTHERWISE AGREED BY THE PARTIES.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 1998.