

HOUSE BILL 142

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C4
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

Committee Report: Favorable
House action: Adopted
Read second time: February 24, 1998

CHAPTER _____

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

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

4 (i) is less than the amount of coverage provided under this section;
5 or

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

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

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

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

15 (c) In addition to any other coverage required by this subtitle, each motor
16 vehicle liability insurance policy issued, sold, or delivered in the State after July 1,
17 1975, shall contain coverage for damages, subject to the policy limits, that:

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

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

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

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

30 (i) shall at least equal:

31 1. the amounts required by Title 17 of the Transportation
32 Article; and

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

35 (ii) may not exceed the amount of liability coverage provided under
36 the policy.

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

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

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

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

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

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

26 (2) The uninsured motorist coverage required by this section is primary
27 to any right to recovery from the Maryland Automobile Insurance Fund under Title
28 20, Subtitle 6 of this article.

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

35 (j) A provision in a motor vehicle liability insurance policy issued after July 1,
36 1975, about coverage for damages sustained by the insured as a result of the
37 operation of an uninsured motor vehicle that requires a dispute between the insured
38 and the insurer to be submitted to binding arbitration is prohibited and is of no legal
39 effect.

40 (K) (1) IN A DISPUTE ARISING OUT OF A CLAIM UNDER THE UNINSURED
41 MOTORIST COVERAGE OF A MOTOR VEHICLE LIABILITY POLICY, BEFORE AN INSURER

1 HIRES AN ATTORNEY TO REPRESENT THE UNINSURED MOTORIST, THE INSURER
2 SHALL OFFER FOR THE DISPUTE TO BE SUBMITTED TO ARBITRATION.

3 (2) WHEN A DISPUTE IS SUBMITTED TO ARBITRATION UNDER THIS
4 SUBSECTION:

5 (I) THE PARTIES SHALL SELECT AN ARBITRATOR BY MUTUAL
6 AGREEMENT, AND IF THEY ARE UNABLE TO REACH A MUTUAL AGREEMENT, AN
7 ARBITRATOR SHALL BE SUPPLIED BY THE AMERICAN ARBITRATION ASSOCIATION BY
8 ITS PROCEDURES; AND

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

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