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By: **Delegates Kach, V. Mitchell, Love, and McClenahan**
Introduced and read first time: February 6, 1998
Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of establishing that an individual driving a motor vehicle that is not
5   covered by insurance is considered to have waived the right to recover
6   noneconomic loss damages under certain circumstances; exempting certain
7   individuals from the waiver under certain circumstances; creating a rebuttable
8   presumption that an individual knows or has reason to know that the motor
9   vehicle is not covered by insurance under certain circumstances; making
10   stylistic changes; making technical changes; providing for the termination of
11   this Act; and generally relating to operating a motor vehicle that does not have
12   insurance coverage.

13 BY repealing and reenacting, with amendments,
14   Article - Transportation
15   Section 17-107
16   Annotated Code of Maryland
17   (1992 Replacement Volume and 1997 Supplement)

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

20   **Article - Transportation**

21 17-107.

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

24   (1)   Drive the vehicle; or

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

27   (b)   (1)   In [any] A prosecution under subsection (a) of this section the
28 introduction of the official records of the [Motor Vehicle] Administration showing the

1 absence of a record that the vehicle is covered by the security required under § 17-104
2 of this subtitle shall be prima facie evidence that [a person] AN INDIVIDUAL knows or
3 has reason to know that a motor vehicle is not covered by the required security.

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

7   (c)   An owner or lessee of [any] A motor vehicle registered under Title 13 of
8 this article may not raise the defense of sovereign or governmental immunity as
9 described under § 5-524 of the Courts [and Judicial Proceedings] Article.

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

17   (2)   THIS SUBSECTION DOES NOT APPLY TO:

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

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

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

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

26   3.   CONVICTED OF VEHICULAR ASSAULT;

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

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

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

1   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 1998. It shall remain effective for a period of 5 years and, at the end of
3 September 30, 2003, with no further action required by the General Assembly, this
4 Act shall be abrogated and of no further force and effect.