

HOUSE BILL 162

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HB 570/98 - ECM

1999 Regular Session
9r0848

By: **Delegates Kach, Mitchell, Donoghue, McClenahan, Leopold, Love, and Krysiak**

Introduced and read first time: January 28, 1999

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: February 24, 1999

CHAPTER _____

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; defining a
10 certain term; making stylistic changes; making technical changes; providing for
11 the termination of certain provisions of this Act; and generally relating to
12 operating a motor vehicle that does not have insurance coverage.

13 BY repealing and reenacting, with amendments,
14 Article - Transportation
15 Section 17-107
16 Annotated Code of Maryland
17 (1998 Replacement Volume and 1998 Supplement)

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

1

Article - Transportation

2 17-107.

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

5 (1) Drive the vehicle; or

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

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

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

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

19 (D) (1) IN THIS SUBSECTION, "NONECONOMIC DAMAGES" MEANS DAMAGES
20 FOR NONPECUNIARY LOSS, INCLUDING PAIN, SUFFERING, INCONVENIENCE, AND
21 PHYSICAL IMPAIRMENT.

22 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, AN
23 INDIVIDUAL WHO IS INJURED IN A VEHICULAR ACCIDENT WHILE OPERATING A
24 MOTOR VEHICLE IN VIOLATION OF SUBSECTION (A) OF THIS SECTION AND WHO IS
25 THE OWNER AND DRIVER OF THE MOTOR VEHICLE IS CONSIDERED TO HAVE WAIVED
26 THE RIGHT TO RECOVER FOR NONECONOMIC DAMAGES IN AN ACTION AGAINST AN
27 INDIVIDUAL OPERATING A MOTOR VEHICLE THAT IS COVERED BY THE REQUIRED
28 SECURITY.

29 (3) THIS SUBSECTION DOES NOT APPLY TO:

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

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

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

1
2 THE CODE; 2. CONVICTED OF A VIOLATION OF ARTICLE 27, § 388A OF

3 3. CONVICTED OF VEHICULAR ASSAULT;

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

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

8 6. FOUND TO HAVE BEEN DRIVING IN A DELIBERATELY
9 DISCOURTEOUS, INTOLERANT, AND IMPATIENT MANNER THAT EVIDENCES A
10 PATTERN OF DANGEROUS CONDUCT THAT CONTRIBUTED TO THE LIKELIHOOD OF A
11 COLLISION OR NECESSITATED EVASIVE ACTION BY ANOTHER DRIVER OF A MOTOR
12 VEHICLE TO AVOID A COLLISION.

13 (4) FOR PURPOSES OF THIS SUBSECTION, THERE IS A REBUTTABLE
14 PRESUMPTION THAT AN INDIVIDUAL KNOWS THAT A MOTOR VEHICLE IS NOT
15 COVERED BY THE REQUIRED SECURITY IF THE SECURITY PREVIOUSLY IN EFFECT
16 HAD LAPSED OR TERMINATED AND HAD BEEN INEFFECTIVE FOR A PERIOD OF AT
17 LEAST 60 DAYS AFTER THE DATE OF NOTIFICATION BY THE MOTOR VEHICLE
18 ADMINISTRATION ABOUT THE LAPSE OR TERMINATION AND ABOUT SPECIFIC
19 CONSEQUENCES OF THE LAPSE OR TERMINATION UNDER THIS SUBSECTION.

20 SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of §
21 17-107(d)(3)(ii)6 of the Transportation Article, as enacted by this Act, shall take effect
22 October 1, 1999. It shall remain effective for a period of 1 year and, at the end of
23 September 30, 2000, with no further action required by the General Assembly, §
24 17-107(d)(3)(ii)6 of the Transportation Article, as enacted by this Act, shall be
25 abrogated and of no further force and effect.

26 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of
27 this Act, this Act shall take effect October 1, 1999. It shall remain effective for a
28 period of 5 years and, at the end of September 30, 2004, with no further action
29 required by the General Assembly, this Act shall be abrogated and of no further force
30 and effect.