

SENATE BILL 622

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1999 Regular Session
9r1630

By: **Senator Bromwell**

Introduced and read first time: February 5, 1999

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Motor Vehicle Liability Insurance - Uninsured Motorists - Waiver of Right to**
3 **Noneconomic Damages**

4 FOR the purpose of providing that a motor vehicle liability insurance policy may
5 exclude coverage for noneconomic damages under certain circumstances;
6 establishing that an individual who is injured while driving the motor vehicle
7 without certain required coverage is considered to have waived the right to
8 recover noneconomic loss damages under certain circumstances; creating a
9 rebuttable presumption that an individual knows or has reason to know that the
10 motor vehicle is not covered by required security under certain circumstances;
11 defining a certain term; making stylistic changes; making technical changes;
12 and generally relating to the operation of a motor vehicle that does not have
13 required insurance coverage.

14 BY repealing and reenacting, with amendments,
15 Article - Insurance
16 Section 19-504
17 Annotated Code of Maryland
18 (1997 Volume and 1998 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Transportation
21 Section 17-107
22 Annotated Code of Maryland
23 (1998 Replacement Volume and 1998 Supplement)

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

1

Article - Insurance

2 19-504.

3 (A) [Each] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, EACH
4 motor vehicle liability insurance policy issued, sold, or delivered in the State shall
5 provide the minimum liability coverage specified in Title 17 of the Transportation
6 Article.

7 (B) (1) IN THIS SUBSECTION, "NONECONOMIC DAMAGES" MEANS DAMAGES
8 FOR NONPECUNIARY LOSS, INCLUDING PAIN, SUFFERING, INCONVENIENCE, AND
9 PHYSICAL IMPAIRMENT.

10 (2) A MOTOR VEHICLE LIABILITY INSURANCE POLICY MAY EXCLUDE
11 FROM THE MINIMUM LIABILITY COVERAGE SPECIFIED IN TITLE 17 OF THE
12 TRANSPORTATION ARTICLE COVERAGE FOR NONECONOMIC DAMAGES TO AN
13 INDIVIDUAL WHO:

14 (I) IS INJURED IN A VEHICULAR ACCIDENT WHILE OPERATING A
15 MOTOR VEHICLE IN VIOLATION OF § 17-107(A) OF THE TRANSPORTATION ARTICLE;

16 (II) IS THE OWNER AND DRIVER OF THE MOTOR VEHICLE; AND

17 (III) IS DEEMED TO HAVE WAIVED THE RIGHT TO RECOVER FOR
18 NONECONOMIC DAMAGES UNDER § 17-107(D) OF THE TRANSPORTATION ARTICLE.

19

Article - Transportation

20 17-107.

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

23 (1) Drive the vehicle; or

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

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

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

1 (c) An owner or lessee of [any] A motor vehicle registered under Title 13 of
2 this article may not raise the defense of sovereign or governmental immunity as
3 described under § 5-524 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, AND
6 PHYSICAL IMPAIRMENT.

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

14 (3) THIS SUBSECTION DOES NOT APPLY TO:

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

17 (II) AN INDIVIDUAL WHOSE INJURIES ARE CAUSED BY ANOTHER
18 WHO, IN CONNECTION WITH THE ACCIDENT, IS:

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

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

23 3. CONVICTED OF VEHICULAR ASSAULT;

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

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

28 (4) FOR PURPOSES OF THIS SUBSECTION, THERE IS A REBUTTABLE
29 PRESUMPTION THAT AN INDIVIDUAL KNOWS OR HAS REASON TO KNOW THAT A
30 MOTOR VEHICLE IS NOT COVERED BY THE REQUIRED SECURITY IF:

31 (I) THE SECURITY PREVIOUSLY IN EFFECT HAD LAPSED OR
32 TERMINATED; AND

33 (II) THE SECURITY HAD BEEN INEFFECTIVE FOR A PERIOD OF AT
34 LEAST 60 DAYS AFTER THE DATE OF NOTIFICATION BY THE ADMINISTRATION
35 REGARDING:

36 1. THE LAPSE OR TERMINATION; AND

