
By: **Delegates Kach, Mitchell, Love, and Gordon**
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Assigned to: Economic Matters

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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 (1999 Replacement Volume and 2000 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:

1 (1) Drive the vehicle; or

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

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

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

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

15 (D) (1) IN THIS SUBSECTION, "NONECONOMIC DAMAGES" MEANS DAMAGES
16 FOR NONPECUNIARY LOSS, INCLUDING PAIN, SUFFERING, INCONVENIENCE, AND
17 PHYSICAL IMPAIRMENT.

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

25 (3) THIS SUBSECTION DOES NOT APPLY TO:

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

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

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

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

34 3. CONVICTED OF VEHICULAR ASSAULT;

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

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

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

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

15 SECTION 2. AND BE IT FURTHER ENACTED, That § 17-107(d)(3)(ii)6 of the
16 Transportation Article, as enacted by this Act, shall remain effective for a period of 1
17 year and, at the end of September 30, 2002, with no further action required by the
18 General Assembly, § 17-107(d)(3)(ii)6 of the Transportation Article, as enacted by this
19 Act, shall be abrogated and of no further force and effect.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2001. Except as provided in Section 2 of this Act, it shall remain effective
22 for a period of 5 years and, at the end of September 30, 2006, with no further action
23 required by the General Assembly, this Act shall be abrogated and of no further force
24 and effect.