

HOUSE BILL 926

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HB 883/00 - ECM

2001 Regular Session
11r2217
CF 11r2120

By: **Delegates Krysiak and Minnick**
Introduced and read first time: February 9, 2001
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Motor Vehicle Liability Insurance - Waiver of Coverage - Family Exclusion**

3 FOR the purpose of providing that, if the first named insured under a policy or binder
4 of private passenger motor vehicle liability insurance does not wish to have
5 liability coverage for claims made by a family member in the same amount as
6 the liability coverage for claims made by a nonfamily member, the first named
7 insured must make an affirmative written waiver of the coverage; requiring an
8 insurer to provide certain liability coverage if the first named insured does not
9 make an affirmative written waiver; providing that a waiver is not effective
10 unless the insurer gives a certain notice to the first named insured; requiring a
11 waiver to be on a certain form; requiring the form to contain certain
12 explanations; allowing a waiver to be made on a certain form under certain
13 circumstances; providing that a waiver made by a person who is insured
14 continuously by an insurer or the Maryland Automobile Insurance Fund is
15 effective until the waiver is withdrawn in writing; prohibiting an insurer from
16 refusing to underwrite a person because the person refuses to waive certain
17 coverage; establishing certain penalties for a violation of a certain provision of
18 this Act; providing for the application of this Act; and generally relating to
19 waivers of coverage under policies and binders of private passenger motor
20 vehicle liability insurance.

21 BY adding to
22 Article - Insurance
23 Section 19-504.1
24 Annotated Code of Maryland
25 (1997 Volume and 2000 Supplement)

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

1

Article - Insurance

2 19-504.1.

3 (A) THIS SECTION APPLIES ONLY WHEN THE LIABILITY COVERAGE UNDER A
4 POLICY OR BINDER OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE
5 EXCEEDS THE AMOUNT REQUIRED UNDER § 17-103 OF THE TRANSPORTATION
6 ARTICLE.

7 (B) (1) IF THE FIRST NAMED INSURED UNDER A POLICY OR BINDER OF
8 PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE DOES NOT WISH TO
9 OBTAIN LIABILITY COVERAGE FOR CLAIMS MADE BY A FAMILY MEMBER IN THE
10 SAME AMOUNT AS THE LIABILITY COVERAGE FOR CLAIMS MADE BY A NONFAMILY
11 MEMBER PROVIDED UNDER THE POLICY OR BINDER, THE FIRST NAMED INSURED
12 SHALL MAKE AN AFFIRMATIVE WRITTEN WAIVER OF HAVING LIABILITY COVERAGE
13 FOR CLAIMS MADE BY FAMILY MEMBERS IN THE SAME AMOUNT AS THE LIABILITY
14 COVERAGE FOR CLAIMS MADE BY NONFAMILY MEMBERS.

15 (2) IF THE FIRST NAMED INSURED DOES NOT MAKE AN AFFIRMATIVE
16 WRITTEN WAIVER UNDER THIS SECTION, THE INSURER SHALL PROVIDE LIABILITY
17 COVERAGE FOR CLAIMS MADE BY FAMILY MEMBERS IN AN AMOUNT EQUAL TO THE
18 AMOUNT OF LIABILITY COVERAGE PROVIDED UNDER THE POLICY OR BINDER FOR
19 CLAIMS MADE BY NONFAMILY MEMBERS.

20 (C) A WAIVER MADE UNDER THIS SECTION IS NOT EFFECTIVE UNLESS, PRIOR
21 TO THE WAIVER, THE INSURER GIVES THE FIRST NAMED INSURED WRITTEN NOTICE
22 OF THE NATURE, EXTENT, BENEFIT, AND COST OF THE LEVEL OF THE LIABILITY
23 INSURANCE COVERAGE BEING WAIVED.

24 (D) (1) A WAIVER MADE UNDER THIS SECTION SHALL BE MADE ON THE
25 FORM THAT THE COMMISSIONER REQUIRES.

26 (2) THE FORM MAY BE PART OF THE INSURANCE CONTRACT.

27 (3) THE FORM SHALL CLEARLY AND CONCISELY EXPLAIN IN 10 POINT
28 BOLDFACE TYPE:

29 (I) THE NATURE, EXTENT, BENEFIT, AND COST OF THE LEVEL OF
30 THE LIABILITY COVERAGE FOR CLAIMS MADE BY FAMILY MEMBERS THAT WOULD BE
31 PROVIDED UNDER THE POLICY OR BINDER IF NOT WAIVED BY THE FIRST NAMED
32 INSURED;

33 (II) THAT A FAILURE OF THE FIRST NAMED INSURED TO MAKE A
34 WAIVER REQUIRES AN INSURER TO PROVIDE LIABILITY COVERAGE FOR CLAIMS
35 MADE BY FAMILY MEMBERS IN AN AMOUNT EQUAL TO THE AMOUNT OF LIABILITY
36 COVERAGE PROVIDED UNDER THE POLICY OR BINDER OF PRIVATE PASSENGER
37 MOTOR VEHICLE LIABILITY INSURANCE FOR CLAIMS MADE BY NONFAMILY
38 MEMBERS;

1 (III) THAT AN INSURER MAY NOT REFUSE TO UNDERWRITE A
2 PERSON BECAUSE THE PERSON REFUSES TO WAIVE THE LIABILITY COVERAGE FOR
3 CLAIMS MADE BY FAMILY MEMBERS IN AN AMOUNT EQUAL TO THE COVERAGE
4 PROVIDED FOR CLAIMS MADE BY NONFAMILY MEMBERS; AND

5 (IV) THAT A WAIVER MADE UNDER THIS SECTION MUST BE AN
6 AFFIRMATIVE WRITTEN WAIVER.

7 (E) A WAIVER MADE UNDER THIS SECTION BY A PERSON WHO IS INSURED
8 CONTINUOUSLY BY AN INSURER OR BY THE MARYLAND AUTOMOBILE INSURANCE
9 FUND IS EFFECTIVE UNTIL THE WAIVER IS WITHDRAWN IN WRITING.

10 (F) (1) AN INSURER MAY NOT REFUSE TO UNDERWRITE A PERSON BECAUSE
11 THE PERSON REFUSES TO WAIVE THE LIABILITY COVERAGE FOR CLAIMS MADE BY
12 FAMILY MEMBERS IN AN AMOUNT EQUAL TO THE COVERAGE PROVIDED FOR CLAIMS
13 MADE BY NONFAMILY MEMBERS.

14 (2) AN INSURER THAT VIOLATES THIS SUBSECTION IS SUBJECT TO THE
15 PENALTIES PROVIDED IN §§ 4-113 AND 4-114 OF THIS ARTICLE.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
17 applicable to all private passenger motor vehicle liability insurance policies and
18 binders issued, delivered, or renewed in the State on or after October 1, 2001.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2001.