

SENATE BILL 349

Unofficial Copy  
C4  
SB 596/00 - FIN

2001 Regular Session  
11r2120  
CF 11r2217

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By: **Senator Dorman**

Introduced and read first time: February 1, 2001

Assigned to: Finance

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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15 effective until the waiver is withdrawn in writing; prohibiting an insurer from  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.