

BY: Finance Committee

AMENDMENTS TO HOUSE BILL NO. 633
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, before “Coverage” insert “Offer of”; in line 3, strike “provide” and substitute “offer”; strike beginning with “authorizing” in line 9 down through “form” in line 11 and substitute “requiring an insurer to make the offer to the first named insured on a certain form”; in line 12, before “prohibiting” insert “requiring the offer to meet certain criteria;”; in line 13, strike “an individual” and substitute “a first named insured”; in line 14, strike “individual” and substitute “first named insured”; in the same line, strike “refuses to waive” and substitute “requests or elects”; in line 15, after “coverage;” insert “providing that a certain right of action for certain losses may not be restricted by the doctrine of parent-child immunity to the extent that a certain coverage is provided;”; in line 16, strike “a certain term” and substitute “certain terms”; in line 17, before “liability” insert “the offering of”; and after line 18, insert:

“BY repealing and reenacting, with amendments,

Article - Courts and Judicial Proceedings

Section 5-806

Annotated Code of Maryland

(1998 Replacement Volume and 2001 Supplement)”.

AMENDMENT NO. 2

On page 1, after line 25, insert:

“Article - Courts and Judicial Proceedings

5-806.

(a) This section applies to:

(Over)

- (1) An action by an unemancipated child against a parent of the child; and
- (2) An action by a parent against an unemancipated child of the parent.

(b) The right of action by a parent or the estate of a parent against a child of the parent, or by a child or the estate of a child against a parent of the child, for wrongful death, personal injury, or property damage arising out of the operation of a motor vehicle, as defined in Title 11 of the Transportation Article, may not be restricted by the doctrine of parent-child immunity or by any insurance policy provisions, up to the mandatory minimum liability coverage levels required by § 17-103(b) of the Transportation Article.

(C) FOR LIABILITY COVERAGE IN EXCESS OF THE AMOUNT REQUIRED UNDER § 17-103 OF THE TRANSPORTATION ARTICLE THAT IS PROVIDED UNDER A POLICY OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE DESCRIBED IN § 19-504.1 OF THE INSURANCE ARTICLE, THE RIGHT OF ACTION BY A PARENT OR THE ESTATE OF THE PARENT AGAINST A CHILD OF THE PARENT, OR BY A CHILD OR THE ESTATE OF A CHILD AGAINST A PARENT OF THE CHILD, FOR ECONOMIC LOSSES AS DEFINED UNDER § 19-504.1 OF THE INSURANCE ARTICLE, MAY NOT BE RESTRICTED BY THE DOCTRINE OF PARENT-CHILD IMMUNITY TO THE EXTENT THAT COVERAGE IS PROVIDED UNDER § 19-504.1 OF THE INSURANCE ARTICLE.”.

AMENDMENT NO. 3

On page 2, strike in their entirety lines 3 through 18, inclusive, and substitute:

“(A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:

(1) (I) “ECONOMIC LOSSES” MEANS THE FOLLOWING LOSSES RESULTING FROM PERSONAL INJURIES SUSTAINED BY A FAMILY MEMBER IN AN ACCIDENT INVOLVING THE INSURED MOTOR VEHICLE FOR WHICH THE NAMED INSURED OR OTHER AUTHORIZED DRIVER UNDER THE POLICY IS AT FAULT:

1. REASONABLE AND NECESSARY MEDICAL AND OTHER EXPENSES ACTUALLY INCURRED BY A FAMILY MEMBER AS A RESULT OF THE PERSONAL INJURIES SUSTAINED BY THE FAMILY MEMBER;

2. REASONABLE AND NECESSARY LOSS OF WAGES, INCLUDING LOSS OF FUTURE WAGES, OF A FAMILY MEMBER RESULTING FROM THE

PERSONAL INJURIES SUSTAINED BY THE FAMILY MEMBER; AND

3. REASONABLE AND NECESSARY LOSS OF WAGES ACTUALLY INCURRED BY A FAMILY MEMBER AS A RESULT OF PROVIDING PERSONAL CARE TO ANOTHER FAMILY MEMBER WHO SUSTAINS PERSONAL INJURIES FOR WHICH COVERAGE IS PROVIDED UNDER THIS SECTION.

(II) "ECONOMIC LOSSES" DOES NOT INCLUDE DAMAGES FOR NONPECUNIARY LOSS, INCLUDING PAIN, SUFFERING, INCONVENIENCE, PHYSICAL IMPAIRMENT, AND LOSS OF CONSORTIUM.

(2) "FAMILY MEMBER" MEANS AN INDIVIDUAL RELATED TO THE NAMED INSURED BY BLOOD, MARRIAGE, OR ADOPTION, INCLUDING AN UNEMANCIPATED CHILD, LIVING IN THE NAMED INSURED'S HOUSEHOLD."

On pages 3 and 4, strike in their entirety the lines beginning with line 12 on page 3 through line 8 on page 4, inclusive, and substitute:

"(C) AN INSURER SHALL OFFER TO THE FIRST NAMED INSURED UNDER A POLICY OR BINDER OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE COVERAGE THAT EXCEEDS THE AMOUNT REQUIRED UNDER § 17-103(B) OF THE TRANSPORTATION ARTICLE FOR CLAIMS MADE BY A FAMILY MEMBER RESIDING IN THE FIRST NAMED INSURED'S HOUSEHOLD FOR ECONOMIC LOSSES UP TO THE LIMITS OF THE MOTOR VEHICLE LIABILITY COVERAGE.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN OFFER MADE UNDER THIS SECTION SHALL BE MADE ON A FORM THAT THE COMMISSIONER REQUIRES.

(2) THE FORM:

(I) MAY BE PART OF THE INSURANCE APPLICATION, POLICY, CONTRACT, OR BINDER;

(Over)

(II) SHALL CLEARLY AND CONCISELY EXPLAIN IN 10 POINT BOLDFACE TYPE THE NATURE, EXTENT, BENEFIT, AND COST OF THE COVERAGE FOR CLAIMS FOR ECONOMIC LOSSES MADE BY FAMILY MEMBERS THAT IS AVAILABLE TO THE FIRST NAMED INSURED; AND

(III) SHALL STATE THAT AN INSURER MAY NOT REFUSE TO UNDERWRITE A FIRST NAMED INSURED BECAUSE THE FIRST NAMED INSURED REQUESTS OR ELECTS THE COVERAGE FOR CLAIMS FOR ECONOMIC LOSSES MADE BY FAMILY MEMBERS IN AN AMOUNT THAT EXCEEDS THE AMOUNT REQUIRED UNDER § 17-103(B) OF THE TRANSPORTATION ARTICLE UP TO THE LIMITS OF THE MOTOR VEHICLE LIABILITY COVERAGE.

(E) (1) AN INSURER MAY NOT REFUSE TO UNDERWRITE A FIRST NAMED INSURED BECAUSE THE FIRST NAMED INSURED REQUESTS OR ELECTS THE COVERAGE DESCRIBED IN SUBSECTION (C) OF THIS SECTION.

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

AMENDMENT NO. 4

On page 4, after line 11, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That the changes made to § 5-806 of the Courts and Judicial Proceedings Article by this Act shall apply to any claim for personal injury arising out of a motor vehicle accident occurring on or after the effective date of this Act.”;

and in line 12, strike “3.” and substitute “4.”.