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By: **Delegates Krysiak, Taylor, Minnick, and Kirk**  
Introduced and read first time: February 4, 2002  
Assigned to: Economic Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 12, 2002

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Motor Vehicle Liability Insurance –~~Offer of Coverage~~ - Family Exclusion**

3 FOR the purpose of requiring an insurer to ~~offer~~ provide to the first named insured  
4 under a policy or binder of private passenger motor vehicle liability insurance  
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; requiring an~~  
7 ~~insurer to make the offer to the first named insured on a certain form; residing~~  
8 ~~in the named insured's household for certain economic losses up to the limits of~~  
9 ~~motor vehicle liability coverage; authorizing the named insured to waive certain~~  
10 ~~liability coverage in a certain manner; requiring a certain waiver to be made in~~  
11 ~~writing using a certain form; requiring the form to contain certain explanations;~~  
12 ~~requiring the offer to meet certain criteria; prohibiting an insurer from refusing~~  
13 ~~to underwrite a first named insured an individual because the first named~~  
14 ~~insured requests or elects certain coverage individual refuses to waive certain~~  
15 ~~coverage; establishing certain penalties for a violation of a certain provision of~~  
16 ~~this Act; defining a certain term; providing for the application of this Act; and~~  
17 ~~generally relating to the offering of liability~~ coverage under policies and binders  
18 of private passenger motor vehicle liability insurance.

19 BY adding to  
20 Article - Insurance  
21 Section 19-504.1  
22 Annotated Code of Maryland  
23 (1997 Volume and 2001 Supplement)

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

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**Article - Insurance**

2 19-504.1.

3 (A) (1) IN THIS SECTION, "ECONOMIC LOSSES" MEANS REASONABLE AND  
4 NECESSARY MEDICAL AND OTHER EXPENSES AND LOSS OF WAGES ACTUALLY  
5 INCURRED BY A FAMILY MEMBER AS A RESULT OF PERSONAL INJURIES SUSTAINED  
6 BY THE FAMILY MEMBER IN AN ACCIDENT:

7 (I) INVOLVING THE INSURED MOTOR VEHICLE;

8 (II) OCCURRING WHILE THE FAMILY MEMBER WAS A PASSENGER  
9 IN THE INSURED MOTOR VEHICLE; AND

10 (III) FOR WHICH THE NAMED INSURED OR OTHER AUTHORIZED  
11 DRIVER UNDER THE POLICY IS AT FAULT.

12 (2) "ECONOMIC LOSSES" INCLUDES REASONABLE AND NECESSARY LOSS  
13 OF WAGES INCURRED BY A FAMILY MEMBER RESIDING IN THE NAMED INSURED'S  
14 HOUSEHOLD AS A RESULT OF PROVIDING PERSONAL CARE TO A FAMILY MEMBER  
15 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

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

19 (A) (B) THIS SECTION APPLIES ONLY WHEN THE LIABILITY COVERAGE  
20 UNDER A POLICY OR BINDER OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY  
21 INSURANCE EXCEEDS THE AMOUNT REQUIRED UNDER § 17-103 OF THE  
22 TRANSPORTATION ARTICLE.

23 (B) ~~AN INSURER SHALL OFFER TO THE FIRST NAMED INSURED UNDER A~~  
24 ~~POLICY OR BINDER OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE~~  
25 ~~LIABILITY COVERAGE FOR CLAIMS MADE BY A FAMILY MEMBER IN THE SAME~~  
26 ~~AMOUNT AS THE LIABILITY COVERAGE FOR CLAIMS MADE BY A NONFAMILY~~  
27 ~~MEMBER UNDER THE POLICY OR BINDER.~~

28 (C) (1) ~~SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN OFFER MADE~~  
29 ~~UNDER THIS SECTION SHALL BE MADE ON A FORM THAT THE COMMISSIONER~~  
30 ~~REQUIRES:~~

31 (2) ~~THE FORM:~~

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

34 (II) ~~SHALL CLEARLY AND CONCISELY EXPLAIN IN 10 POINT~~  
35 ~~BOLDFACE TYPE THE NATURE, EXTENT, BENEFIT, AND COST OF THE AMOUNT OF~~  
36 ~~LIABILITY COVERAGE FOR CLAIMS MADE BY FAMILY MEMBERS THAT IS AVAILABLE~~  
37 ~~TO THE FIRST NAMED INSURED; AND~~

1                   ~~(III) SHALL STATE THAT AN INSURER MAY NOT REFUSE TO~~  
2 ~~UNDERWRITE A FIRST NAMED INSURED BECAUSE THE FIRST NAMED INSURED~~  
3 ~~REQUESTS OR ELECTS THE LIABILITY COVERAGE FOR CLAIMS MADE BY FAMILY~~  
4 ~~MEMBERS IN AN AMOUNT EQUAL TO THE COVERAGE PROVIDED FOR CLAIMS MADE~~  
5 ~~BY NONFAMILY MEMBERS.~~

6                   ~~(D) (1) AN INSURER MAY NOT REFUSE TO UNDERWRITE A FIRST NAMED~~  
7 ~~INSURED BECAUSE THE FIRST NAMED INSURED REQUESTS OR ELECTS THE~~  
8 ~~LIABILITY COVERAGE FOR CLAIMS MADE BY FAMILY MEMBERS IN AN AMOUNT~~  
9 ~~EQUAL TO THE COVERAGE PROVIDED FOR CLAIMS MADE BY NONFAMILY MEMBERS.~~

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

12                   (C) UNLESS THE INSURANCE COVERAGE REQUIRED BY THIS SUBSECTION IS  
13 WAIVED BY THE NAMED INSURED IN ACCORDANCE WITH THIS SECTION, EACH  
14 INSURER THAT ISSUES, SELLS, OR DELIVERS A PRIVATE PASSENGER MOTOR  
15 VEHICLE LIABILITY INSURANCE POLICY OR BINDER IN THE STATE SHALL PROVIDE  
16 COVERAGE OF CLAIMS MADE BY A FAMILY MEMBER RESIDING IN THE NAMED  
17 INSURED'S HOUSEHOLD FOR ECONOMIC LOSSES UP TO THE LIMITS OF THE MOTOR  
18 VEHICLE LIABILITY COVERAGE.

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

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

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

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

28                                       (I) THE NATURE, EXTENT, BENEFIT, AND COST OF THE COVERAGE  
29 THAT WOULD BE PROVIDED UNDER THE POLICY OR BINDER IF NOT WAIVED BY THE  
30 NAMED INSURED;

31                                       (II) THAT A FAILURE OF THE NAMED INSURED TO MAKE A WAIVER  
32 REQUIRES AN INSURER TO PROVIDE THE COVERAGE DESCRIBED IN SUBSECTION (C)  
33 OF THIS SECTION;

34                                       (III) THAT AN INSURER MAY NOT REFUSE TO UNDERWRITE AN  
35 INDIVIDUAL BECAUSE THE INDIVIDUAL REFUSES TO WAIVE THE COVERAGE  
36 DESCRIBED IN SUBSECTION (C) OF THIS SECTION; AND

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

1 (F) A WAIVER MADE UNDER THIS SECTION BY AN INDIVIDUAL WHO IS  
2 INSURED CONTINUOUSLY BY THE MARYLAND AUTOMOBILE INSURANCE FUND IS  
3 EFFECTIVE UNTIL THE WAIVER IS WITHDRAWN IN WRITING.

4 (G) (1) AN INSURER MAY NOT REFUSE TO UNDERWRITE AN INDIVIDUAL  
5 BECAUSE THE INDIVIDUAL REFUSES TO WAIVE THE COVERAGE DESCRIBED IN  
6 SUBSECTION (C) OF THIS SECTION.

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

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
10 applicable to all private passenger motor vehicle liability insurance policies and  
11 binders issued, delivered, or renewed in the State on or after October 1, 2002.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2002.