

SENATE BILL 58

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2003 Regular Session
3lr0567

By: **Senators Conway, Britt, Exum, Forehand, Gladden, Hollinger, Hughes,
Kelley, Lawlah, and McFadden**

Introduced and read first time: January 20, 2003

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Automobile Insurance Fund - Small Businesses - Commercial**
3 **Vehicles**

4 FOR the purpose of altering the purpose of the Maryland Automobile Insurance Fund
5 to include providing certain financial security for commercial vehicles owned by
6 a small business; altering eligibility requirements for the Fund to include a
7 small business that owns a commercial vehicle; defining a certain term; and
8 generally relating to the Maryland Automobile Insurance Fund and small
9 business commercial vehicles.

10 BY repealing and reenacting, with amendments,
11 Article - Insurance
12 Section 20-101, 20-301(a), and 20-502
13 Annotated Code of Maryland
14 (2002 Replacement Volume and 2002 Supplement)

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

17 **Article - Insurance**

18 20-101.

19 (a) In this title the following words have the meanings indicated.

20 (b) "Association" means the Industry Automobile Insurance Association.

21 (c) (1) "Association member" means an insurer that is licensed to write
22 motor vehicle liability insurance or motor vehicle physical damage insurance in the
23 State.

24 (2) "Association member" does not include the Fund.

25 (d) "Board of Directors" means the Board of Directors of the Association.

1 (e) "Board of Trustees" means the Board of Trustees of the Fund.

2 (f) "Executive Director" means the Executive Director of the Fund.

3 (g) "Fund" means the Maryland Automobile Insurance Fund.

4 (h) "Motor vehicle liability insurance" means insurance coverage that is
5 reported as private passenger auto no-fault, other private passenger auto liability,
6 commercial auto no-fault, or other commercial auto liability on the exhibit of
7 premiums and losses page of the annual statement that Association members are
8 required to file with the Commissioner.

9 (i) "Motor vehicle physical damage insurance" means insurance coverage that
10 is reported as private passenger auto physical damage or commercial auto physical
11 damage on the exhibit of premiums and losses page of the annual statement that
12 Association members are required to file with the Commissioner.

13 (j) "Person" includes a governmental unit.

14 (k) "SMALL BUSINESS" MEANS A CORPORATION, PARTNERSHIP, SOLE
15 PROPRIETORSHIP, OR OTHER BUSINESS ENTITY, INCLUDING ITS AFFILIATES, THAT:

16 (1) IS INDEPENDENTLY OWNED AND OPERATED;

17 (2) IS NOT DOMINANT IN ITS FIELD; AND

18 (3) EMPLOYS 50 OR FEWER FULL-TIME EMPLOYEES.

19 (L) "Uninsured motor vehicle" means a motor vehicle for which:

20 (1) the security required under § 17-103 of the Transportation Article is
21 not in force; or

22 (2) the security required under § 17-103 of the Transportation Article is
23 in force but a receiver or conservator has been appointed by a court for the insurer
24 that issued the security.

25 20-301.

26 (a) The purpose of the Fund is to provide the financial security required under
27 § 17-103 of the Transportation Article:

28 (1) to those eligible persons that are unable to obtain it from an
29 Association member; AND

30 (2) FOR COMMERCIAL VEHICLES OWNED BY A SMALL BUSINESS.

1 20-502.

2 (a) On payment of the premium set by the Fund, the Fund is authorized to
3 and shall sell, issue, and deliver a policy that provides the security required under §
4 17-103 of the Transportation Article to a person:

5 (1) that owns a covered vehicle registered with the Motor Vehicle
6 Administration, has a license issued by the Motor Vehicle Administration to drive a
7 covered vehicle, or is a lessee under a "lease not intended as security", as defined in §
8 11-127.2(b) of the Transportation Article;

9 (2) that does not owe to the Fund:

10 (i) an unpaid premium with respect to a policy that has expired or
11 been canceled; or

12 (ii) a claim payment obtained by fraud;

13 (3) that:

14 (i) has attempted in good faith to obtain a policy that provides the
15 security required under § 17-103 of the Transportation Article from at least two
16 Association members and has been rejected or refused the policy by two Association
17 members for any reason other than nonpayment of premiums; [or]

18 (ii) has had a policy that provides the security required under §
19 17-103 of the Transportation Article canceled or nonrenewed by an Association
20 member for any reason other than nonpayment of premiums; OR

21 (III) IS A SMALL BUSINESS THAT OWNS A COMMERCIAL VEHICLE;
22 and

23 (4) that meets the requirements of subsection (b) of this section.

24 (b) To be eligible for a policy issued under this subtitle, a person must:

25 (1) be domiciled in the State;

26 (2) own, lease, or rent a primary place of residence in the State and,
27 regardless of the person's domicile, reside in the State for more than 1 year;

28 (3) maintain a main or branch office or warehouse facility in the State,
29 and base and operate motor vehicles intrastate in the State;

30 (4) have filed as a State resident for income tax purposes; or

31 (5) have a nonresident permit issued under § 13-402.1(e) of the
32 Transportation Article.

33 (c) (1) Except as provided in paragraph (2) of this subsection, this section
34 does not apply to a person to the extent that the person:

1 (i) leases a covered vehicle that is a private passenger vehicle to an
2 individual who does not meet the requirements of subsection (b) of this section; or

3 (ii) garages the covered vehicle principally outside of the State.

4 (2) This section applies to a person described in paragraph (1) of this
5 subsection who is:

6 (i) a member, on active duty, of the armed forces of the United
7 States or the United States Public Health Service; or

8 (ii) a student enrolled in an accredited school, college, or university
9 or serving a medical internship.

10 (d) The eligibility of an applicant for insurance from the Fund shall be
11 certified at a time and in a manner approved by the Fund.

12 (e) (1) If a prospective insured fails to qualify under this section, any policy
13 issued is void and a commission may not be paid by the Fund to a fund producer.

14 (2) (i) Subject to the provisions of subparagraph (ii) of this paragraph,
15 if a person fails to meet the requirements of subsection (b) of this section, the Fund
16 may charge and collect the greater of:

17 1. a policy processing fee to cover its expenses; or

18 2. the amount that the person would have received after the
19 Fund returns to a fund producer, or any other person other than the person who fails
20 to meet the requirements of subsection (b) of this section, any gross unearned
21 premiums that are due under the policy.

22 (ii) Prior to charging and collecting a policy processing fee or the
23 amount allowed under subparagraph (i) of this paragraph, the Fund shall refer to the
24 Insurance Fraud Division in the Administration for investigation and possible
25 prosecution of the person who fails to meet the requirements of subsection (b) of this
26 section.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2003.