

SENATE BILL 443

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2003 Regular Session
3r1537
CF 3r2240

By: **Senators Schrader, Astle, Colburn, Dyson, Haines, Harris, Jacobs,
Mooney, and Munson**

Introduced and read first time: January 31, 2003

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Uninsured Motorists - Waiver of Right to Noneconomic**
3 **Damages**

4 FOR the purpose of establishing that an owner of a motor vehicle who knows or has
5 reason to know that the vehicle is not covered by the required security and who
6 is injured in a vehicular accident while operating the vehicle is deemed to have
7 waived the right to recover noneconomic damages under certain circumstances;
8 establishing certain exceptions; establishing a rebuttable presumption that a
9 person knows that a motor vehicle is not covered by the required security under
10 certain circumstances; defining a certain term; making certain technical and
11 stylistic changes; and generally relating to operating a motor vehicle without the
12 required security.

13 BY repealing and reenacting, with amendments,
14 Article - Transportation
15 Section 17-107
16 Annotated Code of Maryland
17 (2002 Replacement Volume)

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

20 **Article - Transportation**

21 17-107.

22 (a) A person who knows or has reason to know that a motor vehicle is not
23 covered by the required security may not:

24 (1) Drive the vehicle; or

25 (2) If [he] THE PERSON is an owner of the vehicle, knowingly permit
26 another person to drive it.

1 (b) (1) In any prosecution under subsection (a) of this section the
2 introduction of the official records of the Motor Vehicle Administration showing the
3 absence of a record that the vehicle is covered by the security required under § 17-104
4 of this subtitle shall be prima facie evidence that a person knows or has reason to
5 know that a motor vehicle is not covered by the required security.

6 (2) The introduction of evidence of the records of the Administration may
7 not limit the introduction of other evidence bearing upon whether the vehicle was
8 covered by the required security.

9 (c) An owner or lessee of any motor vehicle registered under Title 13 of this
10 article may not raise the defense of sovereign or governmental immunity as described
11 under § 5-524 of the Courts [and Judicial Proceedings] Article.

12 (D) (1) IN THIS SUBSECTION, "NONECONOMIC DAMAGES" MEANS DAMAGES
13 FOR NONPECUNIARY LOSS, INCLUDING PAIN, SUFFERING, INCONVENIENCE, AND
14 PHYSICAL IMPAIRMENT.

15 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, AN
16 OWNER OF A MOTOR VEHICLE WHO IS INJURED IN A VEHICULAR ACCIDENT WHILE
17 OPERATING THE VEHICLE IN VIOLATION OF SUBSECTION (A) OF THIS SECTION
18 SHALL BE DEEMED TO HAVE WAIVED THE RIGHT TO RECOVER NONECONOMIC
19 DAMAGES IN AN ACTION AGAINST AN INDIVIDUAL OPERATING A MOTOR VEHICLE
20 THAT IS COVERED BY THE REQUIRED SECURITY.

21 (3) THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL WHOSE
22 INJURIES ARE CAUSED BY AN INDIVIDUAL WHO, IN CONNECTION WITH THE
23 ACCIDENT, IS:

24 (I) CONVICTED OF OPERATING A MOTOR VEHICLE IN VIOLATION
25 OF § 21-902 OF THIS ARTICLE;

26 (II) CONVICTED OF RECKLESS DRIVING UNDER § 21-901.1(A) OF
27 THIS ARTICLE;

28 (III) CONVICTED OF AGGRESSIVE DRIVING UNDER § 21-901.2 OF
29 THIS ARTICLE;

30 (IV) CONVICTED OF A VIOLATION OF § 2-503, § 2-504, § 2-505, OR §
31 2-506 OF THE CRIMINAL LAW ARTICLE; OR

32 (V) CONVICTED OF A VIOLATION OF § 3-211 OF THE CRIMINAL LAW
33 ARTICLE.

34 (4) FOR PURPOSES OF THIS SUBSECTION, THERE IS A REBUTTABLE
35 PRESUMPTION THAT A PERSON KNOWS THAT A MOTOR VEHICLE IS NOT COVERED BY
36 THE REQUIRED SECURITY IF THE SECURITY PREVIOUSLY IN EFFECT HAD LAPSED OR
37 TERMINATED AND HAD BEEN INEFFECTIVE FOR A PERIOD OF A LEAST 60 DAYS
38 AFTER THE DATE OF NOTIFICATION BY THE MOTOR VEHICLE ADMINISTRATION

1 ABOUT THE LAPSE OR TERMINATION AND ABOUT SPECIFIC CONSEQUENCES OF THE
2 LAPSE OR TERMINATION UNDER THIS SUBSECTION.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
4 effect June 1, 2003.