

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 742
Economic Matters

(Delegate Kach, *et al.*)

Vehicle Laws - Uninsured Motorists - Waiver of Right to Noneconomic Damages

This bill provides that the owner of a motor vehicle who knows or has reason to know that the vehicle is not covered by the required insurance and who is injured in a vehicular accident while driving the vehicle, is deemed to have waived the right to recover noneconomic damages in an action against an individual driving a motor vehicle that is covered by the required insurance. The waiver does not apply to an individual whose injuries are caused by another individual who, in connection with the accident, is convicted of specified crimes.

The bill is effective June 1, 2003.

Fiscal Summary

State Effect: Any impact on insurance premiums and premium tax revenues is assumed to be negligible.

Maryland Automobile Insurance Fund (MAIF): Annual decrease in claims paid of \$1,534,500. Related decrease in annual premium revenue of \$1,534,500.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: This bill provides that the owner of a motor vehicle who knows or has reason to know that the vehicle is not covered by the required security (that is, insurance) and who is injured in a vehicular accident while driving the vehicle is deemed to have waived the right to recover noneconomic damages in an action against an individual driving a motor vehicle that is covered by the required insurance. “Noneconomic damages” are damages for nonpecuniary loss, including pain, suffering, inconvenience, and physical impairment. The bill provides for a rebuttable presumption that a person knows that a motor vehicle is not covered by required insurance if the insurance that was previously in effect had lapsed or terminated, and had been ineffective for at least 60 days after the date of notification by the Motor Vehicle Administration (MVA) about the lapse or terminations and the specified consequences of that status.

The waiver of the right to recovery does not apply to an individual whose injuries are caused by an individual who, in connection with the accident, is convicted of:

- driving while under the influence of alcohol, under the influence of alcohol per se, while impaired by alcohol; while impaired by a drug, a combination of drugs or one or more drugs and alcohol; or while impaired by a controlled dangerous substance;
- reckless driving;
- aggressive driving;
- homicide by motor vehicle while under the influence of alcohol or under the influence of alcohol per se, while impaired by alcohol, while impaired by drugs, or while impaired by a controlled dangerous substance; or
- life-threatening injury by motor vehicle while under the influence of alcohol and related crimes.

Current Law: The Maryland Vehicle Law provides that “required security” is a vehicle liability insurance policy written by an insurer authorized to write policies in Maryland. A vehicular insurance policy must, at a minimum, provide for the payment of bodily injury or death claims arising from an accident of up to \$20,000 for one person and up to \$40,000 for two or more persons, as well as interest and costs. The policy must also provide, at a minimum, for the payment of property damage claims of up to \$15,000, in addition to interest and costs. Other benefits must also be provided, as specified in statute, unless waived.

A person who knows or has reason to know that a motor vehicle is not covered by the required insurance may not drive the vehicle. If the person is the owner of the vehicle, he

or she may not permit another person to drive it. A person may not willfully and knowingly create, certify, file, or provide false evidence of required vehicle insurance. A violation of these provisions is a misdemeanor, subject to a fine not exceeding \$1,000 or imprisonment for not more than a year or both for a first offense. For a subsequent offense, the penalty is a fine not exceeding \$1,000, or imprisonment for not more than two years, or both. Also, the MVA may assess monetary penalties against the owner of an uninsured vehicle.

In a prosecution under this provision, the introduction of official records of the MVA showing the absence of a record that the vehicle is covered by the required insurance is prima facie evidence that the person knows or has reason to know that the motor vehicle was not covered by the required insurance. An owner or lessee of any duly registered motor vehicle may not raise the defense of sovereign or governmental immunity.

Limitations on noneconomic damages are specified in statute for personal injury and wrongful death actions.

Background: Maryland is a compulsory insurance state. According to the National Conference of State Legislatures, 44 states and the District of Columbia require drivers to purchase auto insurance. South Carolina and Virginia permit uninsured motorists to drive if they pay an annual fee. In 49 states, motorists who are involved in vehicle crashes must provide proof of financial responsibility.

The MVA currently has approximately 4.3 million vehicles registered. The MVA checks the insurance status of about 350,000 vehicles per year.

MAIF estimates that 558 of its 7,500 bodily injury claims in calendar 2002 would have been affected by this bill. Based on this experience, the bill would result in approximately \$2,750 savings per case for a total savings of \$1,534,500. MAIF indicates this savings would reduce MAIF's loss cost by 1%. Any savings would be passed on to MAIF customers.

Additional Information

Prior Introductions: A similar bill, HB 218 from the 2000 session, passed the House and passed second reading in the Senate, but did not pass third reader.

Cross File: SB 443 (Senator Schrader, *et al.*) – Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Insurance Administration, Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2003
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