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By: **Delegate Kelley**

Introduced and read first time: February 11, 2005

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions - Burden of Proof - Uninsured Motorist Coverage**

3 FOR the purpose of establishing that a person asserting the uninsured status of a  
4 motor vehicle in a certain action has the burden of proof; providing that the  
5 burden of proof shall be deemed satisfied when the person introduces certain  
6 records or documents; requiring the finder of fact to find a motor vehicle to be  
7 uninsured if the person asserting the uninsured status of the motor vehicle  
8 satisfies the burden of proof, unless an adverse party establishes certain  
9 coverage by a preponderance of the evidence; providing for the application of  
10 this Act; and generally relating to uninsured motor vehicles.

11 BY adding to

12 Article - Courts and Judicial Proceedings

13 Section 10-921

14 Annotated Code of Maryland

15 (2002 Replacement Volume and 2004 Supplement)

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

18 **Article - Courts and Judicial Proceedings**

19 10-921.

20 (A) IN AN ACTION AGAINST AN INSURER OR THE MARYLAND AUTOMOBILE  
21 INSURANCE FUND UNDER A POLICY PROVIDING UNINSURED MOTOR VEHICLE  
22 LIABILITY COVERAGE, THE PERSON ASSERTING THE UNINSURED STATUS OF A  
23 MOTOR VEHICLE SHALL HAVE THE BURDEN TO PROVE THAT STATUS.

24 (B) FOR A MOTOR VEHICLE REGISTERED IN THE STATE, THE BURDEN OF  
25 PROOF SHALL BE DEEMED SATISFIED WHEN THE PERSON ASSERTING THE  
26 UNINSURED STATUS OF THE MOTOR VEHICLE INTRODUCES:

27 (1) A CERTIFIED COPY OF THE OFFICIAL RECORD OF THE MOTOR  
28 VEHICLE ADMINISTRATION FOR THAT MOTOR VEHICLE INDICATING THE ABSENCE

1 OF A RECORD THAT THE MOTOR VEHICLE WAS COVERED BY THE SECURITY  
2 REQUIRED BY § 17-104 OF THE TRANSPORTATION ARTICLE; OR

3 (2) A DENIAL OF COVERAGE BY THE INSURER THAT HAS BEEN  
4 IDENTIFIED AS THE INSURER OF THE MOTOR VEHICLE BY:

5 (I) THE MOTOR VEHICLE ADMINISTRATION; OR

6 (II) A REPORT PREPARED BY AN OFFICER OF A FEDERAL, STATE,  
7 COUNTY, OR MUNICIPAL LAW ENFORCEMENT AGENCY WHO INVESTIGATED THE  
8 OCCURRENCE OUT OF WHICH THE CAUSE OF ACTION AROSE.

9 (C) FOR A MOTOR VEHICLE REGISTERED OUTSIDE THE STATE, THE BURDEN  
10 OF PROOF SHALL BE DEEMED SATISFIED WHEN THE PERSON ASSERTING THE  
11 UNINSURED STATUS OF THE MOTOR VEHICLE INTRODUCES:

12 (1) A CERTIFIED COPY OF THE OFFICIAL RECORDS OF THE  
13 GOVERNMENTAL UNIT THAT REGULATES VEHICLES IN THE STATE IN WHICH THE  
14 MOTOR VEHICLE WAS REGISTERED AT THE TIME OF THE OCCURRENCE OUT OF  
15 WHICH THE CAUSE OF ACTION AROSE INDICATING THE ABSENCE OF A RECORD THAT  
16 THE MOTOR VEHICLE WAS COVERED BY INSURANCE; OR

17 (2) A DENIAL OF COVERAGE BY THE INSURER THAT HAS BEEN  
18 IDENTIFIED AS THE INSURER OF THE VEHICLE BY:

19 (I) THE DRIVER OR OWNER OF THE MOTOR VEHICLE; OR

20 (II) A REPORT PREPARED BY AN OFFICER OF A FEDERAL, STATE,  
21 COUNTY, OR MUNICIPAL LAW ENFORCEMENT AGENCY WHO INVESTIGATED THE  
22 OCCURRENCE OUT OF WHICH THE CAUSE OF ACTION AROSE.

23 (D) IF A PERSON SATISFIES THE BURDEN OF PROOF UNDER SUBSECTION (C)  
24 OR (D) OF THIS SECTION, THE FINDER OF FACT SHALL FIND THE MOTOR VEHICLE AT  
25 ISSUE TO BE UNINSURED, UNLESS AN ADVERSE PARTY ESTABLISHES BY A  
26 PREPONDERANCE OF THE EVIDENCE THAT THE MOTOR VEHICLE OR THE DRIVER OF  
27 THE MOTOR VEHICLE WAS COVERED BY A VALID, ENFORCEABLE MOTOR VEHICLE  
28 LIABILITY INSURANCE POLICY, BOND, OR SECURITY THAT PROVIDES COVERAGE FOR  
29 THE OCCURRENCE OUT OF WHICH THE CAUSE OF ACTION AROSE.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
31 construed to apply only prospectively and may not be applied or interpreted to have  
32 any effect on or application to any action filed before the effective date of this Act.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 October 1, 2005.