D3   5lr2730

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By: **Delegate Kelley**
Introduced and read first time: February 11, 2005
Assigned to: Judiciary

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Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 21, 2005

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CHAPTER_____

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.

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

4   (1)   A CERTIFIED COPY OF THE OFFICIAL RECORD OF THE MOTOR
5 VEHICLE ADMINISTRATION FOR THAT MOTOR VEHICLE INDICATING THE ABSENCE
6 OF A RECORD THAT THE MOTOR VEHICLE WAS COVERED BY THE SECURITY
7 REQUIRED BY § 17-104 OF THE TRANSPORTATION ARTICLE; OR

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

10   (I)   THE MOTOR VEHICLE ADMINISTRATION; OR

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

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

17   (1)   A CERTIFIED COPY OF THE OFFICIAL RECORDS OF THE
18 GOVERNMENTAL UNIT THAT REGULATES VEHICLES IN THE STATE IN WHICH THE
19 MOTOR VEHICLE WAS REGISTERED AT THE TIME OF THE OCCURRENCE OUT OF
20 WHICH THE CAUSE OF ACTION AROSE INDICATING THE ABSENCE OF A RECORD THAT
21 THE MOTOR VEHICLE WAS COVERED BY INSURANCE; OR

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

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

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

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

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

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