

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1162

(Delegate Kelley)

Judiciary

Judicial Proceedings

Civil Actions - Burden of Proof - Uninsured Motorist Coverage

This bill establishes that a person asserting the uninsured status of a motor vehicle in an action against an insurer or the Maryland Automobile Insurance Fund (MAIF) has the burden to proving the uninsured status. The bill sets forth what is necessary to satisfactorily prove the uninsured status of a motorist and allows the adverse party to introduce evidence to the contrary.

The bill is to apply prospectively to actions filed on or after the October 1, 2005 effective date.

Fiscal Summary

State Effect: None. The change would not directly affect judicial operations or expenditures.

Local Effect: None – see above.

Small Business Effect: Minimal.

Analysis

Bill Summary: In an action against an insurer or MAIF under a policy providing uninsured motorist coverage, the party asserting the uninsured status of a motor vehicle has the burden to prove that status.

For a vehicle registered in the State on the date of the occurrence out of which the cause of action arose, the burden of proof is satisfied when the person asserting the uninsured status introduces:

- a certified copy of the official record of the Motor Vehicle Administration (MVA) for that motor vehicle indicating the absence of a record of insurance coverage on the date of the occurrence out of which the cause of action arose; or
- a denial of coverage, based on the absence of an in-force policy of insurance covering the vehicle on the date of the occurrence out of which the cause of action arose, by the insurer that has been identified as the insurer of the motor vehicle (1) by the MVA; (2) in writing by the driver or owner of the motor vehicle; and (3) in a report prepared by an officer of a law enforcement agency that investigated the occurrence out of which the cause of action arose.

For a vehicle registered outside the State on the date of the occurrence out of which the cause of action arose, the burden of proof is satisfied when the person asserting the uninsured status introduces:

- a certified copy of the official records of the governmental unit that maintains records of insurance coverage for motor vehicles registered in that state indicating the absence of a record of insurance coverage on the date of the occurrence out of which the cause of action arose; or
- a denial of coverage, based on the absence of an in-force policy of insurance covering the vehicle on the date of the occurrence out of which the cause of action arose, by the insurer that has been identified as the insurer of the motor vehicle (1) by the governmental unit that maintains records of insurance coverage; (2) in writing by the driver or owner of the motor vehicle; and (3) in a report prepared by an officer of a law enforcement agency that investigated the occurrence out of which the cause of action arose.

If the person satisfies the burden of proof, the finder of fact must find the motor vehicle to be uninsured, unless an adverse party proves by a preponderance of the evidence that the vehicle or its driver was covered by a valid, enforceable, liability insurance policy, bond, or security that provides coverage for the occurrence out of which the cause of action arose.

Current Law: Although there is no applicable statutory provision, it is a general rule of evidence that a person asserting a fact has the burden of proving that fact.

“Uninsured motorist” means a motor vehicle owner or operator whose whereabouts are ascertainable for the purpose of serving process, but who was uninsured at the time of the act or omission.

A certified copy of any record of the MVA or comparable agency of any state is admissible in any judicial proceeding in the same manner as the original of the record.

Background: The Maryland Insurance Administration advises that the bill probably would apply only in first-party claims, that is, claims against the claimant’s own insurer.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 3, 2005
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