

HOUSE BILL 1101

C4

71r2630

By: **Delegate Miller**

Introduced and read first time: February 14, 2007

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Motor Vehicle Liability Insurance – Personal Injury Protection**
3 **Coverage – Full or Partial Waiver**

4 FOR the purpose of authorizing a full or partial waiver of certain required coverage for
5 certain medical, hospital, and disability benefits for certain individuals under
6 policies of motor vehicle liability insurance; specifying the individuals for whom
7 the first named insured may waive certain coverage; providing for the effect of a
8 full waiver; providing for the effect of a partial waiver; providing for the
9 application of this Act; and generally relating to personal injury protection
10 coverage under policies of motor vehicle liability insurance.

11 BY repealing and reenacting, without amendments,
12 Article – Insurance
13 Section 19–505(a)
14 Annotated Code of Maryland
15 (2006 Replacement Volume and 2006 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Insurance
18 Section 19–506
19 Annotated Code of Maryland
20 (2006 Replacement Volume and 2006 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Insurance

1
2 19–505.

3 (a) Unless waived in accordance with § 19–506 of this subtitle, each insurer
4 that issues, sells, or delivers a motor vehicle liability insurance policy in the State
5 shall provide coverage for the medical, hospital, and disability benefits described in
6 this section for each of the following individuals:

7 (1) except for individuals specifically excluded under § 27–609 of this
8 article:

9 (i) the first named insured, and any family member of the first
10 named insured who resides in the first named insured’s household, who is injured in
11 any motor vehicle accident, including an accident that involves an uninsured motor
12 vehicle or a motor vehicle the identity of which cannot be ascertained; and

13 (ii) any other individual who is injured in a motor vehicle
14 accident while using the insured motor vehicle with the express or implied permission
15 of the named insured;

16 (2) an individual who is injured in a motor vehicle accident while
17 occupying the insured motor vehicle as a guest or passenger; and

18 (3) an individual who is injured in a motor vehicle accident that
19 involves the insured motor vehicle:

20 (i) as a pedestrian; or

21 (ii) while in, on, or alighting from a vehicle that is operated by
22 animal or muscular power.

23 19–506.

24 (a) (1) If the first named insured does not wish to obtain the benefits
25 described in § 19–505 of this subtitle, the first named insured shall make an
26 affirmative written waiver of those benefits.

27 **(2) THE WAIVER MAY BE A FULL WAIVER OR A PARTIAL WAIVER**
28 **OF THE BENEFITS DESCRIBED IN § 19–505 OF THIS SUBTITLE.**

1 [(2)] **(3)** If the first named insured does not make an affirmative
2 written waiver under this section, the insurer shall provide the coverage described in §
3 19-505 of this subtitle.

4 (b) (1) A waiver made under this section constitutes a waiver of all the
5 benefits described in § 19-505 of this subtitle, whether provided under:

6 (i) the first named insured's policy;

7 (ii) any other motor vehicle liability insurance policy issued in
8 the State; or

9 (iii) another form of security used in place of a motor vehicle
10 liability insurance policy as authorized under § 17-103 of the Transportation Article.

11 (2) Subject to [paragraph (3)] **PARAGRAPHS (3) AND (4)** of this
12 subsection, a waiver made under this section is binding on **ANY OR ALL OF** the
13 following individuals covered by the policy:

14 (i) each named insured;

15 (ii) each listed driver; [and]

16 (iii) each member of the first named insured's family residing in
17 the first named insured's household who is at least 16 years old;

18 **(IV) EACH MEMBER OF THE FIRST NAMED INSURED'S FAMILY**
19 **RESIDING IN THE FIRST NAMED INSURED'S HOUSEHOLD WHO IS UNDER THE AGE**
20 **OF 16 YEARS;**

21 **(V) EACH INDIVIDUAL WHO IS INJURED IN A MOTOR**
22 **VEHICLE ACCIDENT WHILE USING THE INSURED MOTOR VEHICLE WITH THE**
23 **EXPRESS OR IMPLIED PERMISSION OF THE NAMED INSURED;**

24 **(VI) EACH INDIVIDUAL WHO IS INJURED IN A MOTOR**
25 **VEHICLE ACCIDENT WHILE OCCUPYING THE INSURED MOTOR VEHICLE AS A**
26 **GUEST OR PASSENGER; AND**

27 **(VII) EACH INDIVIDUAL WHO IS INJURED IN A MOTOR**
28 **VEHICLE ACCIDENT THAT INVOLVES THE INSURED MOTOR VEHICLE;**

1 **1. AS A PEDESTRIAN; OR**

2 **2. WHILE IN, ON, OR ALIGHTING FROM A VEHICLE**
3 **THAT IS OPERATED BY ANIMAL OR MUSCULAR POWER.**

4 (3) An individual listed in paragraph (2)(ii) or (iii) of this subsection
5 may recover the benefits described in § 19–505 of this subtitle under another motor
6 vehicle liability insurance policy if that individual:

7 (i) is the first named insured under the other policy;

8 (ii) has not waived the benefits described in § 19–505 of this
9 subtitle under the other policy; and

10 (iii) is not a named insured under any other motor vehicle
11 liability insurance policy under which a waiver of the benefits described in § 19–505 of
12 this subtitle is in effect.

13 **(4) (I) IF THE FIRST NAMED INSURED MAKES A FULL WAIVER**
14 **OF THE BENEFITS DESCRIBED IN § 19–505 OF THIS SUBTITLE, THE WAIVER IS**
15 **BINDING ON ALL OF THE INDIVIDUALS LISTED IN PARAGRAPH (2) OF THIS**
16 **SUBSECTION COVERED BY THE POLICY.**

17 **(II) IF THE FIRST NAMED INSURED MAKES A PARTIAL**
18 **WAIVER OF THE BENEFITS DESCRIBED IN § 19–505 OF THIS SUBTITLE, THE**
19 **WAIVER IS BINDING ONLY ON THOSE INDIVIDUALS LISTED IN PARAGRAPH (2) OF**
20 **THIS SUBSECTION COVERED BY THE POLICY FOR WHICH THE FIRST NAMED**
21 **INSURED CHOOSES TO WAIVE THE BENEFITS DESCRIBED IN § 19–505 OF THIS**
22 **SUBTITLE.**

23 (c) A waiver made under this section is not effective unless, prior to the
24 waiver, the insurer gives the first named insured written notice of the nature, extent,
25 and cost of the coverage described in § 19–505 of this subtitle.

26 (d) (1) A waiver made under this section shall be made on the form that
27 the Commissioner requires.

28 (2) The form may be part of the insurance contract.

29 (3) The form shall clearly and concisely explain in 10 point boldface
30 type:

1 (i) the nature, extent, and cost of the coverage that would be
2 provided under the policy if not waived by the first named insured;

3 (ii) each effect of a waiver as stated in subsection (b) of this
4 section;

5 (iii) that a failure of the first named insured to make a waiver
6 requires an insurer to provide the coverage described in § 19–505 of this subtitle;

7 (iv) that an insurer may not refuse to underwrite a person
8 because the person refuses to waive the coverage described in § 19–505 of this subtitle;
9 and

10 (v) that a waiver made under this section must be an
11 affirmative written waiver.

12 (e) A waiver made under this section by a person that is insured
13 continuously by the Maryland Automobile Insurance Fund or the insurer is effective
14 until the waiver is withdrawn in writing.

15 (f) (1) An insurer may not refuse to underwrite a person because the
16 person refuses to waive the coverage described in § 19–505 of this subtitle.

17 (2) An insurer that violates this subsection is subject to the penalties
18 provided by §§ 4–113 and 4–114 of this article.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
20 motor vehicle liability insurance policies issued, sold, delivered, or renewed in the
21 State on or after the effective date of this Act.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2007.