

HOUSE BILL 1341

C4
HB 1369/08 – ECM

9lr3079

By: **Delegate Kipke**

Introduced and read first time: February 18, 2009

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Uninsured Motorists – Waiver of Right to Noneconomic**
3 **Damages**

4 FOR the purpose of establishing that an individual driving a motor vehicle that is not
5 covered by insurance is considered to have waived the right to recover
6 noneconomic loss damages under certain circumstances; exempting certain
7 individuals from the waiver under certain circumstances; creating a rebuttable
8 presumption that an individual knows or has reason to know that the motor
9 vehicle is not covered by insurance under certain circumstances; defining a
10 certain term; making stylistic changes; making technical changes; providing for
11 the termination of certain provisions of this Act; and generally relating to
12 operating a motor vehicle that does not have insurance coverage.

13 BY repealing and reenacting, with amendments,
14 Article – Transportation
15 Section 17–107
16 Annotated Code of Maryland
17 (2006 Replacement Volume and 2008 Supplement)

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

20 **Article – Transportation**

21 17–107.

22 (a) [A person] **AN INDIVIDUAL** who knows or has reason to know that a
23 motor vehicle is not covered by the required security may not:

24 (1) Drive the vehicle; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) If [he] **THE INDIVIDUAL** is an owner of the vehicle, knowingly
2 permit another [person] **INDIVIDUAL** to drive it.

3 (b) (1) In [any] A prosecution under subsection (a) of this section the
4 introduction of the official records of the [Motor Vehicle] Administration showing the
5 absence of a record that the vehicle is covered by the security required under § 17-104
6 of this subtitle shall be prima facie evidence that [a person] **AN INDIVIDUAL** knows or
7 has reason to know that a motor vehicle is not covered by the required security.

8 (2) The introduction of evidence of the records of the Administration
9 may not limit the introduction of other evidence bearing upon whether the vehicle was
10 covered by the required security.

11 (c) An owner or lessee of [any] A motor vehicle registered under Title 13 of
12 this article may not raise the defense of sovereign or governmental immunity as
13 described under § 5-524 of the Courts [and Judicial Proceedings] Article.

14 **(D) (1) IN THIS SUBSECTION, "NONECONOMIC DAMAGES" MEANS**
15 **DAMAGES FOR NONPECUNIARY LOSS, INCLUDING PAIN, SUFFERING,**
16 **INCONVENIENCE, AND PHYSICAL IMPAIRMENT.**

17 **(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
18 **SUBSECTION, AN INDIVIDUAL WHO IS INJURED IN A VEHICULAR ACCIDENT**
19 **WHILE OPERATING A MOTOR VEHICLE IN VIOLATION OF SUBSECTION (A) OF**
20 **THIS SECTION AND WHO IS THE OWNER AND DRIVER OF THE MOTOR VEHICLE IS**
21 **CONSIDERED TO HAVE WAIVED THE RIGHT TO RECOVER FOR NONECONOMIC**
22 **DAMAGES IN AN ACTION AGAINST AN INDIVIDUAL OPERATING A MOTOR**
23 **VEHICLE THAT IS COVERED BY THE REQUIRED SECURITY.**

24 **(3) THIS SUBSECTION DOES NOT APPLY TO:**

25 **(I) AN INDIVIDUAL WHO DOES NOT KNOW OR HAVE REASON**
26 **TO KNOW THAT THE MOTOR VEHICLE IS NOT COVERED BY THE REQUIRED**
27 **SECURITY; OR**

28 **(II) AN INDIVIDUAL WHOSE INJURIES ARE CAUSED BY AN**
29 **INDIVIDUAL WHO, IN CONNECTION WITH THE ACCIDENT, IS:**

30 **1. CONVICTED OF OPERATING A MOTOR VEHICLE IN**
31 **VIOLATION OF § 21-902 OF THIS ARTICLE;**

32 **2. CONVICTED OF A VIOLATION OF § 2-501, § 2-502,**
33 **§ 2-503, § 2-504, § 2-505, § 2-506, OR § 3-211 OF THE CRIMINAL LAW ARTICLE;**

34 **3. CONVICTED OF A VEHICULAR ASSAULT;**

1 **4. CONVICTED OF RECKLESS DRIVING UNDER §**
2 **21-901.1(A) OF THIS ARTICLE; OR**

3 **5. FOUND TO HAVE BEEN DRIVING IN A**
4 **DELIBERATELY DISCOURTEOUS, INTOLERANT, AND IMPATIENT MANNER THAT**
5 **EVIDENCES A PATTERN OF DANGEROUS CONDUCT THAT CONTRIBUTED TO THE**
6 **LIKELIHOOD OF A COLLISION OR NECESSITATED EVASIVE ACTION BY ANOTHER**
7 **DRIVER OF A MOTOR VEHICLE TO AVOID A COLLISION.**

8 **(4) FOR PURPOSES OF THIS SUBSECTION, THERE IS A**
9 **REBUTTABLE PRESUMPTION THAT AN INDIVIDUAL KNOWS THAT A MOTOR**
10 **VEHICLE IS NOT COVERED BY THE REQUIRED SECURITY IF THE SECURITY**
11 **PREVIOUSLY IN EFFECT HAD LAPSED OR TERMINATED AND HAD BEEN**
12 **INEFFECTIVE FOR A PERIOD OF AT LEAST 60 DAYS AFTER THE DATE OF**
13 **NOTIFICATION BY THE ADMINISTRATION ABOUT THE LAPSE OR TERMINATION**
14 **AND ABOUT SPECIFIC CONSEQUENCES OF THE LAPSE OR TERMINATION UNDER**
15 **THIS SUBSECTION.**

16 SECTION 2. AND BE IT FURTHER ENACTED, That § 17-107(d)(3)(ii)5 of the
17 Transportation Article, as enacted by this Act, shall remain effective for a period of 1
18 year and, at the end of September 30, 2010, with no further action required by the
19 General Assembly, § 17-107(d)(3)(ii)5 of the Transportation Article, as enacted by this
20 Act, shall be abrogated and of no further force and effect.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2009. Except as provided in Section 2 of this Act, it shall remain effective
23 for a period of 5 years and, at the end of September 30, 2014, with no further action
24 required by the General Assembly, this Act shall be abrogated and of no further force
25 and effect.