

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

House Bill 666

(Delegate Kipke, *et al.*)

Economic Matters

Vehicle Laws - Uninsured Motorists - Waiver of Right to Noneconomic Damages

This bill establishes that an individual who is injured in a vehicular accident while operating his or her own motor vehicle, with knowledge or reason to know that the vehicle is not insured, is considered to have waived the right to recover for noneconomic damages in an action against an individual operating a properly insured vehicle.

The bill terminates September 30, 2015.

Fiscal Summary

State Effect: The bill does not directly affect State finances or operations.

Maryland Automobile Insurance Fund (MAIF) Effect: MAIF may experience an approximate \$684,000 reduction in bodily injury claim costs in FY 2011 and a \$912,000 reduction annually thereafter through FY 2015.

Local Effect: The bill does not directly affect local finances or operations.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill defines “noneconomic damages” as damages for nonpecuniary loss, including pain, suffering, inconvenience, and physical impairment. The bill does not apply to an individual who does not know or have reason to know that the individual’s vehicle is not covered by the required security. The bill also does not apply to an individual whose injuries are caused by another individual who, in connection with the accident, is:

- convicted of operating a vehicle while impaired or under the influence of drugs or alcohol;
- convicted of any form of homicide or causing a life-threatening injury by motor vehicle while impaired or under the influence of drugs or alcohol;
- convicted of vehicular assault;
- convicted of reckless driving; or
- found to have been driving in a deliberately discourteous, intolerant, and impatient manner that evidences a pattern of dangerous conduct that contributed to the likelihood of a collision or necessitated evasive action by another driver to avoid a collision.

Under the bill, this last exception for a pattern of dangerous conduct would remain in effect for one year and terminate September 30, 2011.

The bill creates a rebuttable presumption that an individual knows a motor vehicle is not covered by the required security if the security previously in effect had lapsed or terminated and had been ineffective for at least 60 days after the date of notification by the Motor Vehicle Administration (MVA) about the lapse or termination and the specific consequences.

Current Law: The owner of a motor vehicle that is registered in the State has to maintain the insurance required by law for the vehicle during the registration period. At a minimum, a motor vehicle owner must maintain insurance for claims of bodily injury or death arising from an accident of up to \$20,000 for any one person and up to \$40,000 for two or more persons, in addition to interest and costs. The minimum property damage insurance that must be carried is \$15,000, in addition to interest and costs. The motorist also must maintain personal injury protection coverage, unless waived, and uninsured motorist coverage.

A person who knows or has reason to know that a motor vehicle is not covered by the required insurance may not drive the vehicle. If the person is the vehicle owner, the owner may not permit another person to drive it. A person may not willfully and knowingly create, certify, file, or provide false evidence of required vehicle insurance.

Failure to maintain the required security is a misdemeanor offense under the Maryland Vehicle Law, subject to a maximum fine of \$500. The prepayment penalty established by the District Court is \$280. If a motor vehicle owner allows the required insurance to terminate or lapse, the vehicle registration is automatically suspended as of the date of termination or lapse and remains suspended until the required insurance is replaced, the vehicle owner submits satisfactory evidence of replacement to MVA, and any assessed

uninsured motorist penalty is paid to MVA. An insurer or other security provider has to immediately notify MVA of terminations or lapses in required motor vehicle insurance.

Once MVA receives a notice of lapsed or terminated insurance, MVA must make a reasonable effort to notify the vehicle owner of the suspension of vehicle registration. Within 48 hours after notification, the owner must surrender all evidence of vehicle registration to MVA. If the owner fails to comply, MVA must attempt to recover the evidence and may suspend the owner's driver's license until the evidence is surrendered to MVA. In addition to any other penalty provided under the Maryland Vehicle Law, MVA may assess the vehicle owner an administrative penalty of \$150 for each vehicle without the required insurance for the first 30 days. Beginning on the thirty-first day, the fine increases by a rate of \$7 per day. Each period during which the required insurance security is lapsed or terminated constitutes a separate violation. The administrative fine may not exceed \$2,500 for each violation in a 12-month period.

Operators of motor vehicles who are injured while driving without the required insurance are not currently prohibited from filing claims against other drivers for noneconomic damages such as pain and suffering.

Background: According to MVA, about 99,000 motorists annually either let the required vehicle insurance coverage lapse or have coverage terminated. Generally, about 75% of these drivers renew their insurance within 30 days. While all these drivers are assessed the administrative penalties, relatively few are convicted of the misdemeanor offense.

MAIF Effect: MAIF estimates an approximate 4% decline in bodily injury claims as a result of the bill. MAIF paid \$22.8 million in bodily injury claims in 2009. Based on 2009 totals, MAIF estimates a \$912,000 reduction in claim costs on an annual basis. Given the bill's October 1, 2010 effective date, the reduction is likely to be \$684,000 in fiscal 2011. In fiscal 2016, the reduction would only be about \$228,000 due to the September 2015 termination date.

Additional Information

Prior Introductions: HB 1341 of 2009 received an unfavorable report from the House Economic Matters Committee. HB 1369 of 2008 was referred to interim study by the House Economic Matters Committee.

Cross File: None.

Information Source(s): Maryland Insurance Administration, Maryland Automobile Insurance Fund, Department of Legislative Services

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mpc/ljm

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