

SENATE BILL 784

C4

6lr2797
CF 6lr3578

By: **Senator Middleton**

Introduced and read first time: February 5, 2016

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Motor Vehicle Insurance – Personal Injury Protection – Optional Coverage**

3 FOR the purpose of requiring certain insurers to offer, instead of provide, certain motor
4 vehicle liability insurance coverage for certain medical, hospital, and disability
5 benefits; authorizing a certain first named insured to exclude from certain coverage
6 benefits for certain individuals; providing that an exclusion from certain benefits
7 constitutes an exclusion from all benefits described in certain provisions of law;
8 authorizing certain individuals to recover certain benefits under certain
9 circumstances; requiring an insurer to provide a certain notice to a certain first
10 named insured; prohibiting an insurer from refusing to underwrite a certain person
11 under certain circumstances; providing that an insurer is subject to certain penalties
12 for a certain violation; repealing a requirement that a certain first named insured
13 make a waiver of certain benefits under certain circumstances; repealing certain
14 provisions of law relating to a certain waiver, including what the waiver constitutes,
15 who is bound by the waiver, who may recover benefits if there is a waiver, when the
16 waiver is effective, and how the waiver is made; repealing a requirement that a
17 certain security provide certain personal injury protection benefits under certain
18 circumstances; and generally relating to optional personal injury protection coverage
19 under policies of motor vehicle liability insurance.

20 BY repealing and reenacting, with amendments,
21 Article – Insurance
22 Section 19–505
23 Annotated Code of Maryland
24 (2011 Replacement Volume and 2015 Supplement)

25 BY repealing
26 Article – Insurance
27 Section 19–506
28 Annotated Code of Maryland
29 (2011 Replacement Volume and 2015 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
 2 Article – Transportation
 3 Section 17–103
 4 Annotated Code of Maryland
 5 (2012 Replacement Volume and 2015 Supplement)

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

8 **Article – Insurance**

9 19–505.

10 (a) **(1)** [Unless waived in accordance with § 19–506 of this subtitle, each]
 11 **EACH** insurer that issues, sells, or delivers a motor vehicle liability insurance policy in the
 12 State shall [provide] **OFFER** coverage for the medical, hospital, and disability benefits
 13 described in this section.

14 **(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,**
 15 **THE COVERAGE UNDER THIS SECTION SHALL PROVIDE BENEFITS** for each of the
 16 following individuals:

17 **[(1)] (I)** except for individuals specifically excluded under § 27–609 of this
 18 article:

19 **[(i)] 1.** the first named insured, and any family member of the
 20 first named insured who resides in the first named insured’s household, who is injured in
 21 any motor vehicle accident, including an accident that involves an uninsured motor vehicle
 22 or a motor vehicle the identity of which cannot be ascertained; and

23 **[(ii)] 2.** any other individual who is injured in a motor vehicle
 24 accident while using the insured motor vehicle with the express or implied permission of
 25 the named insured;

26 **[(2)] (II)** an individual who is injured in a motor vehicle accident while
 27 occupying the insured motor vehicle as a guest or passenger; and

28 **[(3)] (III)** an individual who is injured in a motor vehicle accident that
 29 involves the insured motor vehicle:

30 **[(i)] 1.** as a pedestrian; or

31 **[(ii)] 2.** while in, on, or alighting from a vehicle that is operated by
 32 animal or muscular power.

1 **(3) (I) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH,**
2 **THE FIRST NAMED INSURED MAY EXCLUDE FROM THE COVERAGE DESCRIBED IN**
3 **THIS SECTION BENEFITS FOR:**

4 1. **EACH NAMED INSURED;**

5 2. **EACH LISTED DRIVER; AND**

6 3. **EACH MEMBER OF THE FIRST NAMED INSURED'S**
7 **FAMILY RESIDING IN THE FIRST NAMED INSURED'S HOUSEHOLD WHO IS AT LEAST**
8 **16 YEARS OLD.**

9 **(II) AN EXCLUSION FROM BENEFITS UNDER THIS PARAGRAPH**
10 **CONSTITUTES AN EXCLUSION FROM ALL OF THE BENEFITS DESCRIBED IN THIS**
11 **SECTION, WHETHER PROVIDED UNDER:**

12 1. **THE FIRST NAMED INSURED'S POLICY;**

13 2. **ANY OTHER MOTOR VEHICLE LIABILITY INSURANCE**
14 **POLICY ISSUED IN THE STATE; OR**

15 3. **ANOTHER FORM OF SECURITY USED IN PLACE OF A**
16 **MOTOR VEHICLE LIABILITY INSURANCE POLICY AS AUTHORIZED UNDER § 17-103 OF**
17 **THE TRANSPORTATION ARTICLE.**

18 **(III) AN INDIVIDUAL LISTED IN SUBPARAGRAPH (I)2 OR 3 OF**
19 **THIS PARAGRAPH MAY RECOVER THE BENEFITS DESCRIBED IN THIS SECTION**
20 **UNDER ANOTHER MOTOR VEHICLE LIABILITY INSURANCE POLICY IF THAT**
21 **INDIVIDUAL:**

22 1. **IS THE FIRST NAMED INSURED UNDER THE OTHER**
23 **POLICY;**

24 2. **HAS NOT EXCLUDED THE BENEFITS DESCRIBED IN**
25 **THIS SECTION UNDER THE OTHER POLICY; AND**

26 3. **IS NOT A NAMED INSURED UNDER ANY OTHER MOTOR**
27 **VEHICLE LIABILITY INSURANCE POLICY UNDER WHICH AN EXCLUSION OF THE**
28 **BENEFITS DESCRIBED IN THIS SECTION IS IN EFFECT.**

29 **(IV) AN INSURER SHALL PROVIDE THE FIRST NAMED INSURED**
30 **WRITTEN NOTICE OF THE NATURE, EXTENT, AND COST OF THE COVERAGE THAT**

1 **WOULD BE PROVIDED UNDER THE POLICY IF NOT EXCLUDED BY THE FIRST NAMED**
2 **INSURED UNDER THIS PARAGRAPH.**

3 (b) (1) In this subsection, "income" means:

4 (i) wages, salaries, tips, commissions, professional fees, and other
5 earnings from work or employment;

6 (ii) earnings from a business or farm owned individually, jointly, or
7 in partnership; and

8 (iii) to the extent earnings are paid or payable in property or services
9 instead of in cash, the reasonable value of the property or services.

10 (2) The minimum medical, hospital, and disability benefits provided by an
11 insurer under this section shall include up to \$2,500 for:

12 (i) payment of all reasonable and necessary expenses that arise
13 from a motor vehicle accident and that are incurred within 3 years after the accident for
14 necessary prosthetic devices and ambulance, dental, funeral, hospital, medical,
15 professional nursing, surgical, and X-ray services;

16 (ii) payment of benefits for 85% of income lost:

17 1. within 3 years after, and resulting from, a motor vehicle
18 accident; and

19 2. by an injured individual who was earning or producing
20 income when the accident occurred; and

21 (iii) payments made in reimbursement of reasonable and necessary
22 expenses incurred within 3 years after a motor vehicle accident for essential services
23 ordinarily performed for the care and maintenance of the family or family household by an
24 individual who was injured in the accident and not earning or producing income when the
25 accident occurred.

26 (3) As a condition of providing loss of income benefits under this subsection,
27 an insurer may require the injured individual to furnish the insurer with reasonable
28 medical proof of the injury causing loss of income.

29 (c) (1) An insurer may exclude from the coverage described in this section
30 benefits for:

31 (i) an individual, otherwise insured under the policy, who:

32 1. intentionally causes the motor vehicle accident resulting
33 in the injury for which benefits are claimed;

1 2. is a nonresident of the State and is injured as a pedestrian
2 in a motor vehicle accident that occurs outside of the State;

3 3. is injured in a motor vehicle accident while operating or
4 voluntarily riding in a motor vehicle that the individual knows is stolen; or

5 4. is injured in a motor vehicle accident while committing a
6 felony or while violating § 21-904 of the Transportation Article; or

7 (ii) the named insured or a family member of the named insured who
8 resides in the named insured's household for an injury that occurs while the named insured
9 or family member is occupying an uninsured motor vehicle owned by:

10 1. the named insured; or

11 2. an immediate family member of the named insured who
12 resides in the named insured's household.

13 (2) In the case of motorcycles, mopeds, or motor scooters, an insurer may:

14 (i) exclude the economic loss benefits described in this section; or

15 (ii) offer the economic loss benefits with deductibles, options, or
16 specific exclusions.

17 **(D) (1) AN INSURER MAY NOT REFUSE TO UNDERWRITE A PERSON
18 BECAUSE THE PERSON REFUSES TO MAKE AN EXCLUSION OF COVERAGE UNDER
19 SUBSECTION (A)(3) OF THIS SECTION.**

20 **(2) AN INSURER THAT VIOLATES THIS SUBSECTION IS SUBJECT TO
21 THE PENALTIES PROVIDED BY §§ 4-113 AND 4-114 OF THIS ARTICLE.**

22 [19-506.

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

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

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

- 1 (i) the first named insured's policy;
- 2 (ii) any other motor vehicle liability insurance policy issued in the
3 State; or
- 4 (iii) another form of security used in place of a motor vehicle liability
5 insurance policy as authorized under § 17–103 of the Transportation Article.

6 (2) Subject to paragraph (3) of this subsection, a waiver made under this
7 section is binding on the following individuals covered by the policy:

- 8 (i) each named insured;
- 9 (ii) each listed driver; and
- 10 (iii) each member of the first named insured's family residing in the
11 first named insured's household who is at least 16 years old.

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

- 15 (i) is the first named insured under the other policy;
- 16 (ii) has not waived the benefits described in § 19–505 of this subtitle
17 under the other policy; and
- 18 (iii) is not a named insured under any other motor vehicle liability
19 insurance policy under which a waiver of the benefits described in § 19–505 of this subtitle
20 is in effect.

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

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

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

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

- 28 (i) the nature, extent, and cost of the coverage that would be
29 provided under the policy if not waived by the first named insured;
- 30 (ii) each effect of a waiver as stated in subsection (b) of this section;

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

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

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

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

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

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

14 **Article – Transportation**

15 17–103.

16 (a) (1) Except as provided in paragraph (2) of this subsection, the form of
17 security required under this subtitle is a vehicle liability insurance policy written by an
18 insurer authorized to write these policies in this State.

19 (2) The Administration may accept another form of security in place of a
20 vehicle liability insurance policy if it finds that the other form of security adequately
21 provides the benefits required by subsection (b) of this section.

22 (3) The Administration shall, by regulation, assess each self-insurer an
23 annual sum which may not exceed \$750, and which shall be used for actuarial studies and
24 audits to determine financial solvency.

25 (b) The security required under this subtitle shall provide for at least:

26 (1) The payment of claims for bodily injury or death arising from an
27 accident of up to \$30,000 for any one person and up to \$60,000 for any two or more persons,
28 in addition to interest and costs;

29 (2) The payment of claims for property of others damaged or destroyed in
30 an accident of up to \$15,000, in addition to interest and costs;

31 (3) [Unless waived, the benefits described under § 19–505 of the Insurance
32 Article as to basic required primary coverage;

1 (4) The benefits required under § 19–509 of the Insurance Article as to
2 required additional coverage; and

3 [(5) (4) For vehicles subject to the provisions of § 25–111.1 of this article,
4 the security requirements adopted under 49 C.F.R., Part 387.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2016.