

HOUSE BILL 144

C4

0lr0129

By: **Chair, Economic Matters Committee (By Request – Departmental – Maryland Insurance Administration)**

Introduced and read first time: January 15, 2020

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: February 4, 2020

CHAPTER _____

1 AN ACT concerning

2 **Insurance – Uninsured or Enhanced Underinsured Motorist Coverage –**
3 **Property Damage**

4 FOR the purpose of clarifying that certain motor vehicle liability insurance policies must
5 contain coverage for damages, subject to the policy limits, that the insured is entitled
6 to recover from the owner or operator of certain motor vehicles because of property
7 damage, including the loss of the insured vehicle; altering the amounts to which
8 certain motorist coverage in certain policies must be equal; and generally relating to
9 motor vehicle liability insurance.

10 BY repealing and reenacting, with amendments,
11 Article – Insurance
12 Section 19–509 and 19–509.1
13 Annotated Code of Maryland
14 (2017 Replacement Volume and 2019 Supplement)

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

17 **Article – Insurance**

18 19–509.

19 (a) In this section, “uninsured motor vehicle” means a motor vehicle:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (1) the ownership, maintenance, or use of which has resulted in the bodily
2 injury or death of an insured; and

3 (2) for which the sum of the limits of liability under all valid and collectible
4 liability insurance policies, bonds, and securities applicable to bodily injury or death:

5 (i) is less than the amount of coverage provided under this section;
6 or

7 (ii) has been reduced by payment to other persons of claims arising
8 from the same occurrence to an amount less than the amount of coverage provided under
9 this section.

10 (b) The uninsured motorist coverage required by this section does not apply to a
11 motor vehicle liability insurance policy:

12 (1) that insures a motor vehicle that:

13 (i) is not subject to registration under § 13-402 of the
14 Transportation Article because it is not driven on a highway; or

15 (ii) is exempt from registration under § 13-402(c)(10) of the
16 Transportation Article; or

17 (2) if the first named insured under a policy or binder of private passenger
18 motor vehicle liability insurance has elected to obtain enhanced underinsured motorist
19 coverage under § 19-509.1 of this subtitle instead of the uninsured motorist coverage
20 required under this section.

21 (c) In addition to any other coverage required by this subtitle, each motor vehicle
22 liability insurance policy issued, sold, or delivered in the State after July 1, 1975, shall
23 contain coverage for damages, subject to the policy limits, that:

24 (1) the insured is entitled to recover from the owner or operator of an
25 uninsured motor vehicle because of bodily injuries sustained in a motor vehicle accident
26 arising out of the ownership, maintenance, or use of the uninsured motor vehicle; [and]

27 **(2) THE INSURED IS ENTITLED TO RECOVER FROM THE OWNER OR**
28 **OPERATOR OF AN UNINSURED MOTOR VEHICLE BECAUSE OF PROPERTY DAMAGE,**
29 **INCLUDING LOSS OF USE OF THE INSURED VEHICLE; AND**

30 **[(2)] (3)** a surviving relative of the insured, who is described in § 3-904 of
31 the Courts Article, is entitled to recover from the owner or operator of an uninsured motor
32 vehicle because the insured died as the result of a motor vehicle accident arising out of the
33 ownership, maintenance, or use of the uninsured motor vehicle.

1 (d) The uninsured motorist coverage required by this section shall be in the form
2 and subject to the conditions that the Commissioner approves.

3 (e) (1) The uninsured motorist coverage contained in a motor vehicle liability
4 insurance policy:

5 (i) shall at least equal:

6 1. the amounts required by Title 17 of the Transportation
7 Article **FOR BODILY INJURY AND PROPERTY DAMAGE, INCLUDING LOSS OF USE OF**
8 **THE INSURED VEHICLE**; and

9 2. the coverage provided to a qualified person under Title 20,
10 Subtitle 6 of this article; and

11 (ii) may not exceed the amount of liability coverage provided under
12 the policy.

13 (2) Unless waived in accordance with § 19–510 of this subtitle, the amount
14 of uninsured motorist coverage provided under a private passenger motor vehicle liability
15 insurance policy shall equal the amount of liability coverage provided under the policy.

16 (f) An insurer may exclude from the uninsured motorist coverage required by this
17 section benefits for:

18 (1) the named insured or a family member of the named insured who
19 resides in the named insured's household for an injury that occurs when the named insured
20 or family member is occupying or is struck as a pedestrian by an uninsured motor vehicle
21 that is owned by the named insured or an immediate family member of the named insured
22 who resides in the named insured's household; and

23 (2) the named insured, a family member of the named insured who resides
24 in the named insured's household, and any other individual who has other applicable motor
25 vehicle insurance for an injury that occurs when the named insured, family member, or
26 other individual is occupying or is struck as a pedestrian by the insured motor vehicle while
27 the motor vehicle is operated or used by an individual who is excluded from coverage under
28 § 27–609 of this article.

29 (g) The limit of liability for an insurer that provides uninsured motorist coverage
30 under this section is the amount of that coverage less the amount paid to the insured, that
31 exhausts any applicable liability insurance policies, bonds, and securities, on behalf of any
32 person that may be held liable for the bodily injuries or death of the insured.

33 (h) (1) A policy that, as its primary purpose, provides coverage in excess of
34 other valid and collectible insurance or qualified self–insurance may include the uninsured
35 motorist coverage provided for in this section.

1 (2) The uninsured motorist coverage required by this section is primary to
2 any right to recovery from the Maryland Automobile Insurance Fund under Title 20,
3 Subtitle 6 of this article.

4 (i) An endorsement or provision that protects the insured against damages
5 caused by an uninsured motor vehicle that is contained in a policy issued and delivered in
6 the State is deemed to cover damages caused by a motor vehicle insured by a liability
7 insurer that is insolvent or otherwise unable to pay claims to the same extent and in the
8 same manner as if the damages were caused by an uninsured motor vehicle.

9 (j) A provision in a motor vehicle liability insurance policy issued after July 1,
10 1975, about coverage for damages sustained by the insured as a result of the operation of
11 an uninsured motor vehicle that requires a dispute between the insured and the insurer to
12 be submitted to binding arbitration is prohibited and is of no legal effect.

13 19-509.1.

14 (a) In this section, “underinsured motor vehicle” means a motor vehicle that has
15 liability coverage in an amount less than, more than, or equal to the uninsured motorist
16 coverage provided under the insured party’s motor vehicle liability insurance policy.

17 (b) The enhanced underinsured motorist coverage required by this section does
18 not apply to a motor vehicle liability insurance policy:

19 (1) that insures a motor vehicle that:

20 (i) is not subject to registration under § 13-402 of the
21 Transportation Article because it is not driven on a highway; or

22 (ii) is exempt from registration under § 13-402(c)(10) of the
23 Transportation Article; or

24 (2) when a first named insured under a policy or binder of private
25 passenger motor vehicle liability insurance has not elected to obtain enhanced
26 underinsured motorist coverage under this section instead of the uninsured motorist
27 coverage required under § 19-509 of this subtitle.

28 (c) (1) An insurer shall offer enhanced underinsured motorist coverage at the
29 time of purchase of a private passenger motor vehicle liability insurance policy.

30 (2) The first named insured under a policy or binder of private passenger
31 motor vehicle liability insurance may elect to obtain enhanced underinsured motorist
32 coverage instead of the uninsured motorist coverage required under § 19-509 of this
33 subtitle.

34 (3) Unless the first named insured affirmatively makes a change in
35 writing, the election to obtain enhanced underinsured motorist coverage applies to all

1 subsequent renewals of coverage and to all other policies or endorsements that extend,
2 change, supersede, or replace an existing private passenger motor vehicle insurance policy
3 issued to the first named insured.

4 (d) In addition to any other coverage required by this subtitle, each private
5 passenger motor vehicle liability insurance policy issued, sold, or delivered in the State on
6 or after July 1, 2018, to an insured that elects to obtain enhanced underinsured motorist
7 coverage instead of the uninsured motorist coverage required under § 19–509 of this
8 subtitle, shall contain coverage for damages, subject to the policy limits, that:

9 (1) the insured is entitled to recover from the owner or operator of an
10 underinsured motor vehicle because of bodily injuries sustained in a motor vehicle accident
11 arising out of the ownership, maintenance, or use of the underinsured motor vehicle; [and]

12 **(2) THE INSURED IS ENTITLED TO RECOVER FROM THE OWNER OR**
13 **OPERATOR OF AN UNDERINSURED MOTOR VEHICLE BECAUSE OF PROPERTY**
14 **DAMAGE, INCLUDING LOSS OF USE OF THE INSURED VEHICLE; AND**

15 ~~[(2)]~~ **(3)** a surviving relative of the insured, who is described in § 3–904 of
16 the Courts Article, is entitled to recover from the owner or operator of an underinsured
17 motor vehicle because the insured died as the result of a motor vehicle accident arising out
18 of the ownership, maintenance, or use of the underinsured motor vehicle.

19 (e) The offer of enhanced underinsured motorist coverage required by this section
20 shall be on the form that the Commissioner requires.

21 (f) (1) The enhanced underinsured motorist coverage contained in a private
22 passenger motor vehicle liability insurance policy:

23 (i) shall at least equal:

24 1. the amounts required by Title 17 of the Transportation
25 Article **FOR BODILY INJURY AND PROPERTY DAMAGE, INCLUDING LOSS OF USE OF**
26 **THE INSURED VEHICLE;** and

27 2. the coverage provided to a qualified person under Title 20,
28 Subtitle 6 of this article; and

29 (ii) may not exceed the amount of liability coverage provided under
30 the policy.

31 (2) The amount of enhanced underinsured motorist coverage provided
32 under a private passenger motor vehicle liability insurance policy shall equal the amount
33 of liability coverage provided under the policy.

34 (g) An insurer may exclude from the enhanced underinsured motorist coverage

1 required by this section benefits for:

2 (1) the named insured or a family member of the named insured who
3 resides in the named insured's household for an injury that occurs when the named insured
4 or family member is occupying or is struck as a pedestrian by an underinsured motor
5 vehicle that is owned by the named insured or an immediate family member of the named
6 insured who resides in the named insured's household; and

7 (2) the named insured, a family member of the named insured who resides
8 in the named insured's household, and any other individual who has other applicable motor
9 vehicle insurance for an injury that occurs when the named insured, family member, or
10 other individual is occupying or is struck as a pedestrian by the insured motor vehicle while
11 the motor vehicle is operated or used by an individual who is excluded from coverage under
12 § 27-609 of this article.

13 (h) The limit of liability for an insurer that provides enhanced underinsured
14 motorist coverage under this section:

15 (1) is subject to § 19-511.1 of this subtitle; and

16 (2) is the amount of that coverage without any reduction for the amount
17 paid to the insured, that exhausts any applicable liability insurance policies, bonds, and
18 securities, on behalf of any person that may be held liable for the bodily injuries or death
19 of the insured.

20 (i) (1) A policy that, as its primary purpose, provides coverage in excess of
21 other valid and collectible insurance or qualified self-insurance may include the enhanced
22 underinsured motorist coverage provided for in this section.

23 (2) The enhanced underinsured motorist coverage required by this section
24 is primary to any right to recovery from the Maryland Automobile Insurance Fund under
25 Title 20, Subtitle 6 of this article.

26 (j) An endorsement or a provision that protects the insured against damages
27 caused by an underinsured motor vehicle that is contained in a policy issued and delivered
28 in the State is deemed to cover damages caused by a motor vehicle insured by a liability
29 insurer that is insolvent or otherwise unable to pay claims to the same extent and in the
30 same manner as if the damages were caused by an underinsured motor vehicle.

31 (k) A provision in a private passenger motor vehicle liability insurance policy
32 issued on or after July 1, 2018, about coverage for damages sustained by the insured as a
33 result of the operation of an underinsured motor vehicle that requires a dispute between
34 the insured and the insurer to be submitted to binding arbitration is prohibited and is of
35 no legal effect.

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 2020.

