



Thursday January 27, 2022

**HB 226**  
**Private Passenger Motor Vehicle Liability Insurance –**  
**Enhanced Underinsured Motorist Coverage – Opt-Out Option**

**FAVORABLE**

HB 266 will let Maryland motorists get the full benefit of the insurance they are currently paying for.

“Car insurance,” to most people, is coverage that pays someone else. You have an accident that is your fault which causes personal injury; the victim is compensated by your carrier. This type of insurance, known as “liability coverage,” exists to ensure that the injured do not have to bear the financial burden of losses caused by someone else’s negligence, and to protect the insured negligent driver against the risk of having to personally pay for damages they cause. Under current law, Maryland motorists are only required to buy \$30,000 in liability coverage. This is the state minimum coverage. What this means is that no matter how badly injured, the maximum the liability insurance company will pay any victim is \$30,000.

Unfortunately, not every driver buys insurance, and others do not buy enough. An uninsured driver is a person who does not have insurance, while an underinsured driver is a person who did not buy enough liability coverage to pay for all the damages he or she has caused. Uninsured/underinsured motorist insurance coverage is used if a person with either no insurance or not enough insurance causes damages that they do not have enough insurance to cover. Without uninsured/underinsured motorist insurance, the injured person has to pay for these losses themselves, even though they were caused by someone else’s negligence.

Maryland law requires that insurers provide uninsured/underinsured motorist coverage (“UM Coverage”) to protect Maryland citizens against damages caused by the negligence of an uninsured or underinsured driver. Md. Ins. Art. §19-509. The amount of that UM coverage, unless waived by the insured consumer in writing, may be as much as, but no greater than, the coverage purchased against liability to other drivers.

Currently when you buy motor vehicle insurance your insurance company issues a declarations page which explains the amount of your UM Coverage. What you do not know, unless you read the entire policy, is that your insurance company is entitled to deduct from that coverage the amount paid by an underinsured motorist. The only way currently that this does not happen is if the consumer

purchase “Enhanced Underinsured Coverage” which was passed into law in 2017 and approved by this committee in a bipartisan fashion with a 15-4 vote in favor. However, since the passage of this law very few consumers have purchased this coverage, primarily because they do not know that is an option.

Assume for example that a person who purchases coverage of \$50,000 also has UM Coverage in the same amount. Assume further he is involved in an accident in which the other driver is at fault who only has the minimum coverage of \$30,000. Currently, if the injured person incurs \$80,000 of economic damages (medical expenses) he looks to his UM policy to cover that portion of his damages above the other driver’s insurance coverage. One would think that he will recover \$30,000 from the other driver, and \$50,000 from his own UM Coverage and have 100% of the \$80,000 damages paid. Sadly, that is not the case unless that person purchased Enhanced Underinsured Motorist Coverage.

Under current motor vehicle insurance law in Maryland, he can receive no more than \$50,000, the maximum amount of his UM Coverage unless he has the enhanced coverage. His insurer will deduct the amount he receives from the other driver from the amount of his UM Coverage and pay a mere \$20,000, leaving \$30,000 of his loss uncompensated – despite his paying for \$50,000.00 in coverage! So, in this example, the insurer deducts what the other driver pays from the maximum amount of UM Coverage. HB 266 makes the enhanced coverage the norm unless the consumer makes the affirmative decision to waive that coverage. When they are purchasing their policy they will be presented with the option to “opt out” of the enhanced coverage, and they will be shown the difference in price between the two options. They can then make an informed decision as to whether or not they want the coverage. Currently this is how Personal Injury Protection (PIP) coverage is waived so the process is already well understood by the insurance companies.

HB 266 offers consumers the opportunity to buy better coverage for themselves and their families by eliminating this “hidden deductible” and allowing them to receive the benefit of the bargain for which they paid. They also will see exactly how much they are deciding to pay for this coverage and can decide if they do not want it. This bill allows consumers to be better informed about the insurance they are paying for. If they do not want to pay for it, they can opt out by waiving the coverage.

In our example, the injured person paid for \$50,000.00 in coverage but is only receiving \$20,000.00. Why is this fair? If the at-fault driver had been uninsured, the injured party would have received the entire \$50,000.00 in benefits for which he paid without any hidden deductible.

HB 266 will eliminate the “hidden deductible” and allow our victim in the example to stack the coverages. The consumer will be able to see the difference in price between the two coverages and can make an informed decision as to whether or not they want to pay for better coverage. So, in the example, had the injured party not waived enhanced underinsured motorist coverage he would receive \$30,000 from the negligent driver of the other car, and the full \$50,000 from his own UM coverage. He would get what he paid a premium for. This additional money will allow the injured party to become “whole” as well as diminish the amount of uncompensated healthcare for there will be additional funds with which to pay for the medical expenses.

**The Maryland Association for Justice urges a Favorable Report**