

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

A BILL ENTITLED

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:

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

(1) that insures a motor vehicle that:

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

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

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

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

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

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

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

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

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

(i) shall at least equal:

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

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

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

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

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

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

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

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

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

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

(i) An endorsement or provision that protects the insured against damages caused by an uninsured motor vehicle that is contained in a policy issued and delivered in

the State is deemed to cover damages caused by a motor vehicle insured by a liability insurer that is insolvent or otherwise unable to pay claims to the same extent and in the same manner as if the damages were caused by an uninsured motor vehicle.

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

19–509.1.

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

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

(1) that insures a motor vehicle that:

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

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

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

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

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

(3) Unless the first named insured affirmatively makes a change in writing, the election to obtain enhanced underinsured motorist coverage applies to all subsequent renewals of coverage and to all other policies or endorsements that extend, change, supersede, or replace an existing private passenger motor vehicle insurance policy issued to the first named insured.

(d) In addition to any other coverage required by this subtitle, each private passenger motor vehicle liability insurance policy issued, sold, or delivered in the State on

1 or after July 1, 2018, to an insured that elects to obtain enhanced underinsured motorist
2 coverage instead of the uninsured motorist coverage required under § 19–509 of this
3 subtitle, shall contain coverage for damages, subject to the policy limits, that:

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

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

10 **[(2)] (3)** a surviving relative of the insured, who is described in § 3–904 of
11 the Courts Article, is entitled to recover from the owner or operator of an underinsured
12 motor vehicle because the insured died as the result of a motor vehicle accident arising out
13 of the ownership, maintenance, or use of the underinsured motor vehicle.

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

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

18 (i) shall at least equal:

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

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

24 (ii) may not exceed the amount of liability coverage provided under
25 the policy.

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

29 (g) An insurer may exclude from the enhanced underinsured motorist coverage
30 required by this section benefits for:

31 (1) the named insured or a family member of the named insured who
32 resides in the named insured's household for an injury that occurs when the named insured
33 or family member is occupying or is struck as a pedestrian by an underinsured motor
34 vehicle that is owned by the named insured or an immediate family member of the named

insured who resides in the named insured's household; and

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

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

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

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

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

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

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

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

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