

UNOFFICIAL COPY OF HOUSE BILL 1162

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(5lr2730)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegate Kelley**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Civil Actions - Burden of Proof - Uninsured Motorist Coverage**

3 FOR the purpose of establishing that a person asserting the uninsured status of a
4 motor vehicle in a certain action has the burden of proof; providing that the
5 burden of proof shall be deemed satisfied when the person introduces certain
6 records or documents; requiring the finder of fact to find a motor vehicle to be
7 uninsured if the person asserting the uninsured status of the motor vehicle
8 satisfies the burden of proof, unless an adverse party establishes certain
9 coverage by a preponderance of the evidence; providing for the application of
10 this Act; and generally relating to uninsured motor vehicles.

11 BY adding to
12 Article - Courts and Judicial Proceedings
13 Section 10-921
14 Annotated Code of Maryland
15 (2002 Replacement Volume and 2004 Supplement)

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

3 Article - Courts and Judicial Proceedings

4 10-921.

5 (A) IN AN ACTION AGAINST AN INSURER OR THE MARYLAND AUTOMOBILE
6 INSURANCE FUND UNDER A POLICY PROVIDING UNINSURED MOTOR VEHICLE
7 LIABILITY COVERAGE, THE PERSON ASSERTING THE UNINSURED STATUS OF A
8 MOTOR VEHICLE SHALL HAVE THE BURDEN TO PROVE THAT STATUS.

9 (B) FOR A MOTOR VEHICLE REGISTERED IN THE STATE ON THE DATE OF THE
10 OCCURRENCE OUT OF WHICH THE CAUSE OF ACTION AROSE, THE BURDEN OF PROOF
11 SHALL BE DEEMED SATISFIED WHEN THE PERSON ASSERTING THE UNINSURED
12 STATUS OF THE MOTOR VEHICLE INTRODUCES:

13 (1) A CERTIFIED COPY OF THE OFFICIAL RECORD OF THE MOTOR
14 VEHICLE ADMINISTRATION FOR THAT MOTOR VEHICLE INDICATING THE ABSENCE
15 OF A RECORD THAT THE MOTOR VEHICLE WAS COVERED BY THE SECURITY
16 REQUIRED BY § 17-104 OF THE TRANSPORTATION ARTICLE ON THE DATE OF THE
17 OCCURRENCE OUT OF WHICH THE CAUSE OF ACTION AROSE; OR

18 (2) A DENIAL OF COVERAGE BASED ON THE ABSENCE OF AN IN-FORCE
19 POLICY OF INSURANCE COVERING THE VEHICLE ON THE DATE OF THE OCCURRENCE
20 OUT OF WHICH THE CAUSE OF ACTION AROSE BY THE INSURER THAT HAS BEEN
21 IDENTIFIED AS THE INSURER OF THE MOTOR VEHICLE BY:

22 (I) BY THE MOTOR VEHICLE ADMINISTRATION; OR

23 (II) IN WRITING, IF ANY, BY THE DRIVER OR OWNER OF THE MOTOR
24 VEHICLE; AND

25 (III) IN A REPORT, IF ANY, PREPARED BY AN OFFICER OF A FEDERAL,
26 STATE, COUNTY, OR MUNICIPAL LAW ENFORCEMENT AGENCY WHO INVESTIGATED
27 THE OCCURRENCE OUT OF WHICH THE CAUSE OF ACTION AROSE.

28 (C) FOR A MOTOR VEHICLE REGISTERED OUTSIDE THE STATE ON THE DATE
29 OF THE OCCURRENCE OUT OF WHICH THE CAUSE OF ACTION AROSE, THE BURDEN
30 OF PROOF SHALL BE DEEMED SATISFIED WHEN THE PERSON ASSERTING THE
31 UNINSURED STATUS OF THE MOTOR VEHICLE INTRODUCES:

32 (1) A CERTIFIED COPY OF THE OFFICIAL RECORDS OF THE
33 GOVERNMENTAL UNIT, IF ANY, THAT REGULATES VEHICLES IN THE STATE IN WHICH
34 THE MOTOR VEHICLE WAS REGISTERED AT THE TIME OF THE OCCURRENCE OUT OF
35 WHICH THE CAUSE OF ACTION AROSE MAINTAINS RECORDS OF INSURANCE
36 COVERAGE FOR MOTOR VEHICLES REGISTERED IN THAT STATE INDICATING THE
37 ABSENCE OF A RECORD THAT THE MOTOR VEHICLE WAS COVERED BY INSURANCE
38 ON THE DATE OF THE OCCURRENCE OUT OF WHICH THE CAUSE OF ACTION AROSE;
39 OR

1 (2) A DENIAL OF COVERAGE BASED ON THE ABSENCE OF AN IN-FORCE
2 POLICY OF INSURANCE COVERING THE VEHICLE ON THE DATE OF THE OCCURRENCE
3 OUT OF WHICH THE CAUSE OF ACTION AROSE BY THE INSURER THAT HAS BEEN
4 IDENTIFIED AS THE INSURER OF THE VEHICLE BY:

5 (I) BY THE GOVERNMENTAL UNIT, IF ANY, THAT MAINTAINS
6 RECORDS OF WHETHER MOTOR VEHICLES IN THE STATE ARE INSURED;

7 (II) IN WRITING, IF ANY, BY THE DRIVER OR OWNER OF THE MOTOR
8 VEHICLE; OR AND

9 (III) IN A REPORT, IF ANY, PREPARED BY AN OFFICER OF A
10 FEDERAL, STATE, COUNTY, OR MUNICIPAL LAW ENFORCEMENT AGENCY WHO
11 INVESTIGATED THE OCCURRENCE OUT OF WHICH THE CAUSE OF ACTION AROSE.

12 (D) IF A PERSON SATISFIES THE BURDEN OF PROOF UNDER SUBSECTION ~~(C)~~
13 ~~OR (D)~~ (B) OR (C) OF THIS SECTION, THE FINDER OF FACT SHALL FIND THE MOTOR
14 VEHICLE AT ISSUE TO BE UNINSURED, UNLESS AN ADVERSE PARTY ESTABLISHES BY
15 A PREPONDERANCE OF THE EVIDENCE THAT THE MOTOR VEHICLE OR THE DRIVER
16 OF THE MOTOR VEHICLE WAS COVERED BY A VALID, ENFORCEABLE MOTOR VEHICLE
17 LIABILITY INSURANCE POLICY, BOND, OR SECURITY THAT PROVIDES COVERAGE FOR
18 THE OCCURRENCE OUT OF WHICH THE CAUSE OF ACTION AROSE.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
20 construed to apply only prospectively and may not be applied or interpreted to have
21 any effect on or application to any action filed before the effective date of this Act.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2005.