

HOUSE BILL 906

C4

9lr1528

By: **Delegates Hornberger, Arentz, Buckel, and Shoemaker**

Introduced and read first time: February 8, 2019

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Waiver of Personal Injury Protection**

3 FOR the purpose of requiring a written waiver of certain coverage to occur at certain times;
4 requiring that a written waiver of certain coverage be in the form of a manual
5 signature physically marked by a certain insured; repealing certain provisions of law
6 that provide that a certain waiver continues in force until withdrawn; exempting
7 certain written waivers from the provisions of a certain law authorizing signatures
8 and records to be in electronic form; altering the requirements for a certain policy
9 election form; making conforming changes; and generally relating to waivers of
10 personal injury protection coverage.

11 BY repealing and reenacting, with amendments,
12 Article – Insurance
13 Section 19–506 and 19–506.1
14 Annotated Code of Maryland
15 (2017 Replacement Volume and 2018 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Commercial Law
18 Section 21–106
19 Annotated Code of Maryland
20 (2013 Replacement Volume and 2018 Supplement)

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

23 **Article – Insurance**

24 19–506.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) **[If] AT THE TIME OF AN APPLICATION FOR A POLICY, OR ANY**
2 **RENEWAL OF OR CHANGE TO A POLICY, IF** the first named insured does not wish to
3 obtain the benefits described in § 19–505 of this subtitle, the first named insured shall
4 make an affirmative written waiver of those benefits.

5 **(2) THE WRITTEN WAIVER REQUIRED UNDER PARAGRAPH (1) OF THIS**
6 **SUBSECTION MUST BE IN THE FORM OF A MANUAL SIGNATURE PHYSICALLY MARKED**
7 **BY THE FIRST NAMED INSURED.**

8 **[(2)] (3)** If the first named insured does not make an affirmative written
9 waiver under this section, the insurer shall provide the coverage described in § 19–505 of
10 this subtitle.

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

- 13 (i) the first named insured’s policy;
- 14 (ii) any other motor vehicle liability insurance policy issued in the
15 State; or
- 16 (iii) another form of security used in place of a motor vehicle liability
17 insurance policy as authorized under § 17–103 of the Transportation Article.

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

- 20 (i) each named insured;
- 21 (ii) each listed driver; and
- 22 (iii) each member of the first named insured’s family residing in the
23 first named insured’s household who is at least 16 years old.

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

- 27 (i) is the first named insured under the other policy;
- 28 (ii) has not waived the benefits described in § 19–505 of this subtitle
29 under the other policy; and
- 30 (iii) is not a named insured under any other motor vehicle liability
31 insurance policy under which a waiver of the benefits described in § 19–505 of this subtitle
32 is in effect.

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

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

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

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

8 (i) the nature, extent, and cost of the coverage that would be
9 provided under the policy if not waived by the first named insured;

10 (ii) each effect of a waiver as stated in subsection (b) of this section;

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

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

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

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

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

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

24 19–506.1.

25 (a) (1) Notwithstanding §§ 19–505 and 19–506 of this subtitle, a first named
26 insured is not required to obtain coverage for the benefits described in §§ 19–505 and
27 19–506 of this subtitle under a motor vehicle liability insurance policy that:

28 (i) provides coverage that does not exceed the minimum liability
29 coverage specified in § 17–103(b) of the Transportation Article; and

30 (ii) 1. subject to paragraph (2) of this subsection, is issued, sold,
31 or delivered by the Maryland Automobile Insurance Fund; or

1 3. reject coverage for the benefits described in §§ 19–505 and
2 19–506 of this subtitle in accordance with this section; **AND**

3 (ii) the nature, extent, and cost of coverage for the benefits described
4 in §§ 19–505 and 19–506 of this subtitle if not rejected by the first named insured[;

5 (iii) that the election to reject coverage for the benefits described in
6 §§ 19–505 and 19–506 of this subtitle in accordance with this section is effective until the
7 end of the policy’s term unless the first named insured:

8 1. withdraws the rejection in writing;

9 2. obtains a motor vehicle liability insurance policy for the
10 insured motor vehicle from another insurer; or

11 3. increases any coverage under the policy to an amount that
12 exceeds the minimum liability coverage specified in § 17–103(b) of the Transportation
13 Article; and

14 (iv) that on renewal of the policy, unless the first named insured
15 notifies the insurer in writing that the first named insured wishes to obtain coverage for
16 the benefits described in § 19–505 of this subtitle, the insurer shall provide the coverage
17 described in § 19–506 of this subtitle.

18 (d) (1) A rejection of coverage for the benefits described in §§ 19–505 and
19 19–506 of this subtitle in accordance with this section is effective until the end of the policy’s
20 term unless the first named insured:

21 (i) withdraws the rejection in writing;

22 (ii) obtains a motor vehicle liability insurance policy for the insured
23 motor vehicle from another insurer; or

24 (iii) increases any coverage under the policy to an amount that
25 exceeds the minimum liability coverage specified in § 17–103(b) of the Transportation
26 Article.

27 (2) On renewal of the policy, unless the first named insured notifies the
28 insurer in writing that the first named insured wishes to obtain coverage for the benefits
29 described in § 19–505 of this subtitle, the insurer shall provide the coverage described in §
30 19–506 of this subtitle].

31 **Article – Commercial Law**

32 21–106.

33 **(A) THIS SECTION DOES NOT APPLY TO A WRITTEN WAIVER REQUIRED**

1 UNDER § 19-506(A) OF THE INSURANCE ARTICLE.

2 [(a)] (B) A record or signature may not be denied legal effect or enforceability
3 solely because it is in electronic form.

4 [(b)] (C) A contract may not be denied legal effect or enforceability solely because
5 an electronic record was used in its formation.

6 [(c)] (D) If a law requires a record to be in writing, an electronic record satisfies
7 the law.

8 [(d)] (E) If a law requires a signature, an electronic signature satisfies the law.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2019.