

defendant insurer to prove by a preponderance of the evidence that either the vehicle or the driver had insurance coverage.

I am unconvinced there is a problem with proving uninsured motorist status. The burden shifting provided for in House Bill 1162 could create confusion where none now exists. At both committee hearings representatives of the Maryland Trial Lawyers testified in favor of the bill and a representative from the Maryland Automobile Insurance Fund testified (MAIF) in opposition. In the Senate a representative from Nationwide Insurance supported the bill with amendments. Remarkably, the rest of the insurance industry did not take a position on this bill. As MAIF states in its veto request: "The proponents of HB 1162, before both the House and the Senate, did not describe one single incident or anecdote of injustice under the current system."

House Bill 1162 contains the following flaws. First, it does not require sworn testimony of the alleged uninsured motorist, the person who is in the best position to know whether there was any insurance coverage. Second, the fact that a vehicle may not be insured does not mean that the driver does not have insurance. This bill ignores this fact. Third, records of the MVA and insurance carriers may be in error and are not an adequate substitute for the sworn testimony of the driver. Fourth, MVA records often do not reflect a driver's recent changes in an insurance carrier. Fifth, the bill allows a police report to be admissible evidence on the issue of insurance coverage. This is very unreliable evidence on this subject.

House Bill 1162 may result in some indeterminate increase in payments by MAIF. This would result in increased rates for the insureds of MAIF, whose drivers now are paying very high rates. I am sympathetic, however, if there are problems with proving lack of insurance for purposes of claiming uninsured motorist coverage. I would hope that the parties would work together for an agreeable solution.

For the above stated reasons, I have vetoed House Bill 1162.

Very truly yours,
Robert L. Ehrlich, Jr.
Governor

House Bill No. 1162

AN ACT concerning

Civil Actions - Burden of Proof - Uninsured Motorist Coverage

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