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## HOUSE BILL NO. 1305

House Amendments in [ ] — February 10, 1996

*A BILL to amend and reenact § 38.2-2201 of the Code of Virginia, relating to motor vehicle insurance; payment of medical expense benefits.*

Patrons—Deeds, Kilgore, McEachin, Mims and Robinson; Senators: Earley, Edwards, Marsh, Norment and Trumbo

Referred to Committee on Corporations, Insurance and Banking

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-2201 of the Code of Virginia is amended and reenacted as follows:**

§ 38.2-2201. Provisions for payment of medical expense and loss of income benefits.

A. Upon request of an insured, each insurer licensed in this Commonwealth issuing or delivering any policy or contract of bodily injury or property damage liability insurance covering liability arising from the ownership, maintenance or use of any motor vehicle shall provide on payment of the premium, as a minimum coverage (i) to persons occupying the insured motor vehicle; and (ii) to the named insured and, while resident of the named insured's household, the spouse and relatives of the named insured while in or upon, entering or alighting from or through being struck by a motor vehicle while not occupying a motor vehicle, the following health care and disability benefits for each accident:

1. All reasonable and necessary expenses for medical, chiropractic, hospital, dental, surgical, ambulance, prosthetic and rehabilitation services, and funeral expenses, resulting from the accident and incurred within three years after the date of the accident, up to \$2,000 per person; however, if the insured does not elect to purchase such limit the insurer and insured may agree to any other limit; and

2. If the person is usually engaged in a remunerative occupation, an amount equal to the loss of income incurred after the date of the accident resulting from injuries received in the accident up to \$100 per week during the period from the first workday lost as a result of the accident up to the date the person is able to return to his usual occupation. However, the period shall not extend beyond one year from the date of the accident.

B. The insured has the option of purchasing either or both of the coverages set forth in subdivisions 1 and 2 of subsection A of this section. Either or both of the coverages, as well as any other medical expense or loss of income coverage under any policy of automobile liability insurance, shall be payable notwithstanding the failure or refusal of the named insured or other person entitled to the coverage to give notice to the insurer of an accident as soon as practicable under the terms of the policy, except where the failure or refusal prejudices the insurer in establishing the validity of the claim.

C. In any policy of personal automobile insurance in which the insured has purchased coverage under subsection A of this section, every insurer providing such coverage arising from the ownership, maintenance or use of no more than four motor vehicles shall be liable to pay up to the maximum policy limit available on every motor vehicle insured under that coverage if the health care or disability expenses and costs mentioned in subsection A of this section exceed the limits of coverage for any one motor vehicle so insured.

D. The provisions for payment of medical expense and loss of income benefits set forth in subdivisions 1 and 2 of subsection A may not be qualified, limited or reduced by exclusion [ ], except as to bodily injury sustained as follows:

1. By any person who intentionally causes injury to himself or to herself;  
2. By any person to the extent that benefits therefore are in whole or in part payable pursuant to workers' compensation law;

3. While occupying the insured motor vehicle while used as a public or livery conveyance, unless the insured motor vehicle is designated in the policy as a public or livery conveyance;

4. By any person while occupying a motor vehicle, unless such person has or reasonably believes he has the permission of the owner to use such motor vehicle and the use is within the scope of such permission;

5. By the named insured or any relative residing in the same household as the named insured, while occupying a motor vehicle owned by or furnished for the regular use of the injured claimant or owned by the named insured or any such relative, and which is not a motor vehicle insured under the terms of the policy whereunder coverage is sought;

6. As the result of war, including civil war, insurrection, rebellion or revolution, or any act or condition incident to any of the foregoing;

7. As to loss of income benefits described by subdivision A 2 only: by any person in the course of

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60 *his or her occupation while engaged in duties incident to the operation, loading or unloading of, or as*  
61 *an assistant on a public or livery conveyance or commercial automobile, or in duties incident to the*  
62 *repair or servicing of automobiles; or*  
63 *8. As to a policy or motor vehicle insurance against legal liability of the insured as defined in*  
64 *§ 38.2-124 insuring a business entity only: by any person, other than the named insured or any family*  
65 *member, if that person is entitled to medical expense or loss of income benefits as a named insured or*  
66 *family member under the terms of any other policy providing similar coverage ] .*  
67 **2. That the provisions of this act are declarative of existing law.**