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HOUSE BILL NO. 1405

Offered January 22, 1996

A *BILL to amend and reenact §§ 38.2-124 and 38.2-2201 of the Code of Virginia, relating to motor vehicle insurance; medical payments and expense coverage.*

Patrons—Putney, Griffith and McEachin; Senators: Marsh and Stolle

Referred to Committee on Corporations, Insurance and Banking

Be it enacted by the General Assembly of Virginia:**1. That §§ 38.2-124 and 38.2-2201 of the Code of Virginia are amended and reenacted as follows:**

§ 38.2-124. Motor vehicle.

A. "Motor vehicle insurance" means insurance against:

1. Loss of or damage to motor vehicles, including trailers, semitrailers or other attachments designed for use in connection with motor vehicles, resulting from any cause, and against legal liability of the insured for loss or damage to the property of another resulting from the ownership, maintenance or use of motor vehicles and against loss, damage or expense incident to a claim of such liability; or

2. Legal liability of the insured, and liability arising under subsection A of § 38.2-2206 and against loss, damage, or expense incident to a claim of such liability, arising out of the death or injury of any person resulting from the ownership, maintenance or use of motor vehicles. Motor vehicle insurance does not include any class of insurance specified in § 38.2-119.

B. Any policy of "motor vehicle insurance" covering legal liability of the insured under subdivision 2 of subsection A and covering liability arising under subsection A of § 38.2-2206 may include appropriate provisions obligating the insurer to pay *to the insured* medical expense and loss of income benefits arising out of the death or injury of any person, as set forth in subsection A of § 38.2-2201. Any such policy of motor vehicle insurance may include appropriate provisions obligating the insurer to pay weekly indemnity or other specific benefits to persons who are injured and specific death benefits to dependents, beneficiaries or personal representatives of persons who are killed, if the injury or death is caused by accident and sustained while in or upon, entering or alighting from, or through being struck by a motor vehicle while not occupying a motor vehicle. These provisions shall obligate the insurer to make payment regardless of any legal liability of the insured or any other person.

§ 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 *to the insured* 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

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60 motor vehicle so insured.