

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 918

An Act to amend and reenact § 38.2-2232 of the Code of Virginia, relating to liability insurance; private pleasure watercraft; optional uninsured private pleasure watercraft coverage.

[H 2292]

Approved March 29, 1999

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-2232 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-2232. Liability insurance on private pleasure watercraft; optional coverage.

A. Every insurer issuing a new or renewal policy or contract covering liability arising from the ownership, maintenance or use of a private pleasure watercraft shall offer, in writing, to the named insured the option of purchasing coverage ~~undertaking to pay all sums the insured is legally entitled to recover~~ as for damages which the insured is legally entitled to recover from the owner or operator of an uninsured private pleasure watercraft arising out of the ownership, maintenance, or use of such uninsured watercraft. Such insurer shall be required to offer limits of liability for uninsured private pleasure watercraft coverage equal to the limits of the liability insurance provided by the policy. However, no insurer shall be required to pay damages for uninsured private pleasure watercraft coverage in excess of the limits of uninsured private pleasure watercraft coverage provided by the policy. Uninsured private pleasure watercraft coverage shall include coverage for bodily injury and property damage liability; provided, however, that such property damage liability coverage shall be excess over any other valid and collectible insurance of any kind applicable to the property. Insurers issuing or providing liability policies that are of an excess or umbrella type or which provide liability coverage incidental to a policy not related to a specifically insured private pleasure watercraft shall not be required to offer, provide or make available to those policies uninsured private pleasure watercraft coverage.

For purposes of this section, a "new or renewal policy or contract covering liability arising from the ownership, maintenance or use of a private pleasure watercraft" shall mean and include only a policy or contract of marine protection and indemnity insurance, as defined in subsection B of § 38.2-126, written as a separate policy, which is not in combination with any other class of insurance defined in Article 2 (§ 38.2-200 et seq.) of Chapter 1 of this title, to insure a private pleasure watercraft.

For purposes of this section, "uninsured private pleasure watercraft" means a private pleasure watercraft for which there is no ~~liability~~ valid insurance policy or contract covering liability arising from the ownership, maintenance, or use of such private pleasure watercraft in effect at the time liability is incurred. Such term does not, however, include any watercraft owned by, furnished to, or available for the regular use of any insured, or owned by any governmental unit or agency.

B. If any action is instituted against an owner or operator of an uninsured private pleasure watercraft by any insured intending to rely on the coverage required by this section, then the insured shall serve a copy of the process upon the insurer in the manner prescribed by law, as though the insurer were a party defendant, but the provisions of § 8.01-288 shall not be applicable to service of process under this section. The insurer shall then have the right to file pleadings and take other actions allowable by law in the name of the owner or operator of the uninsured private pleasure watercraft or in its own name.

Any insurer paying a claim under coverage required by this section shall be subrogated to the rights of the insured to the extent of any payment on such claim.