



# House of Representatives

General Assembly

**File No. 604**

January Session, 2001

Substitute House Bill No. 6773

*House of Representatives, May 3, 2001*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING THE RIGHTS OF PERSONS INJURED BY UNINSURED AND UNDERINSURED DRIVERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (e) of section 38a-363 of the general statutes is  
2 repealed and the following is substituted in lieu thereof:

3 (e) "Private passenger motor vehicle" means a: (1) Private passenger  
4 type automobile; (2) station-wagon-type automobile; (3) camper-type  
5 motor vehicle; (4) high-mileage-type motor vehicle, as defined in  
6 section 14-1; (5) truck-type motor vehicle with a load capacity of fifteen  
7 hundred pounds or less, registered as a passenger motor vehicle, as  
8 defined in said section, or as a passenger and commercial motor  
9 vehicle, as defined in said section, or used for farming purposes; or (6)  
10 a vehicle with a commercial registration, as defined in subdivision (12)  
11 of said section, or a vehicle with a municipal registration that is  
12 designed and suitable for use on a highway. It does not include a  
13 motorcycle or motor vehicle used as a public or livery conveyance.

14       Sec. 2. Section 38a-336 of the general statutes is amended by adding  
15 subsection (h) as follows:

16       (NEW) (h) There shall be a presumption that a tortfeasor is  
17 uninsured if an injured person provides a sworn, written statement to  
18 the insurer providing uninsured motorist coverage to such injured  
19 person that such injured person is unable to determine whether the  
20 tortfeasor was uninsured at the time of the accident that caused such  
21 person's injuries. Such sworn, written statement shall contain: (1) A  
22 statement by the injured person or such injured person's legal  
23 representative that, after reasonable efforts have been made, it cannot  
24 be determined whether the tortfeasor was insured at the time of the  
25 accident; and (2) a listing of the measures taken to ascertain whether  
26 the tortfeasor was insured at the time of the accident. If, at the time of  
27 the accident, the tortfeasor presented an insurance identification card  
28 to the investigating police officer, the injured person or such injured  
29 person's legal representative shall present documentation or  
30 information from the insurer designated in such insurance card that  
31 confirms that the tortfeasor was not insured by that insurer at the time  
32 of the accident. The insurer providing uninsured motorist coverage to  
33 such injured person may rebut such presumption by providing written  
34 information to its insured that provides the names of all liability  
35 insurance companies that provided coverage to the tortfeasor at the  
36 time of the accident and the applicable policy numbers and amounts of  
37 liability coverage.

38       Sec. 3. This act shall take effect July 1, 2001, and shall be applicable  
39 to any claim or cause of action that accrues on or after said date.

**JUD**       *Joint Favorable Subst.*

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The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** Potential Revenue Gain

**Affected Agencies:** None

**Municipal Impact:** Potential Cost

**Explanation**

**State Impact:**

The bill specifies that a car accident victim's own uninsured motorist coverage will go into effect if the victim cannot determine and inform his insurer that the other driver that caused the accident has uninsured motorist coverage. There is no fiscal impact for the Department of Insurance as a result of this bill.

The bill defines a vehicle with a municipal registration that is designed and suitable for use on a highway as a "private passenger motor vehicle." The bill subjects these municipal vehicles to other regulatory laws including those requiring possession of an insurance identification card. There is a potential revenue gain to the state if municipal vehicles are detained and fail to possess an insurance identification card. The first offense has a fine of \$35. Each subsequent violation has a fine of \$50.

**Municipal Impact:**

There is a potential cost for municipalities if municipal vehicles are

detained and do not contain an insurance identification card. The amount of costs cannot be determined.

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**OLR Bill Analysis**

sHB 6773

***AN ACT CONCERNING THE RIGHTS OF PERSONS INJURED BY UNINSURED AND UNDERINSURED DRIVERS.***

**SUMMARY:**

This bill creates a rebuttable presumption that a car accident victim's injuries were caused by an uninsured (UM) or underinsured motorist (UIM), thus triggering coverage under his UM/UIM policy. It specifies actions that the insured must first take to establish the presumption and how his insurer can overcome it.

It also extends compulsory liability insurance coverage requirements to all municipally registered vehicles designed and suitable for use on a road, rather than only those that fall within the existing definition of "private passenger motor vehicle." In doing so, it entitles more municipal employees and passengers injured in accidents involving uninsured or underinsured drivers to receive payment under the town's UM/UIM policy or self-insured plan.

By defining these vehicles as private passenger motor vehicles, the bill also subjects them to other regulatory laws, including those requiring proof of insurance and imposing penalties on drivers who fail to carry an insurance identification card. (Failing to carry the card is an infraction, punishable by a fine of \$35 for a first offense and \$50 for each subsequent violation.) The vehicles cannot be registered unless they meet the insurance requirement.

The bill applies to claims and causes of action arising after June 30, 2001.

EFFECTIVE DATE: July 1, 2001

**PRESUMPTION OF UNINSURED/UNDERINSURED STATUS**

The bill allows accident victims to provide their UM/UIM carrier with a statement describing their unsuccessful efforts to ascertain whether the other driver was insured at the time of the accident, and establishes the presumption that he was not insured when they do so. The statement must be in writing and made under oath. It must contain:

1. a statement by the accident victim or his legal representative that, after making reasonable efforts, he cannot determine whether the driver was insured at the time of the accident, and
2. a list of these efforts.

The bill specifies another requirement for accidents where the driver presented an insurance card to an investigating police officer. In that case, the victim or his legal representative must also give the UM/UIM carrier written confirmation from the insurer named on the card that it did not insure the driver at the time of the accident.

### ***Overcoming the Presumption***

The bill permits the UM/UIM carrier to overcome the presumption by giving the policyholder a written list of (1) all liability insurance companies that covered the driver at the time of the accident, (2) policy numbers, and (3) liability coverage limits of each policy.

### **COMPULSORY LIABILITY INSURANCE**

By law, vehicles that insurance laws define as private passenger motor vehicles must maintain minimum insurance coverage levels, including UM/UIM coverage, continuously during the registration period. Currently, a private passenger motor vehicle for this purpose is a: (1) private-passenger-type automobile; (2) station-wagon-type automobile; (3) camper-type motor vehicle; (4) high mileage vehicle; (5) truck-type vehicle with a load capacity of 1,500 pounds or less registered as a passenger, "combination" passenger and commercial, or farm vehicle; or (6) vehicle with a commercial registration. Motorcycles and motor vehicles used as a public or livery conveyance are excluded.

Municipal vehicles that are not currently required to maintain this

coverage, but must to do so under the bill, include police and fire emergency vehicles, garbage trucks, street sweepers, and snow removal vehicles.

By law, minimum coverage requirements for each vehicle are \$20,000 for death or injury to any one person and \$40,000 for death or injury to more than one person in a single accident.

**BACKGROUND**

***Court Decision***

The Connecticut Supreme Court recently ruled that a firefighter injured when the city-owned fire emergency vehicle he was driving collided with another vehicle could not make a claim against the city’s self-insured UM/UIM plan. It concluded that the vehicle he was driving did not meet the definition of “private passenger motor vehicle” triggering such coverage (*Willoughby v. City of New Haven*, 254 Conn. 404 (2000)).

***Related Bill***

sSB 284, reported favorably by the Transportation Committee (File 364) eliminates the existing private passenger motor vehicle definition and exempts all vehicles owned by the federal government, the state, or any municipality from the compulsory insurance requirements.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 34    Nay 3