



General Assembly

February Session, 2002

**Raised Bill No. 5745**

LCO No. 2471

Referred to Committee on Judiciary

Introduced by:  
(JUD)

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

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

1 Section 1. Subsection (e) of section 38a-336 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2002, and applicable to causes of action accruing on or after said*  
4 *date*):

5 (e) For the purposes of this section, an "underinsured motor vehicle"  
6 means a motor vehicle with respect to which the sum of the limits of  
7 liability under all bodily injury liability bonds and insurance policies  
8 applicable at the time of the accident is less than the applicable limits  
9 of liability under the uninsured motorist portion of the policy against  
10 which claim is made under subsection (b) of this section. If the  
11 uninsured and underinsured motorist portion of the policy against  
12 which claim is made under subsection (b) of this section provides  
13 separate per person and per occurrence limits and the applicable  
14 automobile liability insurance policy provides a single limit or per  
15 occurrence bodily injury limit, the per occurrence limit of the  
16 uninsured and underinsured motorist portion of the policy shall be

17 deemed the applicable limit for determination of whether the motor  
18 vehicle of the tortfeasor is underinsured, except that in no event shall  
19 the claimant be entitled to uninsured and underinsured motorist  
20 benefits in an amount greater than the per person limit of the  
21 uninsured and underinsured motorist portion of such policy.

22 Sec. 2. Section 38a-336 of the general statutes is amended by adding  
23 subsection (h) as follows (*Effective October 1, 2002, and applicable to*  
24 *causes of action accruing on or after said date*):

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

This act shall take effect as follows:	
Section 1	<i>October 1, 2002, and applicable to causes of action accruing on or after said date</i>
Sec. 2	<i>October 1, 2002, and applicable to causes of action accruing on or after said date</i>

**Statement of Purpose:**

To allow an injured person to make a claim for underinsured motorists coverage from his or her own insurance company when the injured person's per occurrence underinsured motorist coverage exceeds the tortfeasor's per occurrence liability coverage and to establish a presumption that a tortfeasor is uninsured when an injured person provides certain information to his or her uninsured motorist insurance company.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*