



House of Representatives

General Assembly

File No. 501

February Session, 2006

Substitute House Bill No. 5730

House of Representatives, April 12, 2006

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 PRESUMPTION OF UNINSURED OR UNDERINSURED MOTORIST STATUS OF A TORTFEASOR AFTER REASONABLE SEARCH BY THE INSURED.

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

1 Section 1. Section 38a-336 of the general statutes is amended by
2 adding subsection (h) as follows (*Effective October 1, 2006, and applicable*
3 *to causes of action accruing on or after said date*):

4 (NEW) (h) (1) There shall be a presumption that a tortfeasor was
5 uninsured or underinsured for purposes of a claim if an insured
6 submits to the insured's automobile liability insurance company (A) a
7 sworn, written statement that the insured is unable to determine if the
8 tortfeasor was insured at the time of the accident, and (B) any
9 documentation or information required under subdivision (2) of this
10 subsection. The sworn, written statement shall contain: (i) A statement
11 by the insured or such insured's legal representative that, after
12 reasonable efforts were made, it could not be determined whether the
13 tortfeasor was insured at the time of the accident; and (ii) a list of the

14 reasonable efforts made to determine whether the tortfeasor was
 15 insured at the time of the accident, such efforts to include, but not be
 16 limited to, proof of the mailing by certified mail to the last known
 17 address of the tortfeasor of a letter requesting an affidavit signed by
 18 the tortfeasor, or the tortfeasor's legal representative, indicating
 19 whether or not the tortfeasor was insured at the time of the accident.

20 (2) If, at the time of the accident, the tortfeasor presented an
 21 insurance identification card to the investigating police officer, the
 22 insured or the insured's legal representative shall present
 23 documentation or information from the insurer identified on the
 24 insurance identification card that confirms that the tortfeasor was not
 25 insured by that insurer at the time of the accident.

26 (3) An automobile liability insurance company may rebut such
 27 presumption by providing the insured with written evidence that the
 28 tortfeasor was insured at the time of the accident. Such written
 29 evidence shall include the names of all automobile liability insurance
 30 companies that insured the tortfeasor at the time of the accident, the
 31 applicable policy numbers and the limits of liability under all bodily
 32 injury liability bonds and insurance policies applicable at the time of
 33 the accident.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006, and applicable to causes of action accruing on or after said date</i>	38a-336

JUD *Joint Favorable Subst.*

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:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes limited changes to the property and casualty insurance statutes which have no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 5730

AN ACT CONCERNING THE PRESUMPTION OF UNINSURED OR UNDERINSURED MOTORIST STATUS OF A TORTFEASOR AFTER REASONABLE SEARCH BY THE INSURED.

SUMMARY:

This bill establishes a presumption that a tortfeasor (person responsible for a motor vehicle accident) was uninsured or underinsured for purposes of a claim if an insured submits to his automobile liability insurance company a sworn, written statement that he is unable to determine if the tortfeasor was insured at the time of the accident. If at the time of the accident, the tortfeasor presented an insurance identification card to the investigating police officer, the bill also requires the insured or his legal representative to present documentation or information from the insurer identified on the card that confirms that the tortfeasor was not insured by that insurer when the accident occurred in order for the presumption to apply.

The bill allows an automobile liability insurance company to rebut this presumption by providing the insured with written evidence that the tortfeasor was insured at the time of the accident. The written evidence must include the names of all automobile liability insurance companies that insured the tortfeasor at the time of the accident, the applicable policy numbers, and the limits of liability under all bodily injury liability bonds and insurance policies that applied when the accident occurred.

EFFECTIVE DATE: October 1, 2006, and applicable to causes of action on or after that date.

SWORN WRITTEN STATEMENT

The bill requires that the sworn, written statement contain (1) a statement by the insured or his legal representative that, after reasonable efforts were made, it could not be determined whether the tortfeasor was insured at the time of the accident and (2) a list of the reasonable efforts made to determine whether the tortfeasor was insured at the time of the accident.

The bill specifies that these reasonable efforts must include proof that a letter was sent by certified mail to the tortfeasor's last known address asking him, or his legal representative, to sign an affidavit indicating whether the tortfeasor was insured at the time of the accident.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 28 Nay 12 (03/27/2006)