

STATEMENT

Insurance Association of Connecticut Judiciary Committee

March 24, 2006

HB 5730, An Act Concerning The Presumption of Uninsured Motorist Status of a Tortfeasor After Reasonable Search By the Insured

The Insurance Association of Connecticut is opposed to HB 5730- An Act Concerning The Presumption of Uninsured Motorist Status of a Tortfeasor After Reasonable Search By the Insured. HB 5730 seeks to shift the burden of proof in making a claim for uninsured motorist coverage from the insured to the insurer which is contrary to current law and the law in 42 other states. Like any other line of insurance the burden is on the insured, via their contractual obligations with the insurer, to prove he has a viable claim to trigger coverage. HB 5730 improperly seeks to shift that burden to the carrier providing coverage, changing the fundamental nature of insurance.

Uninsured motorist coverage provides coverage in the event that a named insured is involved in an accident with another person for whom there is no liability insurance available. Currently to trigger the applicability of uninsured motorist coverage, an insured must prove that an event occurred in which the operator of another motor vehicle was responsible for the event and that individual did not have insurance. The insured must establish that the individual did not have any applicable liability insurance in order to pursue a claim for uninsured motorist coverage.

Pursuant to HB 5730 an insured would have to do little before presenting a claim for uninsured motorist benefits. Although the burden of proof should rest with the party bringing an action, HB 5730 seeks to change that for no demonstrated reason while creating an extremely burdensome and restrictive standard to overcome the presumption of coverage.

The proponents of HB 5730 erroneously presume insurers have greater access to information. The only way an insurer can overcome the presumption of coverage created by HB 5730 is to provide, in writing, information the insurer cannot obtain without initiating legal action. Such will result in unnecessary delays preventing timely settlements and increase administrative costs. Furthermore, HB 5730 requires that insurers affirmatively find and prove that there is liability insurance coverage available for the insured. The information required to prove the existence of coverage rests solely within the control of the insured, i.e. date of loss, specifics of the accident, description and information regarding the other vehicle and operator.

Finally, HB 5730 will be an invitation to fraud creating the potential for improper uninsured motorist coverage payouts. For example, an individual has a one-car accident as a result of their own negligence. The insured now can simply claim a phantom vehicle caused the accident. An insurer will never be able to overcome the presumption created by HB 5730 and will be forced to pay uninsured motorist benefits. Therefore, HB 5730 will result in a cost shift that will be borne by all insureds.

The IAC strongly urges your rejection of HB 5730 as it is bad public policy.