



Senate

General Assembly

February Session, 2008

File No. 167

Senate Bill No. 314

Senate, March 26, 2008

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING NOTIFICATION OF UNDERINSURED MOTORIST CONVERSION COVERAGE.

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 Section 38a-336 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 (a) (1) Each automobile liability insurance policy shall provide
4 insurance, herein called uninsured and underinsured motorist
5 coverage, in accordance with the regulations adopted pursuant to
6 section 38a-334, with limits for bodily injury or death not less than
7 those specified in subsection (a) of section 14-112, for the protection of
8 persons insured thereunder who are legally entitled to recover
9 damages from owners or operators of uninsured motor vehicles and
10 underinsured motor vehicles and insured motor vehicles, the insurer
11 of which becomes insolvent prior to payment of such damages,
12 because of bodily injury, including death resulting therefrom. Each
13 insurer licensed to write automobile liability insurance in this state
14 shall provide uninsured and underinsured motorists coverage with

15 limits requested by any named insured upon payment of the
16 appropriate premium, provided each such insurer shall offer such
17 coverage with limits that are twice the limits of the bodily injury
18 coverage of the policy issued to the named insured. The insured's
19 selection of uninsured and underinsured motorist coverage shall apply
20 to all subsequent renewals of coverage and to all policies or
21 endorsements which extend, change, supersede or replace an existing
22 policy issued to the named insured, unless changed in writing by any
23 named insured. No insurer shall be required to provide uninsured and
24 underinsured motorist coverage to (A) a named insured or relatives
25 residing in his household when occupying, or struck as a pedestrian
26 by, an uninsured or underinsured motor vehicle or a motorcycle that is
27 owned by the named insured, or (B) any insured occupying an
28 uninsured or underinsured motor vehicle or motorcycle that is owned
29 by such insured.

30 (2) Notwithstanding any provision of this section to the contrary,
31 each automobile liability insurance policy issued or renewed on and
32 after January 1, 1994, shall provide uninsured and underinsured
33 motorist coverage with limits for bodily injury and death equal to
34 those purchased to protect against loss resulting from the liability
35 imposed by law unless any named insured requests in writing a lesser
36 amount, but not less than the limits specified in subsection (a) of
37 section 14-112. Such written request shall apply to all subsequent
38 renewals of coverage and to all policies or endorsements which extend,
39 change, supersede or replace an existing policy issued to the named
40 insured, unless changed in writing by any named insured. No such
41 written request for a lesser amount shall be effective unless any named
42 insured has signed an informed consent form which shall contain: (A)
43 An explanation of uninsured and underinsured motorist insurance
44 approved by the commissioner, and underinsured motorist conversion
45 coverage, as provided in section 38a-336a, as amended by this act; (B) a
46 list of uninsured and underinsured motorist coverage options,
47 including underinsured motorist conversion coverage, available from
48 the insurer; and (C) the premium cost for each of the coverage options
49 available from the insurer. Such informed consent form shall contain a

50 heading in twelve-point type and shall state: "WHEN YOU SIGN THIS
51 FORM, YOU ARE CHOOSING A REDUCED PREMIUM, BUT YOU
52 ARE ALSO CHOOSING NOT TO PURCHASE CERTAIN VALUABLE
53 COVERAGE WHICH PROTECTS YOU AND YOUR FAMILY. IF YOU
54 ARE UNCERTAIN ABOUT HOW THIS DECISION WILL AFFECT
55 YOU, YOU SHOULD GET ADVICE FROM YOUR INSURANCE
56 AGENT OR ANOTHER QUALIFIED ADVISER."

57 (b) An insurance company shall be obligated to make payment to its
58 insured up to the limits of the policy's uninsured and underinsured
59 motorist coverage after the limits of liability under all bodily injury
60 liability bonds or insurance policies applicable at the time of the
61 accident have been exhausted by payment of judgments or settlements,
62 but in no event shall the total amount of recovery from all policies,
63 including any amount recovered under the insured's uninsured and
64 underinsured motorist coverage, exceed the limits of the insured's
65 uninsured and underinsured motorist coverage. In no event shall there
66 be any reduction of uninsured or underinsured motorist coverage
67 limits or benefits payable for amounts received by the insured for
68 Social Security disability benefits paid or payable pursuant to the
69 Social Security Act, 42 USC Section 301, et seq. The limitation on the
70 total amount of recovery from all policies shall not apply to
71 underinsured motorist conversion coverage purchased pursuant to
72 section 38a-336a, as amended by this act.

73 (c) Each automobile liability insurance policy issued on or after
74 October 1, 1971, which contains a provision for binding arbitration
75 shall include a provision for final determination of insurance coverage
76 in such arbitration proceeding. With respect to any claim submitted to
77 arbitration on or after October 1, 1983, the arbitration proceeding shall
78 be conducted by a single arbitrator if the amount in demand is forty
79 thousand dollars or less or by a panel of three arbitrators if the amount
80 in demand is more than forty thousand dollars.

81 (d) Regardless of the number of policies issued, vehicles or
82 premiums shown on a policy, premiums paid, persons covered,

83 vehicles involved in an accident, or claims made, in no event shall the
84 limit of liability for uninsured and underinsured motorist coverage
85 applicable to two or more motor vehicles covered under the same or
86 separate policies be added together to determine the limit of liability
87 for such coverage available to an injured person or persons for any one
88 accident. If a person insured for uninsured and underinsured motorist
89 coverage is an occupant of a nonowned vehicle covered by a policy
90 also providing uninsured and underinsured motorist coverage, the
91 coverage of the occupied vehicle shall be primary and any coverage for
92 which such person is a named insured shall be secondary. All other
93 applicable policies shall be excess. The total amount of uninsured and
94 underinsured motorist coverage recoverable is limited to the highest
95 amount recoverable under the primary policy, the secondary policy or
96 any one of the excess policies. The amount paid under the excess
97 policies shall be apportioned in accordance with the proportion that
98 the limits of each excess policy bear to the total limits of the excess
99 policies. If any person insured for uninsured and underinsured
100 motorist coverage is an occupant of an owned vehicle, the uninsured
101 and underinsured motorist coverage afforded by the policy covering
102 the vehicle occupied at the time of the accident shall be the only
103 uninsured and underinsured motorist coverage available.

104 (e) For the purposes of this section, an "underinsured motor vehicle"
105 means a motor vehicle with respect to which the sum of the limits of
106 liability under all bodily injury liability bonds and insurance policies
107 applicable at the time of the accident is less than the applicable limits
108 of liability under the uninsured motorist portion of the policy against
109 which claim is made under subsection (b) of this section.

110 (f) Notwithstanding subsection (a) of section 31-284, an employee of
111 a named insured injured while occupying a covered motor vehicle in
112 the course of employment shall be covered by such insured's otherwise
113 applicable uninsured and underinsured motorist coverage.

114 (g) (1) No insurance company doing business in this state may limit
115 the time within which any suit may be brought against it or any

116 demand for arbitration on a claim may be made on the uninsured or
117 underinsured motorist provisions of an automobile liability insurance
118 policy to a period of less than three years from the date of accident,
119 provided, in the case of an underinsured motorist claim the insured
120 may toll any applicable limitation period (A) by notifying such insurer
121 prior to the expiration of the applicable limitation period, in writing, of
122 any claim which the insured may have for underinsured motorist
123 benefits and (B) by commencing suit or demanding arbitration under
124 the terms of the policy not more than one hundred eighty days from
125 the date of exhaustion of the limits of liability under all automobile
126 bodily injury liability bonds or automobile insurance policies
127 applicable at the time of the accident by settlements or final judgments
128 after any appeals.

129 (2) Notwithstanding the provisions of subdivision (1) of this
130 subsection, in the case of an uninsured motorist claim, if the motor
131 vehicle of a tortfeasor is an uninsured motor vehicle because the
132 automobile liability insurance company of such tortfeasor becomes
133 insolvent or denies coverage, no insurance company doing business in
134 this state may limit the time within which any suit may be brought
135 against it or any demand for arbitration on a claim may be made on
136 the uninsured motorist provisions of an automobile liability insurance
137 policy to a period of less than one year from the date of receipt by the
138 insured of written notice of such insolvency of, or denial of coverage
139 by, such automobile liability insurance company.

140 Sec. 2. Section 38a-336a of the general statutes is repealed and the
141 following is substituted in lieu thereof (*Effective October 1, 2008*):

142 (a) Each insurer licensed to write automobile liability insurance in
143 this state shall offer, for an additional premium, underinsured motorist
144 conversion coverage with limits in accordance with section 38a-336, as
145 amended by this act. The purchase of such underinsured motorist
146 conversion coverage shall be in lieu of underinsured motorist coverage
147 pursuant to section 38a-336, as amended by this act.

148 (b) The availability and premium cost of underinsured motorist

149 conversion coverage and the benefits afforded by such coverage shall
 150 be clearly disclosed to an insured at the time of purchase. Such
 151 information shall also be included in the informed consent form
 152 specified in subdivision (2) of subsection (a) of section 38a-336, as
 153 amended by this act.

154 [(b)] (c) Such coverage shall provide for the protection of persons
 155 insured thereunder who are legally entitled to recover damages from
 156 owners or operators of underinsured motor vehicles.

157 [(c)] (d) Each insurer shall be obligated to pay to the insured, up to
 158 the limits of the policy's underinsured motorist conversion coverage,
 159 after the limits of liability under all bodily injury liability bonds or
 160 insurance policies applicable at the time of the accident have been
 161 exhausted by payment of judgments or settlements. If the insured
 162 purchases such underinsured motorist conversion coverage, then in no
 163 event shall the underinsured motorist coverage be reduced on account
 164 of any payment by or on behalf of the tortfeasor or by any third party.

165 [(d)] (e) The selection of coverage under this section shall apply to
 166 all subsequent renewals of coverage and to all policies or
 167 endorsements which extend, change, supersede or replace an existing
 168 policy issued to the named insured, unless changed in writing by any
 169 named insured.

170 [(e)] (f) For purposes of this section, an "underinsured motor
 171 vehicle" means a motor vehicle with respect to which the sum of all
 172 payments received by or on behalf of the covered person from or on
 173 behalf of the tortfeasor are less than the fair, just and reasonable
 174 damages of the covered person.

175 [(f)] (g) The provisions of this section shall apply to all new and
 176 renewal policies issued on or after January 1, 1994.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2008	38a-336

Sec. 2	October 1, 2008	38a-336a
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INS *Joint Favorable*

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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill requires auto insurers to inform their insured about “underinsured motorist conversion coverage” when the insured purchases coverage and will not result in a fiscal impact to the Department of Insurance.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**SB 314*****AN ACT CONCERNING NOTIFICATION OF UNDERINSURED MOTORIST CONVERSION COVERAGE.*****SUMMARY:**

This bill requires auto insurers to inform an insured about “underinsured motorist conversion coverage,” including its availability, description, and cost, when the insured purchases coverage. It requires insurers also to include the information on the consent form an insured signs when purchasing uninsured and underinsured motorist coverage, which the law requires, in lesser amounts than the bodily injury and death liability coverage limits under his or her policy.

By law, all licensed auto insurers must offer underinsured motorist conversion coverage. An insured may purchase this coverage instead of the underinsured motorist coverage the law requires. If the insured purchases the conversion coverage, the insurer cannot reduce the available underinsured motorist coverage by amounts the insured receives from the tortfeasor, or a third party on his or her behalf.

EFFECTIVE DATE: October 1, 2008

BACKGROUND***Mandatory Auto Insurance***

The law requires the motor vehicle commissioner to require proof of financial security (e.g., insurance) from anyone who wants to receive or retain a driver’s license or motor vehicle registration. The minimum amounts that must be maintained are \$20,000 for bodily injury to or death of a person, \$40,000 for bodily injury to or death of more than one person in any accident, and \$10,000 for property damage.

The law also requires each auto insurer to offer uninsured and underinsured motorist coverage of twice the bodily injury limits in the policy. But it permits an insured to purchase lesser amounts of at least \$20,000 (injury or death of one person) and \$40,000 (more than one person in any accident). When purchasing lesser amounts, an insured must sign a consent form that describes the uninsured and underinsured benefits.

Related Bill

HB 5515, which the Insurance and Real Estate Committee reported, increases the minimum coverage amounts that auto insurance policies must cover for bodily injury or death and property damage.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 18 Nay 0 (03/06/2008)