



Senate

General Assembly

File No. 582

February Session, 2010

Senate Bill No. 489

Senate, April 15, 2010

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING UNINSURED AND UNDERINSURED MOTORIST COVERAGE FOR BODILY INJURY TO A NAMED INSURED OR RELATIVE.

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 Section 38a-336 of the general statutes is repealed and the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, 2010*):

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 because of bodily injury, including death resulting therefrom,
10 from owners or operators of uninsured motor vehicles and
11 underinsured motor vehicles, and insured motor vehicles, the insurer
12 of which becomes insolvent prior to payment of such damages, or in
13 accordance with subparagraph (B) of this subdivision. [because of

14 bodily injury, including death resulting therefrom.] Each insurer
15 licensed to write automobile liability insurance in this state shall
16 provide uninsured and underinsured motorists coverage with limits
17 requested by any named insured upon payment of the appropriate
18 premium, provided each such insurer shall offer such coverage with
19 limits that are twice the limits of the bodily injury coverage of the
20 policy issued to the named insured. The insured's selection of
21 uninsured and underinsured motorist coverage shall apply to all
22 subsequent renewals of coverage and to all policies or endorsements
23 which extend, change, supersede or replace an existing policy issued to
24 the named insured, unless changed in writing by any named insured.
25 (A) No insurer shall be required to provide uninsured and
26 underinsured motorist coverage to [(A)] (i) a named insured or
27 relatives residing in his household when occupying, or struck as a
28 pedestrian by, an uninsured or underinsured motor vehicle or a
29 motorcycle that is owned by the named insured, or [(B)] (ii) any
30 insured occupying an uninsured or underinsured motor vehicle or
31 motorcycle that is owned by such insured. (B) Notwithstanding the
32 provisions of subparagraph (A) of this subdivision, an insurer shall
33 provide uninsured and underinsured motorist coverage to a named
34 insured or any relative residing in his household when the named
35 insured or relative is struck as a pedestrian by a motor vehicle or a
36 motorcycle that is owned by the named insured if the motor vehicle or
37 motorcycle is operated without the authorization of the named insured
38 and is insured at the time of the unauthorized operation, such
39 unauthorized operation causes injury to the named insured or relatives
40 residing in his household, and the unauthorized operator does not
41 have automobile liability coverage or has automobile liability coverage
42 that is less than the applicable limits of liability under the uninsured
43 motorist portion of the named insured's policy. The insurer may
44 require in the automobile liability insurance policy that, as a condition
45 of uninsured and underinsured motorist coverage under this
46 subparagraph, the named insured or someone on behalf of the named
47 insured (i) report the unauthorized use to the police in the town in
48 which the injury occurred within seventy-two hours of the injury, and

49 (ii) cooperate with the police in any investigation of such unauthorized
50 use.

51 (2) Notwithstanding any provision of this section to the contrary,
52 each automobile liability insurance policy issued or renewed on and
53 after January 1, 1994, shall provide uninsured and underinsured
54 motorist coverage with limits for bodily injury and death equal to
55 those purchased to protect against loss resulting from the liability
56 imposed by law unless any named insured requests in writing a lesser
57 amount, but not less than the limits specified in subsection (a) of
58 section 14-112. Such written request shall apply to all subsequent
59 renewals of coverage and to all policies or endorsements which extend,
60 change, supersede or replace an existing policy issued to the named
61 insured, unless changed in writing by any named insured. No such
62 written request for a lesser amount shall be effective unless any named
63 insured has signed an informed consent form which shall contain: (A)
64 An explanation of uninsured and underinsured motorist insurance
65 approved by the commissioner; (B) a list of uninsured and
66 underinsured motorist coverage options available from the insurer;
67 and (C) the premium cost for each of the coverage options available
68 from the insurer. Such informed consent form shall contain a heading
69 in twelve-point type and shall state: "WHEN YOU SIGN THIS FORM,
70 YOU ARE CHOOSING A REDUCED PREMIUM, BUT YOU ARE
71 ALSO CHOOSING NOT TO PURCHASE CERTAIN VALUABLE
72 COVERAGE WHICH PROTECTS YOU AND YOUR FAMILY. IF YOU
73 ARE UNCERTAIN ABOUT HOW THIS DECISION WILL AFFECT
74 YOU, YOU SHOULD GET ADVICE FROM YOUR INSURANCE
75 AGENT OR ANOTHER QUALIFIED ADVISER."

76 (b) An insurance company shall be obligated to make payment to its
77 insured up to the limits of the policy's uninsured and underinsured
78 motorist coverage after the limits of liability under all bodily injury
79 liability bonds or insurance policies applicable at the time of the
80 accident have been exhausted by payment of judgments or settlements,
81 but in no event shall the total amount of recovery from all policies,
82 including any amount recovered under the insured's uninsured and

83 underinsured motorist coverage, exceed the limits of the insured's
84 uninsured and underinsured motorist coverage. In no event shall there
85 be any reduction of uninsured or underinsured motorist coverage
86 limits or benefits payable for amounts received by the insured for
87 Social Security disability benefits paid or payable pursuant to the
88 Social Security Act, 42 USC Section 301, et seq. The limitation on the
89 total amount of recovery from all policies shall not apply to
90 underinsured motorist conversion coverage purchased pursuant to
91 section 38a-336a.

92 (c) Each automobile liability insurance policy issued on or after
93 October 1, 1971, which contains a provision for binding arbitration
94 shall include a provision for final determination of insurance coverage
95 in such arbitration proceeding. With respect to any claim submitted to
96 arbitration on or after October 1, 1983, the arbitration proceeding shall
97 be conducted by a single arbitrator if the amount in demand is forty
98 thousand dollars or less or by a panel of three arbitrators if the amount
99 in demand is more than forty thousand dollars.

100 (d) Regardless of the number of policies issued, vehicles or
101 premiums shown on a policy, premiums paid, persons covered,
102 vehicles involved in an accident, or claims made, in no event shall the
103 limit of liability for uninsured and underinsured motorist coverage
104 applicable to two or more motor vehicles covered under the same or
105 separate policies be added together to determine the limit of liability
106 for such coverage available to an injured person or persons for any one
107 accident. If a person insured for uninsured and underinsured motorist
108 coverage is an occupant of a nonowned vehicle covered by a policy
109 also providing uninsured and underinsured motorist coverage, the
110 coverage of the occupied vehicle shall be primary and any coverage for
111 which such person is a named insured shall be secondary. All other
112 applicable policies shall be excess. The total amount of uninsured and
113 underinsured motorist coverage recoverable is limited to the highest
114 amount recoverable under the primary policy, the secondary policy or
115 any one of the excess policies. The amount paid under the excess
116 policies shall be apportioned in accordance with the proportion that

117 the limits of each excess policy bear to the total limits of the excess
118 policies. If any person insured for uninsured and underinsured
119 motorist coverage is an occupant of an owned vehicle, the uninsured
120 and underinsured motorist coverage afforded by the policy covering
121 the vehicle occupied at the time of the accident shall be the only
122 uninsured and underinsured motorist coverage available.

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

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

133 (g) (1) No insurance company doing business in this state may limit
134 the time within which any suit may be brought against it or any
135 demand for arbitration on a claim may be made on the uninsured or
136 underinsured motorist provisions of an automobile liability insurance
137 policy to a period of less than three years from the date of accident,
138 provided, in the case of an underinsured motorist claim the insured
139 may toll any applicable limitation period (A) by notifying such insurer
140 prior to the expiration of the applicable limitation period, in writing, of
141 any claim which the insured may have for underinsured motorist
142 benefits; and (B) by commencing suit or demanding arbitration under
143 the terms of the policy not more than one hundred eighty days from
144 the date of exhaustion of the limits of liability under all automobile
145 bodily injury liability bonds or automobile insurance policies
146 applicable at the time of the accident by settlements or final judgments
147 after any appeals.

148 (2) Notwithstanding the provisions of subdivision (1) of this
149 subsection, in the case of an uninsured motorist claim, if the motor

150 vehicle of a tortfeasor is an uninsured motor vehicle because the
151 automobile liability insurance company of such tortfeasor becomes
152 insolvent or denies coverage, no insurance company doing business in
153 this state may limit the time within which any suit may be brought
154 against it or any demand for arbitration on a claim may be made on
155 the uninsured motorist provisions of an automobile liability insurance
156 policy to a period of less than one year from the date of receipt by the
157 insured of written notice of such insolvency of, or denial of coverage
158 by, such automobile liability insurance company.

This act shall take effect as follows and shall amend the following sections:		
---	--	--

Section 1	<i>October 1, 2010</i>	38a-336
-----------	------------------------	---------

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill, which extends uninsured and underinsured motorist provisions under certain circumstances, does not result in a fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**SB 489*****AN ACT CONCERNING UNINSURED AND UNDERINSURED MOTORIST COVERAGE FOR BODILY INJURY TO A NAMED INSURED OR RELATIVE.*****SUMMARY:**

This bill requires an auto insurer to provide uninsured and underinsured motorist coverage to a person insured by the policy ("named insured") and his or her relative living in the same household when the named insured or relative is struck as a pedestrian by a motor vehicle the named insured owns. To qualify for coverage, the:

1. vehicle must be (a) insured and (b) operated by someone who does not have the named insured's permission (e.g., the car is stolen) and
2. unauthorized driver must (a) injure the named insured or relative and (b) be uninsured or underinsured.

Current law specifies that such coverage is not required.

The bill permits an auto insurer to require, as a condition of coverage, that the named insured or someone on his or her behalf (1) report the stolen vehicle to the local police within 72 hours of the injury and (2) cooperate with the police in any related investigation.

EFFECTIVE DATE: October 1, 2010

BACKGROUND***Auto Insurance Requirements***

By law, anyone who wants to receive or retain a driver's license or motor vehicle registration in Connecticut must provide and continuously maintain a minimum amount of financial security (e.g.,

insurance), including liability coverage and uninsured and underinsured motorist coverage.

Liability insurance covers bodily injury to other people and damage to the property of others caused by a driver's negligence. The law requires a minimum of \$20,000 per person and \$40,000 per accident for bodily injury liability and \$10,000 per accident for property damage liability.

Uninsured and underinsured motorist coverage covers bodily injury to the vehicle owner, relatives living with the owner, and passengers injured in an accident caused by (1) an uninsured motorist, (2) a motorist whose bodily injury liability limits are less than the owner's uninsured and underinsured motorist coverage limits, or (3) a hit-and-run driver. The standard coverage is an amount equal to a policy's bodily injury liability coverage, but an owner may purchase additional coverage up to double the bodily injury liability. The law requires a minimum amount of \$20,000 per person and \$40,000 per accident.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 37 Nay 5 (03/29/2010)