



Raised Bill 481  
Public Hearing: 3/24/2010

TO: MEMBERS OF THE JUDICIARY COMMITTEE  
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION  
DATE: MARCH 24, 2010

RE: **OPPOSE RAISE BILL 481; AN CONCERNING SEAT SAFETY BELT EVIDENCE  
AND MEDICAL EXAMINATIONS**

The CTLA strongly opposes Raised Bill 481 and respectfully contend that the bill should be defeated.

**Section 1:** This bill overturns a long-standing Connecticut law that prevents evidence of seatbelt use from being admitted at trial. The bill would allow a wrongdoer in an automobile collision to shift blame to the injured victim by arguing that the injured victim should have been wearing a seatbelt.

The CTLA respectfully contends that it is a bad public policy for a wrongdoer, such as a drunk driver, to argue in court that the injured victim would not have been injured – or would not have been injured badly – if the injured victim were wearing a seatbelt.

Connecticut is one of 36 states<sup>1</sup> that do not allow wrongdoers to present evidence of seatbelt use as an attempt to shift blame for auto collisions to the injured victims.

Under Raised Bill 481, an occupant, including a small child, who unfastens his or her seatbelt, would be penalized because the wrongdoer who caused the collision could argue that the child was not wearing a seatbelt at the time of the collision. Also, an injured victim who is knocked unconscious in a collision may not be able to remember or testify whether or not he or she was wearing a seatbelt at the time of the collision, and the wrongdoer would be able to take advantage of the injured victim's inability to remember or testify. *In fact, the Connecticut Legislature debated this issue in 1985. The House debate included a discussion where a person might have an accident, remove a seatbelt, and lose consciousness. Such persons might be barred from seeking redress*

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<sup>1</sup> 2010 Statistics: The following states – like Connecticut prevent wrongdoers from presenting evidence of whether the innocent victim was wearing a seatbelt: AL, AR, CT, DE, DC, FL, GA, HI, ID, IL, IN, KS, LA, ME, MD, MA, MN, MT, NE, NV, NH, NM, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WY

*for damages or injuries sustained a result the Legislature did not want. See Bower v. D'Onfro, 38 Conn. App 685, 690-1 (1995) (court cites the transcript of the House Debate on the issue of seatbelt evidence).*

Connecticut courts have repeatedly held that the operation of a motor vehicle is what causes collisions and resulting injuries – not the use of a seatbelt, See Bower v. D'Onfro, 38 Conn. App at 690. Wrongdoers who cause collisions should not be able to try to confuse jurors into thinking that somehow the innocent victim caused the collisions and/or the injuries by not wearing a seatbelt.

Our Civil Justice System is based upon the jury determining who causes collisions and who should be at fault... and sometimes the jury decides that the injured person he or she causes the collision – but in any case, the use of a seatbelt is never the cause of the collision.

**Section 3:** This Section, along with **Section 2**, attempts to subject the plaintiff in a personal injury lawsuit to an examination by a doctor of the defendant's choosing. There exists an interest in personal autonomy and bodily integrity that must be carefully weighed against a defendant's right to choose any doctor to perform often obtrusive medical examinations upon a plaintiff. The CTLA strongly feels that the current statute does that, and this Section gives that interest in personal autonomy little if any weight.

Currently, C.G.S. 52-178a recognizes this interest in personal autonomy by stating that no party can be compelled to undergo a physical examination by a physician that they object to. In fact, the statement of purpose of the original 1965 legislation (HB 3757) creating this section states, "[t]o provide that no person be required to undergo a physical examination in connection with a personal injury action by a doctor to whom he objects."

In addition, this Section also does not reflect the language in the Connecticut Rules for the Superior Court, Practice Book Section 13-11(b), which is in accord with the intention of the original legislation as stated above.

**CTLA RESPECTFULLY URGES THIS COMMITTEE TO DEFEAT RAISED BILL 481**