

**STATEMENT**

***Insurance Association of Connecticut***

Judiciary Committee

March 24, 2010

**SB 489, An Act Concerning Uninsured And Underinsured Motorist Coverage For Bodily Injury To A Named Insured Or Relative**

The Insurance Association of Connecticut is opposed to SB 489, An Act Concerning Uninsured and Underinsured Motorist Coverage For Bodily Injury To A Named Insured Or Relative.

SB 489, as drafted, would unnecessarily alter the landscape for uninsured and underinsured motorist insurance coverage in Connecticut. Currently an insured is not able to collect uninsured or underinsured motorist benefits for injuries sustained as a pedestrian for claims involving their own-owned autos. This owned but not insured provision was specifically added to the Connecticut uninsured and underinsured motorist's (UM/UIM) law in 1983, when the legislature in its wisdom decided to limit UM/UIM coverage. The public policy behind the owned but not insured exclusion is to encourage insureds to adequately insure all vehicles in a household. UM/UIM coverage was never intended to provide coverage for damages caused to an insured by their own-owned autos. However, SB 489 as drafted negates the very public policy behind the exclusion added in 1983.

As drafted, SB 489 creates a loophole in Connecticut's well settled UM/UIM law which will invite fraud and provide coverage for losses never contemplated to be covered under the UM/UIM coverage, let alone by insurance. SB 489's mandate of coverage deprives an insurer of any viable defenses it may have at law such as fraud, intentional acts, contractual provisions, and contributory negligence. When the exclusion was adopted in 1983 the legislature specifically wanted to ensure insurers were not paying for claims arising from personal or domestic disputes, intentional acts or fraudulent claims. Depriving an insurer the ability to challenge the

validity of a claim, insurers will be forced to provide coverage for such claims. The removal of the safeguard adopted in 1983 will result in creating an environment ripe for abuse.

Removing the owned not insured exclusion as it applies to underinsured motorist benefits as set forth in SB 489 is nonsensical. Underinsured motorist benefits are triggered when a vehicle involved in a claim resulting in bodily injury is insured at limits below an insured's limits. Underinsured motorist coverage functions by comparing two policies in an attempt to determine the adequacy of insurance coverage. If the vehicle in question is the insured's vehicle, it cannot be underinsured when compared to itself. It can be insured or uninsured, but it cannot be underinsured.

SB 489 is unduly vague and adopts concepts that are contrary to insurance practices. What is meant by "operated without authorization"? Does that include when a person uses a vehicle beyond the scope of the permissive use? Does this include an excluded driver or when an insured intentionally runs down another named insured? If the intent of SB 489 is to provide coverage when an injury results from unauthorized use, why then is the potential report of the unauthorized use triggered only if an injury results? And why isn't such a report mandated? Standard insurance contracts require an insured's complete cooperation and prompt reporting of any claim, including a stolen vehicle or injury, however, SB 489 negates that requirement. Why should someone have 72 hours after an injury to report the unauthorized use? Why shouldn't such use be required to be reported immediately? What if there is a lengthy delay from the time the vehicle was stolen to the injury? SB 489 mandates coverage if the unauthorized operation of the vehicle causes injury to the insured. What does "injury to the insured" mean? Does that include property damage or emotional trauma because the vehicle was used without permission? Does the injury have to be caused by the vehicle itself or the act of using it without authority? SB 489 is not clear whether the injury sustained must be contemporaneously incurred with the unauthorized use. Such vagueness will result in

mandating coverage for claims beyond those ever intended to be covered by UM/UIM insurance.

SB 489 seeks to extend UM/UIM coverage for losses caused by an insured's own- owned vehicle to a resident relative, regardless if there is other coverage available to that individual. This provision negates the fundamental nature of UM/UIM coverage in that such coverage follows the person and not the vehicle. A resident relative with their own insurance coverage would be able to make a claim under their own UM/UIM policy in the unlikely event that they are struck by a resident relative's vehicle. There is no need to mandate coverage for such individual.

Finally, the effective date of this proposal is unworkable. Amending coverage language for any insurance policy requires that all insurers must rewrite their policies to comply with the requirements of this proposal. The amended contract then must be submitted to the Insurance Department for approval. The Insurance Department must review each filing and render an opinion on the filing before the product may be sold and used in this state. The extensive approval process may not be able to be accomplished by July 1, 2011, let alone by October 1, 2010. Additionally, the effective date should be limited to claims arising on or after the effective date of the act. A party in an existing claim should not be given a new cause of action during the pendency of that claim.

For the above stated reasons, the IAC urges your rejection of SB 489, as drafted.