



General Assembly

**Amendment**

February Session, 2010

LCO No. 4787

**\*SB0048904787SD0\***

Offered by:

SEN. LOONEY, 11<sup>th</sup> Dist.

SEN. MCDONALD, 27<sup>th</sup> Dist.

To: Senate Bill No. 489

File No. 582

Cal. No. 404

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

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Subsection (a) of section 31-293 of the general statutes is  
4 repealed and the following is substituted in lieu thereof (*Effective*  
5 *October 1, 2010*):

6 (a) When any injury for which compensation is payable under the  
7 provisions of this chapter has been sustained under circumstances  
8 creating in a person other than an employer who has complied with  
9 the requirements of subsection (b) of section 31-284, a legal liability to  
10 pay damages for the injury, the injured employee may claim  
11 compensation under the provisions of this chapter, but the payment or  
12 award of compensation shall not affect the claim or right of action of  
13 the injured employee against such person, but the injured employee

14 may proceed at law against such person to recover damages for the  
15 injury; and any employer or the custodian of the Second Injury Fund,  
16 having paid, or having become obligated to pay, compensation under  
17 the provisions of this chapter may bring an action against such person  
18 to recover any amount that he has paid or has become obligated to pay  
19 as compensation to the injured employee. If the employee, the  
20 employer or the custodian of the Second Injury Fund brings an action  
21 against such person, he shall immediately notify the others, in writing,  
22 by personal presentation or by registered or certified mail, of the action  
23 and of the name of the court to which the writ is returnable, and the  
24 others may join as parties plaintiff in the action within thirty days after  
25 such notification, and, if the others fail to join as parties plaintiff, their  
26 right of action against such person shall abate. In any case in which an  
27 employee brings an action against a party other than an employer who  
28 failed to comply with the requirements of subsection (b) of section 31-  
29 284, in accordance with the provisions of this section, and the  
30 employer is a party defendant in the action, the employer may join as a  
31 party plaintiff in the action. The bringing of any action against an  
32 employer shall not constitute notice to the employer within the  
33 meaning of this section. If the employer and the employee join as  
34 parties plaintiff in the action and any damages are recovered, the  
35 damages shall be so apportioned that the claim of the employer, as  
36 defined in this section, shall take precedence over that of the injured  
37 employee in the proceeds of the recovery, after the deduction of  
38 reasonable and necessary expenditures, including attorneys' fees,  
39 incurred by the employee in effecting the recovery. If the action has  
40 been brought by the employee, the claim of the employer shall be  
41 reduced by one-third of the amount of the benefits to be reimbursed to  
42 the employer, unless otherwise agreed upon by the parties, which  
43 reduction shall inure solely to the benefit of the employee, except that  
44 such reduction shall not apply if the reimbursement is to the state of  
45 Connecticut or a political subdivision of the state, as the employer, or  
46 the custodian of the Second Injury Fund. The rendition of a judgment  
47 in favor of the employee or the employer against the party shall not  
48 terminate the employer's obligation to make further compensation

49 which the commissioner thereafter deems payable to the injured  
50 employee. If the damages, after deducting the employee's expenses as  
51 provided in this subsection, are more than sufficient to reimburse the  
52 employer, damages shall be assessed in his favor in a sum sufficient to  
53 reimburse him for his claim, and the excess shall be assessed in favor  
54 of the injured employee. No compromise with the person by either the  
55 employer or the employee shall be binding upon or affect the rights of  
56 the other, unless assented to by him. For the purposes of this section,  
57 the claim of the employer shall consist of (1) the amount of any  
58 compensation which he has paid on account of the injury which is the  
59 subject of the suit, and (2) an amount equal to the present worth of any  
60 probable future payments which he has by award become obligated to  
61 pay on account of the injury. The word "compensation", as used in this  
62 section, shall be construed to include incapacity payments to an  
63 injured employee, payments to the dependents of a deceased  
64 employee, sums paid out for surgical, medical and hospital services to  
65 an injured employee, the burial fee provided by subdivision (1) of  
66 subsection (a) of section 31-306, payments made under the provisions  
67 of sections 31-312 and 31-313, and payments made under the  
68 provisions of section 31-284b in the case of an action brought under  
69 this section by the employer or an action brought under this section by  
70 the employee in which the employee has alleged and been awarded  
71 such payments as damages. Each employee who brings an action  
72 against a party in accordance with the provisions of this subsection  
73 shall include in his complaint (A) the amount of any compensation  
74 paid by the employer or the Second Injury Fund on account of the  
75 injury which is the subject of the suit, and (B) the amount equal to the  
76 present worth of any probable future payments which the employer or  
77 the Second Injury Fund has, by award, become obligated to pay on  
78 account of the injury. Notwithstanding the provisions of this  
79 subsection, when any injury for which compensation is payable under  
80 the provisions of this chapter has been sustained under circumstances  
81 creating in a person other than an employer who has complied with  
82 the requirements of subsection (b) of section 31-284, a legal liability to  
83 pay damages for the injury and the injured employee has received

84 compensation for the injury from such employer, its workers'  
85 compensation insurance carrier or the Second Injury Fund pursuant to  
86 the provisions of this chapter, the employer, insurance carrier or  
87 Second Injury Fund shall have a lien upon any judgment received by  
88 the employee against the party or any settlement received by the  
89 employee from the party, provided the employer, insurance carrier or  
90 Second Injury Fund shall give written notice of the lien to the party  
91 prior to such judgment or settlement."