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## HOUSE BILL 5730

### AN ACT CONCERNING THE PRESUMPTION OF UNINSURED MOTORIST STATUS

The Connecticut General Assembly is considering a bill that significantly alters the current landscape of uninsured motorist law. House Bill 5730, An Act Concerning the Presumption of Uninsured Motorist Status, would essentially shift the burden of proof from the insured to the uninsured motorist carrier (“UM carrier”) in the context of uninsured motorist claims. (Please note that underinsured motorist claims may also be included in this bill, as the Judiciary Committee has agreed to an oral amendment to insert “underinsured” in every instance that “uninsured” is used).

To claim uninsured motorist benefits under the current law, an insured must establish (1) that operator of another motor vehicle was responsible for an injury to the insured and (2) that the tortfeasor did not have any applicable liability insurance. Once these elements are established an insured may pursue a claim for uninsured motorist coverage from his own UM carrier.

House Bill 5730 would require a UM carrier to prove that a tortfeasor was insured, or the law would presume that the tortfeasor was uninsured for purposes of an uninsured motorist claim. The insured would be required to provide a sworn written statement, by the insured or the insured’s attorney, that after reasonable efforts it could not be determined whether the tortfeasor was insured at the time of the accident. In addition, a list of the “reasonable efforts” made to determine whether the tortfeasor was insured would be required. To rebut the presumption, a UM carrier would be required to provide the insured with written evidence that the tortfeasor was insured at the time of the accident.

UM carriers are likely to suffer adverse consequences should this bill become law. The bill would create unnecessary delays in settlements and additional administrative costs. UM carriers would be forced to affirmatively demonstrate that a tortfeasor was insured, despite the limited information it might possess concerning the tortfeasor and accident at issue. Furthermore, the proposed bill would facilitate fraud in connection with improper uninsured motorist coverage claims. Conceivably, an insured could claim to have been injured in an accident caused by an unidentified vehicle. The UM carrier, unable to procure written evidence of an absent tortfeasor’s insurance coverage, would be legally obligated to presume that the unidentified tortfeasor was uninsured, triggering uninsured motorist coverage.

House Bill 5730 was voted out of the Judiciary Committee and is currently with the Office of Legislative Research and Office of Fiscal Analysis. It will likely have to pass muster in the Insurance Committee before it is voted on by the General Assembly. The last time the bill reached the Insurance Committee it was rejected in a close vote.

***AN ACT CONCERNING THE PRESUMPTION OF UNINSURED MOTORIST STATUS OF A TORTFEASOR AFTER REASONABLE SEARCH BY THE INSURED.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 38a-336 of the general statutes is amended by adding subsection (h) as follows (*Effective October 1, 2006, and applicable to causes of action accruing on or after said date*):

(NEW) (h) (1) There shall be a presumption that a tortfeasor was uninsured for purposes of a claim if an insured submits to the insured's automobile liability insurance company (A) a sworn, written statement that the insured is unable to determine if the tortfeasor was insured at the time of the accident, and (B) any documentation or information required under subdivision (2) of this subsection. The sworn, written statement shall contain: (i) A statement by the insured or such insured's legal representative that, after reasonable efforts were made, it could not be determined whether the tortfeasor was insured at the time of the accident; and (ii) a list of the reasonable efforts made to determine whether the tortfeasor was insured at the time of the accident.

(2) If, at the time of the accident, the tortfeasor presented an insurance identification card to the investigating police officer, the insured or the insured's legal representative shall present documentation or information from the insurer identified on the insurance identification card that confirms that the tortfeasor was not insured by that insurer at the time of the accident.

(3) An automobile liability insurance company may rebut such presumption by providing the insured with written evidence that the tortfeasor was insured at the time of the accident. Such written evidence shall include the names of all automobile liability insurance companies that insured the tortfeasor at the time of the accident, the applicable policy numbers and the limits of liability under all bodily injury liability bonds and insurance policies applicable at the time of the accident.

## For More Information

Status of House Bill 5730

[http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill\\_num=HB05730&which\\_year=2006](http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=HB05730&which_year=2006).

Judiciary Committee Testimony

[http://www.cga.ct.gov/asp/menu/CommDocTmyBill.asp?comm\\_code=JUD&bill=HB-05730](http://www.cga.ct.gov/asp/menu/CommDocTmyBill.asp?comm_code=JUD&bill=HB-05730)

Judiciary Committee

<http://www.cga.ct.gov/jud/>

Insurance & Real Estate Committee

<http://www.cga.ct.gov/ins/>

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