

Act Number:	09-240	
Bill Number:	894	
Senate Pages:	2160-2172, 2292-2294	16
House Pages:	9911-9931	21
Committee:	Insurance: 1308-1323, 1493-1495, 1497-1499	22
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page 29, Calendar 274, Senate Bill 824, marked go.
Calendar page 31, Calendar 321, Senate Bill 271,
marked go. Calendar page 31, Calendar 323, Senate
Bill 497, marked go. And Calendar page 32, Calendar
367, Senate Bill 785, marked go. That's our initial
go list, Mr. President.

THE CHAIR:

Thank you, sir.

Mr. Clerk.

THE CLERK:

Calling from Senate Calendar for Friday, May 15,
2009, Calendar page 22, Calendar Number 114, File
Number 43, Substitute for Senate Bill 894, AN ACT
REQUIRING DISCLOSURE OF AUTOMOBILE LIABILITY INSURANCE
POLICY LIMITS PRIOR TO THE FILING OF A CLAIM,
favorable report of the Committees on Insurance and
Judiciary. Clerk is in possession of amendments.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Thank you, Mr. President. Mr. President, I move
for acceptance of the joint committee's favorable
report and passage of the bill.

THE CHAIR:

Acting on approval and acceptance of the bill,
sir, would you like to remark further?

SENATOR CRISCO:

Yes, Mr. President. The Clerk has an amendment,
LCO 5614. I request that it be called and I be given
permission to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 5614 to be designated Senate Amendment
Schedule A. It is offered by Senator Crisco of the
17th District.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Thank you, Mr. President. Mr. President, I move
for its adoption.

THE CHAIR:

Motion is on adoption, seeing no objection,
please proceed, sir.

SENATOR CRISCO:

Mr. President, this is a strike all and the
changes from the file copy specifies that throughout
the disclosure is for private passenger automobile

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liability policies only. And basically, what we're trying to do here, Mr. President, is basically expedite the trial process, which in the long run, will reduce a substantial amount of costs. It's something that is available but through other legal procedures. It takes a considerable amount of time, which adds to the cost of settling a judgment.

It also changes from 14 to 30 days, the time an insurer has to provide written disclosure of private passenger auto liability policy pursuant to a written request. And it also adds a requirement that the disclosure request be sent by certified mail to the insurance adjustor or the last known principal place of business of the insured.

Finally, the last two provisions, it adds a provision allowing the action for an affidavit by the claimant to accompany a disclosure request, not just a letter from an attorney. And it adds to the list of items the affidavit or letter that needs to include.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate A? Senator Kissel.

SENATOR KISSEL:

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Thank you very much, Mr. President. Some questions through you to the proponent of the amendment.

THE CHAIR:

Senator Crisco.

SENATOR KISSEL:

First of all, I'm just wondering why we would limit it just to pass -- private passenger motor vehicles as opposed to commercial vehicles or anything -- any other kind of motor vehicle that might be involved in a automobile accident, where someone allegedly has suffered injuries. Through you Mr. President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Mr. President, through you to Senator Kissel. I appreciate what he's saying, but basically in trying to come up with a green language between all factors, that was the primary reason.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. And so, is that the

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proponent's way of stating that there were folks in the motor carrier or motor transport industry that had objections to the underlying proposal and they wish to be taken out of the provisions of this particular bill? Through you Mr. President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Mr. President, through you to Senator Kissel, no. That was not the intention of my remark. Basically, as the good Senator knows, from all his years of experience, when you have an issue that there are -- various constituencies are interested, you try to come to an agreement to see if you could get a concerted process that everybody be agreed to, and it was more objective than subjective.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President. I will read between those lines. Also, I'm wondering it seems a bit cumbersome to have this affidavit as opposed to a straight forward letter from counsel, representing an alleged victim of a motor vehicle collision. I'm just

wondering why we have to have something such as an affidavit as opposed to a straight forward letter that counsel could send out. Again, the determination as to what policy limits are out there, this is typically nothing that could be kept away from a litigant if suit was actually filed.

See, my understanding, through you Mr. President as what we're trying to do here is, and as someone who once upon a time did have a -- participate in private practice of law where I representative -- represented plaintiffs in motor vehicle collisions is, you have X amount of damages for your client, and you need to know A, whether you need to put your uninsured, underinsured motor carrier that your own client's insurance on notice; and B, you just need to know whether you're going to have any kind of problems down the road regarding the litigation.

If you know that there's ample funds out there in the alleged tortfeasors insurance policy, then you just don't even have to worry about any of that and you just pursue trying to negotiate with that company regarding the underlying claim.

So I've never personally understood the cat and mouse game that goes on between the insurance industry

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and the plaintiff's bar regarding this information. And quite often historically it has forced attorneys to file suit simply to be able to issue the interrogatory as to what those policy limits and we're trying to get that out of the way.

And ultimately, given what Chief Justice Chase Rogers said yesterday regarding the fact that in Connecticut a million cases are filed when you put together the civil side and the criminal side and any other side in our court system, anything that would mitigate against attorneys having to file suit just to find out that information, I think, would be a net plus for the State of Connecticut.

So again, I'm just wondering why this more cumbersome process of having to come forward with an affidavit as opposed to the underlying proposal, which simply said a letter and then the insurance folks or the people on the other side would tell what the policy limits are.

Through you, Mr. President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Mr. President, thank you. Through you to Senator

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Kissel, as I stated in reviewing the amendment, basically the last few lines of the amendment states that in addition to the affidavit, a letter is also acceptable.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. I very much appreciate that clarification. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate A? Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President. I rise in support of Senate A and ultimately the underlying bill. This is yet another example of our attempt as a Legislature to strike a proper balance between various competing interests. And I believe that the two issues at stake here are gaining access to information that's needed to make an informed decision about whether to bring a suit, versus the need to actually file the suit in order to get that information in the first place.

We heard conflicting testimony about the impact

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that this bill would have, even as being proposed to be amended today. But ultimately, I'm going to be supporting the amendment and I'm going to be supporting the underlying bill for reasons that I believe Senator Kissel alluded to, which is ultimately, I think, this will expedite the process by which critical information is obtained and will do so in a way that I do not believe, in the final analysis, will result in increased litigation. In fact, I think the contrary will be the result of this legislation and that's why I commend Senator Crisco and the work that he's done in bringing this amendment together. And I've been happy to be a part of that process throughout this legislative session thus far, and I would encourage adoption of the amendment. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Caligiuri.

Will you remark further on Senate A?

Senator Fasano you moved kind of slow there. Is there any reason? I understand a little aging is occurring or something.

SENATOR FASANO:

Yes. Thank you, Mr. President. Mr. President,

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through you to the good Senator Crisco. Mr. President, with respect to the paragraph B of the amendment where the attorney must describe the injuries to alleged to have occurred. Mr. President, those are preliminary injuries that have occurred as a result of this accident. Is that correct? Through you Mr. President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Through you, Mr. President. Senator Fasano, yes.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

And through you, Mr. President, the purpose of that disclosure is not for admission purposes, it's for the purposes of general information that's available at that particular time and does not bound the attorney to -- who is giving this to encapsulate every possible injury that this person has. Through you, Mr. President. Is that correct?

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

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Mr. President, through you to Senator Fasano,
yes. That is correct.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. And further just for
the sake of having a legislative record on this, Mr.
President, also with respect to -- given the
disclosure or facts related to the accident, giving
rise to -- related to the accident, those also would
not be admissions on the part of the person who is
injured that could be used against them in a court of
law. Is that correct? Through you, Mr. President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Mr. President, through you to Senator Fasano,
that is correct.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. I thank the good
Senator for his answers. Mr. President, I'm going to
support this amendment. The concern I had was to

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insure that this amendment was not used as a discovery tool, but only for the purpose of assuring that there was a legitimate accident from which there was some injuries for which the policy would have to cover, but not for the purposes of what we have in our legal system as a form of disclosure or an admission. And I'm comfortable with the answers of Senator Crisco and I support the amendment. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Fasano.

Senator McDonald.

SENATOR McDONALD:

Thank you, Mr. President. Mr. President, I rise just briefly to support the amendment and to thank Senator Crisco and the members of the Insurance Committee. As was noted, we have a problem with a tremendous number of cases in our judicial system and I thoroughly believe that legislation such as this may provide a mechanism by which some of that congestion, if you will, in our judicial system may be alleviated and I thank him for his work.

THE CHAIR:

Thank you, sir.

Will you remark? Will you remark further on

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Senate A? Will you remark? If not, let me try your minds. All those in favor please signify by saying, aye.

SENATORS:

Aye.

THE CHAIR:

Opposed, nays.

The ayes have it. The amendment is adopted.

Senator Crisco.

SENATOR CRISCO:

Thank you, Mr. President. Since it was a strike all, there's no objection, I ask that it be placed on the consent calendar.

THE CHAIR:

Is there any further discussion on Senate Bill 9 -- 894 as amended by Senate A? If not there's a motion on the floor to place the item on consent. Seeing no objection, the item will be placed on consent. Thank you, sir.

Mr. Clerk.

THE CLERK:

Calendar Number 121, File Number 52, Substitute for Senate Bill 897, AN ACT CONCERNING TIMESHARES, favorable report of the Committee on Insurance and

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Yes. Thank you, Mr. President. If the Clerk might move now to call the consent calendar, and read the items on that calendar and then call the calendar.

THE CHAIR:

Mr. Clerk, please call for a roll call vote on the consent calendar.

THE CLERK:

Immediate roll call has been ordered in the Senate on the consent calendar. Will all senators please return to the chamber. Immediate roll call has been ordered in the Senate on the consent calendar. Will all senators please return to the chamber.

Mr. President, those items placed on the 1st Consent Calendar begin on calendar page 1, Calendar 647, Senate Resolution Number 27; calendar page 2, Calendar 648, Senate Joint Resolution Number 77; calendar page 5, Calendar 381, substitute for Senate Bill 1079; calendar page 22, Calendar Number 114 substitute for Senate Bill 894; calendar page 23, Calendar 138, substitute for Senate Bill 817; calendar 144, substitute for Senate Bill 849; calendar page 29, Calendar Number 274, Senate Bill 824; calendar page 31, Calendar 321, Senate Bill 271; calendar 323, Senate Bill 497; and calendar 365,

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Senate Bill 384; calendar page 32, Calendar 367,
substitute for Senate Bill 785; calendar page 37,
Calendar 490, Senate Bill 898; calendar page 40,
Calendar 556, Senate Bill 1061; calendar 558,
substitute for Senate Bill 1063; and calendar page 41,
Calendar 328, substitute for Senate Bill 814.

Mr. President, that completes those items placed on
the 1st Consent Calendar.

THE CHAIR:

Please call for the consent calendar. The
machine will be open. Oh, Senator Looney. Yes, sir.

SENATOR LOONEY:.

Yes. Mr. President, just for purpose of
clarification. I believed I had earlier marked on
calendar page 21, 2 items on the consent. Initially
we had removed -- placed calendar 103, but I believe
we also had Calendar 82 on page 21, Senate Bill 761.

THE CHAIR:

No, sir. Those are not noted here on our
calendar.

SENATOR LOONEY:

Okay. We'd like to place that item on the
consent calendar, Mr. President, calendar page 21,
Calendar 82, Senate Bill 761.

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THE CHAIR:

There's a motion to place that item on the consent here. Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

THE CLERK:

The Senate is now voting by roll call on the consent calendar. Will all senators please return to the chamber. The Senate is voting by roll call on the consent calendar. Will all senators please return to the chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, please check your vote. The machine will be closed. The Clerk will call the tally.

THE CLERK:

Motion is on adoption of Consent Calendar
Number 1.

Total Number Voting	35
Those voting Yea	35
Those voting Nay	0
Those absent and not voting	1

THE CHAIR:

The consent calendar passes.

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Representative Olson.

REP. OLSON (40th):

Good morning, or I guess good afternoon, Mr.

Speaker. SPEAKER DONOVAN:

Good afternoon, madam.

REP. OLSON (40th):

Mr. Speaker, I move for immediate transmittal to the Senate of all actions, all items previously acted upon.

SPEAKER DONOVAN:

The question is immediate transmittal of all Bills that need further action to the Senate. Is there objection? Any objection? Hearing none, the Bills are immediately transmitted.

Will the Clerk please call Calendar Number 632.

THE CLERK:

On Page 17, Calendar Number 632, Substitute for Senate Bill Number 894 AN ACT REQUIRING DISCLOSURE OF AUTOMOBILE LIABILITY INSURANCE POLICY LIMITS PRIOR TO THE FILING OF A CLAIM. Favorable Report of the Committee on Judiciary.

DEPUTY SPEAKER ALTOBELLO:

Representative Fontana, you have the floor.

REP. FONTANA (87th):

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Thank you, Mr. Speaker. Mr. Speaker, I move for acceptance of the Joint Committee's Favorable Report and passage of the Bill in concurrence with the Senate.

DEPUTY SPEAKER ALTOBELLO:

The question before the Chamber is acceptance of the Joint Committee's Favorable Report on concurrence with the Senate.

REP. FONTANA (87th):

Thank you, Mr. Speaker. Mr. Speaker, this Bill requires an auto insurer to disclose the applicable limits of an automobile policy that it issued after it received a written request for disclosure made by or on behalf of a person alleging bodily injury or death resulting from a motor vehicle collision involving a person that that policy covers.

Under current law, insurers must disclose insurance coverage limits when an injured person files a lawsuit.

This Bill, however, similar to laws in Massachusetts and Rhode Island and common practice in New York, simply requires that that disclosure occur earlier in the process upon written request so that

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some cases can be settled expeditiously and less expensively without needing to file a lawsuit.

Mr. Speaker, the Clerk has an Amendment, LCO Number 5614. I ask that he call it and I receive permission to summarize.

DEPUTY SPEAKER ALTOBELLO:

The Clerk please call LCO Number 5614. It shall be designated House Amendment Schedule "A". Excuse me, Senate "A".

THE CLERK:

LCO Number 5614, Senate "A", offered by Senator Crisco and Representative Fontana.

DEPUTY SPEAKER ALTOBELLO:

The Representative seeks leave of the Chamber to summarize. Without objection, please proceed.

REP. FONTANA (87th):

Thank you, Mr. Speaker. Mr. Speaker, this Amendment strikes the underlying language and replaces it with simpler language worked out between the insurance industry and the trial attorneys.

Specifically, it gives insurers 30 days to respond to a request for policy limits on private passenger automobile liability insurance, requires the request for disclosure to be sent by certified mail,

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requires that the request include a copy of medical bills, treatment records and, if applicable or available, the accident report, allows the request to be accompanied by either an attorney's letter or the injured party's affidavit and makes the Bill effective for claims arising on or after October 1, 2009.

I move for its adoption.

DEPUTY SPEAKER ALTOBELLO:

The question before the Chamber is adoption. Representative D'Amelio of the 71st, you have the floor, sir.

REP. D'AMELIO (71st):

Thank you, Mr. Speaker, and good afternoon to you.

DEPUTY SPEAKER ALTOBELLO:

Good afternoon.

REP. D'AMELIO (71st):

I also rise in support of the Amendment before us. It is a compromise language after many hours of comprising between the insurance agencies and the trial lawyers.

This issue has been before the Insurance Committee for many years. I'd like to thank Representative Fontana for his strong work in it and

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to get it here, and hopefully, we won't see it for many years. Thank you.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative D'Amelio.

Representative Williams of the 68th, you have the floor, sir.

REP. WILLIAMS (68th):

Well thank you, Mr. Speaker. And good afternoon. Through you, a few questions to the proponent of the Amendment, please.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, sir.

REP. WILLIAMS (68th):

Thank you, Mr. Speaker. Through you to Representative Fontana. I have voted for this legislation in the past, but having just gotten the Amendment, I'm curious as to what has been removed from this or you know, "watered down" that has made this a compromise? Through you.

DEPUTY SPEAKER ALTOBELLO:

Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker, in comparison to the file copy, the Amendment applies only to automobile

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insurance, not to personal lines or other kinds of insurance policies.

It relaxes the requirement from 14 days to 30 days an insurer has to provide a written disclosure.

It adds a requirement that disclosure must be sent by certified mail to the insurance adjuster or the last known principal place of business of the insurer.

It gives the option of an affidavit by the claimant in addition to a letter from the attorney as an option.

And finally, specifies the items that need to be provided to the insurance company in return for the disclosure. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Williams.

REP. WILLIAMS (68th):

Well thank you, Mr. Speaker, and I thank the gentleman for his answers.

DEPUTY SPEAKER ALTOBELLO:

Representative Candelora of the 86th, you have the floor, sir.

REP. CANDELORA (86th):

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Thank you, Mr. Speaker, if I might, a couple of questions to the proponent of the Amendment.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, sir.

REP. CANDELORA (86th):

Thank you, Mr. Speaker. Would I be able to get an explanation overall what the general policy driving the requirement of this exchange of information between the insurance company and the attorneys? Through you.

DEPUTY SPEAKER ALTOBELLO:

Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker, the general policy is to encourage the parties in a dispute like this, the claimant, the injured person and his or her attorney and the insurance companies, to quickly come to a settlement, if at all possible.

Currently, they have to go through a laborious and time-consuming process of filing a lawsuit in order to get information that can help to resolve the settlement of a dispute. Providing for the exchange of this information earlier in the process could limit the number of lawsuits, and certainly expedite the

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provision of resources to the injured party. Through
you.

DEPUTY SPEAKER ALTOBELLO:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker. And currently, under
Connecticut law without this particular Amendment, are
the parties or the insurance company and an attorney
representing an injured person in an automobile
accident, able to have this kind of exchange without
this legislation?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker, they are able to do so.
However, they're not required to do so, and there is
no framework in our law to promote this kind of
exchange of information. Through you.

DEPUTY SPEAKER ALTOBELLO:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker. And was there testimony
or I guess, concerns raised because insurance

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companies currently don't provide this type of
information?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker. Yes, we received
testimony from attorneys, and in some cases, their
clients, that there's been a significant delay in
getting a resolution to certain cases because it had
to go through the very formal process of filing a
lawsuit, rather than trying to deal with this more
informally. Through you.

DEPUTY SPEAKER ALTOBELLO:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker, and as I see here, some
of the requirements that would need to be submitted in
Items 1, 2 and 3, include the type of claim and the
date and approximate time of the alleged incident.

If it's determined in the disclosure that the
date and time of the incident would fall outside the
statute of limitations, would the insurance company

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still need to go through compliance with the provisions of this Amendment?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker, if claims were outside the statute of limitations, there could be no lawsuit, so I don't know that this would apply. Through you.

DEPUTY SPEAKER ALTOBELLO:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker, and I appreciate that, and I'm just wondering. I know there may be a situation where the attorney may request this information that would be outside the statute of limitations.

So if, in fact, that happened, this Section really wouldn't apply because this provision is really meant to be a prerequisite as an attempt to settle a lawsuit as opposed to be a mechanism for an attorney to go on a fact-finding mission. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

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Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker, I think it's fair to say this statute intends to apply to situations in which there is some alleged liability on the part of an insurance company for an insured who may have been involved in a collision, which has caused bodily injury or death to a claimant.

If it falls outside the statute of limitations, I'm not quite sure what liability, alleged liability an insurance company would have.

So it's meant to apply to situations in which there is a reasonable expectation or belief that there is liability on the part of an insurance company due to its coverage of a particular policyholder. Through you.

DEPUTY SPEAKER ALTOBELLO:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker. And in Section 3, we're also requiring a description of the injuries. Would that also include any reports that may quantify the scope of the injury?

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I mean, if the intent of this Section is to give the insurance companies necessary information to understand how they can rate the actual injury that's occurred and put a value to that injury, through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Candelora, did you just refer to Section 3?

REP. CANDELORA (86th):

Lines 17 through 20.

DEPUTY SPEAKER ALTOBELLO:

Thank you. Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker, the intent in Line 19 where we refer to the individual's medical bills and medical records from the treatment of this injury, Line 20, is intended to provide the insurance company with a significant amount of information as to the nature of the injuries that are being alleged in order to help them appreciate more readily whether in fact it's in their best interest to settle the claim on behalf of their policyholder. Through you.

DEPUTY SPEAKER ALTOBELLO:

Representative Candelora.

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REP. CANDELORA (86th):

Thank you, Mr. Speaker, and one final question. I guess, was there discussion and agreement that Items 1 through 4 are sufficient in order to essentially, I guess, have a pre-negotiation to a lawsuit to be sufficient so that we potentially could settle claims?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker. Yes, we believe that based on the inclusion of these provisions, Lines 15 through 22, which I believe were at the request of the insurance industry, that this may be a sufficient basis for a settlement, recognizing, Mr. Speaker, that settlements by its very nature is a voluntary agreement by two or more parties to a particular arrangement or resolution.

So if the insurance companies find that under these provisions they receive insufficient information, they simply don't have to settle. Through you.

DEPUTY SPEAKER ALTOBELLO:

Representative Candelora.

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REP. CANDELORA (86th):

Thank you, Mr. Speaker. And I appreciate the good Representative's answers to my questions.

I do have an Amendment on this Bill that I'm not going to call. I do have some concerns because on one hand I think that it may be putting insurance companies at a disadvantage in trying to settle claims, because I'm not sure if this type of information is enough for them, and it really puts them on equal footing with a plaintiff, or with an individual making a claim.

My Amendment had requested that maybe an IME be done early on in order for an insurance company to get that type of valuable information in order to really legitimately settle the claim.

My other concern about this Bill in general is that we're essentially giving attorneys the ability to get information up front and determine what type of deep pockets there are prior to filing a lawsuit.

And I think generally, my concern is that attorneys are going to be choosing cases now not on the merits of the case, necessarily, but possibly on how deep pockets the insurance companies have, who that insurance company is.

We know that some companies pay a little bit more easier than others, and I think as a result, we may be closing the door on people's ability to get legal representation based on the insured's insurance company and based on the policy limits.

And I really do, frankly, have a concern about that, having practiced law for a number of years. That certainly does go into the thought process. And I think that every individual should have equal access to the courts and to bringing claims if they are injured in an automobile accident.

And I think that the way this Bill is drafted, there are going to be individuals that will not have the ability to seek recourse in court because an attorney merely could represent them solely on the pre-application process, find out who the insurance company is, how much liability insurance is there, and then choose to no longer represent the person in a suit based on that information.

So therefore, I do have reservations with the Amendment and I'm very reluctant to support the underlying Bill. Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, sir. Further on Senate "A"? Further on Senate "A"? If not, I'll try your minds.

Representative Hetherington of the 125th, you have the floor, sir.

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker. Just very quickly a question to the proponent. Through you, Mr. Speaker, why, what was the reasoning behind limiting this to passenger automobile liability insurance rather than for example, a commercial vehicle that might be involved in an accident?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker. I believe that was a request of the insurance industry, and the purpose here was to address situations dealing with private passengers. That's the genesis of it. Those are the claims, those are the issues brought to private attorneys that need to be resolved.

So the demand from clients and from attorneys representing clients in private passenger situations

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prompted this Bill. We have not heard of a significant problem relating to commercial policies.

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

. Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you. One last question, through you, Mr. Speaker. For purposes of legislative intent, the furnishing of this information by the insurance company I would assume is not a waiver of any defenses the insurance company may have to a claim. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker. I'm not sure I understand the gentleman's question other than to say, this is information that again, that can currently be required of an insurance company upon the filing of a lawsuit.

So it's information they already have to provide in that context. We're just trying to free it up earlier in the process. Through you.

DEPUTY SPEAKER ALTOBELLO:

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Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker. I just wanted to be assured that this is not changing that. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker, we're not changing the way in which we characterize policy limits, we're just providing them earlier in the process. Through you.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON (125th):

Well, just for further clarification if I may. The providing of the information either under these circumstances, as I believe the case now, is not, there's not an admission from, by the insurance company or a waiver of, well, other than the fact that there is insurance, and is not a waiver of any defenses to the claim that the company may have. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Fontana.

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REP. FONTANA (87th):

Through you, Mr. Speaker, no. The disclosure of policy limits has nothing to do with defenses.

Through you.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON (125th):

I thank the proponent very much. Thank you.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Hetherington.

Representative D'Amelio of the 71st, you have the floor, sir.

REP. D'AMELIO (71st):

For the second time, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, sir.

REP. D'AMELIO (71st):

Mr. Speaker, there was many questions asked on this Amendment, and I just want to bring to the Chamber's attention that this Amendment is the result of many hours of work between the trial lawyers and the insurance industry.

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They both feel very strongly that swapping this information will bring faster resolution to cases and maybe not clog up a lot of our courts with lawsuits.

So, you know, I would like everyone to keep that in mind. This issue has been before the Insurance Committee for many years and we finally came to some type of a resolution as I stated before, so I encourage everyone to adopt this Amendment. Thank you.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative D'Amelio. Further on Senate "A"? Further on Senate "A"?

If not, I'll try your minds. All those in favor please signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER ALTOBELLO:

Opposed? The ayes have it. Further on the Bill as amended? Further on the Bill as amended?

If not, staff and guests please retire to the Well of the House. Members take your seats. The machine will be opened.

THE CLERK:

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The House of Representatives is voting by Roll
Call. Members to the Chamber.

The House is voting by Roll Call. Members to the
Chamber.

DEPUTY SPEAKER ALTOBELLO:

Have all Members voted? Have all Members voted?
Please check the board to make sure your vote is
properly cast. If all Members have voted, the machine
will be locked.

Will the Clerk please take a tally.

Will the Clerk please announce the tally.

THE CLERK:

Senate Bill Number 894 as amended by Senate
Amendment

Schedule "A".

Total Number Voting	144
Necessary for Passage	73
Those voting Yea	128
Those voting Nay	16
Those absent and not voting	7

DEPUTY SPEAKER ALTOBELLO:

The Bill as amended by Senate "A" is passed in
concurrence with the Senate.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**INSURANCE AND
REAL ESTATE
PART 5
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of it looking at -- because they could look at those other sources, as well. One of the things they offer is more fair market value, what retailers in the area are offering their vehicle for.

REP. MEGNA: I would imagine that the decision would be primarily on whether Autosource tends to be lower, have lower values than the other sources. I would imagine that some insurance companies, maybe your company would choose that source, based upon -- because it would mitigate what you would have to pay out to consumers; isn't that correct?

TIM KNAPP: No, I don't think -- we're trying -- we're trying the vehicle so -- so a claimant whether a first- or third-party claimant is able to get into a vehicle and drive a car that they were in before the accident.

REP. MEGNA: Okay. All right. Thank you.

Thank you Mr. Chairman.

REP. FONTANA: Thank you, Representative.

Other questions from members the committee?
Seeing none, thank you, Tim.

TIM KNAPP: Thank you.

REP. FONTANA: Unless someone would like to testify that concludes the testimony on House Bill 6450.

We will now proceed to Senate 894, and it's Nick -- Nick Woel from CTLA, followed by David Cooney, followed by Sue Giacalone.

NICK WOEL: Good afternoon, Chairman Fontana,

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Chairman Crisco, other members of the committee. My name is Nick Woel. I'm from the law firm of Tooher, Woel & Leydon, in Stamford, Connecticut. I'm an attorney. I've been practicing law for 24 years in Connecticut. And I am a chairman of a new committee with CTLA, called the Court Case Committee. The Court Case Committee is designed to address the issues of the ranking file members of CTLA and, most importantly, their clients.

We support this bill. Currently, it's been the experience of CTLA members that information with regard to policy limits; presettlement, almost are never disclosed to the lawyers. Our experience has been about one in 50 adjusters will voluntarily disclose policy limits, prelitigation and that the adjusters need permission from their supervisors as a typical line to be able to disclose this. It delays the inevitable. All defendants are required to disclose the insurance policy limits once a lawsuit is filed. It's a standard question. It's one that's been approved by the judges and has to be answered.

When I deal with insureds from other states, such as Massachusetts, once we give a letter of representation, they will disclose the policy limits to use. This allows us to advise our own uninsured or underinsured motorist carriers -- the underinsured motorist carriers if we'll be filing an underinsured claim. It's beneficial to the insurance companies who handle the underinsured motorist claims, as to what the policy limits are of the tortfeasor, of the negligent party, in the case.

Settlement negotiations are regularly stymied because we do not know what the policy limits are. There have been -- I've read the

arguments of the CBIA where they're saying that there's more lawsuits. I don't know of any statistic that would support that claim. There's an argument by CBIA that there are deep pockets -- that we're seeking deep pockets. I think they are trying to play with the raw emotions of the committee members with this.

The value of the case is dependant, not on the insurance coverage, but on the responsibility and on the damages. Less lawsuits would be filed if we knew the policy limits beforehand. Clearly, this would occur. There are cases where I have -- where that I have \$50,000 in medical expenses and I later find out a 20,000 insurance policy, and I have to bring a lawsuit to find out that there is a 20,000 policy. And then after I bring the lawsuit and the disclosure, sometimes within a matter of weeks the case is settled.

Frequently, I have to sue both the driver and my own insurance company, the underinsured motorist claim, simultaneously, and then I find out that the policy limit of the tortfeasor, the negligent party, are equal to or greater than my own client, then I have to go and withdraw that. There's a game of blind man's bluff that's occurring right, and I think that it's just unfortunate.

If we settle for poly -- policy limits prior to filing the lawsuit, what happens right now is I have to obtain an affidavit from the insured before I can file my underinsured motorist claim. If a letter was sent by statute, I wouldn't have to obtain that affidavit. It's frequently a problem to get that affidavit and many times I have to go and put the case in the suit because the defendant tortfeasor, the negligent party, will not cooperate, and it

delays the settlement and, actually, forces me to have a lawsuit filed and then I have to have interrogatories that are answered.

The CBIA also says that the -- with all due respect to their argument, that the insurance policy limits are confidential. They are not confidential. They must be disclosed once a lawsuit is filed and transparency and honesty in full disclosure by both parties, by the insureds and by -- and by the lawyers, who are the plaintiffs' lawyers, help lead to the settlement of these cases.

REP. FONTANA: Nick, I think that -- I think we're indicating that it's gone over the three minutes.

NICK WOCL: Okay. Very good.

REP. FONTANA: So let me see if there are questions from members of the committee? Representative Altobello.

REP. ALTOBELLO: Thank you, Mr. Chairman.

You said that not disclosing the policy limits only delays the inevitable. Once you file a lawsuit, that the limits are disclosed. Could you walk me through the timeline on that. How much time are we talking about?

NICK WOCL: There's a two-year statute of limitations for motor vehicle collision accidents. Once I file a lawsuit, the attorney for the defense will file an appearance. Within 30 days, I can now start the discovery process of that case. And then file what's called a request for disclosure and production. There is a standard motor vehicle request for disclosure and production that's been approved

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by the judges. And one of the first questions in there is about insurance coverage. And then they have 30 days to be able to go and answer that without extensions of time. There are always extensions of time.

So, from the time that I file a lawsuit to the time that I get the answers, are usually 90 to 120 days, best case scenario, from the time that I file a lawsuit to I get the insurance policy limits, which they have to disclose.

REP. ALTOBELLO: And how long is it that you have to -- is there a time limit as to when you can file suit?

NICK WOCL: I have a two year -- there's a two year statute of limitations for motor vehicle collisions. It's two years from the date that you knew or should have known, and you can go back no more than three years from the date of the act or occurrence complained of. In motor vehicle cases, it's a standard two-year statute of limitations.

REP. ALTOBELLO: Thank you, sir.

Thank you, Mr. Chairman.

REP. FONTANA: Thank you, Representative.

Other questions for Nick? Seeing none, thank you, Nick.

Dave Cooney, followed by Sue Giacalone.

DAVID COONEY: Commissioner Crisco -- excuse me -- Chairman Crisco, Chairman Fontana, members of the committee, I'm David Cooney. I am from Bloomfield. I practice here in Hartford with the law firm of RisCassi & Davis. And,

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presently, I am vice president of Connecticut Trial Lawyers Association.

I don't want to go over everything that Nick just talked about. What I really would like to do with the committee is just to share a case that I presently have going on, which explains the problems that we are confronted with.

I represent the estate of a young woman, 37 years old, who was killed last spring. She was standing on the side of a two-lane country road. A car was driving far in excess of the speed limits, swerved off the road and killed her. You get the police report. We find out that there's an owner of the car different than the operator of the car.

We immediately know who the insurance company is for the operator car because that's what listed on the police investigation report so we contact them. Within five or six months after I give them certain information, they do what we rarely see. They disclose in writing what the amount of their insurance coverage is and they offer to pay that amount, which is \$100,000.

We cannot accept that because we have to sue the owner of the car, too. And they refuse to tell us what their insurance coverage is. I've contacted them in writing. I've called them. I finally received a letter from them just within the last couple of weeks. And the insurance company says we cannot disclose the limits of coverage for their insured because that is what their privacy regulations require them to do. Their response was, well, what you have to do is just issue a subpoena so then we'll disclose insurance coverage available.

Now, obviously, I cannot issue a subpoena unless I file a lawsuit. So what they're really saying is just go ahead and file the lawsuit and then we will have tell you.

Secondly, and Nick alluded to this already, my client has underinsured motorist coverage in excess of \$100,000 that has been offered by the insurance company for the driver of the car. But we cannot access that coverage because state law requires that we not only receive all of the coverage available to the driver of the car but also the owner of the car.

So, we're in a situation now where we have to file a lawsuit to sue the driver of the car, who would be defended by their insurance company, the owner of the car, who will be defended by lawyers they choose for their insurance company, and we'll have to sue the underinsured motorist carrier.

They --

REP. FONTANA: Dave, can you explain to me. I appreciate that you provided that example, but what does knowing the limit on the owner of the car's insurance do to help you further the case? I mean, it sounds like you're going to have to sue them regardless?

DAVID COONEY: Perhaps. But I think if nothing else in this situation, I, at least, then will know whether we are in a position and we'll have to make a claim for underinsured motorist benefits. Because if the owner of the car has limits in excess of our underinsured motorist coverage then there is no claim against my client's insurance company for underinsured benefits, and we won't have to bother them.

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At this point, we'll have to sue them because we do not know. So it's just one more lawsuit, one more claim, one more insurance file that has to be opened up, and it's a waste of time. I think that if the information was provided to us in terms of what the owner's insurance coverage is available, I think the case would settle.

I think the case will settle, ultimately. And it seems like it's a lot easier to settle it before suit -- before we have to incur the time and expense to do that, but we cannot do that until we know what the insurance coverage is. And we're talking about the loss of the life of a 37-year-old woman. If they have another \$100,000 insurance, well, then, clearly the case should settle now, not three, six, 12 months from now.

REP. FONTANA: I guess and I appreciate your position, Dave, because they have information that you don't have access to. So, it's hard to negotiate when you don't know --

DAVID COONEY: The one hand tied behind my back is an attempt to negotiate.

REP. FONTANA: Well, it's sort of like in poker. You don't know what his hand is and they know what yours is, sort of. So, I guess, the other thing I was is -- you know, your claim is, we need to know this information so we can settle. Their attitude is if we give them this information, they're going to -- it's going to encourage them to sue rather than settle.

DAVID COONEY: I disagree with that.

REP. FONTANA: Okay.

DAVID COONEY: I absolutely disagree with that. I mean, our goal on behalf of our clients is to settle the cases fairly but as promptly as we can with incurring as little expense as possible. That you can do before filing suit. So, I mean that's our goal. And if we have the information is front us, and I know the total insurance is, I can then go to my client -- well, in this case the parents of this young woman, and say this is the most we can get; I think it's enough, it's not enough, and then we'll try and resolve it.

But we cannot advise our clients properly until we know what the total insurance is that's available. That doesn't mean we're going to get all. I mean, it could be that this owner has millions and millions of dollars of insurance coverage and simply because we know that doesn't mean we're going to get that, obviously.

REP. FONTANA: And I see from your testimony or Nick's that this is the law in Vermont, Massachusetts and Rhode Island.

DAVID COONEY: Yes.

REP. FONTANA: Is there a -- can you comment on their experience as it relates to this particular --

DAVID COONEY: I really would not like to just because anything I know, which is anecdotal. I certainly don't know any statistics or anything like that in terms of how effective it is in resolving cases.

REP. FONTANA: Okay. Very good.

Questions for Dave from members of the

committee? Seeing none, thank you, Dave.

DAVID COONEY: Thank you, sir.

REP. FONTANA: Sue Giacalone.

SUSAN GIACALONE: Good afternoon, once again, Senator Crisco, Representative Fontana, members of the Insurance and Real Estate Committee. Again, for the record my name is Susan Giacalone. I'm here on behalf of the Insurance Association of Connecticut to voice our opposition to Senate Bill 894.

This is a bill that has come before this legislative body for years and years and has been rejected for good cause. The testimony you just heard before me -- I've written -- I've submitted written comments. I'm going to try to just address the comments that were addressed before to remind that they keep leading you to believe year after year that they need this information to settle claims.

Claims are being settled routinely without this information. Very few cases actually go to suit. What this actually is, is they need it to calibrate what their demand is. I would love to know to go -- when I go into a dealership what their bottom line is, but, guess what? That's where I'm going to start negotiating. That's what would happen here.

There was actually testimony years ago during the amendment for malpractice debate about, well, if I knew what the policy limits were, then that would be what my offer of compromise when I offer a judgment would be at. It's to corroborate the demand. And as one of the speakers stated, very nicely and is actually

our point, it's not the policy limits that dictates what a case is worth. It is the medical condition, the treatment, and the person. The limits should not dictate it. That's what will happen if this bill passes and for that reason we urge you to reject this, as you have done years and years and years and years. Thank you.

REP. FONTANA: Thank you, Sue. First, I think your analogies a little inapt, to the extent that, if you go to a dealership, you can go to cars.com or vehix.com and get the dealer invoice there. So you know, sort of, within the little range, what the base price is and then what the retail price is and then you work on that so -- but you're working on that top 5 or 10 percent. You're not working on the entire price of the vehicle.

The other thing is, as you say, you don't see how this encourages people to settle. I don't see how they're encouraged to settle now. I mean, essentially, they -- they're force to sue to find out this information because they're saying, you know, compel us to tell you and we'll tell you.

SUSAN GIACALONE: Well, that's not true because we're -- if you believe that then you believe that we are not settling claims unless they're in suit, and that's not the truth. That's just blatantly is not the truth. There are more cases being settled without ever seeing suit, without ever going to a court.

I mean, if you look at the language of this bill -- I mean, look at. What are they really getting at? Fourteen days once they provide you, you have to give them the information. They -- that request doesn't ever get admitted

to a jury. Why? Why don't they want a jury to know what they've asked? Why -- what they've asked for the policy limits? And I know there's an issue of insurance but why not? They don't want it to be even considered because it looks like they're using that to demand.

You know -- there's no -- and the issue of privacy, yeah. I mean, you heard, oh, we don't have any privacy, we do have privacy. That privacy gets controlled by the court system once it's in suit, but, right now, we have an obligation to our insurers to protect our insurers. What they chose to insure their car, and, oh, by the way, it's just not that policy. It's asking for any policy that has bodily injury limits. So they're not just getting a policy in question on the car, using the examples they've used, they're getting anything, the umbrella. They've find out everything that this person has which is private information. And, yeah, it is protected information.

Our companies, you know, if you have case that -- if you're using their example about, oh, you have the \$50,000 in medical bills and they had minimum policy and I don't know that. Well, if a carrier has a minimum policy and their exposure is 100 percent on liability, another key, because it doesn't say they have to liable for it, they're just saying they can make a claim for it. They can make a claim. You have to give it to him whether the company is going to be liable or not. You have to give them that information.

The case, you know, decided for \$50,000 of (inaudible) in the minimum policy. Maybe, there wasn't liability. Maybe they're some

other things there, but if -- coming from my practical experience prior to my life here, I did at this work. And if we had a case that exposed our policy limits, I don't know many carriers that didn't tender the policy limits because it costs them money to keep those cases open if there wasn't exposure and liability.

And, again, look at the language in it. It's a full employment for attorneys because they can only get the information if they have a lawyer. And the idea about an affidavit, well, we don't to the use a affidavit or maybe we do. Why? Why if they don't want to be held to some of the information they're given to carry. They don't have to give us anything but you have our insurance private information. It's been defeated for reasons. I think for good reasons for many years, and it should stay that way.

REP. FONTANA: Thank you, Sue.

Questions from members of the committee?
Seeing none. Thank you, Sue.

SUSAN GIACALONE: Thank you.

REP. FONTANA: That concludes the testimony on Senate Bill 894.

We will now proceed to House Bill 5436. Is there a Joyce Fastini here? Correct?

Certainly, certainly. Please step forward and state your name for the record.

JOHN PARESE: Senator Crisco, Representative Fontana, my name is John Parese. I 'm a attorney. I do litigation. I appreciate you hearing me last minute. I just happened to be in the audience, and I wanted to offer some

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brief comments.

I do a lot of injury law that requires settling and knowing policy limits. And it's a formality, and I've been forced on a number of occasions to put cases into suit strictly for the reason of finding out that there's a minimum policy on the other side of the case after which point the case is settled. It does force attorneys to put cases into suit unnecessarily, and it's a nuisance ultimately because we're going to find that information out.

I don't understand the privacy objection because it's policy information. All we have to do is put the case into suit to find that out. So I would just offer my support for the bill. I think it'll help declog some of the cases in the court systems and will move cases quicker and help injured people settle money sooner -- settle claims sooner, which is really the ultimate objective of the judicial system.

REP. FONTANA: Great, John.

JOHN PARESE: Thank you.

REP. FONTANA: Are there questions for John from members of the committee? Representative Schofield, yes.

REP. SCHOFIELD: I guess I'm just not familiar with all of this in great detail, but is there an option here that -- that before you would get the information, that you'd still have to at least declare what the amount of your claim would be and you would never exceed that upon discovering that your -- that -- that the other person's liability coverage is actually much greater?

I mean, (inaudible) back to Ms. Giacalone's concerns that this is way of discovering how much you can go after and then going after that amount. So, if you disclosed in advanced, okay, we're looking for \$20,000 here, and then you found out, oh, the person has \$100,000 coverage, that, okay too late; you can't not now go after the \$100,000.

JOHN PARESE: No, no.

REP. SCHOFIELD: It sounded like a concern there.

JOHN PARESE: Yeah, I understand your question. I think that's misleading, and it's just not the way things work in practice. Our job is not evaluate a case based on, you know, injuries, and permanent disabilities and things of that nature. And we come up to rough value as to what we think the case is worth. And, usually, what my practice is to try to settle a claim before putting it into suit, if we can, at whatever value we think, ultimately, a jury might give this person, and maybe there's some discount value for risk, and so forth. But --

Let me tell they it will works in practice. So, let's say, hypothetically, I think a case is worth \$50,000 and I engage in a discussion with an adjuster about, okay, our demand is \$50,000, and we go through that process. A lot of times what I have found is adjusters will try to, settle within 17, 18,000 dollars, knowing there's a \$20,000 policy. I then file suit, go through the whole process, have to hire a marshal to make service of process. It disrupts the claimant cause. They have to get papers served on them, and that whole -- it goes to the court system. You open a case. You pay court filing fee. You go through that

whole process and then they say, okay, we'll give you that \$20,000 so now you can pursue your underinsured motorist claim. That's a typical scenario that I've dealt with where -- I believe it's the insurance company more, playing games to try to save them a few bucks on the policy, rather than, I mean, knowing full well that -- and I don't know who falls for that? I mean, there must be attorneys out there that do or else they wouldn't be doing it as much as they do. But I don't think by giving us that information in advance, it will have any relevance to or bearing on what we think the case is worth. I mean, there may be a situation where there's only so much insurance coverage out there, at which point, you know, you advise your clients accordingly and you settle the claim. But making trial attorneys go through the extra step of having to put the case into suit, it doesn't do anything but really clog up the court system and cost everyone money and time.

REP. FONTANA: Thank you.

Other questions for John? Seeing none, thank you, John, for coming up.

JOHN PARESE: Thank you for agreeing to hearing me last minute. I appreciate it.

REP. FONTANA: Not a problem. That now concludes, I believe Senate Bill 894, and that means we will move to House Bill 5436. And the first person to testify is Joyce Fastini.

Is Joyce Fastini here? Oh, very good. Joyce, please step forward, and, if you'd like, you can be accompanied by Representative Esty, if she'd like to join you as well or not, as you prefer?

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Raised Bill 894
Public Hearing: 2-17-09

TO: MEMBERS OF THE INSURANCE AND REAL ESTATE COMMITTEE
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)
DATE: FEBRUARY 17, 2009

RE: **SUPPORT FOR RAISED BILL 894 - AN ACT REQUIRING DISCLOSURE OF
AUTOMOBILE LIABILITY INSURANCE POLICY LIMITS PRIOR TO THE
FILING OF A CLAIM**

The CTLA supports raised bill 894, and respectfully contends that the bill should be approved without the sunset provision found in subsection 1(a) or the study mandated in section 2.

This bill requires a tortfeasor's automobile insurance company to disclose the amount of automobile liability insurance coverage available to the tortfeasor, if the injured person or his/her attorney makes a written request for such information.

In Connecticut, insurance companies are already required to disclose insurance coverage when an injured person files a lawsuit against the wrongdoer. This bill simply requires disclosure earlier in the process (upon written request) so that some cases can be settled before lawsuits need to be filed.

This bill is law in our neighboring states: Massachusetts, Rhode Island and Vermont.

This bill will facilitate earlier settlements of legal claims in the following cases: 1) if the tortfeasor only has a small amount of insurance coverage (e.g. \$20,000 auto liability coverage), then it is helpful that a seriously injured person with say, \$100,000 in damages, knows this information early on in the process – because this is the type of case that could very well be settled before a lawsuit must be filed; 2) if there are numerous injured victims and the one wrongdoer only has a small amount of liability coverage, then it would be helpful for the injured people to know the amount of available liability insurance coverage early on in the process, so again, that meaningful settlement discussions can take place among all of the parties before the injured people need to file lawsuits.

This bill will not lead to attorney's increasing the settlement demand if the tortfeasor's coverage is high. There is no benefit in an attorney making an unreasonably high settlement demand, because then the case won't settle pre-suit and the attorney will have to file the lawsuit nevertheless. IN ADDITION – Insurance industry claim representatives would never accept demands higher than the value of the case.

WE RESPECTFULLY URGE YOU TO SUPPORT RAISED BILL 894. Thank you.

large their clients' claims should be. The amount of insurance a person or entity carries is confidential and should have no influence on the actual value of a claim. Disclosing automobile policy limits before a claim is filed will inflate the value of claims and ultimately increase liability premium costs for everyone.

Thank you for the opportunity to voice CBIA's comments and concerns. For the aforementioned reasons, we urge you to reject SB 894, An Act Requiring Disclosure of Automobile Liability Insurance Policy Limits Prior to the Filing of a Claim.



Connecticut Business & Industry Association

Testimony of Kevin R. Hennessy
Staff Attorney, Connecticut Business & Industry Association
Before the Insurance & Real Estate Committee
Legislative Office Building
Hartford, Connecticut
February 17, 2009

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Senator Crisco, Representative Fontana and members of the Insurance & Real Estate Committee, on behalf of the Connecticut Business & Industry Association ("CBIA") and its members, thank you for the opportunity to submit comments on SB 894, An Act Requiring Disclosure of Automobile Liability Insurance Policy Limits Prior to the Filing of a Claim.

CBIA opposes SB 894. First, it is an inequitable measure that will benefit plaintiffs while harming defendants. Second, it is unnecessary since insured motor vehicle drivers are already mandated to carry minimum insurance amounts. Finally, supplemental liability insurance is a private issue that affords no connection to the validity of a liability dispute.

Requiring the disclosure of automobile liability insurance policy limits prior to the filing of a claim is inequitable. Plaintiffs already drive our tort system. They hold all of the information concerning how an injury occurred and its level of severity. Defendants have no opportunity to review evidence regarding injury or potential damages prior to a lawsuit being filed. Allowing plaintiffs to access a defendant's automobile liability policy limit prior to filing a claim will increase the plaintiffs' advantage in the settlement process. Moreover, it will encourage plaintiffs to negotiate based on the policy amount, rather than in good faith.

Additionally, Connecticut's General Statutes already mandate minimum insurance amounts for motor vehicle operators. C.G.S. §14-112 states:

"...the commissioner shall require from such person proof of financial responsibility to satisfy any claim for damages by reason of personal injury to, or the death of, any one person, of twenty thousand dollars, or by reason of personal injury to, or the death of, more than one person on account of any accident, of at least forty thousand dollars, and for damage to property of at least ten thousand dollars." (emphasis added)

This means that plaintiff's lawyers already know that potential defendants carry minimum insurance amounts. Allowing them to access additional insurance information would give them an unnecessary advantage in negotiating settlements. It would elevate the baseline from which negotiations would start which would ultimately discourage defendants from settling these inflated claims.

Finally, maintaining additional automobile liability insurance is a private matter that provides no legal connection to the validity of a liability dispute. Forcing defendants to disclose private information before a claim is filed simply makes it easier for trial lawyers to decide how



STATE OF CONNECTICUT
JUDICIAL BRANCH

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EXTERNAL AFFAIRS DIVISION

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Testimony of the Deborah J. Fuller

Insurance and Real Estate Committee Public Hearing
February 17, 2009

Raised Bill 894, An Act Concerning Disclosure of Automobile Liability Insurance
Policy Limits Prior to the Filing of a Claim

Thank you for the opportunity to submit written testimony on behalf of the Judicial Branch regarding Raised Bill 894, *AAAC Disclosure of Automobile Liability Insurance Policy Limits Prior to the Filing of a Claim*. We respectfully request that section 2 of this proposal be deleted, as the Branch would be unable to comply with its mandate.

Section 2 would require the Branch to submit a report by January 1, 2011 to the General Assembly specifying the number of automobile injury cases settled as a result of the disclosure required by section 1 of the bill. The Judicial Branch would not have that information and thus would be unable to file such a report. The statement of purpose is, "To allow injured parties to obtain information about at tortfeasor's liability insurance policy limits without being required to file an action in court..." The courts have no knowledge of claims or conflicts prior to a case being filed, and therefore would have no way of knowing how many of them never make it to court, let alone the reason. In addition, even for those cases settled after a case has been filed, the reason for settlement is not known by the courts. These cases appear in the statistics as simple withdrawals.

For this reason, we request that the Committee not act favorably on section 2 of this proposal.

Thank you for the opportunity to testify.

Statement**Insurance Association of Connecticut
Insurance and Real Estate Committee**

February 17, 2009

SB 894 An Act Requiring Disclosure Of Automobile Liability
Insurance Policy Limits Prior To The Filing Of A Claim

The Insurance Association of Connecticut opposes SB 894, An Act Requiring Disclosure Of Automobile Liability Insurance Policy Limits Prior To The Filing Of A Claim.

What purpose does the knowledge of one's insurance serve in settling an action prior to suit? The amount one decides to insure their home, car or business for is a personal decision and is irrelevant to the issue of whether you are responsible for one's injuries or how much those injuries are worth. There is no relevant reason to mandate the disclosure of policy limits prior to suit. There is no demonstrated need for this information.

The two issues of any claim are whether the insured should be responsible for the damage and what the value of the damage is. The amount of coverage an insured has decided to purchase has no bearing on these issues.

Contrary to the stated purpose, SB 894 will actually increase litigation. Policy limits, instead of the underlying value of a case, will drive plaintiff's settlement demands and encourage suit. Plaintiffs will decide whether to file suit based upon the depth of the pocket involved. Our current system provides protections from frivolous actions and parties seeking out deep pockets.