

Legislative History for Connecticut Act

PA 14-71

HB5061

House	4138-4144	7
Senate	3159, 3163-3164	3
Judiciary	1052-1053, 1054-1059, <u>1235, 1236</u>	10
		20

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2014**

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SPEAKER SHARKEY:

The bill as amended passes.

Will the Clerk please call Calendar Number 80.

THE CLERK:

On page 33, House Calendar 80, favorable report of the joint standing committee on Insurance and Real Estate, House Bill 5061, AN ACT CONCERNING UNINSURED MOTORIST COVERAGE FOR BODILY INJURY TO A NAMED INSURED OR RELATIVE DURING THE THEFT OF A MOTOR VEHICLE.

SPEAKER SHARKEY:

The distinguished Chairman of the Judiciary Committee, Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker. I move for the acceptance of the joint committee's favorable report and passage of the bill in concurrence with the Senate. It's a House bill, I'm sorry.

SPEAKER SHARKEY:

The question is on acceptance of the joint committee's favorable report and passage of the bill.

Will you remark, sir?

REP. FOX (146th):

Thank you, Mr. Speaker, I think the reason I said in concurrence with the Senate is that this is a bill

that has been before the Judiciary Committee for a few years now and it is one that has gotten out of the Senate previously, but this year we did make it a House bill in an attempt to hopefully make this bill become law.

And what this bill does is, it addresses a situation, which does not happen very often, but it has happened according to the public testimony that came before the Committee, in which an individual who is struck by their own vehicle, perhaps during the case of a carjacking or some other crime, I think was the examples that we heard.

And what happens, according to our insurance laws, is that that individual that they're struck by their own vehicle, are not eligible for uninsured motorist coverage to compensate them for their injuries.

It's a rare circumstance. It's one, though, according to the public testimony we had at the Committee, is one in which there were two cases in Connecticut where the Superior Court reached different conclusions and what we hope here is that we will make it clear that if an individual is struck by their vehicle in the course of a carjacking or something

along those lines, that they would, in fact, be eligible for uninsured motorist coverage, and I would urge my colleagues to vote in favor of this bill.

SPEAKER SHARKEY:

Thank you, sir.

Would you care to remark further on the bill before us? The distinguished ranking member of the Judiciary Committee, Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker, and good morning.

SPEAKER SHARKEY:

Good morning, madam.

REP. REBIMBAS (70th):

Mr. Speaker, I do rise in support of the bill that's before us. I know it's come before us last year and it came before us in Judiciary.

I think, as the Chairman of the Judiciary Committee had stated, there are, there is two decisions from the court system that differ, so the law does require some clarity.

But just to further clarify the legislation that's before us, just several questions to Representative Fox, through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. Mr. Speaker, through you, I just wanted to clarify. Is this only limited to the owner when the owner is defined as a pedestrian?

So in other words, if the owner gets struck physically, bodily, in the pursuit of the vehicle being actually stolen, opposed to the owner getting into another vehicle and chasing the stolen vehicle?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker. I was prepared to answer no, because what the eligibility would be for those individuals who are eligible under that insured's policy, so it could be a relative who resides in the home.

But then what the, at the conclusion of the example from the ranking member of the Committee, it would not cover getting into another car, and then that circumstance would not be one I would envision.

SPEAKER SHARKEY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker, and I would like to thank Representative Fox for his clarification and also his further clarification, how he anticipated the next question that it certainly does extend to any relative that resides in that same residence as the owner of the vehicle, so that's also a good thing to clarify in that regard.

Mr. Speaker, the only other point I want to make is, one of the concerns I previously had in this legislation is, what kind of public policy are we setting? The last thing we want to do is have an owner or again, any relative from the house, want to jump out in front of their own vehicle trying to stop the perpetrator from stealing the vehicle, but sometimes the natural, human reaction is to do just that, and the owner or anybody else who attempts to do that should not necessarily be penalized if that perpetrator, once again, actually injures them in the commission of this crime of stealing the vehicle.

And once again, we do have the two differing decisions from the court system, so clarity does need to be had.

There was no testimony in opposition to the bill,
so Mr. Speaker, I do rise in support of the
legislation that's before us. Thank you.

SPEAKER SHARKEY:

Thank you, madam.

Would you care to remark? Would you care to
remark further on the bills before us?

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

THE CLERK:

The House of Representatives is voting by roll.

The House of Representatives is voting by roll. Will
members please return to the chamber immediately.

SPEAKER SHARKEY:

Have all the members voted? Have all the members
voted? Will the members please check the board to
make sure your vote is properly cast.

If all the members have voted, the machine will
be locked and the Clerk will take a tally. And will
the Clerk please announce the tally.

THE CLERK:

House Bill 5061.

Total number voting 134

Necessary for passage	68
Those voting Yea	127
Those voting Nay	7
Those absent and not voting	17

SPEAKER SHARKEY:

The bill passes.

Will the Clerk please call Calendar 329.

THE CLERK:

Calendar 329 on page 16, favorable report of the joint standing committee on General Law, Substitute for Senate Bill 376, AN ACT CONCERNING NONPROFIT GOLF TOURNAMENT ALCOHOLIC LIQUOR PERMITS.

SPEAKER SHARKEY:

Representative Kiner.

REP. KINER (59th):

Thank you, Mr. Speaker. Good afternoon.

SPEAKER SHARKEY:

Good afternoon, sir.

REP. KINER (59th):

Mr. Speaker, I move for acceptance of the joint committee's favorable report and passage of the bill in concurrence with the Senate.

SPEAKER SHARKEY:

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Calendar page 22, Calendar 515, House Bill Number 5361, move to place on the Consent Calendar.

Also, Madam President, under Matters Returned from Committee, Calendar page 39, Calendar 265, -- pardon me. We've taken action on that one already.

Calendar page -- back on Calendar page 6, Madam President, under Favorable Reports, Calendar page 6, Calendar 331, House Bill Number 5248, move to place on the Consent Calendar.

Also, Madam President, Calendar page 24, Calendar 526, House Bill number 5556. Move to place on the Consent Calendar.

In addition, Madam President, under Favorable Reports, Calendar page 27, Calendar 546, House Bill Number 5061, move to place on the Consent Calendar.

Calendar page 30, Calendar 563, House Bill Number 5554, move to place on the Consent Calendar. It may have been placed there earlier, Madam President.

THE CHAIR:

It has been.

SENATOR LOONEY:

Also Madam President, Calendar page 27, Calendar 543, House Bill Number 5037, move to place this item on the Consent Calendar.

Also under Favorable Reports, Madam President, Calendar page 18, Calendar 470, House Bill Number 5506, move to place on the Consent Calendar.

And back on Calendar page 10, Madam President, Calendar 396, Senate Bill Number 114, move to place on the Consent Calendar.

In addition, Madam President -- in addition, Madam President, I have a couple of items to mark as go.

Madam President, items to be marked go, Calendar page 333, page 33, Calendar 579, House Bill 5348. And

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And on page 22 Calendar 513, House Bill 5353.
Calendar 515, House Bill 5361.

And on page 24, Calendar 526, House Bill 5556.
Calendar 524, House Bill 5219.

Page 25, Calendar 4 -- sorry, Calendar 530, House Bill 5368,
page 27, Calendar 546, House Bill 5061.
Calendar 543, House Bill 5037.

On page 28, Calendar 550, House Bill 5514.

Page 29, Calendar 554, House Bill 5148.

Page 30, Calendar 563, House Bill 5554.

Page 31, Calendar 567, House Bill 5229. Calendar 565,
House Bill 5028.

And on page 42, Calendar 384, Senate Bill 442.

THE CHAIR:

Senator Looney, do you have any more good news for us?

SENATOR LOONEY:

Yes, thank you, Madam President. One additional item
to add before we call for the actual vote on the
Consent Calendar, and that is item an Calendar page
33, Calendar 575, House Bill 5359. With that one
addition it would call for a vote on the Consent
Calendar.

THE CHAIR:

Mr. Clerk, please call for a vote on the Consent
Calendar, and the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Immediate roll call on the second Consent Calendar
today has been ordered in the Senate.

THE CHAIR:

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If all members have voted? All membered voted, the machine will be closed. Mr. Clerk, will you please call the tally.

THE CLERK:

On the second Consent Calendar for today.

Total number voting	35
Those voting Yea	35
Those voting Nay	0
Absent not voting	1

THE CHAIR:

Consent Calendar passes. Senator Looney.

SENATOR LOONEY:

Thank you, Madam President. If the Clerk would call the first item marked go to follow the Consent Calendar.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On page 33, Calendar 579, Substitute for House Bill Number 5348, AN ACT CONCERNING THE PAYMENT OF DELINQUENT PROPERTY TAXES. Favorable Report of the Committee on Planning and Development.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you. Thank you, Madam President. Pursuant to Rule 15 of the Joint Rules, I am recusing myself from consideration of this bill.

THE CHAIR:

Thank you, sir. Please leave the Chamber.

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with the way this legislation is written, departments and schools can work together to identify opportunities that are cost effective for their communities, and that would be a next step.

REP. MORRIS: Okay. Thank you very much. Thank you, Mr. Chairman.

REP. FOX: Thank you. Are there other questions or comments? No. Thanks a lot for your testimony.

MARISA HALM: Thank you very much.

REP. FOX: We now turn back to our public officials list as I see Senator Looney is here. Good afternoon, Senator Looney.

SENATOR LOONEY: Good afternoon, Mr. Chairman. Good afternoon, Chairman Fox and members of the Judiciary Committee. My name is Martin Looney, State Senator for the 11th District. I represent the City of New Haven and the Towns of Hamden and North Haven, also Senate Majority Leader and for approximately 20 years I was a proud member of the Judiciary Committee as both a House and Senate member over the years and consider this the most stimulating and interesting of all of the committees of the General Assembly to serve on and believe in many ways I got a significant legal education serving on the Committee because I was in law school when I first began to serve on the Committee and often learned more here than I did at my law classes, I think to a great extent.

But I am here today to testify in support of two bills, House Bill 5060 AN ACT CONCERNING THE RECORDING OF POLICE ACTIVITY BY THE PUBLIC and House Bill 5061 AN ACT CONCERNING UNINSURED MOTORIST COVERAGE FOR BODILY INJURY TO A NAMED

INSURED OR RELATIVE DURING THE THEFT OF A MOTOR VEHICLE.

Each of these concepts in prior years was reported favorably out of this Committee as Senate bills and each of these has passed the Senate in different years. I'm pleased that they are offered as House bills this year.

House Bill 5060 would allow a person to bring a cause of action against a peace officer who interferes with a person taking a photographic or digital still or a video image of the peace officer or another peace officer acting in the performance of his or her duties, provided that the individual was not otherwise interfering with the officer in the performance of that duty.

There have been numerous incidents throughout the nation and some in Connecticut in which citizens have been harassed, threatened and arrested for recording would seem to be public action by police officers.

In some of these states, due to laws that are behind current technology, this action is in fact against the law. However, in the last two, last year, two federal appellate courts have reaffirmed citizens' rights to record police officers and the U.S. Supreme Court has declined to accept either of these cases, thus intentionally allowing these decisions, which affirm the right to record to stand.

In the 111th Congress, Congressman Town submitted a resolution expressing that state and federal wiretapping laws were never intended to be used against citizens in this manner.

A peace officer should not have an expectation of privacy in his or her public duties. In

Connecticut, citizens have a right to record police officers in these settings. However, there have been recent incidents in which officers harassed and threatened citizens who were attempting to exercise this right.

I believe that creating a possible cause of action against officers who attempt to intimidate citizens in this manner would serve as a deterrent and a corrective to this behavior. Officers who were following appropriate law and procedure should not object to this recording, so long as the recording does not interfere with the officer's ability to perform his or her legitimate duties.

The second issue in House Bill 5061 addresses a quirk in Connecticut's insurance laws that can create an unintended conundrum for the few very affected by it, and this involves a situation in which a person is struck by his or her own car that has been taken without the owner's permission.

When a car is taken without the owner's permission, it is declared uninsured and this is meant to protect the vehicle owner, and Connecticut statutes also prevent the owner from filing an uninsured motorist claim on his or her own vehicle and this is to encourage the vehicle owners to insure their vehicles, including all of the vehicles that they happen to own. And both of these are certainly good insurance policies and good public policy.

However, if the two statutes operate together, when a vehicle owner is injured by his or her own vehicle that has been taken without permission, there is no way to make a claim.

This was not the intent of the Legislature when it passed these two provisions. There was not an intent to have the two provisions work

together in such a way as to deny recovery to a person who was struck by his or her own vehicle that has been stolen.

I'm aware of two cases with similar fact patterns and two superior court judges made opposite decisions as to recovery. In one of them, Pierolo v. American National Fire Insurance Company, Judge Rittenband held that the named insured could, in fact, collect under the uninsured motorist policy given the circumstances of that case.

He correctly noted that this situation was not contemplated by the Legislature in passing that legislation.

However, in Maynard v. Geico General Insurance Company, Judge Corradino held that the plaintiff could not recover due to the actual content of the statutory language, and I'm hopeful that House Bill 5061 will clarify the legislative intent on this issue.

That does not affect very many people, but when it does, it can certainly be a shock. Thank you, Mr. Chairman.

REP. FOX: Thank you, Senator Looney, and on the last bill, the uninsured motorist one, I just want to make sure that it's clear and the members of the Committee understand, it would apply in very limited instances.

But it would be those instances where someone's car is being stolen. They may attempt to stop the person.

SENATOR LOONEY: That's exactly the circumstance where it's happened. I think in one or both cases, a car was parked in a shopping center parking lot and the owner of the car came out and saw the car in the act of being stolen and

tried to flag the driver down who then struck the owner of the car, causing injuries.

REP. FOX: And in that instance, if the statute, if the court were to take the second interpretation in the case that you raised, then that individual could suffer very serious injuries in being run over by a car, yet they would have no place to turn, unless the person who attempted to steal the car has some sort of policy.

SENATOR LOONEY: Right. Exactly. If the thief had a policy of his own, then you could possibly go against those policies, but that, I think in both of these cases that were cited, that was not the case. The only possible recovery was under the owner's own policy.

REP. FOX: Okay. Well, thank you for that. We'll see what we can do this year in trying to get this one through.

SENATOR LOONEY: Right. Thank you.

REP. FOX: Are there any questions? Representative Rebimbas.

REP. REBIMBAS: Thank you, Mr. Chairman. And good afternoon, Senator.

SENATOR LOONEY: Good afternoon.

REP. REBIMBAS: So just a follow up on the prior question. So currently, under current state law, is there anything that prevents the injured party from recovering on that other person's insurance if they have insurance?

There's nothing that prevents that, is that correct?

SENATOR LOONEY: I don't believe so, if the other person happens to have insurance. I think so.

REP. REBIMBAS: And I think the only concern that I recall from last time was setting precedent for public policy. We certainly want to deter people from jumping onto their own vehicles if they believe that it's being stolen because of the catastrophic incidents that could occur, that they could be injured and/or run over.

I just recall that from last Session and I'm trying to remember again, the testimony that was provided and things of that nature.

Do you have any concerns regarding that, you know, again, public policy of encouraging people not to jump on, you know, when a vehicle is being stolen, especially in light of the fact that they now know that they potentially could recover something if they were to be injured?

SENATOR LOONEY: I don't think, I don't think that would affect somebody's action when they see their car being stolen. I think one of the, in both of these cases, fortunately, I believe it was a (inaudible) where the shocked owner came out, saw the car being pulled away, went toward the car and tried to flag down the driver, who then, you know, kept going and ran, I think over the person's foot in one case and caused a leg injury, I think, in another case.

But I don't think it's going to make insured owners reckless just because they might be able to recover. I think that's probably the last thing in their mind at the time they're thinking about trying to stop the thief who's stealing their car.

REP. REBIMBAS: And do you know by any chance if in that particular case during the criminal proceedings if the restitution was provided to the victim?

SENATOR LOONEY: I don't believe there was. I'm not sure whether that was true in both cases or not.

REP. REBIMBAS: Okay.

SENATOR LOONEY: And again, in one case the company denied coverage and that was upheld and the other case the company tried to deny coverage and it was indicated to not be upheld, so the two superior court decisions went in different directions.

REP. REBIMBAS: Wonderful. Thank you for your testimony. I was just trying to consider what other options the victim would have, and certainly restitution for the criminal court for medical expenses and things of that nature would probably be an avenue also. But thank you for your testimony.

SENATOR LOONEY: Thank you.

REP. FOX: Senator Doyle.

SENATOR DOYLE: Thank you, Mr. Chairman. Good afternoon, Senator Looney.

SENATOR LOONEY: Good afternoon, Senator.

SENATOR DOYLE: I have just a quick question. You prefaced your remarks by saying you thought the Judiciary Committee was the most interesting committee and I do agree with you. You spent 20 years on there and you even mentioned you thought you got more education and value out of the Committee versus the law school.

But my question is, we're talking about the content of the Committee, or the conduct of a certain chairman might have been more educational for you? Maybe Chairman Tulisano?

SENATOR LOONEY: Well, I would say that Chairman Tulisano doubled as a professor for many other

lawyers as well, and young law students.
Absolutely.

SENATOR DOYLE: Thank you. Thank you.

SENATOR LOONEY: I would say as did Representative Wollenberg in many ways as well. They both would frequently offer, in effect, practical tutorials for young lawyers and law students serving on the Committee.

SENATOR DOYLE: Thank you. Thanks for coming today, Senator.

SENATOR LOONEY: Thank you, Senator Doyle.

REP. FOX: I don't see anything else. If I may for a second time, because I want to give another hypothetical on the uninsured motorist vehicle because it is, you certainly don't want people to start to dive on their car or do things to prevent somebody from stealing their car that would endanger them, but also they could be struck running away, I would think, trying to get themselves out of the way and still maybe not be able to recover.

SENATOR LOONEY: That's true. You could also be trying to avoid impact on the car and be run down by the driver who's stolen your car.
Right.

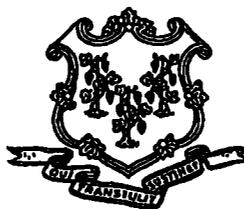
REP. FOX: And then, also if I could ask you on this first bill you testified on, we did have some testimony earlier from law enforcement as well, and I know in the Senate you've done a lot of work on this bill and it seems to be something that there's much more consensus than there was initially when this was proposed. Is that your understanding?

SENATOR LOONEY: I believe so. I think more and more as now, people are getting used to the idea of being under constant surveillance of

HB 5060

SENATOR MARTIN M. LOONEY
MAJORITY LEADER

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February 24, 2014

Good afternoon Senator Coleman, Representative Fox and members of the Judiciary Committee. I am here to testify in support of HB 5060 AN ACT CONCERNING THE RECORDING OF POLICE ACTIVITY BY THE PUBLIC and HB 5061 AN ACT CONCERNING UNINSURED MOTORIST COVERAGE FOR BODILY INJURY TO A NAMED INSURED OR RELATIVE DURING THE THEFT OF A MOTOR VEHICLE .

HB 5060 would allow a person to bring a cause of action against a peace officer who interferes with the person taking a photographic or digital still or video image of the peace officer or another peace officer acting in the performance of his or her duties provided that the individual was not otherwise interfering with the officer in the performance of duty. There have been numerous incidents throughout the nation in which citizens have been harassed, threatened and arrested for recording what would seem to be public action by police officers. In some of these states, due to laws that are behind current technology, this action is in fact against the law. However, in the last year two Federal appellate courts¹ have reaffirmed citizens' rights to record police officers and the U.S. Supreme court has declined to accept either of these cases thus intentionally allowing these decisions (which affirm the right to record) to stand². In the 111th Congress, Congressman Townes submitted a resolution expressing that state and federal wiretapping laws were never intended to be used against citizens in this manner³.

¹ http://en.wikipedia.org/wiki/Glik_v._Cunniffe
http://aclum.org/sites/all/files/legal/glik_v_cunniffe/appeals_court_ruling.pdf

² Alvarez v. Connell et al, U.S. Supreme Court, No 12-318

³ H. Con. Res. 298

A police officer should not have an expectation of privacy in his or her public duties. In Connecticut, citizens have a right to record police officers in these settings. However, there have been recent incidents in which officers harassed and threatened citizens who were attempting to exercise this right. I believe that creating a possible cause of action against officers who attempt to intimidate citizens in this manner would serve as a deterrent to this behavior. Officers who are following appropriate law and procedure should not object to this recording so long as the recording does not interfere with the officer's ability to perform his or her legitimate duties.

HB 5061 addresses a quirk in Connecticut's insurance laws that can create an unintended conundrum for the few affected by it. This involves a situation in which a person is hit by his or her own car that has been taken without the owner's permission. When a car is taken without the owner's permission, it is declared uninsured. This is meant to protect the vehicle owner. Connecticut statutes also prevent the owner from filing an uninsured motorist claim on his or her own vehicle; this is to encourage vehicle owners to insure their vehicles. However, if these two statutes operate together, when a vehicle owner is injured by his or her own vehicle that has been taken without permission there is no way to make a claim. This was not the intent of the legislature when it passed these two provisions; there was not an intent to have the two provisions work together in such a way as to deny recovery to a person who is hit by his or her own vehicle that has been stolen. I am aware of two cases with a similar fact pattern; two judges made opposite decisions as to recovery. In Peirola v. American National Fire Insurance Company, CV 9455936s (1997), Judge Rittenband held that the named insured could in fact collect under the uninsured motorist policy. He correctly noted that this situation was not in the mind of the legislature in passing that legislation. However, in Maynard v. Geico General Insurance Company, CV06 5004144s (2009), Judge Corradino held that the plaintiff could not recover due to the statutory language. I am hopeful that HB 5061 will clarify legislative intent on this issue.