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## OLR Bill Analysis

### sHB 6858

#### ***AN ACT ESTABLISHING A TASK FORCE TO STUDY METHODS TO ENCOURAGE INSURERS TO DEVELOP TECHNOLOGIES TO PREVENT TEXTING WHILE DRIVING, CONCERNING FINANCIAL PLANNERS AND CONCERNING PROHIBITING LOSS OF USE DAMAGES FOR RENTAL CAR COMPANIES.***

#### **SUMMARY**

This bill includes provisions on a number of unrelated insurance topics.

It requires a financial planner doing business in Connecticut to disclose to a Connecticut consumer, if requested, whether he or she has a fiduciary duty to the consumer for each insurance recommendation the financial planner makes (§§ 2-4). A “fiduciary duty” is the duty to act with prudence in the consumer’s best interests. The bill makes violating this disclosure requirement an unfair or deceptive act or practice in the business of insurance (i.e., Connecticut Unfair Insurance Practices Act (CUIPA) violation) (see BACKGROUND).

The bill generally prohibits rental car companies from collecting loss of use damages from a customer or the customer’s insurer (§§ 5-7). “Loss of use” means the unavailability of the use of a vehicle due to damage or loss while the rental company is repairing or replacing the vehicle.

Lastly, the bill establishes an eight-member task force to study ways to encourage insurers to develop technologies to prevent texting while driving (§ 1). The task force must submit a report with its findings and recommendations to the Insurance and Real Estate Committee by February 1, 2024. It terminates when it submits its report or February 1, 2024, whichever is later.

EFFECTIVE DATE: October 1, 2023, with the loss of use provisions applying to rental agreements and contracts entered into on and after

that date and causes of action accruing on or after that date, except the task force provisions are effective upon passage.

### **§ 1 — TASK FORCE**

The bill creates a task force to study ways to encourage insurers to develop technologies to prevent texting while driving. Under the bill, the task force consists of the following eight members, any of whom may be legislators:

1. two appointed by each of the House speaker and Senate president pro tempore and
2. one appointed by each of the House and Senate majority and minority leaders.

The bill requires the appointing authorities to make their appointments within 30 days after the bill's passage and fill any vacancies.

It requires the House speaker and Senate president pro tempore to select chairpersons from among the task force members. The chairpersons must schedule and hold the task force's first meeting within 60 days after the bill's passage.

Under the bill, the Insurance and Real Estate Committee's administrative staff serve as the task force's staff.

### **§§ 5-7 — LOSS OF USE**

By law, rental car companies may issue liability insurance covering renters and authorized drivers for liability arising from their use of the vehicle. The bill prohibits (1) rental car companies from offering a customer liability insurance that covers the loss of use of a rental vehicle and (2) motor vehicle rental contracts from including a collision damage waiver or a provision that allows the customer, for a charge, to waive claims for loss of use of the vehicle.

Under the bill, no cause of action or liability can arise against a rental car customer or authorized driver (i.e., one listed in the rental

agreement), or their insurers, for loss of use of a rental vehicle or administrative fees related to the loss of use. Any contrary term in a rental agreement entered into on or after October 1, 2023, is null and void. Additionally, the bill specifies that it repeals (i.e., abrogates) common law on loss of use to the extent applicable to rental companies.

## **BACKGROUND**

### ***Related Bill***

sSB 810, reported favorably by the Transportation Committee, limits a rental car company's ability to collect loss of use damages to no more than 60% of the daily rental fee stated in the contract, for up to seven days.

### ***Connecticut Unfair Insurance Practices Act***

CUIPA prohibits engaging in unfair or deceptive acts or practices in the business of insurance. It authorizes the insurance commissioner to conduct investigations and hearings, issue cease and desist orders, impose fines, revoke or suspend licenses, and order restitution for per se violations (i.e., violations specifically listed in statute). The law also allows the commissioner to ask the attorney general to seek injunctive relief in Superior Court if he believes someone is engaging in other unfair or deceptive acts not specifically defined in statute.

Fines may be up to (1) \$5,000 per violation to a \$50,000 maximum or (2) \$25,000 per violation to a \$250,000 maximum in any six-month period if the violation was knowingly committed. The law also imposes a fine of up to \$50,000, in addition to or in lieu of a license suspension or revocation, for violating a cease and desist order (CGS §§ 38a-815 to -819).

## **COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 8      Nay 4      (03/16/2023)