



# House of Representatives

General Assembly

**File No. 371**

January Session, 2023

Substitute House Bill No. 6858

*House of Representatives, April 3, 2023*

The Committee on Insurance and Real Estate reported through REP. WOOD of the 29th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***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.***

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

- 1 Section 1. (*Effective from passage*) (a) There is established a task force  
2 to study methods to encourage insurers to develop technologies to  
3 prevent texting while driving.
- 4 (b) The task force shall consist of the following members:
- 5 (1) Two appointed by the speaker of the House of Representatives;
- 6 (2) Two appointed by the president pro tempore of the Senate;
- 7 (3) One appointed by the majority leader of the House of  
8 Representatives;
- 9 (4) One appointed by the majority leader of the Senate;
- 10 (5) One appointed by the minority leader of the House of

11 Representatives; and

12 (6) One appointed by the minority leader of the Senate.

13 (c) Any member of the task force appointed under subdivision (1),  
14 (2), (3), (4), (5) or (6) of subsection (b) of this section may be a member  
15 of the General Assembly.

16 (d) All initial appointments to the task force shall be made not later  
17 than thirty days after the effective date of this section. Any vacancy shall  
18 be filled by the appointing authority.

19 (e) The speaker of the House of Representatives and the president pro  
20 tempore of the Senate shall select the chairpersons of the task force from  
21 among the members of the task force. Such chairpersons shall schedule  
22 the first meeting of the task force, which shall be held not later than sixty  
23 days after the effective date of this section.

24 (f) The administrative staff of the joint standing committee of the  
25 General Assembly having cognizance of matters relating to insurance  
26 shall serve as administrative staff of the task force.

27 (g) Not later than February 1, 2024, the task force shall submit a report  
28 on its findings and recommendations to the joint standing committee of  
29 the General Assembly having cognizance of matters relating to  
30 insurance, in accordance with the provisions of section 11-4a of the  
31 general statutes. The task force shall terminate on the date that it  
32 submits such report or February 1, 2024, whichever is later.

33 Sec. 2. Section 38a-1 of the general statutes is repealed and the  
34 following is substituted in lieu thereof (*Effective October 1, 2023*):

35 Terms used in this title and section 3 of this act, unless it appears from  
36 the context to the contrary, shall have a scope and meaning as set forth  
37 in this section.

38 (1) "Affiliate" or "affiliated" means a person that directly, or indirectly  
39 through one or more intermediaries, controls, is controlled by or is

40 under common control with another person.

41 (2) "Alien insurer" means any insurer that has been chartered by or  
42 organized or constituted within or under the laws of any jurisdiction or  
43 country without the United States.

44 (3) "Annuities" means all agreements to make periodical payments  
45 where the making or continuance of all or some of the series of the  
46 payments, or the amount of the payment, is dependent upon the  
47 continuance of human life or is for a specified term of years. This  
48 definition does not apply to payments made under a policy of life  
49 insurance.

50 (4) "Commissioner" means the Insurance Commissioner.

51 (5) "Control", "controlled by" or "under common control with" means  
52 the possession, direct or indirect, of the power to direct or cause the  
53 direction of the management and policies of a person, whether through  
54 the ownership of voting securities, by contract other than a commercial  
55 contract for goods or nonmanagement services, or otherwise, unless the  
56 power is the result of an official position with the person.

57 (6) "Domestic insurer" means any insurer that has been chartered by,  
58 incorporated, organized or constituted within or under the laws of this  
59 state.

60 (7) "Domestic surplus lines insurer" means any domestic insurer that  
61 has been authorized by the commissioner to write surplus lines  
62 insurance.

63 (8) "Foreign country" means any jurisdiction not in any state, district  
64 or territory of the United States.

65 (9) "Foreign insurer" means any insurer that has been chartered by or  
66 organized or constituted within or under the laws of another state or a  
67 territory of the United States.

68 (10) "Insolvency" or "insolvent" means, for any insurer, that it is

69 unable to pay its obligations when they are due, or when its admitted  
70 assets do not exceed its liabilities plus the greater of: (A) Capital and  
71 surplus required by law for its organization and continued operation;  
72 or (B) the total par or stated value of its authorized and issued capital  
73 stock. For purposes of this subdivision "liabilities" shall include but not  
74 be limited to reserves required by statute or by regulations adopted by  
75 the commissioner in accordance with the provisions of chapter 54 or  
76 specific requirements imposed by the commissioner upon a subject  
77 company at the time of admission or subsequent thereto.

78 (11) "Insurance" means any agreement to pay a sum of money,  
79 provide services or any other thing of value on the happening of a  
80 particular event or contingency or to provide indemnity for loss in  
81 respect to a specified subject by specified perils in return for a  
82 consideration. In any contract of insurance, an insured shall have an  
83 interest which is subject to a risk of loss through destruction or  
84 impairment of that interest, which risk is assumed by the insurer and  
85 such assumption shall be part of a general scheme to distribute losses  
86 among a large group of persons bearing similar risks in return for a  
87 ratable contribution or other consideration.

88 (12) "Insurer" or "insurance company" includes any person or  
89 combination of persons doing any kind or form of insurance business  
90 other than a fraternal benefit society, and shall include a receiver of any  
91 insurer when the context reasonably permits.

92 (13) "Insured" means a person to whom or for whose benefit an  
93 insurer makes a promise in an insurance policy. The term includes  
94 policyholders, subscribers, members and beneficiaries. This definition  
95 applies only to the provisions of this title and does not define the  
96 meaning of this word as used in insurance policies or certificates.

97 (14) "Life insurance" means insurance on human lives and insurances  
98 pertaining to or connected with human life. The business of life  
99 insurance includes granting endowment benefits, granting additional  
100 benefits in the event of death by accident or accidental means, granting  
101 additional benefits in the event of the total and permanent disability of

102 the insured, and providing optional methods of settlement of proceeds.  
103 Life insurance includes burial contracts to the extent provided by  
104 section 38a-464.

105 (15) "Mutual insurer" means any insurer without capital stock, the  
106 managing directors or officers of which are elected by its members.

107 (16) "Person" means an individual, a corporation, a partnership, a  
108 limited liability company, an association, a joint stock company, a  
109 business trust, an unincorporated organization or other legal entity.

110 (17) "Policy" means any document, including attached endorsements  
111 and riders, purporting to be an enforceable contract, which  
112 memorializes in writing some or all of the terms of an insurance  
113 contract.

114 (18) "State" means any state, district, or territory of the United States.

115 (19) "Subsidiary" of a specified person means an affiliate controlled  
116 by the person directly, or indirectly through one or more intermediaries.

117 (20) "Unauthorized insurer" or "nonadmitted insurer" means an  
118 insurer that has not been granted a certificate of authority by the  
119 commissioner to transact the business of insurance in this state or an  
120 insurer transacting business not authorized by a valid certificate.

121 (21) "United States" means the United States of America, its territories  
122 and possessions, the Commonwealth of Puerto Rico and the District of  
123 Columbia.

124 Sec. 3. (NEW) (*Effective October 1, 2023*) (a) For the purposes of this  
125 section:

126 (1) "Fiduciary duty" has the same meaning as provided in section 36a-  
127 860 of the general statutes; and

128 (2) "Financial planner" has the same meaning as provided in section  
129 36a-860 of the general statutes.

130 (b) Any financial planner doing business in this state shall disclose to  
131 a consumer in this state, upon request, whether or not such financial  
132 planner has a fiduciary duty to such consumer for each  
133 recommendation that such financial planner makes to such consumer  
134 regarding insurance.

135 (c) Any violation of this section shall be deemed an unfair method of  
136 competition and unfair and deceptive act or practice in the business of  
137 insurance under section 38a-816 of the general statutes, as amended by  
138 this act.

139 Sec. 4. Section 38a-816 of the general statutes is amended by adding  
140 subdivision (27) as follows (*Effective October 1, 2023*):

141 (NEW) (27) Any violation of section 3 of this act.

142 Sec. 5. Section 38a-799 of the general statutes is repealed and the  
143 following is substituted in lieu thereof (*Effective October 1, 2023, and*  
144 *applicable to rental agreements entered into on or after said date*):

145 (a) As used in this section and section 6 of this act:

146 (1) "Commissioner" means the Insurance Commissioner;

147 (2) "Loss of use" means the unavailability of the use of a vehicle by a  
148 renter due to damage or loss of such vehicle during a period reasonably  
149 required for a rental company to make repairs or replace such vehicle;

150 [(2)] (3) "Rental agreement" means a written agreement setting forth  
151 the terms and conditions governing the use of a vehicle provided by the  
152 rental company for rental;

153 [(3)] (4) "Rental company" means a person in the business of offering  
154 vehicles to the public that is licensed pursuant to section 14-15;

155 [(4)] (5) "Renter" means a person obtaining the use of a vehicle from  
156 a rental company under the terms of a rental agreement;

157 [(5)] (6) "Vehicle" means a private passenger motor vehicle, including,

158 but not limited to, passenger vans, minivans, sport utility and pickup  
159 trucks or a cargo type of motor vehicle, including, but not limited to,  
160 cargo vans and trucks with a gross vehicle weight up to and including  
161 twenty-six thousand pounds which do not require the operator to  
162 possess a commercial [driver's] driver's license.

163 (b) The commissioner shall adopt regulations, in accordance with the  
164 provisions of chapter 54, to issue a permit to rental companies  
165 transacting business in this state under the terms of a rental agreement  
166 to offer coverage for sale in connection with the rental of a vehicle,  
167 whether at a rental office or by preselection of coverage in a master  
168 rental agreement, in any of the following categories:

169 (1) Personal accident insurance covering the risks of travel, including  
170 accident and health insurance, that provides coverage to renters and  
171 other rental vehicle occupants for accidental death or dismemberment  
172 and reimbursement for medical expenses resulting from an accident  
173 that occurs during the rental period;

174 (2) [Liability] Except as provided in subsection (d) of this section,  
175 liability insurance, including uninsured and underinsured motorist  
176 coverage whether offered separately or in combination with other  
177 liability insurance, that provides coverage to renters and other  
178 authorized drivers of rental vehicles for liability arising from the  
179 operation of the rental vehicle;

180 (3) Personal effects insurance that provides coverage to renters and  
181 other vehicle occupants for the loss of, or damage to, personal effects  
182 that occurs during the rental period;

183 (4) Roadside assistance and emergency sickness protection programs.

184 (c) The regulations shall require:

185 (1) That the rental period shall not exceed sixty consecutive days; and

186 (2) That at each rental location where rental agreements are executed,  
187 brochures or other written materials, in plain language consistent with

188 the provisions of chapter 699a, are available to the prospective renter  
189 that:

190 (A) Summarize clearly and correctly the terms of the insurance  
191 coverage;

192 (B) Disclose that the insurance policies offered by the rental company  
193 may duplicate coverage already provided by a renter's personal  
194 insurance policies;

195 (C) State that the insurance policies being offered are optional; and

196 (D) Describe the process for filing a claim.

197 (d) No rental company holding a permit under this section shall offer  
198 liability insurance that provides coverage for the loss of use of a rental  
199 motor vehicle incurred by such rental company.

200 [(d)] (e) Each rental company granted a permit under this section  
201 shall conduct a training program in which employees being trained  
202 receive basic instruction about the types of coverage specified in this  
203 section and offered for purchase by prospective renters of rental  
204 vehicles. Each company shall retain on file a list of employees who have  
205 received such training and are authorized to offer coverage for sale  
206 under the permit issued under this section and shall make such list  
207 available to the commissioner upon request of the commissioner.

208 [(e)] (f) The commissioner may at any time require such information  
209 as the commissioner deems necessary with respect to the business  
210 methods and transactions of a rental company granted a permit under  
211 this section. Such company shall furnish the commissioner, in such form  
212 as the commissioner may require, any such information not later than  
213 fifteen days after receiving a written request therefor.

214 [(f)] (g) Nothing in this section shall prevent a rental company from  
215 including the sale of insurance products in an overall employee  
216 performance compensation incentive program provided such rental  
217 company personnel may not be directly paid a commission or any other



218 compensation by an insurance company for the sale of coverage to  
219 renters.

220 [(g)] (h) No rental company holding a permit under this section may  
221 advertise, represent or otherwise hold itself or any of its employees out  
222 as licensed insurers, insurance agents, insurance producers or insurance  
223 brokers.

224 [(h)] (i) Any permit issued by the commissioner shall be in force until  
225 the first day of February in each even-numbered year unless sooner  
226 revoked or suspended. The permit may, in the discretion of the  
227 commissioner, be renewed biennially upon payment of the fee specified  
228 in section 38a-11.

229 [(i)] (j) The commissioner, after reasonable notice to and hearing of  
230 any holder of a permit issued pursuant to this section, may suspend or  
231 revoke the permit for cause shown. In addition to or in lieu of  
232 suspension or revocation, the commissioner may impose a fine not to  
233 exceed one thousand dollars. Hearings may be held by the  
234 commissioner or by any person designated by the commissioner.  
235 Whenever a person other than the commissioner acts as the hearing  
236 officer, said person shall submit to the commissioner a memorandum of  
237 findings and recommendations upon which the commissioner may base  
238 a decision.

239 [(j)] (k) Any person aggrieved by the action of the commissioner in  
240 revoking, suspending or refusing to grant or reissue a permit or in  
241 imposing a fine may appeal therefrom, in accordance with the  
242 provisions of section 4-183, except venue for such appeal shall be in the  
243 judicial district of Hartford. Appeals under this section shall be  
244 privileged in respect to the order of trial assignment.

245 Sec. 6. (NEW) (*Effective October 1, 2023, and applicable to causes of action*  
246 *accruing on or after said date*) (a) No cause of action or liability shall arise  
247 against any renter or additional driver of any rental vehicle identified in  
248 a rental agreement or against the insurer of such renter or additional  
249 driver of such rental vehicle for (1) any loss of use of such rental motor

250 vehicle, or (2) administrative fees related to such loss of use assessed by  
251 such rental company.

252 (b) This section shall be construed to abrogate the common law of loss  
253 of use to the extent applicable to rental companies.

254 (c) Any term in a rental agreement entered into on or after October 1,  
255 2023, that is contrary to the provisions set forth in subsection (a) of this  
256 section shall be null and void.

257 Sec. 7. Section 14-15b of the general statutes is repealed and the  
258 following is substituted in lieu thereof (*Effective October 1, 2023, and*  
259 *applicable to contracts entered into on or after said date*):

260 (a) For purposes of this section:

261 (1) "Collision damage waiver" means any contractual provision  
262 whereby a lessor of rental motor vehicles agrees for a charge to waive  
263 any claims against a lessee for any damages to a rental motor vehicle  
264 during the term of the rental agreement; [.]

265 (2) "Loss of use" means the unavailability of the use of a rental motor  
266 vehicle due to damage or loss of such rental motor vehicle during the  
267 period reasonably required for a rental company to make repairs or  
268 replace such vehicle; and

269 [(b)] (3) "Rental motor vehicle" means a private passenger motor  
270 vehicle as defined in subsection (e) of section 38a-363, which is not the  
271 subject of a lease with the option to purchase where the lessee has the  
272 right to possession.

273 [(c)] (b) Any motor vehicle rental contract incorporating a provision  
274 for collision damage waiver shall comply with chapter 742 and shall  
275 provide conspicuous notice that the lessee's personal automobile  
276 insurance policy may cover collision damage, fire and theft damage and  
277 personal injury incurred while using a rental motor vehicle, and of the  
278 annualized rate for the collision damage waiver and any liability  
279 provisions. Any such contract shall detail the full extent of its coverage.

280 [(d)] (c) No person, firm or corporation leasing or renting to another  
 281 any motor vehicle shall: Make any false or misleading statements either  
 282 orally or in writing, in connection with the sale, offer to sell, or  
 283 advertisement of a collision damage waiver; omit any material  
 284 statement in connection with the sale, offer to sell or advertisement of  
 285 such waiver; or make any statement that the purchase of a collision  
 286 damage waiver is mandatory.

287 [(e)] (d) A violation of any of the provisions of this section shall be  
 288 deemed an unfair deceptive trade practice under chapter 735a.

289 (e) No motor vehicle rental contract shall contain a collision damage  
 290 waiver or any contractual provision whereby the lessor of such rental  
 291 motor vehicle agrees, for a charge, to waive any claims against the lessee  
 292 for any damages incurred by such lessor for the loss of use of such rental  
 293 motor vehicle.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>October 1, 2023</i>	38a-1
Sec. 3	<i>October 1, 2023</i>	New section
Sec. 4	<i>October 1, 2023</i>	38a-816(27)
Sec. 5	<i>October 1, 2023, and applicable to rental agreements entered into on or after said date</i>	38a-799
Sec. 6	<i>October 1, 2023, and applicable to causes of action accruing on or after said date</i>	New section
Sec. 7	<i>October 1, 2023, and applicable to contracts entered into on or after said date</i>	14-15b

**INS** Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Insurance Dept.	GF - Potential Revenue Gain	Minimal	Minimal

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill includes various provisions regarding insurance which result in the impacts discussed by section below.

**Section 1** establishes a task force to study methods to encourage insurers to develop technologies to prevent texting while driving, resulting in no fiscal impact to the state because the task force has the expertise to meet the requirements of the bill.

**Sections 2-4** result in a potential minimal revenue gain to the General Fund starting in FY 24, to the extent additional fines or penalties are assessed for violations of the Connecticut Unfair Insurance Practices Act (CUIPA).

The bill requires a financial planner to disclose, if requested, whether he or she has a fiduciary duty to the consumer for each insurance recommendation the financial planner makes. Failure to do so, under the bill, is a violation of CUIPA. CUIPA fines can range from \$5,000 per violation up to a maximum of \$250,000 in aggregate penalties per insurer in any six-month period.

**Sections 5-7** prohibit provisions related to "loss of use" of a rental

vehicle in liability insurance and collision damage waivers offered by rental car companies. To the extent the Insurance Commissioner assesses fines (up to \$1,000) for violations in connection with the liability insurance provisions, this could result in a minimal revenue gain to the General Fund beginning in FY 24.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations that occur.

**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)