



House of Representatives

General Assembly

File No. 664

January Session, 2023

Substitute House Bill No. 6858

House of Representatives, April 27, 2023

The Committee on Transportation reported through REP. LEMAR of the 96th 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 AND CONCERNING FINANCIAL PLANNERS.

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.

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)

TRA *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.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number and type 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 AND CONCERNING FINANCIAL PLANNERS.*****SUMMARY**

This bill includes provisions on two 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. A “fiduciary duty” is the duty to act with prudence and undivided loyalty 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).

Additionally, the bill establishes an eight-member task force to study ways to encourage insurers to develop technologies to prevent texting while driving. 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, except the task force provisions are effective upon passage.

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.

BACKGROUND

Legislative History

The House referred the bill (File 371) to the Transportation Committee, which reported a substitute that eliminates provisions prohibiting rental car companies from collecting loss of use damages from a customer or the customer's insurer.

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)

Transportation Committee

Joint Favorable Substitute

Yea 36 Nay 0 (04/19/2023)