

The Importance of Protecting Yourself Against Uninsured/Underinsured Motorists

by Kenneth Levine

The tragic accident on Avon Mountain sent chills down the spines of everyone who lives and works in the Farmington Valley. Most of us spent the day calling friends and family, hoping and praying that they were not victims of this tragedy. In the days following the accident, we began to ask, "How did this happen? Who is to blame?"

As a personal injury lawyer, my thought process went one step further. I started thinking about how the victims and victims' families would be compensated for their loss. I started thinking about the trucking company and how much insurance it had. And my final thought was, "I hope the victims had underinsured motorist conversion coverage."

This article will summarize uninsured and underinsured motorist law, including conversion coverage, and will explain the importance of this coverage.

Uninsured Motorist — An Overview

Under Connecticut law, a driver must show proof of his financial ability to pay for personal injury or property damage to others in the event of an accident. Most drivers satisfy this requirement by purchasing insurance, but many cannot afford, or ignore, this obligation. The result is that responsible drivers who carry insurance must bear the burden of paying for their own injuries or damage to their vehicles caused by drivers who have no insurance coverage. Coverage for these circumstances is called uninsured motorist coverage.

Uninsured motorist coverage is a voluntary form of insurance offered by all automobile insurance companies, coverage you purchase from your own insurance company to pay for bodily injury losses to you or your passengers as a result of an accident caused by a driver who is legally responsible for the injuries but has no liability coverage.

Uninsured motorist coverage can also apply when someone is injured in an accident with a hit-and-run

vehicle whose owner and operator cannot be identified.

Underinsured motorist coverage is slightly different from uninsured motorist coverage. Underinsured motorist coverage applies when the injured party's claim is greater than the amount of coverage maintained by the responsible party. Although most responsible drivers have automobile insurance, many elect to maintain the lowest amount of liability coverage permitted by law (\$20,000 in Connecticut), which is often insufficient to cover the damage incurred by someone injured in an accident.

By maintaining sufficient uninsured and underinsured motorist coverage, you could protect yourself and your family from the uninsured/underinsured driver.

Protecting Yourself Against Uninsured Or Underinsured Motorists

In order to determine whether you will be protected in the event of an accident with an uninsured or underinsured driver, you should closely examine your insurance policy, the declarations sheet, and any exclusions or riders that accompany it. Uninsured and underinsured benefits will usually appear as a separate line item on your declarations sheet. Next to that item will be figures representing the maximum coverage per individual and the maximum coverage per accident or occurrence (for example: \$100,000/\$300,000).

It is very common for consumers to purchase small amounts of uninsured/underinsured motorist coverage, a decision they sometimes regret once they are involved in an accident with an uninsured or underinsured motorist. "Most people who come in to purchase or renew their insurance are more concerned with the liability coverage than the uninsured/underinsured motorist coverage," says Mike DelGallo from DelGallo Insurance. "We try to stress to our customers that, for the relatively small additional cost, adequate uninsured and underinsured motorist coverage is crucial."

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Recent Changes to Connecticut Laws and New Laws

by Christine Blethen

The Connecticut legislature has passed a variety of laws since the beginning of 2005 which will affect the daily lives of many Connecticut residents. The following summaries are an overview of some of the key provisions which may affect you directly. Unless otherwise noted, these laws will become effective as of October 1, 2005.

Child Restraint Systems

Recent revisions to the child restraint system law for automobile transportation extend the required use period. Currently, the law requires that children under four years or forty pounds be seated in an approved child restraint system. Under the new law, this requirement will be increased to include children under six years or sixty pounds. A child who is over seven years or sixty pounds, also an increase over the previous law, must use either an approved child restraint system or a seat belt. A booster seat, if appropriate, may only be used if the automobile is equipped with a shoulder-harness style seatbelt. Also, the law now requires that any child under one year or twenty pounds be in an approved rear-facing child restraint system. Penalties for violations remain the same.

Restrictions on the Use of Hand-Held Mobile Telephones and Mobile Electronic Devices by Operators of Motor Vehicles

Keeping pace with several other states, the Connecticut Legislature has passed a new law restricting the use of cell phones and mobile electronic devices (i.e. portable electronic equipment capable of providing data communication, such as text-messaging, pagers, personal digital assistant, laptop, video games, etc.) while operating a motor vehicle. Mobile electronic devices are forbidden, except that navigation systems, systems to provide emergency assistance, and video entertainment for passengers in the rear seats only are allowed. Cell phones that do not employ a

hands-free device are prohibited. This prohibition does not apply when phones are used for emergency purposes (e.g., calls to an emergency response operator, doctor's office, hospital or fire department). The penalty for violation of this prohibition is a \$100 fine, except that the fine for a first violation will be suspended upon proof of purchase of a hands-free device.

People under eighteen and school bus drivers may not use a cell phone, even with a hands-free device, or a mobile electronic device while operating a motor vehicle, except in the above emergency situations. School bus drivers are also exempted when calling school officials in an emergency. Drivers under eighteen and school bus drivers are not eligible for the suspension of the \$100 fine, as they are not permitted to use a cell phone even with a hands-free set.

This law also penalizes "distracted drivers." If an operator commits a moving violation while engaged in behavior that is not related to the operation of the motor vehicle, he or she will be fined an additional \$100.

Electronic Prescriptions and Medical Records

Health care providers with prescriptive authority are now allowed to write prescriptions using an electronic prescribing system. Similarly, health care institutions are allowed to create, maintain, or utilize electronic medical records in addition to or in substitution for paper records. Institutions which choose to use electronic medical records must store them in a format that is reproducible and secure.

Additional Training Requirements and New Restrictions on Drivers Under Age Eighteen

Driver's education requirements for behind-the-wheel, on-the-road driving instruction have been increased from eight hours to twenty hours. This revised law allows both parents (the prior law only allowed one parent), or a legal guardian, to be passengers but still requires that at least one of the

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passengers be a licensed driver. In the alternative, the one passenger may be either a driving instructor or an individual who is at least twenty years old and has held a driver's license for four years, unsuspended. As in the previous version of the law, the revised law provides that drivers under eighteen may carry only immediate family members for a three to six month period following the issuance of a driver's license. Drivers under the age of eighteen are prohibited from driving between midnight and 5:00 a.m. except for work, school, religious or medical reasons. Penalties for violations remain the same.

Changes to Estate, Succession, and Gift Tax Laws

The legislature has enacted changes to Connecticut's estate, succession, and gift tax laws, effective January 1, 2005. The succession tax has been eliminated, and the gift and estate tax system has been modified, providing for a combined \$2,000,000 gift and estate tax exemption. Under this system, a person can make up to \$2,000,000 of taxable gifts without owing Connecticut gift taxes, and any taxable gifts an individual makes during his or her lifetime are subtracted from the \$2,000,000 exemption amount. Therefore, a per-

son who made \$200,000 of taxable gifts during her lifetime could leave \$1,800,000 of assets at her death free from Connecticut estate taxes. This system is separate and distinct from the federal estate and gift tax system. Due to the nature of these changes, it may be necessary to review your estate plan at this time.

Expiration of Gift Cards

Connecticut now prohibits the sale of gift cards subject to an expiration date. Previous to the passage of this law, gift certificates were included as a type of property considered "abandoned" if not claimed after three years. The new law exempts the value of gift cards from this consideration. Sellers of gift cards are no longer required to keep records of purchasers' addresses.

Requirements that Health Insurance Companies Provide Coverage for Breast Cancer Screening via Ultrasound

Individual and group health insurance policies are required to cover ultrasound screening for breast cancer in women if it is recommended by a physician and the woman is classified as a category 2, 3, 4, or 5 by the Breast Imaging Reporting and Data System. **L&D**

(Protecting Yourself, continued from p. 1)

If you carry \$300,000 in liability coverage and you cause an accident, you will have up to \$300,000 protection for anyone who makes a claim against you. If you carry only \$100,000 of uninsured motorist coverage and are injured in an accident caused by an uninsured driver, you will have only \$100,000 available for your claim. This scenario is not in your best interests.

"Conversion" Coverage

In recent years, the Legislature has approved, and insurance companies have offered, "conversion" coverage. Conversion coverage is optional coverage designed to help an injured claimant maximize his recovery in the event the vehicle that caused the accident is underinsured. For payment of an additional premium, the underinsured motorist coverage limit you purchase will **not** be reduced by any payment made on behalf of the at-fault party.

Conversion coverage is easily explained in this example: Assume that Individual X is badly injured in an automobile accident caused by Individual Y and X's claim is worth more than \$100,000. Assume also that Y has \$50,000 of liability coverage and that

X has \$100,000 of uninsured/underinsured motorist coverage without conversion coverage. In that situation, X would recover \$50,000 from Y's insurance company. X's underinsured motorist policy would then kick in, but payment would be offset by the \$50,000 paid by Y's insurance company, and X would only be able to recover an additional \$50,000 from his underinsured motorist coverage, for a total recovery of \$100,000.

Now assume that X has \$100,000 of uninsured/underinsured "conversion" coverage. In that instance, there is **no** reduction for the amount paid by Y, so X would receive \$50,000 from Y's insurance company and another \$100,000 from his own company, for a total of \$150,000.

Conclusion

Uninsured and underinsured motorist coverage, including conversion coverage, is crucial to protect you in the event you are injured by someone who does not have adequate insurance to compensate you for your injuries. Please consult with your insurance agent to assure yourself that you have the best coverage you can afford. **L&D**

Client Highlight

Salamander Designs, Ltd., 811 Blue Hills Avenue, Bloomfield, CT 06002
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Salvatore Carrabba

Salvatore Carrabba's career path seemed predetermined. To be a doctor — what else? His father and grandfather were physicians. His path changed when he was a student at Skidmore college back in 1990. He needed furniture to house his entertainment components, and found nothing that satisfied him. Putting his background in sculpture, design and fabrication into practical use, he designed and built his own.

That is how Salamander Designs was born. Presently located in an 80,000-square-foot, state-of-the-art facility located on Blue Hills Avenue in Bloomfield, Salamander manufactures and distributes customizable cabinets, and home theater seating specifically designed for the specialty audio and video market.

After achieving initial success with a flexible and easily-affordable modular furniture series called Archetype System, Mr. Carrabba went up market with Salamander's Synergy System, which can be used as open-framework shelving or can be enclosed with a series of side panels, rear panels and doors. Because basic modules are designed to be combined in numerous ways and enhanced with various accessories, Synergy purchasers can configure furniture systems that suit their particular needs at a given time and can reshape them in the future. His line has grown to almost 300 products. To improve the sales process, the company's website includes a clever Custom Configurator program that allows consumers to design their very own custom designed furniture systems

The Company has grown approximately 20% each year since it started in the 1990s and presently employs 35 people. Initially, he took his pieces directly to stores in Hartford and Newington on a consignment basis, but those days are long gone. Today, Salamander is distributed through a network of over 500 retailers and custom electronic installers nationwide. *LD*

If you would like to be considered for this column in a future issue of In Brief, please contact Risa Brownstein.

Firm Happenings

COLEMAN LEVY has been appointed Chairman of the Corporate Sponsorship Committee of the Greater Hartford Jewish Federation. Attorney Levy has also been appointed Chairman of the Long Range Planning Committee of the New Britain Museum of American Art.

C. ROBERT ZELINGER will be a featured speaker at "Practical Tools and Tactics to Grow Your Business," a seminar being held by the Connecticut Small Business Development Center.

WILLIAM C. STOKESBURY has been reappointed to the CBA Standing Committee on the Standards of Title. Attorney Stokesbury has also been appointed by the Avon Town Council to fill a vacancy on the Board of Education and is now a Republican candidate for an elected position on the Board of Education.

DANIEL E. KLEINMAN recently completed a two-year term as President of the Farmington Chamber of Commerce. He has been appointed a member of the Farmington Economic Development Commission.

HERBERT G. ISAACSON will be a speaker at two Seminars on Common Interest Communities in Hartford on December 13, 2005 and in Trumbull on February 28, 2006. Attorney Isaacson has over forty years experience in condominium law.

Levy & Droney Attorneys **ROBERT LEVINE, C. ROBERT ZELINGER, LISA ZACCARDELLI** and **GLENN RYBACKI** will be conducting a seminar for the Nutmeg Group of CT CPA firms. Please contact us if you would like to schedule a seminar for your business or a group that you may be affiliated with. *LD*