



2008 Connecticut legislative session: a look back

Secretary of the State Susan Bysiewicz closed the 2008 Connecticut legislative session and used the occasion to reflect on several successes and disappointments of the tumultuous legislative session both in terms of voter registration and election security and the interests of businesses in Connecticut. As expected, many proposals considered and passed will impact PIACT members as both insurance producers and small businesses. Accordingly, PIACT offers this summary to make its members aware of some of the new laws taking effect that may affect our members. This is not meant to be a comprehensive list of every new statute, but more a flavor of some of the changes that we believe you should be aware of. As always, if you have any questions, please do not hesitate to contact us directly.

The following are updates of the primary bills PIACT tracked this legislative session, some of which have become law. The current status of the bill is indicated at the end of each item for your convenience.

Auto-related issues

Auto repair facilities. H.B. 5152 (Public Act 08-146), introduced by the Insurance and Real Estate Committee, was introduced to require disclosure to consumers that they have the right to choose the repair facility to complete repairs to their motor vehicles, to require motor vehicle repair shops to provide notice to insurers of the need for supplemental repairs and to establish a time frame for insurers to inspect the motor vehicle prior to commencement of such supplemental repairs.

Teen drivers. H.B. 5748 (Public Act 08-32), introduced by the Transportation Committee, was introduced to strengthen the requirements for the issuance of a motor vehicle operator's license for persons under the age of 18 and to impose public safety restrictions on the operation of a motor vehicle by such persons. The bill would require individuals age 16 or 17 to have their license suspended for one year if their blood alcohol content is shown to have been elevated during a sobriety test. If they refuse the test, there is an automatic 18-month suspension. Individuals with learners' permits issued before Aug. 1, 2008, would be required to have not less than 20 hours of behind-the-wheel, on-the-road instruction. For permits issued after Aug. 1, 2008, individuals will be required to have not less than 40 hours. In addition, the bill will require individuals under 18 years of age while driving to wear a safety belt, along with all of their passengers. The bill also increases fines for motor vehicle violations by individuals under age 18.

Excess and surplus lines

Disclosure notices. H.B. 5520 (Public Act 08-129), introduced by the Insurance and Real Estate Committee, will require each policy issued by a surplus lines policy to include a notice that states: **THIS IS A SURPLUS LINES POLICY AND IS NOT PROTECTED BY THE CONNECTICUT INSURANCE GUARANTY ASSOCIATION.** This new notice requirement must be in not less than 12-point boldface type and in capital letters.

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Health-related issues

Group health insurance. S.B. 167 (Public Act 08-125), introduced by the Insurance and Real Estate Committee, expands the benefits payable under a group health insurance policy for treatment received in a residential treatment facility by eliminating a three-day hospital stay prerequisite for children and adolescents and extending the benefit to adults. Senate Amendment “A” struck the underlying bill, which originally required the Legislative Program Review and Investigations Committee to study the feasibility of establishing a state catastrophe fund. The amended bill instead expands the mental health benefit under group health insurance policies by changing the coverage criteria. It also changes the effective date from upon passage to Jan. 1, 2009.

Health/annuities. H.B. 5158 (Public Act 08-147), introduced by the Insurance and Real Estate Committee, makes substantive and technical changes to the insurance statutes. The bill, although focused on health-insurance policy provisions, also specifies that the Connecticut Life and Health Insurance Guaranty Association does not protect stop-loss and excess-loss insurance policies covering life, health or annuity benefits; requires the insurance commissioner to adopt regulations establishing standards for selling annuities to all consumers, instead of senior consumers only; requires reinsurers and risk retention groups to file financial statements electronically; and allows the commissioner to notify health insurance entities of certain new laws electronically, as an alternative to in writing.

The House Amendment “A” excludes certain federally qualified health centers (FQHCs) from the net worth and financial reserve requirements of the PPN law, requires the Department of Social Services commissioner to adopt regulations that establish certification criteria for certain FQHCs and revises the “limited coverage” definition to refer to fixed-dollar benefits of less than \$20,000 on any core services. The definition in the underlying bill referenced fixed-dollar benefits of less than \$20,000 on core services.

Miscellaneous

Boating. H.B. 5806 (Public Act 08-26), introduced by the Environment Committee, will amend the boating statutes to incorporate federal safety, navigation lighting and equipment requirements, as well as to authorize the Department of Environmental Protection to penalize people teaching unapproved boating courses, to define the term “boat livery” and place certain restrictions on people who rent and people who operate rental boats.

Insurance-related fines. H.B. 5159 (Public Act 08-178), introduced by the Insurance and Real Estate Committee, was introduced to update the fines levied by the insurance commissioner to reflect inflationary increases and make minor technical revisions to the insurance statutes. Some noteworthy increases included any individual who willfully violates Section 38a-129 to 38a-140 of the Insurance Law, would be fined \$15,000 and if such willful violation involves deliberate penetration of a fraud upon the commissioner, the offender shall be imprisoned not more than two years or so fined or both. (Fine was previously \$3,000); an individual who violates a cease and desist order of the insurance commissioner would be subject to a civil penalty of not more than \$75,000 (previously \$50,000) or suspension or revocation of such individual’s license; and anyone aiding any corporation, association or person not authorized to transact insurance business will receive a fine of not more than \$2,000 (previously \$1,000) or imprisonment for not more than six months.

Motor vehicle records, independent contractors and safe-driving practices. S.B. 298 (Public Act 08-150), introduced by the Transportation Committee, concerns penalties for failure to remove snow and ice from motor vehicles. The Senate and Assembly both passed a proposal originally designed to address the issue of a driver's failure to remove snow and ice from their vehicle, but through amendments it evolved into much more. The original bill created a fine of \$200 to \$1,000 for anyone who fails to remove accumulated ice or snow from his or her vehicle and the ice or snow dislodges and injures another. But, the amended bill incorporates additional far-reaching provisions.

Among other proposals, this bill makes it a misdemeanor to sell or disclose personal information from motor vehicle records for an unauthorized purpose and clarifies a provision of the law; makes several changes to Public Act 08-32, concerning teenage drivers, that clarify certain provisions of that law; makes escort car drivers independent contractors, rather than employees, for purposes of the Unemployment Compensation Law, if they meet certain conditions; allows the DMV to extend the expiration dates of licenses, registrations and other credentials under certain emergency or other circumstances; requires anyone applying for a Connecticut driver's license who has not been licensed previously in Connecticut or elsewhere to take an eight-hour course on safe-driving practices as a prerequisite to licensure; and eliminates the requirement that an antique, rare or special interest motor vehicle must be registered in order for it to come under the requirement for a maximum assessment of \$500 for property tax purposes.

The bill makes numerous other changes to other motor vehicle laws. Specifically, it changes requirements regarding video displays in motor vehicles that can be seen by the driver; authorizes the DMV to establish a system to verify commercial motor vehicle insurance coverage electronically; and gives the DMV commissioner the discretion to decline to issue a notice of registration suspension for failure to maintain required insurance coverage if the vehicle's registration is cancelled or if the commissioner cannot establish that the violation occurred for a period of more than 14 days (Section 42).

Workers' compensation

Workers' compensation forms. S.B. 57 (Public Act 08-3), introduced by the Labor and Public Employees Committee, would require employers to provide forms necessary for injured employees to help injured employees provide adequate notice of injury to the Workers' Compensation Commission.

Heart attacks. H.B. 5629 (Public Act 08-61), introduced by the Labor and Public Employees Committee, which resulted from a hard-fought compromise over the presumption that heart attacks are work-related. The AFL-CIO, the Uniformed Professional Firefighters Association and the Conference of Municipalities worked out a compromise that grants the reputable presumption of occupational illness only for heart attacks that occur during training or on the job for paid police, firefighters and constables hired after July 1, 1996.

Misclassification of employees. S.B. 454 (Public Act 08-156), introduced by the Labor and Public Employees Committee, would establish a permanent enforcement commission to address the problem of employers avoiding state and federal labor, employment and tax law obligations by misclassifying their

employees. The commission would meet at least four times a year and coordinate the civil prosecution of state and federal employment law violations involving employee misclassification; and report any suspected violation of state criminal statutes to the chief state's attorney or the state's attorney serving the district where the violation allegedly occurred. The commission members are the labor and revenue services commissioners, Workers' Compensation Commission chairperson, attorney general and chief state's attorney or their designees. The bill also creates an advisory board to advise the commission on job misclassification in the construction industry. Senate Amendment "A" struck language in the original bill regarding workers' compensation insurance disclosure at work sites, and replaced it with the provisions creating an enforcement commission on employee misclassification and an employee misclassification advisory board, and changing the effective date.

PEOs. H.B 5113 (Public Act 08-105), introduced by the Labor and Public Employees Committee, concerns professional employer organizations and employee misclassifications. The Senate passed a proposal (as amended by House Amendment Schedule A) already passed by the House to establish an Employee Misclassification Enforcement Commission. In addition to requiring professional employer organizations to register with the Department of Labor, the bill would establish a joint enforcement commission on employee misclassification. The commission would consist of the labor commissioner; the commissioner of revenue services; the chairperson of the Workers' Compensation Commission, the attorney general and the chief state's attorney or their designees.