

Bill as
Introduced

SB 38 - AS INTRODUCED

2007 SESSION

07-0361

03/05

SENATE BILL **38**

AN ACT relative to uninsured or hit-and-run motor vehicle coverage.

SPONSORS: Sen. D'Allesandro, Dist 20; Sen. DeVries, Dist 18; Sen. Hassan, Dist 23;
Sen. Sgambati, Dist 4; Sen. Gottesman, Dist 12; Sen. Reynolds, Dist 2; Sen.
Fuller Clark, Dist 24

COMMITTEE: Commerce, Labor and Consumer Protection

ANALYSIS

This bill requires that rejection by the insured of certain uninsured motorist coverage be in writing.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struck through]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Seven

AN ACT relative to uninsured or hit-and-run motor vehicle coverage.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Uninsured or Hit-and-Run Motor Vehicle Coverage; Rejection by Insured. Amend RSA
2 264:15, I to read as follows:

3 I. No policy shall be issued under the provisions of RSA 264:14, with respect to a
4 vehicle registered or principally garaged in this state, unless coverage is provided therein or
5 supplemental thereto at least in amounts or limits prescribed for bodily injury or death for a
6 liability policy under this chapter, for the protection of persons insured thereunder who are
7 legally entitled to recover damages from owners or drivers of uninsured motor vehicles, and hit-
8 and-run vehicles because of bodily injury, sickness, or disease, including death resulting
9 therefrom. When an insured elects to purchase liability insurance in an amount greater than
10 the minimum coverage required by RSA 259:61, [his] **the insured's** uninsured motorist
11 coverage shall automatically be equal to the liability coverage elected. For the purposes of this
12 paragraph umbrella or excess policies that provide excess limits to policies described in RSA
13 259:61[~~7~~] shall also provide uninsured motorist coverage equal to the limits of liability
14 purchased, unless the named insured rejects such coverage **in writing**.

15 2 Effective Date. This act shall take effect 60 days after its passage.

Committee Minutes

Commerce, Labor and Consumer Protection Hearing Report

To: Members of the Senate

From: Angela Spradling
Legislative Aide

Re: SB 38- relative to uninsured or hit-and-run motor vehicle coverage.

Hearing date: January 30, 2007

Members present: Senator Gottesman, Senator DeVries, Senator Reynolds, Senator Cilley

Members absent: Senator Barnes, Senator Roberge

Sponsor(s): Sen Sen. D'Allesandro, Dist 20; Sen. DeVries, Dist 18; Sen. Hassan, Dist 23; Sen. Sgambati, Dist 4; Sen. Gottesman, Dist 12; Sen. Reynolds, Dist 2; Sen. Fuller Clark, Dist 24

What the bill does:

This bill requires that rejection by the insured of certain uninsured motorist coverage be in writing.

Who supports the bill: Sponsors, George Roussos (American Insurance Association), Robert Hunt (Attorney)

Who opposes the bill: No one appeared in opposition

Summary of testimony received:

This bill was introduced because of a problem that one of Senator D'Allesandro's constituents had. His constituent bought a \$1 million dollar auto umbrella insurance policy and they believed that they were fully protected. Unfortunately they were involved in a horrible automobile accident with an uninsured driver. When they contacted their insurance company they were told that they rejected that coverage and because the rejection was not in writing they could not prove it in court.

This bill would require that the rejection be in writing by the named insured.

Senator Reynolds asked if this would require a paper trail. Senator D'Allesandro replied that most companies already have this policy in place and most states already have this requirement on the books.

George Roussos representing the American Insurance Association testified that the Association is in favor of the bill with an amendment. His suggestions are as follows:

- 1) Make it consistent with other states laws
- 2) Rejection would need to be validated for renewals or new vehicles
- 3) The consumer must apply to withdraw in writing

Attorney Robert Hunt testified in support of the legislation. He stated that the two words "in writing" may seem simple but it is crucial for the consumer. He feels that the insured shouldn't be made to believe that they have coverage and then find out that they don't.

Funding: No Fiscal Impact.

Future action: The committee voted Ought to Pass. Vote 3-1 Senator DeVries, Gottesman and Reynolds voted yes and Senator Cilley voted no. Senator DeVries will take it to the floor.

Date: January 30, 2007
Time: 10:18 a.m.
Room: LOB RM 102

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The Senate Committee on Commerce, Labor and Consumer Protection held a hearing on the following:

SB 38 relative to uninsured or hit-and-run motor vehicle coverage.

Members of Committee present: Senator Gottesman
 Senator DeVries
 Senator Reynolds
 Senator Cilley
 Senator Barnes
 Senator Roberge

The Chair, Senator David M. Gottesman, opened the hearing on SB 38 by introducing himself as Chairman, Senator Betsi DeVries as Vice Chair, Deb Reynolds and Jackie Cilley. Senator Barnes is called to another assignment for a few minutes, and Senator Roberge I know is here and will be joining us.

Senator D'Allesandro, we welcome your presentation on SB 38.

Senator Lou D'Allesandro, D. 20: Thank you, Mr. Chairman and the distinguished members of the Committee. For the record, I'm Senator Lou D'Allesandro. I represent District 20, which includes Manchester wards three, four, ten, eleven and the town of Goffstown. I come before you as the prime sponsor of SB 38.

Please see Senator D'Allesandro's typewritten testimony, attached hereto and referred to as Attachment #1.

Thank you very much for your attention and that's the length of my testimony.

Senator David M. Gottesman, D. 12: Thank you, Senator D'Allesandro. I am looking at the list of people who have signed up. I only see two

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people who have signed up to speak. Is there anyone else in the room who intends to speak, who has not signed up? Okay.

Are there any questions?

Senator Deborah R. Reynolds, D. 2: Mr. Chair, if I may?

Senator David M. Gottesman, D. 12: Yes.

Senator Deborah R. Reynolds, D. 2: Senator D'Allesandro, thank you very much for bringing this before us. Just a procedural question with a policy, on this particular case, the Manchester couple did not have a policy where they forgot to check off the box, or checked off the box saying they were rejecting it. There was no paper trail. I guess that's my question.

Senator Lou D'Allesandro, D. 20: Yes, it appears that that's the situation. That there was no paper trail.

Senator Deborah R. Reynolds, D. 2: Okay.

Senator David M. Gottesman, D. 12: Okay. Any other questions? Thank you.

Senator Lou D'Allesandro, D. 20: Thank you, Mr. Chairman.

Senator David M. Gottesman, D. 12: The Chair calls on George Roussos, who signs up in favor, but with an amendment

Attorney George Roussos, American Insurance Association (AIA):
Thank you. Mr. Chairman, members of the Committee. My name is George Roussos and I'm here representing the American Insurance Association (AIA) and the New Hampshire Association of Domestic Insurance Companies. The AIA is a large trade association whose members write about a quarter of the property/casualty insurance that's written in New Hampshire. The domestics on the other hand are a group of generally small or regional companies. And these are companies that are incorporated in the State of New Hampshire, where New Hampshire is their home state.

We agree that it's a good idea to avoid the problems such as Senator D'Allesandro described by having a requirement that, if somebody rejects the higher limits for uninsured motorist in buying an umbrella policy that should be in writing. The only suggestion we would have, and there are many states that do have such a requirement; and also I'm told that many, if not most companies have, as a matter of practice already that

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they will have it in writing if there's going to be a rejection of the high. It's just to avoid the problems that Senator D'Allesandro described.

So we're in support of all that, but we would ask your consideration of an amendment to the bill, again, consistent with what I'm told a number of states have done in requiring this to be in writing to avoid, to further avoid other confusion. For example,

Senator David M. Gottesman, D. 12: Are you going to tell us what the example is?

Attorney Roussos: Yeah. There are three things.

Senator David M. Gottesman, D. 12: Could you get to it because we've got other things scheduled here.

Attorney Roussos: Sure. I'll get to it right away.

Senator David M. Gottesman, D. 12: Okay.

Attorney Roussos: The first is that the named insured may reject coverage for all insurers. So there's not a dispute as to, "I wanted the higher limits" and I ... somebody's got to speak for the policyholder, as a policyholder make that decision.

Second, that the rejection is valid for renewals or if there's a change of automobile to avoid the confusion that the person bought a new vehicle and would suggest that it didn't apply to the new vehicle, or, and that it would apply to renewals. And, basically, and the third piece is that it would apply until withdrawing in writing. I think only makes sense.

I'm sorry I don't have that in prepared form for you and I have not had a chance to talk to Senator D'Allesandro to see how he feels about it, but I hope to do both of those things if time allows your consideration. Thank you.

Senator David M. Gottesman, D. 12: Any questions? Any questions?

Senator Betsi DeVries, D. 18: Nope. All set.

Senator David M. Gottesman, D. 12: Thank you.

George Roussos: Thank you.

Senator Betsi DeVries, D. 18: Thank you.

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Senator David M. Gottesman, D. 12: Can we hear from Robert Hunt, who is here representing himself?

Attorney Robert Hunt: Thank you, Mr. Chairman. I know you have other things. I will make it brief.

My name is Robert Hunt. I'm an attorney in Gilford, New Hampshire. I'm here testifying in support of Senate Bill 38. I'm here today, at least, representing myself and focusing on the consumers that I have represented in New Hampshire for the past ten years in uninsured and hit-and-run type accidents. The one thing that I want to emphasize to this Committee, if I could, is that the two words in writing may seem very simple and very minor, but it is a crucial phrase for this paragraph of the law for many people who suffer catastrophic injuries. "Excess coverage" is something that some people don't even know exists, but when they do know it exists and they intend to have it, they should have it and they shouldn't be somehow made to believe they have it and find that they don't. And, unfortunately with insurance coverage, even though there are check lists and there are check boxes on many of the application forms, it's not clear to people, it's hard to understand sometimes what you're selecting and what you have for coverage.

This law, this amendment to this law, would simply clarify and actually make one part of the law such that people will actually know which is very unusual when it comes to insurance coverage for the average person. And, I don't believe that I would personally reject any of the industry's comments with regard to a potential amendment to clarify those points; however, again it just makes it more confusing. So if that happens I would suggest that attention be given to the idea that the purpose here is to simplify things for the consumer and to make it understandable, so they know the coverage they're getting and they know what coverage they're not getting. And I'd be happy to answer any questions.

Senator David M. Gottesman, D. 12: Any questions? Senator DeVries.

Senator Betsi DeVries, D. 18: One quick one, if I may. Thank you, Mr. Chairman. I guess the only question would be that today when we do renewal policy or we transfer policy to a new vehicle, we are not required to fill out new applications or such. So if we do not go with the amendment that was suggested that would require paperwork to be generated, and you're saying for clarification, you think it would be appropriate that the paperwork go forward?

Attorney Hunt: Yes. I think that it's appropriate in any circumstance where this writing that's being added to this paragraph will help people

to know what their coverage is and, down the road if they have to demonstrate they'd have their coverage to have that writing available to demonstrate it. And, as an attorney, I can tell you that there are many situations where if something like that isn't available and we were relying on the memory of an insurance agent or an insurance employee, it's unlikely that we're going to be able to provide that evidence.

Senator Betsi DeVries, D. 18: Okay. Thank you.

Senator David M. Gottesman, D. 12: Any other questions? Thank you.

Attorney Hunt: Thank you.

Senator David M. Gottesman, D. 12: Any other speakers? And, we'll close the hearing on Senate Bill 38.

Hearing concluded at 10:30 a.m.

Respectively submitted,



Deborah A. Chroniak
Committee Secretary
2/02/07

1 Attachment

Last fall I was made aware of an actual problem that a New Hampshire couple experienced relating to their automobile "umbrella" insurance coverage that demonstrated to me the need to clarify our law so there is actual proof that an individual has rejected uninsured and underinsured motorist insurance protection when they purchase an excess or umbrella policy.

This couple was under the impression they were "fully protected" when they purchased umbrella insurance that was \$1,000,000 over and above the \$100,000 per person uninsured motorist coverage they had. As it turned out, they were involved in a terrible accident caused by an uninsured driver. They were under the impression that they had umbrella coverage of a million dollars. New Hampshire law provides that "when an insured elects to purchase liability insurance in an amount greater than the minimum coverage required by RSA 259:61 (which is \$25,000 per person) his uninsured motorist coverage shall automatically be equal to the liability coverage elected. For purposes of this paragraph umbrella or excess policies that provide excess limits to policies described in RSA 259:61, shall also provide uninsured motorist coverage equal to the limit of liability purchased, unless the named insured rejects such coverage." Much to this couple's surprise, they were told by the insurance company that they had rejected the additional coverage for the uninsured motorist portion of the policy. For someone to go out and purchase an umbrella policy, it seems rather strange that they would then knowingly reject the uninsured motorist portion, but under the current law there is no way of proving this because the law does not require a rejection be in writing. It is every citizen's right under our law to have a comparable amount of umbrella coverage to protect them against an uninsured motorist. But because our law pits the word of the insured against the word of the insurance company, on top of the auto accident, this couple was hit with a terrible financial loss that never should have happened if we had required a rejection be documented in writing. The unfortunate outcome of this case was

that the insurance company claimed the couple rejected the coverage, the couple claimed they knew nothing about it and there was no proof so the couple lost.

SB38 will make one very simple but important change to the law. It will require such a rejection to be in writing. I believe this change will go a long way to insure no other New Hampshire resident ever finds themselves in the position this couple ended up in.

Speakers

**SENATE COMMERCE, LABOR AND CONSUMER PROTECTION
COMMITTEE**

Date: January 30, 2007 **Time:** 10:15a.m.

Public Hearing on

SB 38 - relative to uninsured or hit-and-run motor vehicle coverage.

Please check box(es) that apply:

SPEAKING		FAVOR	OPPOSED
1	2	3	4
5	6	7	8
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NAME (Please print)

REPRESENTING

☒ ☒ ☐ Robert Hunt Self

☐ ☒ ☐ Sen. Martha Fuller, Clark DIST 24

☐ ☒ ☐ L. B. Palmer Dist 10

☒ ☐ w) ☐ Amendment George Rosses American Ins Assoc

☐ ☐ ☐ _____ NY 43300 / Doones
Fryman

☐ ☒ ☐ Sen. Kathy Sotomayor

☐ ☐ ☐ San Jose Vallegrande, Dist # 20

☐ ☒ ☐ Sen Maggie Woodhausen District 23

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Voting Sheets

Senate Commerce, Labor and Consumer Protection Committee

EXECUTIVE SESSION

Bill #SB 38

 Hearing date: January 30, 2007

Room: LOB - Room 102

 Executive session date January 30, 2007

 Motion of OTP

 VOTE: 3-1

Made by Gottesman ☐
Senator: Devries ☒
 Reynolds ☐
 Cilley ☐
 Barnes ☐
 Roberge ☐

Seconded Gottesman ☐
by Senator: Devries ☐
 Reynolds ☒
 Cilley ☐
 Barnes ☐
 Roberge ☐

<u>Committee Member</u>	<u>Present</u>	<u>Vote</u>	<u>Reported out by</u>
Senator Gottesman, Chairman	☒	Y	
Senator Devries, Vice-Chair	☒	Y	✓
Senator Reynolds	☒	Y	
Senator Cilley	☒	N	
Senator Barnes	☒	A	
Senator Roberge	☐	A	

*Amendments: _____

NOTES:

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: January 31, 2007

THE COMMITTEE ON Commerce, Labor and Consumer Protection
to which was referred Senate Bill 38

AN ACT relative to uninsured or hit-and-run motor vehicle
 coverage.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS

BY A VOTE OF: 3-1

AMENDMENT # s

Senator Betsi DeVries
For the Committee

Deb Chroniak 271-8631

SB38 Docket

[Next](#)|[Prev](#)|[Results List](#)|[Main](#)|[Bill Status](#)

Bill Title: relative to uninsured or hit-and-run motor vehicle coverage.

<u>Date</u>	<u>Body</u>	<u>Description</u>
1/4/2007	S	Introduced and Referred to Commerce, Labor and Consumer Protection
1/25/2007	S	Hearing; January 30, 2007, Room 102, LOB, 10:15 a.m.
1/31/2007	S	Committee Report; Ought to Pass [02/08/07]

[Next](#)|[Prev](#)|[Results List](#)|[Main](#)|[Bill Status](#)

Docket Abbreviations

Other Referrals

COMMITTEE REPORT FILE INVENTORY

ORIGINAL REFERRAL

RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED BY THE COMMITTEE SECRETARY AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMMITTEE SECRETARY WILL CONFIRM ALL ENTRIES CHECKED AND SIGN THIS INVENTORY.
5. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

✓ DOCKET (Submit only the latest docket found in Bill Status)

✓ COMMITTEE REPORT (For calendar and floor)

✓ HEARING REPORT (Written summary of hearing testimony, if produced)

✓ HEARING TRANSCRIPT (Verbatim transcript of hearing)

List attachments (testimony and submissions which are part of the transcript) by number [1 thru 4 or 1, 2, 3, 4] here: # /

✓ SIGN-UP SHEET

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

_____ - AMENDMENT # _____ _____ - AMENDMENT # _____
_____ - AMENDMENT # _____ _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

✓ AS INTRODUCED
✓ FINAL VERSION

_____ AS AMENDED BY THE HOUSE
AS AMENDED BY THE SENATE

✓ **PREPARED TESTIMONY AND OTHER SUBMISSIONS (Which are not part of the transcript)**

List by letter [a thru g or a, b, c, d] here: _____

✓ EXECUTIVE SESSION REPORT

OTHER (Anything else deemed important but not listed above):

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A NEW FILE FOLDER WITH THE CHAIRMAN'S COPY OF THE BILL AND THE LATEST DOCKET AND KEEP THOSE FILES IN YOUR OFFICE. PLEASE KEEP YOUR MASTER SHEET CURRENT AS YOU CLOSE OUT YOUR FILES AND PROVIDE THE SECRETARIAL SUPERVISOR WITH A COPY WHEN COMPLETED.

DATE DELIVERED TO SENATE CLERK *2-2-07*

LET AND KEEP THOSE FILES IN YOUR OFFICE.
 REMOVE YOUR FILES AND PROVIDE THE
 INFORMATION REQUESTED.

[Handwritten Signature]
 COMMITTEE SECRETARY