



One Hundred First Legislature - First Session - 2009
Introducer's Statement of Intent
LB 152

Chairperson: Rich Pahls
Committee: Banking, Commerce and Insurance
Date of Hearing: February 3, 2009

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

It is the intent of LB 152 to eliminate the basis in statute for two Nebraska Supreme Court cases which generated unintended results regarding the extent of coverages under the Uninsured and Underinsured Motorist Insurance Coverage Act.

First, the bill would insert a new subdivision (5) in section 44-6413 of the Uninsured and Underinsured Motorist Insurance Coverage Act to provide that no policy subject to the act shall define "insured," for purposes of uninsured and underinsured coverages, so as to exclude any person occupying the insured vehicle with the express or implied permission of an insured. These amendments would undo the basis for a holding in the case of Jones v. Shelter Mutual Insurance Companies, 274 Neb. 186 (2007). According to the court in that case, in section 44-6408, persons insured for purposes of uninsured and underinsured motorist coverages are only those persons insured under the liability provisions of a motor vehicle policy. Thus, passengers who are not, for example, relatives, related household members, or additional listed insureds, might not have uninsured or underinsured motorist coverage unless they have it under another motor vehicle liability policy pursuant to which they would be persons insured. The bill would change this result.

Second, the bill would amend subdivisions (1)(b) of section 44-6413 to provide that uninsured and underinsured motorists coverages shall not apply to bodily injury, sickness, disease, or death of an insured while occupying a vehicle, instead of a "motor" vehicle, owned by, but not insured by, the named insured or a spouse or relative residing with the named insured. This amendment would undo the basis for a holding in the case of Steffen v. Progressive Northern Insurance Company, 276 Neb. 378 (2008). According to the court in that case the owner of a farm tractor who sustained injuries while operating the tractor was entitled to underinsured motorist coverage under a motor vehicle liability policy on which he was the named insured even though the tractor was not listed on the declarations page of the policy. The court pointed out that the exemption in subdivision (1)(b) of section 44-6413 is triggered by a "motor vehicle" which is owned by, but not insured by, the named insured or relative residing with the named insured. Section 44-6404 of the Uninsured and Underinsured Motorist Insurance Coverage Act provides definitions for the act, and for "motor vehicle" it incorporates by reference the definition of motor vehicle in section 60-501: any self-propelled vehicle which is designed for use upon a highway, except a list of

vehicles including "farm tractors." Thus, for purposes of the exemption in subdivision (1)(b) of section 44-6413, a farm tractor is not a motor vehicle and the exemption does not apply. As a result, the tractor had uninsured and underinsured motorist coverage in a motor vehicle liability policy on which it is not listed. Presumably, the same result could occur in the case of other vehicles excepted from the definition of motor vehicle in section 60-501. The bill would change this result. Also, because of similarity in provisions, the bill would also amend subdivision (1)(c) of section 44-6413 to provide that uninsured and underinsured motorist coverages shall not apply to bodily injury, sickness, disease, or death of an insured while occupying an owned vehicle, instead of an owned "motor" vehicle, which is used as a public or livery conveyance and which is not insured as such.

Principal Introducer:

_____ **Senator Rich Pahls**