



Senate

General Assembly

File No. 606

January Session, 2003

Substitute Senate Bill No. 1112

Senate, May 1, 2003

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE DRAM SHOP ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 30-102 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 If any person, by [himself or his] such person or such person's
4 agent, sells any alcoholic liquor to an intoxicated person, and such
5 purchaser, in consequence of such intoxication, thereafter injures the
6 person or property of another, such seller shall pay just damages to the
7 person injured, up to the amount of [twenty] two hundred fifty
8 thousand dollars, or to persons injured in consequence of such
9 intoxication up to an aggregate amount of [fifty] two hundred fifty
10 thousand dollars, to be recovered in an action under this section,
11 provided the aggrieved person or persons shall give written notice to
12 such seller within sixty days of the occurrence of such injury to person
13 or property of [his or their] such person's or persons' intention to bring
14 an action under this section. In computing such sixty-day period, the

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Judicial Dept.	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill raises the cap on recoveries for personal injuries under the Dram Shop Act and eliminates liability for negligence in selling alcohol to someone at least age 21. The workload of the Judicial Department’s Civil Division would be reduced by eliminating the option to recover damages for negligence. The number of pending cases may decrease as a result. This change would not generate savings such that appropriations could be reduced.

OLR Bill Analysis

sSB 1112

AN ACT CONCERNING THE DRAM SHOP ACT**SUMMARY:**

The Dram Shop Act makes someone who sells liquor to an intoxicated person liable if the intoxicated person injures another or another's property because of the intoxication. It does not require proof that the seller acted negligently. This bill increases the maximum amount an injured person can recover under the act from \$20,000 to \$250,000 for injuries to a single person and from \$50,000 to \$250,000 in aggregate for injuries to more than one person.

The bill eliminates the right of an injured person to sue a seller for negligence in selling alcohol to someone at least age 21. The Connecticut Supreme Court recently established a common law (judge made) right for a person to file a negligence lawsuit against a seller (see BACKGROUND).

EFFECTIVE DATE: Upon passage

BACKGROUND***Dram Shop Act***

Under the Dram Shop Act, a liquor seller is liable if he or his employee sells liquor to an already-intoxicated person who injures another or another's property. Currently, it limits the seller's maximum liability to \$20,000 per person and up to \$50,000 per incident. The actual amount of liability in a particular case is decided in court. The act requires the injured party to notify the seller within 60 days of the incident causing harm of his intention to sue for damages. Up to 120 days between the death or incapacity of the injured party and the appointment of an executor, administrator, conservator, or guardian of the estate is not counted toward the 60-day deadline. The notice must state (1) the time and day of the sale and to whom it was made; (2) the name and address of the injured party; and (3) the time, day, and place of injury. Suits must be brought within one year of the sale.

Related Cases

In *Craig v. Driscoll*, the Connecticut Supreme Court (by a three to two vote) considered the Dram Shop Act's history and its earlier ruling on whether the act preempted a negligence claim. The court found that the act does not occupy the field, and recognizing a common law negligence action did not conflict with or thwart the act's purposes. It found that the act provides recovery for plaintiffs whether or not they can prove causation subject to a damage limitation, and the court could use its common law authority to increase recovery opportunities when the bar owner's state of mind warrants it; this would supplement the Dram Shop Act. The court considered its rationale for rejecting a negligence claim in the past, its other rulings on negligence, policy considerations in using its common law authority, and the common law's adaptability to changing times (262 Conn. 312 (2003)).

The Connecticut Supreme Court held in 1980 that a liquor permittee who sells liquor to an already-intoxicated person who subsequently injures another person because of his intoxication can be sued by the injured person if the seller acted wantonly and recklessly (*Kowal v. Hofner*, 181 Conn. 355). Apparently, wanton and reckless conduct involves highly unreasonable conduct, involving an extreme departure from ordinary care, in a situation where a high degree of danger is apparent (*Coble v. Maloney*, 34 Conn. App. 655 (1994)).

The Connecticut Supreme Court held in 1988 that one who provides alcohol to a minor who subsequently injures another person because of his intoxication may be sued by the injured person. The court reasoned that the legislature had determined that a minor is not competent to deal responsibly with the effects of alcohol and therefore consumption of liquor by a minor does not, as a matter of law, constitute the intervening act necessary to break the chain of causation (*Ely v. Murphy*, 207 Conn. 88).

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute Change of Reference

Yea 17 Nay 0

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0