



RAISED BILL NO. 620 - CTLA STATEMENT

AN ACT CONCERNING DANGEROUS STATE ROADWAYS

DISTINGUISHED MEMBERS OF THE JUDICIARY COMMITTEE:

Each year, hundreds, if not thousands of death and serious injuries occur on Connecticut's State Highways, Bridges, and Sidewalks. A significant number of such injuries and deaths are, at least in part, caused by the defective nature of the highways, bridges and sidewalks themselves.

At the present time, many, many of the state's citizens who are seriously injured because of the defective roads, bridges and sidewalks are forced to rely upon Title 19 benefits to carry on their lives. These benefits cost the state millions and millions of dollars each year.

Why are Connecticut's citizens are forced to go on Title 19 in order to survive?

Why can't our citizens recover from the Connecticut Department of Transportation which is mandated to keep the roadways etc in a non-defective condition?

It is because of ancient, horse-buggy day interpretations of ancient state statutes. Those old interpretations require that a citizen injured because of a defective roadway (even if the defect is 99% at fault in causing the injury, and the injured person is less than 1% at fault) can not recover from the DOT; the defect must be the SOLE (100%) cause of the injuries. This interpretation of the dangerous highway law came into existence, when claimants in all non-highway

defect cases had to prove absolute freedom from their own negligence; i.e. that they were not in any way contributorily negligent.

Of course, long ago, this Legislature, recognizing how draconian such an interpretation was, adopted comparative negligence laws allowing recovery though reducing the amount because of and to the extent of the negligence of the claimant.

For some reason, CONNDOT has continued to enjoy the benefits of the ancient protections, even though the State of Connecticut (through Title 19) has to pay such injured persons which payments could be covered by the (probably less costly way) of Dangerous Highway insurance.

The Connecticut Trial Lawyers Association (the largest Connecticut Attorney Association representing injured claimants) has long felt that there are two areas where the DOT should definitely be prevented from escaping liability by relying on this almost-impossible-to-prove SOLE PROXIMATE CAUSE standard:

1. Cases where the CONNDOT had notice of prior injuries/deaths being caused by the same condition now complained of;
 - a. CONNDOT should not be allowed to escape general liability for a condition it allowed to remain, after it is clear that the condition has already caused deaths and/or injuries to our citizens

2. Finally, whether or not a defective condition has caused injury or death before, if CONNDOT has had substantial notice of the defective condition, and its potential for causing death or serious injury, it should be held fully responsible for the injury or death that ultimately comes about because of its failure to correct the defect.

The present proposed bill 620 is a good way to remedy the tragic loss of life that occurs on our highways, substantially brought about because of the defective nature of our roads, bridges or sidewalks.