



Raised Bill 7236  
Public Hearing: 2-26-07

**TO: MEMBERS OF THE JUDICIARY COMMITTEE**  
**FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)**  
**DATE: FEBRUARY 26, 2007**

**RE: OPPOSITION TO RAISED BILL 7236 – AN ACT CONCERNING  
APPORTIONMENT OF LIABILITY IN A NEGLIGENCE ACTION AND  
ATTORNEY’S FEES IN AN ACTION OF FORECLOSURE OR UPON A BOND  
SUBSTITUTED FOR A MECHANIC’S LIEN**

The CTLA opposes raised bill 7236, and respectfully contends that the bill should be defeated. The raised bill effectively abrogates longstanding statutory and common law and would permit defendants in personal injury or wrongful death litigation to bring claims against any other individual or entity, even if that person or entity is immune from any liability as to the injured party.

In its current form, subsection (c) of CGS Section 52-102b prohibits defendants from asserting claims for apportionment against anyone who is immune from liability for the injured plaintiff’s injuries and damages. The logic behind this provision is obvious. If the plaintiff is prohibited by law from suing someone because of statutory or common law immunity, a defendant who has no such immunity should not be permitted to allege that the immune party was negligent and caused the plaintiff’s injuries.

The raised bill specifically makes reference to CGS Section 31-284.™ As this committee well knows, that portion of our workers compensation law prohibits an employee from suing his or her

employer for on-the-job injuries. In exchange, the employee is entitled to recover workers compensation benefits, whether the injuries were caused by the negligence of the employer, the employee or any other third party.

Our courts have long held that in a negligence action against a third party, an employee cannot be met with a defense that his own employer's negligence contributed to our caused the injury. The raised bill completely ignores the Supreme Court's decisions on this issue, which extend back at least as far as 1992. Accordingly, to the extent that the raised bill makes specific reference to CGS Section 31-284, it flies in the face of existing law. If passed, the bill would inject into trials an enormous number of confusing and contradictory issues, thus putting an undue burden on our judges and juries as they attempt to reconcile and make sense of statutory provisions are completely contradictory.

The raised bill is not limited to work-related injuries. If defendants are permitted to allege the negligence of any other person as a defense to the case, that would also extend to all other parties who are immune from suit. Minor plaintiffs would be faced with claims of their parents' negligence, even though the parents are immune from liability. Governmental agencies and employees, which, except in limited situations, are immune from suit, will be blamed in many cases and the plaintiff will be unable to respond as they cannot sue the government.

Therefore, we respectfully urge you to defeat raised bill 7236.  
Thank you.