

Testimony of the Connecticut Restaurant Association  
Regarding HB 5233 AAC INSURANCE COVERAGE  
AND CERTAIN LIQUOR LICENSES  
February 23, 2010  
Before the Insurance and Real Estate Committee

5233  
Patricia  
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Regrettably, the Connecticut Restaurant Association must oppose HB 5233 AAC INSURANCE COVERAGE AND CERTAIN LIQUOR LICENSES. The bill would require all liquor license holders to maintain liquor liability insurance coverage and to verify the existence of such coverage before the Department of Consumer protection will renew their permit.

While on its face, this proposal seems reasonable, Connecticut's liquor liability law (dram shop) makes it impossible for some permittees to comply. Connecticut's Dram Shop law is one of the strictest in the nation. It provides for strict liability (without proof of any negligence) in the amount of \$250,000 for anyone who is injured, regardless of fault. The amount was increased from \$50,000 to \$250,000 in 2005 and since that time, dram shop lawsuits have increased dramatically, and few insurers are writing dram shop coverage here. Some restaurants or bars, particularly those who have had a claim against them, find dramatic increases in premium, at best, and some find that they cannot get coverage at all.

For these reasons, while well intentioned, this bill, could have the unintended consequence of having some permittees who cannot obtain insurance coverage, through no fault of their own, unable to renew their permit.

We do have some suggested changes to Connecticut's dram shop law, which if adopted, would bring Connecticut in line with other states, create a better climate for insurers to write dram shop coverage here, and make the bill more plausible.

Our proposal would be to limit liability only in the situations where the customer who caused the injury, was visibly intoxicated when he was served (courts are currently split on this); reduce the liability back to \$50,000; and create some fairness where the person who was intoxicated and injures himself because of his own actions, cannot recover damages under dram shop.

We would request that if you move this bill forward, you incorporate the following changes to the Dram Shop law:

Sec. 30-102 of the General Statutes is repealed and the following is substituted in lieu thereof:

If any person, by such person or such person's agent, sells any alcoholic liquor to [an] A VISIBLY intoxicated person, and such purchaser, in consequence of such intoxication, thereafter injures the person or property of another, such seller shall

pay just damages to the person injured, up to the amount of [two hundred] fifty thousand dollars, or to persons injured in consequence of such intoxication up to an aggregate amount of two hundred fifty thousand dollars, to be recovered in an action under this section, provided the aggrieved person or persons shall give written notice to such seller of such person's or persons' intention to bring an action under this section. Such notice shall be given (1) within one hundred twenty days of the occurrence of such injury to person or property, or (2) in the case of the death or incapacity of any aggrieved person, within one hundred eighty days of the occurrence of such injury to person or property. Such notice shall specify the time, the date and the person to whom such sale was made, the name and address of the person injured or whose property was damaged, and the time, date and place where the injury to person or property occurred. No action under the provision of this section may be brought by a person who sustained injuries as a consequence of their own intoxication. No action under this section may be maintained if the intoxicated person was under the influence of a controlled substance. No action under the provisions of this section shall be brought but within one year from the date of the act or omission complained of. Such injured person shall have no cause of action against such seller for negligence in the sale of alcoholic liquor to a person twenty-one years of age or older.

Thank you for your consideration.