



**Raised Bill 490
Public Hearing: 3/24/2010**

TO: MEMBERS JUDICIARY COMMITTEE
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION
DATE: MARCH 24, 2010

**RE: SUPPORT IN PART/OPPOSE IN PART
RAISED BILL 490; AN ACT CONCERNING THE LIABILITY OF SERVERS OF
ALCOHOL**

The Connecticut Trial Lawyers Association (CTLA) urges you to support in part and oppose in part Raised Bill No. 490.

SECTION 1:

The CTLA lauds the effort of Raised Bill No. 490 to encourage dram shops to have breath alcohol analysis devices available to the public at all dram shops. The objection is not with that goal. Rather, the objection is that the proposed statute would reduce the available recovery to a victim of a drunk driver from \$250,000 to \$100,000 simply because the bar that served too much alcohol to a customer coincidentally had such a machine.

There is no relationship between the bar having such a machine in place and its policy or attitudes towards the service of alcohol to customers who have had too much to drink. The idea that the compensation to a victim of a drunk driver should be reduced simply because the bar had such a machine makes no sense.

Perhaps a different way to motivate bars to have such machines in place would be to have two categories of licensing fees with the Liquor Commission. The charge applied would be dependent on the bar having such a breath alcohol analysis device. Such an incentive program would accomplish the same results without reducing rights available to victims of drunk drivers.

SECTION 2:

The CTLA strongly opposes Section 2 which would reduce the available recovery to a victim of a drunk driver who had been "over-served" at a bar from \$250,000 to \$50,000 if the bartender who served the alcohol had attended an alcohol service certification program. Such a law makes absolutely no sense. Essentially what the law would be doing is holding a bartender who has received training in the service of alcohol to reduced exposure when he/she serves too much alcohol to a customer. If anything, a bartender who knows better and "over-serves" a customer should be held to a higher penalty, not a lower penalty.

Alcohol Service Certification programs are offered online and can be completed in a matter of three hours in the comfort of one's own home. The certification is then good for three years. The idea that completing such a course would then reduce the liability of a bartender who knowingly serves a person who is intoxicated makes no sense.

The purpose of the Dram Shop Act is to afford a source of recovery to victims of drunk drivers who were served too much alcohol at a bar or restaurant. The Dram Shop Act is not to encourage certification of bartenders. If a bartender "over-serves" a customer who then harms another, that bartender should be held to a level of responsibility regardless of whether they have received training in the service of alcohol.

SECTION 3:

The CTLA opposes Section 3 as it is vague. It is unclear what is meant by "in consequence of a person's own intoxication." For example, what would happen in a situation which came up in a trial in Danbury in January of 2010. In that case, the plaintiff was a passenger in his girlfriend's car. His girlfriend and he had been over served at a bar. He thought that they were going to have a ride home from one of the waitresses at the bar when her shift ended so he was not concerned about his girlfriend's consumption. At the end of the night an altercation occurred at the bar and the plaintiff and his girlfriend were told to immediately leave the bar. He got into the passenger seat of his girlfriend's car while he was intoxicated. The girlfriend drove and caused an accident. After the accident the plaintiff indicated that he would never have gotten into the car if he had been sober but his judgment was impaired as he too was intoxicated. The jury in that case found in his favor on his Dram Shop claim. Under Raised Bill No. 490 would his claim be barred? It is so vague that it should be rejected.

SECTION 4:

The CTLA supports Section 4.

Sometime during the summer of 2008, due to budget reasons, the City of Bridgeport disbanded its Accident Investigation Unit. As a result of the dissolution of that unit, no fatal or serious motor vehicle accidents occurring within the City of Bridgeport were investigated for over a year. We were advised in late November of 2009 by a member of that team that virtually no investigations as of that date had yet been worked on as they have no funding. It is believed that situation still exists today and that the case files are essentially locked away in a cabinet.

The State Police Accident Investigation Unit frequently takes a year to complete its investigations of serious and fatal accidents.

In order to pursue certain types of claims, claimants have to file a notice of intention to pursue those claims. The most common notice is for pursuing a Dram Shop claim. A Dram Shop claim is a limited claim that can be filed against a bar or restaurant which "over-serves" an operator of a vehicle that goes on to kill or injure an innocent person. The statute which allows the Dram Shop Claim requires that a notice of an intention to pursue the claim be filed with the establishment that served the alcohol within 120 days of the service.

Frequently, the only way to learn where a drunk driver was served alcohol is via the police report. However, with cities such as Bridgeport not working on those reports, it becomes impossible for the victim of the drunk driver to file the claim.

We would encourage you to support Section 4. It is a bill of fairness. More importantly it is a bill which supports the victims of drunk drivers. People who have valid Dram Shop claims, as well as other claims, are losing their opportunity to pursue those claims simply because police reports are not being released in a timely fashion. This bill allows for a limited extension of time, so that the law enforcement officials have an opportunity to complete their investigation.