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**Testimony of Representative Ed Jutila
General Law Committee
February 28, 2012**

HB 5058 AN ACT CONCERNING FIRST SELECTMEN AND ALCOHOLIC LIQUOR PERMITS

Representative Taborsak, Senator Doyle, Members of the General Law Committee, for the record my name is Ed Jutila, State Representative for the 37th District, which is made up of the towns of East Lyme and Salem. I am here today to speak in support of HB 5058 -- An Act Concerning First Selectmen and Alcoholic Liquor Permits. I am joined by Paul Formica, first selectman of East Lyme, who will put a personal face on this issue in a few moments.

Currently, Section 30-45 of the General Statutes prohibits certain public officials from holding liquor permits, including any first selectman holding office and acting as police chief in the town in which the permit premises are located. HB 5058 seeks to repeal the portion of the statute applicable to first selectmen.

Although the legislative history is not there to inform us, this relic of the past may have made sense in the post prohibition era when it was first enacted; however, it seems anachronistic in the 21st century. Back in 1933, a first selectman in a small town like East Lyme may have actually acted as a law enforcement official. Today, towns that do not have their own police departments rely on resident state troopers, true law enforcement professionals, to manage the day-to-day operations of their departments.

So even if there were valid reasons for singling out liquor establishments, as opposed to other types of businesses, for this restriction, as populations have grown and our society has advanced, the necessity of a restriction like this has clearly passed us by. This is particularly the case where an independent body such as the Liquor Control Commission has been established to regulate the distribution, sale and dispensing of alcoholic beverages.

It also is notable that, while applicable to first selectmen, the prohibition does not apply to certain other elected officials such as legislators, governors, or even mayors who perform exactly the same functions as first selectmen.

This is not simply a theoretical problem. In the Town of East Lyme, if this statute remains in place, our current first selectman, Paul Formica, will be faced with the very real choice between his popular Flanders Fish Market restaurant and the office of first selectman, to which the people of East Lyme elected him for the third time last November.

But this is about much more than one individual. At a time when it has become more and more difficult to attract quality candidates for public office, there is no way to know how many potential candidates for first selectman in any number of towns, who happen to own a particular type of business, may have been impeded by this statute, or how many could be impeded in the future.

I am attaching editorials from The Courant and The Day expressing views that are consistent with my own.

Before I turn it over to Paul to tell his personal story, I would like to thank the Committee for raising this legislation and would be happy to answer any questions the Committee may have.

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Liquor Law Shouldn't Disqualify First Selectman

Law preventing first selectmen from holding permits makes no sense

5:28 PM EST, January 27, 2012 After years of serving on East Lyme boards and commissions, Paul M. Formica decided in 2007 to run for first selectman.

Mr. Formica was the owner of the popular Flanders Fish Market & Restaurant, a business he founded in 1983. He didn't imagine that would be a problem, but it turned out that it was.

State law denies liquor permits to minors, police officers, judges, prosecutors and "any first selectman holding office and acting as a chief of police in the town where the permit premises are ... located." In East Lyme, the resident state trooper and constables are under the first selectman.

To avoid conflict with the law, Mr. Formica transferred ownership of the restaurant to his wife of 26 years, Donna. But in December 2009, Mrs. Formica died suddenly.

Probate proceedings for her estate are nearing conclusion, and Mr. Formica will get the restaurant back. There are potential issues with his transferring the business to his four children, one of whom is a minor.

So he is stuck. He'd like to continue to serve, but is not sure he can.

Gov. Dannel P. Malloy's proposal to revamp the state's liquor laws is long overdue. Some proposals, such as ending Sunday closings, will be controversial. This one shouldn't be. The provision that first selectmen can't hold liquor permits should be stricken.

First, it isn't evenly applied. It covers first selectmen but not mayors or, for that matter, governors. If the late Bill O'Neill, a tavern owner, could serve as governor, Paul Formica should be able to serve as first selectman.

Also, the law singles out one business, and it's not clear why it targets only liquor. A first selectman can't own a restaurant or package store, but could own an adult novelty shop.

Prohibition-Era Law

The law appears to date from the end of Prohibition in the 1930s. It may have been prompted by some long-forgotten incident involving a first selectman. The apparent purpose of the law is to keep the owner from investigating himself.

That would be a conflict of interest, but there are other ways to resolve it:

- First, the most likely violations to come from a liquor establishment are already investigated by the State Liquor Control Commission.

- Second, resident state troopers are kind of hybrid local cops: They are state employees who report both to the barracks commander and to the first selectman in their towns. If there were a complaint against a business owned by the first selectman, it could be referred to the state police barracks for outside investigation.

Barrier To Public Service

It is very difficult, especially in tough economic times, to get good people to serve on local boards. It makes no sense to discourage potential first selectmen because they own restaurants.

Mr. Formica is a Republican who has brought his business experience to town government and established a reputation as a bipartisan problem-solver. He was re-elected to a third term last fall with more than 85 percent of the vote.

It's pretty clear that the voters of East Lyme don't view Mr. Formica's restaurant as a barrier to his ability to hold office, just as the voters of the state could have cared less that Gov. O'Neill owned a tavern in East Hampton.

State Rep. Terrie Wood of Darien, who has followed the East Lyme situation, said she will introduce a bill to strip the prohibition against first selectmen/police chiefs holding liquor permits from the law. There is no good reason not to pass her bill.

Conn. lawmakers should OK practical bills

As always, the General Assembly will face plenty of tough decisions during the legislative session that began last week, but some items deserve quick and bipartisan support. Here are a few:

Prohibition legacy

On Dec. 5, 1933, Utah became the 36th state to approve the Twenty-First Amendment, officially ending America's 14-year experiment prohibiting the manufacture, distribution, and sale of alcoholic beverages. On July 11 that year, Connecticut had become the 12th state to ratify the repeal of prohibition.

Also that year the Connecticut legislature passed and Gov. Wilbur L. Cross signed a law that prohibited first selectmen who also act as a town's police chief from holding a liquor permit in their town. Curiously, legislators saw no need to require the same standard for mayors or state senators or representatives.

The motivation for this singular prohibition appears lost to time. Speculation is that it had something to do with prohibition ending and fears of corruption. It seems to hold no purpose now. The Liquor Control Commission regulates establishments selling liquor; State Police are available to independently investigate any allegations of criminal misconduct; and the police chief duties of the first selectman are largely ceremonial, with day-to-day management left to law enforcement professionals.

But if not repealed, it could force East Lyme First Selectman Paul Formica from office. Mr. Formica and his wife, Donna, opened the Flanders Fish Market in 1983 and turned it into a successful restaurant. When Mr. Formica first ran for first selectman in 2007, he transferred full ownership to his wife. But when she died of a heart attack two years later, Mr. Formica became the executor and ownership is ready to pass back to him.

We see no reason Mr. Formica should not be able to hold the liquor permit for the business he worked so hard to make a success. The legislature should repeal the first-selectman prohibition.