

The Owl Shop
268 College Street
New Haven, CT 06510
www.theowlshop.com

March 19, 2012

Rep. Ritter, Sen. Gerratana, and Members of the Public Health Committee:

As other testimony recognizes, H.B. 5332 addresses the operations of exactly one establishment in the state of Connecticut: The Owl Shop, a tobacco lounge in New Haven. As the proprietor of the Owl Shop, I welcome House Chair Ritter's invitation to submit this testimony, and remain happy to provide any further information that might aid the Committee's deliberations.

When Connecticut passed the Clean Indoor Air Act in 2003, the General Assembly exempted existing tobacco lounges from the Act through a narrowly defined grandfather clause. The exemption was intended to permit the few bona fide tobacco lounges in Connecticut to continue operating.

As the General Assembly recognized, the Owl Shop simply does not offend the purposes of a strong clean air regime. And the grandfather clause exemption has permitted our historic tobacco lounge, a staple of the Connecticut cigar and pipe community since 1934, to continue its operations without posing any obstacle whatsoever to the salutary public purpose of Connecticut's strong smoking law.

The Owl Shop is a small tobacco lounge that offers patrons a place to gather and enjoy premium cigars and pipe tobaccos with other aficionados over its extensive selection of top-shelf bourbons and whiskeys. It is home to a dedicated community that enjoys premium cigars and pipes in a relaxing atmosphere with live jazz acts two nights each week. All thirteen employees of the Owl Shop have many employment opportunities elsewhere, but enjoy the Owl Shop's product and appreciate the Owl Shop's convivial, civilized culture.¹ Well-known as a tobacco lounge, patrons who do not wish to smoke, or be exposed to smoke, from premium cigars and pipes simply do not enter the Owl Shop.

The Owl Shop supports the Clean Air Act as passed by the Connecticut legislature, and opposes the amendments proposed by H.B. 5332. The proposed amendments would both eliminate a well-reasoned exception to the smoking ban, and by imposing an unprecedented threshold out of line with best practices in other states, create a new, irrational exemption to the smoking ban.

I. The proposed bill would vitiate the well-reason grandfather clause created by the General Assembly and close the Owl Shop.

The grandfather clause adopted by the General Assembly correctly recognizes that certain establishments simply do not offend the public health purposes of the smoking ban. It strikes the proper balance between preventing unconsenting exposure to tobacco smoke, and permitting cigar enthusiasts to gather and enjoy cigars and a beverage together under the tutelage of the Owl Shop's devoted experts.

Recognizing that the few existing establishments capable of meeting the grandfather clause's 10% sales threshold pose no threat to the public health purpose of Connecticut's smoking ban,² the Connecticut General Assembly exempted those establishments. Nothing has changed.

Let us be perfectly clear. As other submitted testimony recognizes, H.B. 5332 targets the Owl Shop, the last remaining tobacco bar in Connecticut. There is simply no reason to repudiate the General Assembly's judgment that the Owl Shop does not threaten the public health purpose of the Clean Indoor Air Act. If the

¹ Our employees include tobacco enthusiasts and master pipe tobacco blenders. Joe Lentine has been blending highly regarded New Haven pipe tobaccos at the Owl Shop since 1964. Bill Raffaele is a master tobacconist with a deep knowledge and passion for Nicaraguan cigars. And our cocktail staff enjoy and are passionate about, our products, having cultivated expertise in premium cigars and pipe tobaccos to share with our patrons.

² See OLR Research Report, Tobacco Bars, 2012-R-0041 (January 27, 2012) (discussing legislative discussion of grandfather clause exemption in which Senator Murphy "noted that while there were very few tobacco bars operating in Connecticut, they should be exempted").

Committee supports Representative Megna's efforts to permit smoking on additional licensed premises, the bill could just as easily have simply added supplemental definitional language for tobacco bars. But there is simply no need to eliminate the grandfather clause to redesignate the "tobacco bar" exemption, if that is the direction in which the Committee seeks to proceed.

The Owl Shop, as it currently operates, would not meet the new definition of "tobacco bar." And this would add nothing to the public health—it would not change the fact that, as the General Assembly recognized, the Owl Shop does not intrude on Connecticut's clean air regime. All that removing the grandfather clause would accomplish would be to impose an arbitrary sales limit on patrons' drink orders at the Owl Shop. If we were to cease providing patrons with bourbons and scotches at whatever point in a given year those sales threatened to clear a projected 50% gross income from tobacco, we could comply with the amended definition. But taking the glasses out of the hands of cigar aficionados at some arbitrary point in a reporting cycle adds nothing to the General Assembly's 10% threshold that guarantees that only bona fide cigar bars are eligible for the exemption. Rather, by having operated consistently with the 10% threshold, which was adopted by the General Assembly by reference to best practices in strong smoking legislation, the Owl Shop demonstrated to the legislature what every patron and employee knows—that only people who want to enjoy the Owl Shop's tobacco products enter the establishment. It is not necessary to take their drinks away to be doubly certain.

II. The proposed bill is out of line with best practices in other states with strong smoking bans.

If the General Assembly seeks to create a general exemption (as opposed to the current exemption for bona fide cigar bars proven to pose no threat to Connecticut's clean air regime) the Owl Shop would not oppose the measure. The Owl Shop has long been home to a dedicated community of individuals who enjoy the occasional cigar in our comfortable environment, and we have no fear of competition. But as currently drafted, with an arbitrary, unprecedented, and unnecessary 50% cut-off, the measure represents a transparent assault on the hospitality model the Owl Shop, and every other tobacco bar in the county, provides for its patrons, apparently to permit a legislator's constituent to open a new tobacco lounge on a different model.

If the legislature sought to create such an exemption, there is a wealth of information on how best to do it. Many other states have established objective markers that ensure that unconsenting patrons and employees are not exposed to tobacco smoke, through *per se* exemptions for tobacco lounges that meet a 10% or 20% sales threshold for tobacco products. The Owl Shop still operates as a bona fide cigar bar and meets all of these definitions.

Given the economic realities of the hospitality industry, those lower thresholds—such as the one selected by the General Assembly—are more than adequate to ensure that an establishment is clearly dedicated solely to the on-site enjoyment of premium cigars. The leading academic treatment of tobacco lounge exemptions³ reviews a number of these, and we are pleased to enclose a copy for the Committee's consideration.

The proposed bill, however, is dramatically and unnecessarily out of step with best practices. It creates an arbitrary and unprecedented 50% threshold that is simply unnecessary to ensure that only a limited number of establishments, with fully consenting employees that have ample other employment opportunities, can operate in a given market.

Let us be perfectly clear on this point as well. Only a handful of establishments have ever been able to operate in the hospitality sector consistent with the 10% threshold established by the grandfather clause definition. There simply isn't a big market for bona fide cigar lounges, however important they may be to their patrons. It is universally true under the economic realities of the hospitality market, in which aficionados of premium cigars are small in number and overwhelmingly occasional, that even major metropolitan markets can only support a handful of tobacco lounges that meet a satisfactory statutory definition. By following New York's well-reasoned statute, Connecticut adopted a standard definition of a tobacco lounge, requiring the establishment to generate at least 10% of its annual gross income from the onsite sale of tobacco products and humidor rentals. And Connecticut legislators adding the grandfather clause threshold recognized that only a few establishments would meet the statutory cutoff.

The current 10% threshold reflects best practices followed by other states with *per se* tobacco bar exemptions, exempting only establishments that do not threaten unconsenting exposure to tobacco smoke. Grandfather

³ See Patrick Kabat, *Till Naught But Ash Is Left To See: Statewide Smoking Bans, Ballot Initiatives, and the Public Sphere*, 9 Yale Journal Of Health Policy, Law, & Ethics 128 (2009).

clause or open season, only bona fide tobacco bars—and in very small numbers—can meet it. The proposed 50% threshold, however, is both arbitrary, and given the proposed deletion of the grandfather clause, a transparent effort to render the Owl Shop's operations untenable. If the Committee wants to replace Connecticut's grandfather clause exemption—which exempts only those establishments that have demonstrated, through long operation, that they pose no threat to the public health purpose of Connecticut's smoking ban—with a *per se* tobacco lounge exemption permitting new, bona fide tobacco lounges to open under restrictions that protect the public health, there is a wealth of legislative experience and precedent upon which it could draw. The proposed amendments clearly do not.

The Owl Shop is happy to work with the committee to articulate a rational exemption consistent with the public health purpose of Connecticut's smoking law, but remains opposed to the proposed bill. In passing the statewide smoking ban, Connecticut exempted a small and known set of establishments that do not pose any threat to the public health, and provide a much-beloved space for casual cigar enthusiasts to congregate. There is no reason to repudiate the General Assembly's judgment and replace Connecticut's sound statutory scheme with a new foray into unprecedented tobacco bar exemptions.

Respectfully,

Glen Greenberg
Owl Shop, LLC

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Brief History:

The Owl Shop, a New Haven Landmark, located in the heart of Yale University and New Haven's Entertainment District has earned its status through its long history and fine reputation as an institution that has always taken a serious approach to customer service and quality products.

Originally opened at 84 ½ Wall Street in 1934 by Joseph St. John who came to America from Greece in 1925, the Owl Shop began originally as a bookstore.

~~Joseph was also selling tobacco and mixing his own blends and soon tobaccos and tobacco accessories were the products of choice.~~

Between 1937 and 1950 he and his wife Catherine expanded to five stores throughout New Haven until in 1951 they chose to consolidate under one roof, the College Street location.

In 1998, Glen Greenberg bought the shop, in 1999 he acquired a liquor license and since 2004 the Owl Shop has been one of the only public venues in CT where one can smoke and drink.

With the assistance from Master Tobacconist, Joe Lentine who arrived in 1964, the Owl Shop maintains its fine reputation for being one of the last and best tobacco shops/lounges in the country.

The Owl Shop boasts a 400sf walk-in humidor where Joe blends our world-renowned Owl Shop Tobacco blends and where you will find one of the most complete collections of classic & boutique cigars available.

Within the plush cigar lounge you will enjoy weekly free live music, a cocktail bar, a coffee bar and food served day and night.

Products Sold:

- 200 Cigar Brands
- Cigar Accessories: Humidors, Cigar Cutters, Hygrometers, Cigar Lighters & Periodicals.
- Private Label Tobacco Pipes Handcrafted in England, France, Italy & United States since 1950
- Private Label Pipe Tobacco Blends Mixed on Premises Since 1935
- Coffee Bar Serving Organic, Fair Trade Coffee, Espresso & Tea, Panini Sandwiches, Cheese Boards, Cured Meat Platters, Mixed Olive Bowls, Artisanal Chocolate Truffles & Biscotti
- Liquor, Beer, Wine & Soft Drinks Specializing in Whiskeys & Top Shelf Libations
- Live Jazz & Blues Free Every Tuesday & Wednesday Evenings

Past Fundraisers/Event: CT Republican Party Fundraiser, November 2011
New Haven Department of Police Services Youth Program
Knights of Columbus
Holy Smoke, St. Edmund's Church
Neighbor to Neighbor (N2N)
Marcum LLP
Community One
The Jewish Federation of CT
The Children's Community Programs of CT
City Seed, Inc.
All Our Kin

Total Employees: 13 - Providing Health Insurance, 401K & Profit Sharing

2011 Personal Property Taxes Paid: \$9,692

2011 R.E. Property Taxes Paid: \$14,674

2011 Sales Tax Paid: \$103,389

2011 Tobacco Tax Paid: \$46,102

~~2011 Total Taxes Paid: \$173,857~~

2011 Total Payroll: \$214,000