

CCDLA  
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FOUNDED IN 1988

Connecticut Criminal Defense  
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April 15, 2013

Hon. Eric D. Coleman, Co-Chair  
Hon. Gerald M. Fox, Co-Chair  
Joint Committee on Judiciary  
Room 2500, Legislative Office Building  
Hartford, CT 06106

Re: Raised Bill 6697

Dear Chairmen Coleman and Fox:

CCDLA is a not-for-profit organization of more than three hundred lawyers who are dedicated to defending persons accused of criminal offenses. Founded in 1988, CCDLA is the only statewide criminal defense lawyers' organization in Connecticut. An affiliate of the National Association of Criminal Defense Lawyers, CCDLA works to improve the criminal justice system by insuring that the individual rights guaranteed by the Connecticut and United States constitutions are applied fairly and equally and that those rights are not diminished.

CCDLA opposes Raised Bill 6697. Raised Bill No. 6697 imposes an unnecessary additional penalty on those arrested for certain alcohol related offenses by providing for the forfeiture of the motor vehicle used in the offense to the State. The bill impacts not only the person arrested, but also the owner of the motor vehicle if it's someone other than the individual arrested. This can include spouses, employers, lending institutions, and leasing/rental companies that will now have to appear in Court to seek the return of their motor vehicles and, in many cases, risk losing these vehicles. This bill will impact each differently.

To a spouse who co-owned a vehicle which perhaps was the only vehicle in the family, that spouse may now not have a means to get to work, which could result in the loss of employment. Families or households with only one vehicle will lose all means of transportation to such things as work, school, church, or medical appointments to name a few. The seizure of a vehicle and the subsequent forfeiture will disproportionately impact the poor and the middle class who cannot afford to be without a vehicle, even temporarily until a hearing is held regarding the forfeiture. Such a hearing however, may not be held for up to thirty (30) days after the seizure of the vehicle. Most families in this state, especially those that rely on one vehicle as their sole means for transportation, cannot go for thirty (30) days without a vehicle. It is unreasonable to think that this bill will only punish those committing these offenses. It will have a direct and substantial negative impact on families as well.

To an employer, lending institution, or leasing/rental company, they would have an additional burden, financial and otherwise, on their businesses if they are forced to go to Court to defend against the forfeiture of their vehicles. Although the bill requires the prosecuting authority to establish that the owner or other person claiming a lien, lease, or security interest in the vehicle, knew or should have known it would be used in the commission of the offense, this does not absolve these parties from liability or obligations as a result of this proposed law.

Employers could be forced to more closely monitor employees who drive their vehicles to determine if they have consumed alcohol or have a history of alcohol related behaviors. This would require employers to do more extensive background checks looking for prior offenses. It could also lead employers to refuse to hire someone who has a prior conviction for an alcohol related offense if the employment involves operating a motor vehicle for fear of liability under this statute. That, in turn, hurts someone who has a prior conviction because it makes future employment that much more difficult to obtain.

Lending institutions would also have to take a closer look at the individuals for whom they finance motor vehicles purchases. Auto rental and leasing companies would have to consider their transactions more closely as well. They could potentially begin requiring criminal background checks prior to lending money or renting or leasing a vehicle. Companies could require the purchasing of additional insurance to protect against such a loss. Ultimately, this law would impose an additional burden on both the front end and the back end of the transaction by imposing additional liability in the lending of money or the leasing or renting of the vehicle, and then the participation in a hearing on the forfeiture hearings. These burdens add to the cost of doing business in this state, which then gets passed to the consumer, which makes life in this state that much more expensive. This bill will have a significant ripple effect and will impact many people other than the individual committing the offense. In fact, it could have an across-the-board financial impact by making business more expensive in Connecticut.

Another aspect that is troubling is that those who are less well off and do not have the money to pay for an attorney will be more likely to have their vehicles forfeited to the state if they cannot defend against the proceedings. While the services of the Public Defender are provided in many instances, there are still many people who do not qualify for Public Defender services and choose to represent themselves for certain alcohol related offenses. These individuals would be less likely to successfully defend against a forfeiture action than others who may be able to afford an attorney and present a defense.

A final component that is troubling is the additional burden this will place on our Courts. Many courthouses across the state are already extremely busy with very large dockets. The offices of the State's Attorney, Public Defenders, and Court Clerks are already low on resources. To impose a potentially large amount of additional court proceedings on these offices does not seem appropriate absent additional funding and staff. The law would also require the law enforcement agency making the seizure to issue notice of the forfeiture action upon the arrestee and the owner or lien holder. This again seems like an unnecessary burden absent sufficient funding or manpower.

The Raised Bill imposes additional unnecessary burdens on families, employers, lending institutions, leasing companies, and others. It disproportionately impacts the poor and working class. Finally, it adds additional responsibilities to already over-burdened courts.

Please contact me if you have any questions regarding our position on this bill. Thank you.

Sincerely,



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