

Conn. liquor liability limits overturned

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A recent decision by the Connecticut State Supreme Court has already caused some changes in the way insurers are viewing liquor liability insurance.

The state Supreme Court ruled last week that bar owners can be held liable for an unlimited amount in damages if they serve intoxicated patrons who injure others.

The ruling reversed a 1990 state Supreme Court ruling that the Dram Shop Act, on state books since 1959, precludes recovery of higher damages against vendors of alcohol. The state's Dram Shop Act limited bar owners' liability for intoxicated patrons to \$20,000 per individual who was injured or killed, or \$50,000 per incident.

Justice Joette Katz authored the 3-2 decision, joined by Justices David M. Borden and Richard N. Palmer. She said "sensible reform" was needed in the area.

"It seems self-evident that the serving of alcoholic beverages to an obviously intoxicated person by one who knows, or reasonably should know, that such intoxicated person intends to operate a motor vehicle creates a reasonably foreseeable risk of injury to those on the roadways."

Chief Justice William J. Sullivan and Justice Peter Zarella dissented. Sullivan likened the decision to "judicial law-making" in authoring the dissent opinion.

"I believe that the radical change in the law wrought by the majority usurps the function of the legislature and is unwarranted on its merits," Sullivan wrote.

The ruling will restore a negligence claim against David Davis, owner of The Pub and Restaurant in Norfolk, where Steven Driscoll was drinking on May 21, 1996. Just after midnight, Driscoll left the bar and drove his truck into a group of college students walking on Route 44.

Harvard University freshman Sarah Craig, 18, of Norfolk was killed, and two others were injured.

Driscoll later pleaded guilty and was sentenced to five years in prison.

Craig's mother, Valerie Craig, said the ruling will save lives.

"For the first time in Connecticut, negligent bar owners will have consequences. They cannot send someone out to their car drunk with impunity," she said.

Attorney Patrick Walsh, who represents Davis, said the court's decision affects more than just his client.

"I think the impact is nationwide, and goes deeper into societal values of whether we believe there is a separation of powers," he said.

The decision has already caused some insurers to stop writing liquor liability coverage in the state.

Maxine Lessard, from RCA Insurance Agency in West Springfield, Mass., said carriers she has that were writing liquor liability insurance in Connecticut have placed a moratorium on liquor liability coverage and on increases in liability limits until further notice.

Lessard said this court decision will most definitely affect pricing, and she said the trend may have impact beyond Connecticut.

"I think all the surrounding states are going to look at it more closely, since it could occur in their state as well," she said.

Dave Snyder, assistant counsel and vice president at the American Insurance Association's Connecticut division, said there was no evidence that liability imposed on servers really helps the drunk driver problem.

He said this kind of liability is not going to be productive, and that the AIA was not sure if the decision was justified.

"It adds an unpredictable factor and it remains to be seen if this kind of thing is covered or not under the liability contracts," he said.