

# 'Happy hour' returns for Dram Shop Act in Conn.

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HARTFORD — It seemed like last call for the Dram Shop Act in Connecticut after a recent court case, but state lawmakers have served up an updated act with higher damage limits.

A recent Connecticut Supreme Court case, *Craig vs. Driscoll*, found that the old dram shop law did not bar suits against sellers of liquor based on negligence. Common law recognizes a negligence action in such cases, the court ruled. The court also said that the limits of the old law (\$20,000 per person and up to \$50,000 per incident) were so outdated as to not apply.

Concerned over the resulting wide-open exposure for bar owners and restaurants, lawmakers got busy and have fixed the act with a new law that increases the maximum amount an injured person can recover from \$20,000 to \$250,000 for injuries to a single person and from \$50,000 to \$250,000 in aggregate for injuries to more than one person. It makes someone who sells liquor to an intoxicated person liable if the intoxicated person injures another or another's property because of the intoxication. It does not require proof that the seller acted negligently.

The revised Dram Shop Act became effective earlier this month.

John Scanlon, Jr., incoming president of the Independent Insurance Agents of Connecticut, said the Dram Shop Act needed to be topped off. "The 20/50 was antiquated," he said. "What's \$20,000 going to get anybody that's hurt?"

Jim Farrell, vice president of operations for the Connecticut Restaurant Association, also said he's glad to see the Dram Shop Act back in place rather than the possibility of bars and restaurants being sued for negligence without limits. He said after the previous Craig court decision declared the Dram Shop Act outdated, insurance rates for the members of the Association skyrocketed.

"We went from a situation where there was a cap in the state for so long, and once it was removed rates were tripling for many establishments," he said.

Brian Phelps, president of Toad's Place in New Haven, a large music club that serves alcohol, is pleased to see a cap on damages, albeit a high cap, but notes that the Dram Shop Act does not protect him from a lot of other liability suits. "For the most part, Dram Shop covers car accidents after the person leaves, but it doesn't cover much on-premise," he said. "Assaults are 90 percent of the exclusions, so what am I insured for? Slips and falls?"

Phelps said Toad's has been sued numerous times in 28 years. Most involved instances where he felt his establishment held no blame. One time two people who came in together got in a fight with one another and sued the establishment that served them drinks.

"A lot of the incidents have little or nothing to do with the alcohol or the venue," he said. "These people knew each other before, and if they were going to fight, they were going to fight."

Michael Moreau, president of Wow Hospitality, which owns three restaurants in Connecticut, said he thinks the Dram Shop Act is a good way to keep restaurateurs and bar owners in check. "The biggest black eye for the industry is those operations that serve [alcohol] recklessly just to make those dollars," he said. "Of course we're not happy that liability has increased but we're not unhappy about the level of scrutiny."

Moreau said a higher cap is better than no cap. "It was something that was very frightening when it was revoked because it just seemed like an opportunity for trial lawyers to make more money. We're very pleased to be able to cap it at reasonable numbers," he said.

Moreau has fired a number of bartenders over the years for over-serving customers, and he thinks that the bar should be held accountable for serving intoxicated patrons.

Moreau does take issue, however, with some of the basic principles that play into liability. "I can't control what goes on outside these four walls," he said.

Phelps pointed to instances where customers come into the establishment early in the evening, have one drink and leave, yet the establishment is liable for that person's behavior the rest of the evening.

"These people go to four or five other bars and they get into an accident at 2:30 a.m., and each one of the bars they went to gets sued," he said. "The system needs adjustment, but it can't just come from insurance carriers. It requires looking at prevention by facilities and coming up with comprehensive plans."

Most expect to see an increase in rates because of the higher cap on the Dram Shop Act, but nothing too outrageous.

"If there's going to be an increase, it's going to be minimal," said Moreau.

"From what we're hearing in the insurance industry I think the rates will be reasonable," said Farrell. □