

H.288 – Liquor Liability  
Ryan Moor, Taylor-Moore Insurance  
March 9, 2023

I am writing to provide insights and information from the perspective of a Vermont-based independent insurance agent. Our family business has been offering insurance coverage for VT and NH since 1962, with our office in Derby, VT. Taylor-Moore Insurance is an Independent Agency offering full service in Vermont and New Hampshire. We have direct appointments with roughly 16 ‘admitted’ companies and in addition we work with a dozen Surplus lines brokers that give us access to roughly 50 more ‘non-admitted’ companies. My name is Ryan Moore and I have been working FT in this business since 1996.

To set the tone of what is outlined below, it is important to point out that liquor liability insurance exists at its foundation as a reaction to a state’s liquor liability laws. With Vermont falling into the category of highest liability risk due primarily to state statutes, it is becoming increasingly difficult to place clients seeking liquor liability coverage. What is outlined below offers a further explanation of what we are seeing in the Vermont marketplace right now for bars and restaurants seeking liquor liability coverage.

I categorize my ‘liquor liability’ clients in to three broad categories...

- **Less than 35% of gross sales attributed to alcohol.** A restaurant that is primarily considered an eating establishment – think of your neighborhood restaurant you go to for a meal. While the liquor liability rates are high, it is still relatively easy to place these businesses. There are currently 6 admitted carriers in the state of Vermont that I work with in my agency that offer this coverage.
- **35% to 70 % gross sales attributed to alcohol.** The type of business that patrons may go to for a drink, maybe an appetizer or small plate. Admitted insurance companies will not offer liquor or general liability coverage to these establishments due to higher likelihood of liquor related claims and then the severity of these claims. Currently the ‘non-admitted’ carriers will still offer Liquor to these clients, but each year there are fewer carrier options for businesses like this.
- **70% or more of gross sales attributed to alcohol.** These are the businesses in the immediate future that are most at risk of losing their coverage, and possibly being forced to close their doors. These are primarily traditional bar settings, music venues, nightclubs, and those offering bar catering services for special events such as weddings.

As Commissioner Gaffney shared, admitted carriers must follow state regulations and provide additional safety nets for businesses. Surplus line carriers (non-admitted) do not have to follow these regulations, which allows them to take on higher risks. This is why I am currently able to place some ‘high risk’ businesses with surplus line carriers. I am unclear how much longer this will be the case. To provide additional context, I would like to share a specific example of a client I just dealt with having a February 2023 renewal:

- **Business X**
  - o No claims in 15 years, gross sales are approximately 50% alcohol.
  - o Last year this business paid \$14,300 for Liquor Liability & GL. The renewal price this year was \$16,700, which represents a 17% increase. I put this client’s coverage out to market with all Surplus Lines brokers I have access to and the next closest quote came in at \$34,000. There was no change in exposures.

- Why is this the case? Because Vermont has the highest liability standards possible and is an outlier and these companies that are willing to take the risk feel they can gain the new clients at extremely high premiums because they have been watching the marketplace.

At the core of the issue, what will make the biggest impact is shifting provisions from strict liability to negligence. Specific to the current draft of the bill:

- All provisions should be shifted to negligence.
- It is a good thing that landlords are removed from the chain of liability. Landlords often require high limits which simply are not accessible in Vermont. The capacity of companies is being reduced & Commissioner Gaffney discussed why this is occurring.
- Relating to the requirement for liquor liability insurance. I am not opposed to this as a recommendation, but it should be studied prior to implementation to ensure there are no unintended consequences. If a business profits from the sale of alcohol, it is a reasonable expectation to have Liquor Liability. If implemented correctly, the public would be protected, and the insurance pool of business owners/liquor premiums would increase. If the premium pool in Vermont increases, it will attract more insurance companies if necessary changes to state statutes have been made. It is important to note here that it might take a significant amount of time for this to occur (4-5 years).
- It will take time for the marketplace to fully react to a change in statute. If liability insurance becomes more accessible because of changes to state statutes, we will see an organic change in the insurance marketplace. More companies will offer coverage and rates will eventually be reduced.
- Something to consider that does make an impact in surrounding jurisdictions as noted by Verisk is applying a cap on damages.

All of these factors will have a positive impact on Vermont's insurance marketplace; however, I would like to emphasize again shifting to negligence and away from strict liability will have the greatest impact. I cannot stress the urgency and timeliness that is needed with this issue. Even with Verisk's quick turnaround on a new advisory rating, the market still needs to react. I fear that it may simply be too late for some businesses. I know of 2 very large VT businesses that are going to lose their coverage on 10/1/23 and if replacement Liquor Liability coverage cannot be found, then well over 100 Vermonters are going to lose employment.

I understand that the Committee is trying to strike a balance between the need for businesses to secure insurance and consumer protection – however, it is critical that businesses have access to purchasing liquor liability insurance and I appreciate the sense of urgency surrounding this issue. Liquor liability insurance helps protect businesses, and this type of business insurance covers claims of bodily injury or property damage that an intoxicated customer causes after they were served alcohol. Without changing statutes, businesses will not be able to secure liquor liability insurance, and consumers will be left without the safety net provided by this type of insurance.