

House Judiciary

H. 288

2/28/2023

*Kevin Gaffney, Commissioner, Department of Financial Regulation, Insurance Division*

Committee was trying to understand the reasons behind the inability for Vermont businesses to obtain liquor liability insurance. The commissioner of the DFR spoke about the ebb and flow of admitted markets. The admitted market is made up of insurers that are regulated by the state, and at times of inflation and economic instability, these markets are usually at capacity and have less appetite for risk. Which may be a cause for the difficulty VT businesses are having in getting insured.

### **What is the problem?**

Mr. Gaffney also spoke about how the ability for the landlord to require a certain amount in liability such as \$1 million dollars due to the strict VT dram shop laws, can cause difficulty in achieving a policy if insurers are only looking to insure up to \$300,000, for example. The point here is that inflation can cause a decrease in insurance companies wanting to take risks, and they see high requirements from landlords, new businesses, etc., as risky. Vermont currently has no cap on the amount a landlord can require, which is causing friction in the market.

ISO rating in VT is a 10, insurers are seeing this as high risk.

Small state = less businesses for risk to be spread over, other states have caps, less strict statute, etc.

- Admitted market
  - Request for exclusions on firearms and assault and battery
  - Response to what they're seeing in the market
    - Insurance seeing a greater risk in an area = change in coverage
    - Perceived risk of firearms, A/B,
    - State does not allow exclusions from policy
    - **Incidents of firearms/ A/B might not insure due to the inability to obtain an exclusion**
  
- Public safety
- Insurance marketplace dynamic
- Commercial marketplace
  - When there is more robust competition, drives prices down
  - Economic cycle
- Bandwidth to carry risk is lessening in the re-insurance market
- Liquor liability
  - Admitted market – the regulated market
    - Companies and entities licensed to do business in the state
    - Less appetite for risk
  - Surplus lines market – not regulated by state, unregulated market

- Market of last resort, service in times of changing capacity
  - There to provide additional capacity, fill in gaps
    - Capacity/appetite
  - Overseen by any entity? No.
- **Landlord liability – no analysis done**
  - If your bar and restaurant is in a business that has a landlord
  - **Landlords request of liability can be up to \$1 million because there is no cap.**
  - **This is affecting the coverage limits.**
  - **Friction points of landlord requirement of \$1 million and the marketplace may only be looking to cover up to \$300,000 etc.**
- **Problem with getting proper coverage in Vermont, what is the problem?**
  - State ratings on statues/risk factors in the market
  - VT rated at 10
  - Insurers are seeing the risk in this state is high.
  - Small state = less businesses for risk to be spread over, other states have caps, less strict statue, etc.
  - ISO rating 10 for the last 10 years? And has become an issue due to the market
- Wanting to look at the history of policy limits in VT in order to look implementing a cap.
- **Hardening of the market across the board, are there other specialty insurance in VT where there is a similar occurrence, or it is just in liquor liability.**
  - Auto and homeowner's market
- Admitted market
  - Request for exclusions on firearms and assault and battery
  - Response to what they're seeing in the market
    - Insurance seeing a greater risk in an area = change in coverage
    - Perceived risk of firearms, A/B,
    - State does not allow exclusions
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*Wendy Knight, Commissioner, Department of Liquor and Lottery*

- Stats on overserving and violations
- Data from Agency of Transportation
  - 2017-2022 death from impaired driving (drugs, alcohol)
  - 2022 – 59 violations
  - More people dying from drugs than alcohol
  - Place of last drink data, enforcement strategy for collecting of violations
- **Balance between consumer protection and coverage in the market**
  - **Do you feel these laws are serving us?**
  - No comment
- **Data does not explain why insurance companies are not insuring and in issuing policies.**

3/2/2023

*Wendy Knight, Commissioner, Department of Liquor and Lottery*

- Bars and restaurants unable to obtain liquor liability insurance, how does the bill response to that
- Definition of server, as someone who holds a license/permit
  - DLL does not issue licenses to servers, but to businesses
  - Is the committee trying to shift responsibility onto the server?
- Definitions of server
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