

STATE OF ILLINOIS
90TH GENERAL ASSEMBLY
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TRANSCRIPTION DEBATE

69th Legislative Day

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Speaker Brunsvold: "The House will come to order. All unauthorized personnel please leave the Chamber. Retire to the Gallery. We will be led in prayer today by the Reverend Steve Smith with the United Methodist Church of Dawson in Elkhart. Reverend Smith is the guest of Representative Raymond Poe. Guests in the Gallery may wish to rise for the invocation. Reverend Smith."

Reverend Smith: "Most high God, the task set before our State Lawmakers today seems awesome as they deal with issues ranging from education to the protection of our wildlife. For most of the people of our state, we find it easier to criticize than to support, but these men and women have been chosen by us and ordained by You to set policy for our state, for our children and grandchildren. Guide them as they gather here and give them clear minds to think carefully through each issue. Give them pure hearts so that they can act with courage and forthright principles for the benefit of the people of the State of Illinois. Give them foresight to know that what they will do will touch the lives of generations yet unborn. Give them hindsight to see the folly and mistakes of the past and not repeat them. Give them the spirit of Your essence so that what is accomplished here today shines with the best that You have created in us as our humanity. Bless each Representative, their families and constituents with Your eternal presence. All this and more we pray today. Amen."

Speaker Brunsvold: "Thank you, Pastor. We will be led in the Pledge today by Representative Crotty."

Crotty - et al: "I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

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Speaker Brunsvold: "Mr. Clerk, Roll Call for Attendance. Mr. Cross, with the Republican absentees."

Cross: "Well, good morning or good afternoon, Mr. Speaker."

Speaker Brunsvold: "Good afternoon."

Cross: "I don't know if you know this, Mr. Speaker, believe it or not, I was actually able to find a Beanie Baby in town this weekend. I had better luck at a McDonalds finding a Beanie Baby then I did looking for your Bill. We're all here on the Republican side of the aisle today, thank you."

Speaker Brunsvold: "Mr. Cross, I have instructed our two Clerks up here to find that Bill, and they're having a hard time. Mr. Hartke, or excuse me, Representative Currie."

Currie: "Thank you, Speaker. Please let the record show that there are no missing House Democrats today."

Speaker Brunsvold: "Thank you, Representative. Mr. Clerk, take the record. There being 118 answering the Roll Call. We have a quorum. Mr. Hartke."

Hartke: "Thank you very much, Mr. Speaker, Members of the House. I have been anxiously waiting to get back here today because I understand Emilou was all around the Capitol this weekend looking for that Bill because the best coon dog in central Illinois was looking for that Bill. I just wondered if the owner of Emilou could report on what Emilou has found. He's found something!"

Speaker Brunsvold: "Mr. Black, has Emilou tracked down the Education Bill?"

Black: "That dog found that rascal. Got it right here. I might even let Mr. Hartke look at it but I doubt it. The last time we let Mr. Hartke do something, as I recall, the light went on in Tutopolis, and things haven't been the same since."

Speaker Brunsvold: "Thank you, Mr. Black. On the Order of

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Nonconcurrency, Senate Bill 192. Mr. Clerk. Excuse me, Mr. Clerk, 172. Mr. Scully."

Scully: "We refuse to recede from House Amendments 2 and 5, and we ask to go to Conference Committee."

Speaker Brunsvold: "The Gentleman has asked to refuse to recede from House Amendments 2 and 5. All in favor say 'aye'; all opposed 'no'. The 'ayes' have it and the House does refuse to recede from House Amendments 2 and 5 to Senate Bill 172. And the Gentleman has requested a Conference Committee be appointed. Clerk, Senate Bill 381. Mr. Roskam. Out of the record. On the Order of Concurrence, House Bill 1327, Representative Clayton. Representative Clayton. Out of the record. Senate Bill 1129, Mr. Clerk. Representative Hannig."

Hannig: "Yes, thank you, Mr. Speaker and Members of the House. I would move that we refuse to recede from House Amendment #1 to Senate Bill 1129 and that this Bill be put in conference."

Speaker Brunsvold: "The Gentleman has moved to refuse to recede from House Amendment #1. All in favor say 'aye'; opposed 'nay'. The 'ayes' have it and the House does refuse to recede from House Amendment #1 to Senate Bill 1129. And the Gentleman has asked a Conference Committee be appointed. Mr. Ryder, have you filed a Motion on the next Budget Bill?"

Ryder: "I don't think so. I will. I do not believe that I have. I will proceed to do so."

Speaker Brunsvold: "Thank you, Mr. Ryder. Mr. Clerk, Senate Bill 1131. The Gentleman from Jersey, Mr. Ryder."

Ryder: "Thank you. On this Bill, I have filed a motion that we would refuse to recede from House Amendment #1 and ask that a Conference Committee be appointed for purposes,

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hopefully, of implementing the budget once we have one."

Speaker Brunsvold: "The Gentleman has moved to refuse to recede. And on that question, all in favor say 'aye'; opposed 'nay'. The 'ayes' have it. The House does refuse to recede from House Amendment #1 to Senate Bill 1131 and a Conference Committee has been requested. Mr. Clerk, Senate Bill 1132. Mr. Ryder."

Ryder: "Thank you, Mr. Speaker. I have filed the same motion on this Bill as the previous for the same purpose and I would ask that we refuse to recede from House Amendment #1 and that a Conference Committee be appointed. Thank you."

Speaker Brunsvold: "The Gentleman has moved to refuse to recede from House Amendment #1. All in favor say 'aye'; opposed 'nay'. The 'ayes' have it and the House does refuse to recede from House Amendment#1 on Senate Bill 1132. And the Gentleman has requested a Conference Committee be appointed. Mr. Clerk, Committee Announcements."

Clerk Bolin: "Attention Members. The Rules Committee will meet immediately in the Speaker's Conference Room. The Rules Committee will meet immediately in the Speaker's Conference Room."

Speaker Brunsvold: "Mr. Clerk, Committee Reports."

Clerk Bolin: "Representative Currie, Chairman from the Committee on Rules, to which the following Joint Action Motions, Floor Amendments were referred, action taken on May 27, 1997. Reported the same back: 'recommended be adopted' Conference Committee Report #1 to House Bill 297. To Second Reading, Senate Bill 600."

Speaker Brunsvold: "Mr. Clerk, Senate Bill 317. Mr. Winters."

Winters: "Mr. Speaker, I move to refuse to recede."

Speaker Brunsvold: "The Gentleman has moved to refuse to recede from House Amendment #1 to Senate Bill 317. All in favor

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say 'aye'; opposed 'nay'. the 'ayes' have it and the House does refuse to recede from Senate Amendment #1 to Senate Bill 317 and the Gentleman has requested a Conference Committee be appointed. Mr. Clerk, Senate Bill 473, Mr. Scott. Mr. Scott. Mr. Clerk, Senate Bill 101, Mr. Hoeft. The Gentleman from Kane, Mr. Hoeft."

Hoeft: "Thank you, Mr. Speaker. I would refuse to rescind from this Amendment."

Speaker Brunsvold: "The Gentleman has refused to recede from House Amendment #1. All in favor say 'aye'; all opposed 'nay'. The 'ayes' have it and the House does refuse to recede from House Amendment #1 to Senate Bill 101, and the Gentleman has requested a Conference Committee be appointed. Senate Bill 1109, Mr. Brady. The Gentleman from McLean, Mr. Brady."

Brady: "Thank you, Mr. Speaker. I've made a motion to refuse to recede from Senate Amendment #1 and request a Conference Committee Report."

Speaker Brunsvold: "The Gentleman has refused to recede from House Amendment #1 to Senate Bill 1109. All in favor say 'aye'; opposed 'nay'. The 'ayes' have it and the House does refuse to recede from House Amendment #1 to Senate Bill 1109. The Gentleman has requested a Conference Committee be appointed. Mr. Clerk, Senate Bill 473, Mr. Scott."

Scott: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. I move to recede from House Amendment #4 to Senate Bill 473 and ask that a Conference Committee be appointed."

Speaker Brunsvold: "The Gentleman has refused to recede from House Amendment #4. All in favor say 'aye'; opposed 'nay'. The 'ayes' have it and the House does refuse to recede from House Amendment #4 to Senate Bill 473, and the Gentleman

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has requested a Conference Committee be appointed. Senate Bill 381, Mr. Clerk. Mr. Roskam. Mr. Roskam."

Roskam: "Thank you, Mr. Speaker. I move that we refuse to recede on House Amendment 4 to Senate Bill 381 and request a Conference Committee."

Speaker Brunsvold: "The Gentleman has refused to recede from House Amendment #4. And on that, the Lady from Cook, Representative Ronen."

Ronen: "Point of Personal Priv..."

Speaker Brunsvold: "Okay, the Lady, Representative Ronen."

Ronen: "Thank you, Speaker. I rise on a Point of Personal Privilege."

Speaker Brunsvold: "Proceed."

Ronen: "Thank you. Yesterday was a birthday of a special House Member, but since we weren't here, we'd like to celebrate today. Jan Schakowsky celebrated her birthday yesterday, and although she keeps on looking younger, she is getting older. So, let's help us celebrate and join us for cake in the front of the Chamber."

Speaker Brunsvold: "Representative Ronen indicates that Jan is 29 years old. The Gentleman has moved to refuse to recede from House Amendment #4 on Senate Bill 381. All in favor say 'aye'; opposed 'nay'. The 'ayes', have it and the House does refuse to recede from House Amendment #4 to Senate Bill 381 and the Gentleman has requested a Conference Committee be appointed. On the Concurrence Calendar, House Bill 1252, Representative Krause."

Krause: "Thank you, Mr. Speaker. I move to concur with Senate Amendment #1 which is a technical change to the underlining (sic-underlying) Bill. This is an agency Bill for the Guardianship Advocacy Commission. Very briefly, the underlining (sic-underlying) Bill clarify that guardians

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are authorized to consent to withhold life sustaining treatment under the terms of the Health Care Act or with a Court Order. The Senate Amendment deletes language that would have made guardians' decisions lawful without court review if they're made according to the new decision-making standards and the Guardianship and Advocacy Commission accepts this Amendment."

Speaker Brunsvold: "The Lady has asked to concur in Senate Amendment #1. And on that question, is there any discussion? Seeing none, the question is, 'Shall the House concur in Senate Amendment #1 to House Bill 1252?' This is final action. All in favor vote 'aye'; all opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. And on that question, there are 118 voting 'yes'; 0 voting 'no'; 0 voting 'present'. And the House does concur in Senate Amendment #1 to House Bill 1252 and this Bill, having received a Constitutional Majority, is hereby declared passed. Calendar Announcement, Mr. Clerk."

Clerk Bolin: "Supplemental Calendar #1 is being distributed."

Speaker Brunsvold: "Mr. Hartke, for what reason do you rise?"

Hartke: "Well, Mr. Speaker, while we're sitting here, I have a House Resolution 26. We could move that along and pass that if you'd like."

Speaker Brunsvold: "We'll let you know when we get to that point. Representative Moore."

Moore, E.: "Yes, Mr. Speaker. Since, you know, it has been brought up about Resolutions, I have several Resolutions that we would like to have called as well. As a matter of fact, 75, 76, 77. I was just wondering, are you going to call Resolutions? I mean, if that be the case."

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Speaker Brunsvold: "We're going to get to that order of business shortly, Mr. Moore."

Moore, E.: "Is that right? Thank you very much, appreciate that, you know."

Speaker Brunsvold: "Mr. Black."

Black: "Yes, thank you very much, Mr. Speaker. An Inquiry of the Chair."

Speaker Brunsvold: "State your Inquiry."

Black: "Yes, about these Resolutions, I think we need a Resolution to resolve these Resolutions because I have a Congratulatory Resolution that is still stuck in the Resolution Rules Committee. I have no idea what it's doing in there after four weeks. But perhaps, we could have a Joint Resolution to resolve the question on Resolutions. If you'd look into that, I'd appreciate it."

Speaker Brunsvold: "Good point, Mr. Black."

Black: "Thank you."

Speaker Brunsvold: "Mr. Cross, I see you've been the ring leader of another plot to try to find the education budget."

Cross: "Mr. Speaker, is that cake you're eating celebrating Representative Schakowsky's birthday?"

Speaker Brunsvold: "Yes, Mr. Cross."

Cross: "Are we going to have to wait for her next birthday before we see this Bill? Do you know, is the Bill, is the plan, is the Amendment, whatever you want to call it, in the cake? We can't even make a cake. When can we expect to see the Bill, Mr. Speaker? It's now Tuesday, Friday was the deadline. We're ready to go. Can you just give us some idea, are we going to have a committee meeting? Are we going to have a Rules Meeting, tomorrow, Thursday, Friday, June? When do you expect us to see the Bill?"

Speaker Brunsvold: "Sometimes these very important Bills, Mr.

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Cross, take a little time to get worked out, so I'm sure they're working it out right now."

Cross: "Well, we're goingMr. Speaker, we're going to need our calculator. This, I understand, is Speaker Madigan's 'one billion dollar tax increase Bill', but we haven't seen it, so we really don't know. But, can you give us an idea when we might see the Bill? Representative Morrow, yesterday, talked about fairness, at least on Friday, that we always tried to provide when we were in the Majority. In the interest of fairness, when can we see the Bill?"

Speaker Brunsvold: "Mr. Cross, I've been informed by the Majority Leader that Mr. Edgar, our Governor, has given a copy of the plan to Mr. Daniels. So, maybe Mr. Daniels has it. I don't know."

Cross: "Has that Bill been filed, Mr. Speaker? Has the Bill been filed, Mr. Speaker?"

Speaker Brunsvold: "Mr. Black indicates he's got it right in his hand there. There it is. Emilou found it. Representative Schakowsky."

Schakowsky: "Thank you, Mr. Speaker. In addition to thanking my friends for providing cake where there is now plates and forks and napkins, I also wanted to announce that Labor and Commerce will not be meeting today. The Labor and Commerce Committee is cancelled for today."

Speaker Brunsvold: "Once again, Members, the Lady, the Chairman of the Labor and Commerce Committee has indicated there will be no meeting today. On Supplemental Calendar #1, appears House Bill 297 on Conference Committee Reports. Mr. Dart. Mr. Clerk, House Bill 297. The Gentleman from Cook, Mr. Dart."

Dart: "Thank you, Mr. Speaker and Members of the House. I move to accept and adopt the First Conference Committee Report

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to House Bill 297. This is a Bill that we've had before the Body earlier this year and it's gone through a slight revision. It now, I'm happy to say, has the support of every group that we worked with. There's no opposition that I'm aware of at this point. What this does is, it would change our Dram Shop Law in the State of Illinois. It would increase the recoverable amounts in certain categories in the personal injury or property damage from 30 thousand to 45. Loss of support section from 40 to 55, and it would add the new section, which is the crux of the matter, the loss to society section. That was the section that for those who were in the committee, heard the testimony from George Murphy whose daughter was killed by a drunk driver, somebody who was known in the community as a drunk driver, but was out there nonetheless. In the middle of the day, killed her while she was out riding her bike on the way back from a Fourth of July picnic. When they went to try to recover against the bar owner who had served this person all day, they were unable to do so because she did not have a job. And because of that, she was not deemed as having value under the law. So, this changes that to allow for that recovery. As a result of negotiations with numerous groups that I mentioned before, we worked it in the alternative so loss of support or loss to society can be recovered, not both. It also adds a CPI indexing to this, as well, so that, hopefully, we will not have to be coming back here to change this. And this is an effective date of July 1, 1998, that was an agreement we worked out with the insurance agencies. They asked that we would do that for them. As I said, it is supported by the Bar Association, the Beer Distributors, MADD, SADD, the Crime Commission, and the Restaurant Association. The liquor

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industry is neutral on the Bill. I know of no opposition at all and I would move for adoption of the First Conference Committee Report."

Speaker Brunsvold: "The Gentleman has asked for the adoption of the First Conference Committee Report. And on that, is there any discussion? The Gentleman from Vermilion, Mr. Black."

Black: "Yes, thank you very much, Mr. Speaker. Will the Sponsor yield?"

Speaker Brunsvold: "The Sponsor yields."

Black: "Representative, there's language in the Conference Committee Report and I really don't know what current law is, but does a retail liquor store serve...not serving any drink, but just selling by the package, are they currently covered under the Dram Shop Law?"

Dart: "I'm not sure of that, Representative. My understanding, though, is because to prove this element, you have to show the nexus that this person serving this individual the alcohol caused them to get drunk and caused them to then commit the accident. That wouldn't come under... would not come into play because that person did not physically serve them the alcohol that did it..."

Black: "Okay, right."

Dart: "Because otherwise, the law would basically be any... every liquor store would be liable because you never know who is going to do what with it. So, it's geared toward bars, is my understanding. I'm not aware of any cases to the contrary of that but I'm just not 100% sure. There might be something out there, but I would doubt it."

Black: "That has me a little confused and I haven't had a chance to really check with staff but I see the language, 'requiring Dram Shop for retail liquor licensees' and I

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would assume that the definition would cover a package liquor store that doesn't sell anything by the drink."

Dart: "We removed it, and in an original Bill, we had the mandate that required the Dram Shop insurance. That's no longer in the Bill, so there is no requirement for that."

Black: "While we're taking a look at that, I noticed that there's also a trigger in the Conference Committee that these limits of liability will go up each year in conjunction with the Consumer Price Index. And that is new language, is it not?"

Dart: "Correct, and that was an agreed to language by all the parties in an effort so that we don't have to keep coming back to try to raise this limit."

Black: "The other thing I need, I think we need to clarify, what about the social host question that came up once before? If you have a party, say a post-election party, or when you're elected mayor of Chicago, you decide to have a party and liquor..."

Dart: "It'd be a big party."

Black: "Yes, it would be. And liquor is served, not through a license, but maybe you just simply hired a bartender and bought the alcohol. Under this Bill, are you going to be held personally responsible as a social host?"

Dart: "No, as a matter of fact, Representative, in the original Bill we'd had provisions in there dealing with social hosts' liability. We since removed those provisions because there was a great deal of opposition and at this point, we decided to try to go ahead with something that we all could agree on."

Black: "Now, make sure I understand this because there are a lot of political events at which beer might be included in the price of the ticket and I don't know how that works. I

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know how most of my committees down in my area work that. But if a committee just simply buys through a wholesaler or a retailer, several kegs, and someone gets involved in an accident, who then is the responsible party? Is it the committee that put on the party and gave drink away as part of the price of the ticket, or do you go back on the retailer who sold you the kegs for said party?"

Dart: "It would be my understanding that neither one of them in that situation because you would have to have the suit against the retailer. The intermediary... the key is showing the nexus that this individual contributed to the person becoming intoxicated and the further you move down the chain, it's going to be virtually impossible to ever show that."

Black: "Let me give you an example that happens in my district every June and I really don't know the answer to this, and in fact, I've asked a couple lawyers in the past and never really gotten an answer. We have a large land and sky festival, hot air balloons, air show, et cetera. And I know the entity, it's a non-profit corporation that puts this on and they get a...I think it's called a special event, liquor license from the State of Illinois. And then, I don't know how they purchase the... but they have two or three beer gardens and I really don't know how that works. But if somebody goes out to this festival and they sit in the beer garden all day long and then they drive home and they're involved in an accident. Who then would be the responsible party?"

Dart: "It would be whoever holds the license in that situation, the licensee."

Black: "Okay, so if the non-profit got a special event license, then that non-profit should also take out Dram Shop is what

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you're saying, right?"

Dart: "Exactly, from my understanding, a group such as that quite often, will buy one day policies."

Black: "Right, okay. And so, if I heard you correctly, the Conference Committee Report is agreed to with MADD, the retail alcohol establishment, the Trial Lawyers, in fact, as you said, it doesn't appear that anyone stands in opposition of the Bill."

Dart: "That's my understanding."

Black: "I appreciate that. I really, a couple of months ago, didn't think you could ever get this far, so you've..."

Dart: "I didn't either."

Black: "You've put in some good work, thank you."

Dart: "Thank you, Representative."

Brunsvold: "Further discussion? The Gentleman from Champaign, Representative Johnson."

Johnson, Tim: "Thank you, Mr. Speaker, and Members of the House. I think the Sponsor of this Bill and the respective interest groups and concerned citizens have really come together and created a product, a bipartisan product, that's supported by all elements of the spectrum that really address in a little different way, the problem of drunk driving. This is another arm, this is another mechanism that we have for dealing effectively with the problem of people who abuse the right to drink alcohol and who cause injury or death to other people. This Bill, in a very moderate way, addresses that problem, increases the limits to reasonable ones and at the same time, has parameters built in that don't put legitimate businesses out of business. It addresses, at the same time, some of the serious concerns and insurance companies, as well as insurance carriers, had with respect to the issue and in a

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human way, deals with a terrible oversight in the existing law and that is that when an individual is killed and that individual happens to be a homemaker who can't demonstrate actual monetary production in terms of a job, while we all know that homemaking is every bit as important as a job outside the home, allows recovery for loss of society and companionship in those cases and that's appropriate, and it's fair and it's just and it allows the families of deceased homemakers, of deceased individuals, to recover for loss of company and companionship in situations where heretofore they have been unable to do that. So, I commend the Sponsor. I commend all those who have been involved in putting together and compromising, reaching an agreement on a very, very difficult issue that manages to get the best of all worlds into this Bill. It's not perfect, it may not go as far in some cases as some would like to see it go but it's certainly a reasonable, fair approach to an very difficult issue and I urge a 'yes' vote."

Speaker Brunsvold: "Further discussion? The Lady from DuPage, Representative Biggert."

Biggert: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Brunsvold: "The Sponsor yields."

Biggert: "I just have one question, Representative Dart, about the changes in the liability which will go up or down during a year depending on the CPI. Is that how that works?"

Dart: "Exactly, the CPI provision would go up or down based on an annual evaluation. Then the comptroller would make the determination on it increasing. It would increase and this way, the goal here was so that, frankly, we wouldn't have to be coming back here and fighting over whether or not we should be going up 10 thousand or not so, that would be

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indexed annually against the CPI."

Biggert: "Okay, so for example, if the CPI went up 2.9, then the 65 thousand would be multiplied by the 2.9 and added to that?"

Dart: "Yeah, it would go... Yeah, it would go up by the same as the CPI."

Biggert: "Right. And if it went down, then it would be reduced by that amount of money?"

Dart: "Correct."

Biggert: "What was the genesis for that? Who recommended doing that? Because that's the big difference isn't it, in the Conference Committee, compared to what we had discussed in committee?"

Dart: "Yeah, that's new. That was, frankly, it was an agreement between the parties who, I think, honestly felt that each side had had enough of having an annual battle over this and that this way, we would have a mechanism in there that wouldn't be increasing them dramatically, nor would we be fighting for, in this case, since 1985, just to increase them somewhat. I think that, that's where that came out of."

Biggert: "That... well... by the parties, I just wondered if there was one side or... who recommended doing this, do you remember?"

Dart: "I'm unaware of which one was the proponent of it. I am aware, though, that everybody agreed to that."

Biggert: "Okay, thank you."

Dart: "Thank you."

Speaker Brunsvold: "Mr. Dart, the Chair would like to compliment you on your new staff person. The Gentleman from Bureau, Mr. Mautino."

Mautino: "Representative, I just have a couple of questions for

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you."

Speaker Brunsvold: "The Gentleman yields."

Mautino: "The current policies that are bought, they are not required under current law?"

Dart: "Correct, there's no mandate on that, and we didn't change that."

Mautino: "Okay. What are the new rates going to be, as far as the limits on liability?"

Dart: "For personal injury or property damage, they're going to go from 30 thousand to 45, and for loss of support, they're going to go from 40 to 55, and the loss to society would be 55 as well, but as I said, that's in the alternative. You can't get both of them."

Mautino: "Have any of the companies that currently write these policies, have they given you an idea on what the increase to the restaurants, tavern owners is going to be?"

Dart: "Frankly, Frank, they did. When we were in committee, based on the old numbers, I have not seen what it would be based on these changes here. I'm not sure of those, but they had shown us based on previous numbers and I really don't recall what those were. On the old numbers, it was in the area of I think about a 25% increase, I think. These are below those numbers but, as I say, I don't have that in front of me so I'm not sure."

Mautino: "Okay, that's something that I had some concerns on. Now, are you aware that...and this is something that I need to find out whether this arose in any of the discussions. The Department of Insurance and the regulators are now allowing for the exclusion of assault and battery from these policies, either on renewal or on new issue policy. Did any of that discussion come up?"

Dart: "No, I'm not aware of that."

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Mautino: "I guess that's...and I do commend you for the work that you've done in trying to reach agreement on a very difficult subject. There's been a lot of concern from the tavern owners and the restaurant owners, those who buy a product that's not readily available on the market. A lot of people don't like to write these policies inside the industry. I guess my concern, and maybe we can address this in one of the Conference Committee Reports coming up, my concern is that the Department of Insurance, if this is true, and they are allowing an exclusion in the policy, then we are going to either by 25, 35, 45 percent increase the premiums on a small business who will then be offered no coverage. And I think that if that's true that's something and I do have a couple... I'll work with you on this, I've got a couple Conference Committee Reports that are rolling around here now, but I think that's probably the most, the most potential damage that 's out there in addition to raising their cost to doing business, the department may be allowing for a lessening of coverage, and I don't think that was the intent."

Speaker Brunsvold: "The Gentleman from Cook, Mr. Durkin."

Durkin: "Will the Sponsor yield?"

Speaker Brunsvold: "The Sponsor yields."

Durkin: "Representative, on the Conference Committee Report, you may have mentioned this earlier, but can you explain to me the reason why you have the language regarding loss to society on this Conference Committee Report, and what are you intending to do, and what was the genesis behind that inclusion?"

Dart: "The genesis of it was from... and not necessarily from one particular incident, there were numerous ones, but one of the major advocates of that has been an individual named

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George Murphy, whose daughter was killed by a drunk driver, who then was unable to recover because she was not... didn't have a job, and the way the courts looked at it and the way the law is presently drafted right now, individuals who don't have jobs, which quite often is like a homemaker, and the like, had no value at all under the law. So this was in an effort to basically put things where they should be in that regards because these people are very valuable individuals in our society, and they should be recognized as such, and that's where that came from. It wasn't just because of the one incident. There's plenty of other ones out there, as well, but that was the one that most graphically showed how inequitable our law is."

Durkin: "Representative, also, I mean, is there a cap on loss to society? Is there going to be a different cap for loss to society as there is for loss of support or are they going...?"

Dart: "Yeah. The cap on loss to society is going to be 55 thousand and for loss of support, that's also \$55 thousand but you can't recover both. You would only be able to recover under one or the other. The original Bill when it had passed, Jim, you're right, it allowed for recovery under both. Under the agreement we worked out with everybody, it has to be one or the other. So, it's a \$55 thousand cap on one or the other."

Durkin: "Will this have to be a decision which would have to be made prior to trial? Let's say that they've got the jury lined up and can they submit, let's say, an instruction requesting damages under both, they can choose either/or? Or does the plaintiff's attorney have to make that decision prior to stepping into the courtroom?"

Dart: "Jim, for fear of messing up the record, I don't know the

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answer to that because there was a lot in negotiations on that very point, about whether or not we were going to require this to be an election up front or not and I don't know the answer to that and I don't want to gum it up."

Durkin: "Okay. I've just got one more question. You have under... you define family ... which says spouse, children, parents, brothers and sisters. Would an individual, a father who is ... a spouse who is divorced from the other one, would they be included under this family definition? A divorced spouse?"

Dart: "It would depend on the present laws. How the law viewed a divorced spouse or not. It would depend on that definition."

Durkin: "Well, Representative, this is the third time we've seen this Bill. I did have problems with the Bill the last two times but with the changes that have been made between now and the last vote, I will support this Bill. Thank you very much."

Dart: "I want to commend your staff worker there too. He does a tremendous job."

Speaker Brunsvold: "The Gentleman from Logan, Mr. Turner."

Turner, J.: "Thank you, Mr. Speaker. Will the Gentleman yield?"

Speaker Brunsvold: "The Gentleman yields."

Turner, J.: "Representative, I'm looking at the language and as I understand it, there will be an increase in the liability limits if we pass this Bill based upon the consumer price index, is that correct?"

Dart: "Correct."

Turner, J.: "And consumer price index, I see there's a definition, basically, of what the cost of goods and services would be. Is that like inflation? Is that the same thing?"

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Dart: "It's similar. It's the thing we hear about on the news all the time as well. The numerous factors that they come... that they bring in together to determine that figure, the increase and the cost of different items."

Turner, J.: "Well, I guess what I'm wondering, suppose we'd have a fellow like Jimmy Carter get elected again, and inflation goes up to 18%, does that mean that the liability limits would go up 18%?"

Dart: "Well, it wouldn't necessarily..."

Turner, J.: "...for the given year then?"

Dart: "It wouldn't be an index against inflation. It would be index based on purely the consumer price index, which my understanding doesn't always reflect those numbers. So, it would be the present way that CPI is determined and just similar how we do in other statutes we have in the book we index against that, as well, and that wouldn't change. And, as I mentioned before, all the parties on both sides of this issue came forward and felt comfortable that there was not going to be skyrocketing or great decreases one way or the other. They felt that that was a moderate way to sort of keep up here."

Turner, J.: "Well, are you saying that there is no relationship between the CPI and inflation?"

Dart: "No, I..."

Turner, J.: "It strikes me that they kind of run hand in hand and if we get into an inflationary cycle at..."

Turner, J.: "Sure, no..."

Dart: "...10, 12, 14 percent,..."

Turner, J.: "Sure..."

Dart: "...then liability is going to go up that much."

Dart: "No, there's definitely a relationship but what you were saying is that, are the two of them the same, and I'm

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saying, they're not necessarily the same. Will one impact the other one? Absolutely. That's how the thing would end up moving up. If it's an inflationary time, things are going to cost more and for the customer then, it would cost more to buy different things. So, there is some relationship in that respect."

Turner, J.: "Well, let me ask you this. Does this, in fact, insure that indeed liability limits will go up on an annual basis and if so, does that not mean that premiums will also go up on an annual basis?"

Dart: "Well, I can't speak for the insurance companies. I would imagine that given their past record that if the liability levels go up, they'll also increase their premiums. That would be my guess, I mean, that isn't written in stone. If they wanted to, they don't have to do that. But if the CPI goes up, the liability levels would go up. They'd go up incrementally."

Turner, J.: "I've been handed a note here. Has Frank O'Neill taken a position on this Bill?"

Dart: "Yeah, actually, he's one of the strongest proponents of it. He's a constituent of Representative Cross's, I believe, and they've worked closely on Bill like this."

Turner, J.: "I don't know if Representative Cross is aware yet that his name has been used in this debate, but I'm looking at his light here and it hasn't gone on yet. But all kidding aside..."

Dart: "I don't think he wants to follow that one up."

Turner, J.: "Oh, you appear to be right. All kidding aside, though, it sounds to me as though we are insuring now that liability limits will go up on an annual basis and therefore, premiums will go up on an annual basis. Do you agree with that?"

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Dart: "Well, yes and no. As I said, I mean, there's nobody that puts a gun to the insurance agent's head and says you got to raise your rates. I mean, that's a function that they determine based on their actuarial tables and so that they can get a profit out of things. No one's making them do anything. So, if the CPI goes up and the liability levels go up, do they have to raise their premiums? No they don't. Would they do it? Well, sure if they want to keep making money, they're going to keep doing it and there's no limit right now. They can raise their limits through the roof if they want to do that. But the reality of it is, is that this hasn't been changed to '85. The limits are so low right now, there's virtually no reason to file under this because when you talk about the legal expenses you're filing, the lawyers' fees and stuff, you're not going to have anything left. So, this was a way to try to have it so that it has some type of relationship to the different costs in our society, right now."

Turner, J.: "Well, would you agree that this essentially, this Dram Shop Act creates a cause of action against the person that serves the alcohol, not against the person who drinks that goes out on the highway and hurts someone?"

Dart: "Correct, I mean, you'd be able to go after the individual. You see, as I said in an example that I mentioned earlier, the individual who ran over and killed the woman in the situation I'm in, he was judgement proof. He didn't have anything other than the car he was using to kill people. The bar owner, on the other hand, who had served him all day, knowing full well what this person was going to do, you'd have some ability to recover. I mean, frankly, I mean, let's be honest here. Is \$55 thousand going to make you whole in a situation like this, in any way compensate

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you? The answer is 'no'. Could it maybe help pay for certain things that come about, funeral expenses and the like? Yeah, that might happen."

Turner, J.: "Does this affect an establishment that sells alcohol exclusively, the same way as it would the small restaurant that happens to basically sell food but also sells beer and wine with the food?"

Dart: "This is for places that sell alcohol. But once again, as I say, I bring it back to...I had mentioned earlier, is that you have to show that causal element. So, the fact that you serve someone a beer on Tuesday and then on Friday night, that individual drove and killed somebody. I dare say that no lawyer that I'm aware of would even file a suit against that individual because there's no chance of you proving it. If you're the one that served him 20 beers ten minutes before he pulled out of the parking lot and ran over somebody, then I think you're going to have problems there. So, you've got to show that causal element, so it's someone who sells the alcohol."

Turner, J.: "Well, that's the easy case scenario, I think, if someone sits in a bar and consumes 10 or 15 beers and the bartender continues to serve them, clearly. My question, though, goes to what if someone stops by a small restaurant, has a glass of wine and then goes to a bar down the street and has a beer or two, works his or her own way on down the street stopping at several bars, are all those bars and including the original restaurant that served the glass of wine, didn't they all contribute to this person's intoxication? Aren't they all then subject to a lawsuit?"

Dart: "Once again, you're going to have to show that causal connection, frankly. If you have the situation where somebody is literally being carried into the bar by his

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friends, and yet someone's throwing the beers in him, he goes to five more, that one who threw him... at the initial stage, when he was being carried in, in my opinion and in the law's opinion, is just as culpable as the last one that did, as well. If you have someone that serves that individual at eight a.m. in the morning and that person hasn't had a drink in two years, the person's sober when he leaves the place, is that person going to have a suit filed against him? Possible, but it is just like in criminal law, John, too, as you and I are aware of. Can someone get indicted? Sure, I mean someone can get indicted for anything. It's a question whether you can prove it is always the big question here. So, that individual served someone at eight o'clock, they're sober when they come and they're sober when they go out, the chances of them getting served...or being brought in the suit, probably are not real great."

Turner, J.: "Well, with regard to the criminal law, you're correct. You can ... all it takes, I've said this before, is a piece of paper and a pencil to file a lawsuit. The problem, though, I think you'll agree with me, is if there are five or six establishments, liquor establishments involved, they all get sued and even though the proof may be difficult, it probably is easier for them to settle outside of court for a couple grand or three grand, thereby making their premiums go up even though they may not have been found liable because it just does not pay them, because of the expense, to actually take the case to trial once they've been sued."

Dart: "But, I mean, that is an individual choice of a businessman. If that individual wants to plea out, that's a decision they have to make based on all of the merits of

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the case. I dare say that most ...any lawyer that's worth his salt, will probably get an individual who served that one drink at eight o'clock and the guy was sober before and after, is going to have that case dismissed on a Motion before the trial, and it will never get any further so the expenses involved that you're talking about, would not force that person to settle in that situation. I think the ones you're talking about are somebody who is going to be sitting there saying to himself, 'You know what? This guy was smashed, but I wasn't the last one to serve him, but I'm culpable and maybe I will settle to get out of it.'

Turner, J.: "You know, we also talked in committee about the insurance rates and I know at that time, I said, 'Well, if we were to pass this Bill, how much are the premiums going to go up?' Did we ever get an estimate on that? If we pass it in the form that it is now set forth in the Conference Committee, how much will the average establishment's insurance premiums go up?"

Dart: "John, I honestly don't have those numbers here. I had them on the previous Bill which was a great deal higher than this one and I was mentioning to Representative Mautino, I could not recall them. But I recall that one of the changes was a 25% increase. I don't know, though, what number that reflected so I don't want to misguide you here and say that it's going to raise them 25%. I don't know. I really don't know. All I do know is that the insurance agencies are neutral on this Bill, though, and all the liquor organizations if not supporting the Bill, they are neutral, as well. So, I don't know of any opposition at this point."

Turner, J.: "Well, Representative, are you going to vote for this Bill?"

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Dart: "If I remember to, yeah."

Turner, J.: "I don't have have any other questions, thank you."

Speaker Brunsvold: "The Gentleman from Washington, Mr. Deering. Further discussion? The Gentleman from Cook, Mr. Dart, to close. Again, Mr. Dart, we want to thank you on your new staff member there, also."

Dart: "I was going to commend my staff, too. Both of them, I think, are horribly underpaid, too, as a matter of fact. Mr. Speaker, Members of the House. I just wanted to urge the passage of this. It's long overdue. I want to commend the different parties that worked on this. A lot of groups that come from very different sides of this issue came together and in a very responsible way, which I don't think that we see too often in this Body, came together and worked this out. There was not a great deal of acrimony involved, and we got this done and so, I do think the different parties that have been mentioned here should be commended for that and acting as responsibly as they have. This is something that has taken a great deal of time, but in my opinion, as they say, is long overdue and when we talk about trying to do things that are going to curb the DUIs and the problems that they cause. This to me is a great step because you stop it right at the source by encouraging people who serve alcohol to do it in the most responsible fashion, and I urge for the passage of this."

Speaker Brunsvold: "The question is, 'Shall the House adopt Conference Committee Report #1 to House Bill 297?' This is final action. All in favor vote 'aye'; all opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. And on that question, there are 118 voting 'yes; 0 voting 'no'; 0 voting 'present'. And the

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House does adopt the First Conference Committee Report to House Bill 297. And this Bill, having received a Constitutional Majority, is hereby declared passed. Mr. Clerk, what's the status of Senate Bill 600?"

Clerk Rossi: "Senate Bill 600, a Bill for an Act amending the Adoption Act. Second Reading of this Senate Bill. No Committee Amendments, no Floor Amendments, no Motions filed."

Speaker Brunsvold: "Hold that Bill on Second Reading, Mr. Clerk. The Gentleman from Rock Island, Mr. Boland."

Boland: "Yes, thank you, Mr. Speaker. We have some distinguished guests visiting the Capitol today from Albany, Illinois in the 71st District. Like everybody to welcome them here to the Capitol. Right up in the Gallery. Also have a 'Legislator for the Day' with me, Penny Timmons from Moline and her mother is up in the Gallery, right up in there somewhere. There she is, okay. Thank you."

Speaker Brunsvold: "Welcome to Springfield. Introductions of Resolutions, Mr. Clerk."

Clerk Rossi: "House Resolution 179, offered by Representative Daniels. House Resolution 180, offered by Representative Novak. House Resolution 181, offered by Representative Novak. House Resolution 182, offered by Representative McCarthy. House Resolution 183, offered by Representative Leitch. House Resolution 184, offered by Representative Schoenberg. House Resolution 186, offered by Representative Younge. Resolutions are assigned to the Rules Committee."

Speaker Brunsvold: "Senate Bill 454, Mr. Clerk. Mr. Deering."

Deering: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. I refuse to recede from House Amendment #1 to Senate Bill 454."

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Speaker Brunsvold: "The Gentleman has moved to refuse to recede from House Amendment #1 to Senate Bill 454. All those in favor say 'aye'; opposed 'nay'. The 'ayes' have it, and the House does refuse to recede from House Amendment #1 to Senate Bill 454. And the Gentleman has requested a Conference Committee be appointed. Mr. Lang, on Senate Bill 547."

Lang: "Thank you, Mr. Speaker. I move that the House refuse to recede from House Amendment #1."

Speaker Brunsvold: "The Gentleman has refused to recede. All in favor say 'aye'; opposed 'nay'. The 'ayes' have it, and the House does refuse to recede from House Amendment #1 to Senate Bill 547. And the Gentleman has requested a Conference Committee. Senate Bill 271, Mr. Clerk. Representative Gash."

Gash: "Mr. Speaker, I refuse to recede from Senate Bill 271's House Amendment #2."

Speaker Brunsvold: "The Lady has... refuses to recede from House Amendment #2 to Senate Bill 271. All in favor say 'aye'; opposed 'nay'. The 'ayes' have it, and the House does refuse to recede from House Amendment #2 to Senate Bill 271. And the Lady has requested a Conference Committee be appointed. Mr. Tenhouse. Art Tenhouse."

Tenhouse: "Thank you, Mr. Speaker. The Republicans would request a conference in Room 118."

Speaker Brunsvold: "The Republicans have requested a conference in 118. Mr. Hartke."

Hartke: "Looking around, the Democrats would like to take the rest of the day off. We will not be caucusing."

Speaker Brunsvold: "The Republicans will caucus in Room 118. The Democrats have not requested a conference. Mr. Black. Mr. Black is recognized for a Motion."

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Black: "In light of recent developments, Mr. Speaker, I move we adjourn."

Speaker Brunsvold: "The Gentleman has moved we adjourn. The House will stand adjourned until... Mr. Stephens, for what reason do you rise?"

Stephens: "In a bipartisan effort, there's objection to those caucuses in the back row. Can we vote on that?"

Speaker Brunsvold: "Thank you, Mr. Stephens."

Stephens: "Are we going to vote, or not?"

Speaker Brunsvold: "The Motion has been made to adjourn by Mr. Black. The Adjournment Motion... we will adjourn until May the 28th, Wednesday, at the hour of 11:00 a.m. The Motion is to adjourn until tomorrow, Wednesday, at the hour of 11:00 a.m. All in favor say 'aye'; opposed 'nay'. The 'ayes' have it and the House does stand adjourned until May 28th, Wednesday, at the hour of 11:00 a.m."