

Legislative History for Connecticut Act

HB 5867	PA 76-303	DELETED	1976
General Law	857-859, 861-862		54
House	2186-2192		7
Senate	2275-2282		8
			20
			1976

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings

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**JOINT
STANDING
COMMITTEE
HEARINGS**

**GENERAL LAW
PART 2
501 - 978**

1976

H-177

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1976

VOL. 19
PART 6
2155 - 2670

S-118

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1976

VOL. 19
PART 6
2171 - 2626

GENERAL LAW

JAMES F. CAREY (CONT.): are also open to non realtors that would like to submit to that arbitration. If it is the decision of the committee to provide effective legislation or to broaden the scope of control over these problems, I would suggest that the committee simply strike out all that language in section VIII and make an amendment to our present existing arbitrary provisions, excuse me arbitration provisions under the Chapter 392 which is the Connecticut Real Estate Commission by simply striking out the word "voluntary" which means that all these matters then automatically brought to the attention in other real estate commission would be investigated and settled on that particular level.

Now we are not looking for the extra work that's for sure but I would like to say to the committee that once the real estate commission gets involved in arbitration disputes and both parties come forward in 95% of the cases they are settled before they go to the formal procedure so if it is your intent to go further and to provide this protection I would say I think the real estate commission within its present authority can do an effective job with a simple amendment.

SEN. CICCARELLO: Mr. Carey do you have a written statement do you want to send us a , ,

JAMES F. CAREY: I will prepare an amendment for you and make it available to the committee. Thank you.

SEN. CICCARELLO: David Ormstedt

DAVID ORMSTEDT: My name is David Ormstedt I am an employee of the Department of Consumer Protection. I am here to speak in favor of two bills. The first is Raised Committee Bill 5867 AN ACT CONCERNING DECEPTIVE PRACTICES. This bill is an amendment to the existing unfair trade practices act. A piece of quite progressive legislation passed by this General Assembly in 1973. The bill is being jointly sponsored by the Department of Consumer Protection and the office of the Attorney General.

The Department has been involved, it may be 5176, this bill is being jointly sponsored by the Department and the office of the Attorney General. The Department has been involved in the enforcement of the unfair trade practices act for about two and one half years and during that time we have had considerable experience with the law and have had the opportunity to test it and administrative pro-

March 24, 1976

GENERAL LAW

DAVID ORMSTEDT (CONT.):ceedings and also to confer with other states who have had similar laws and experiences. These experiences and discussions with other states have led us to the conclusion that certain limited but extremely important amendments should be made to the law and these amendments are embodied in what I have numbered as 5867 but it might be 5176 on the roll.

Section I on the surface may just appear to be a reorganization of the language but it is far more than that for two important reasons. First, because the current language ties the Department only to what the F.T.C. has already acted upon or any regulation the Department may promulgate the situation may very well arise where a court may interpret the Statute as precluding the Department from acting against a certain practice no matter how pernicious either because the F.T.C. has not acted upon this practice ~~no~~ because the Department has not yet promulgated the regulation dealing with area and we don't know if a court will interpret it that way but we feel that it is important to remedy all possible defects before such a court test.

Secondly, other states have adopted very similar language as we propose which has successfully survived court challenges, specifically the Massachusetts deceptive practices law has been favorably construed numerous times by their courts. We feel that this Legislature should act with foresight and change the language of Connecticut law to prevent a possible for challenge which may render are law a nullity.

Now, Section II deals with the exemption section of the act specifically it would clarify precisely what the jurisdiction of the department is. This has been explained to the Committee before but briefly under present legislation the Department does not have jurisdiction over actions or transactions permitted or administered by other state of federal agencies. The spector arises whereby a business who deals in inter state matters can raise the defense that the Federal Trade Commission administers my activities therefore the Department and the State of Connecticut has no jurisdiction over me.

SEN. CICCARELLO: What section were you referring to? Our Section II "says this act shall take effect for passage."

GENERAL LAW

SEN. CICCARELLO: We've got 5176 in our packet. We don't have this in our packet. We have been informed that 5176 and 5867 have been combined and that would have been taken up today. Apparently.

DAVID ORMSTEDT: Well since you don't have it and you don't know what I am talking about I will be happy to submit my proposed testimony in writing for the Committee to consider but I just want to emphasize that when the Committee does consider it that it is a very important bill. The office of the Attorney General and our Department both feel that it is very important and we urge the Committee to support it. I would also like to speak on Raised Committee Bill 535 AN ACT CONCERNING FROZEN DESSERTS.

The act is merely designed to expand the definition of frozen desserts to include more products than it presently includes. Under existing Statutes frozen dessert, the definition of frozen desserts is limited to a number of specific products and this definition was formulated some years ago and since then the ice cream industry has, across the nation and in Connecticut, have come up with many new and varied and extremely wholesome products which we feel would be in the best interest of consumers that they should be marketed and more importantly there may be very good constitutional reasons which would prohibit us from not allowing these products to be introduced into Connecticut commerce.

So what we really ask is to expand the definitions of frozen deserts to include products such as frozen yogurt, "parvine" and "melarine" among others. Now there is a very practical reason for doing this and a very imminent reason. Presently there is a new product being introduced in Connecticut called frozen yogurt. It is being sold right now in the Hartford Civic Center and it is also being sold I believe in Norwalk and perhaps in Fairfield. The way the present law was written that product is illegal. It is an imitation ice cream. The operators of those stores are subject to arrest but yet we have tested that product. It is a wholesome product there is no real reason why it shouldn't be sold but the way the statute is written now it is precluded from being sold. Now we would like this very much to see the definition to be expanded to include such things as frozen yogurt, so then these products would be legal and if some kind of problem developed in the industry we would also have the authority to

March 24, 1976

861

GENERAL LAW

DAVID ORMSTEDT (CONT.): phrase afterwards we think would take care of parts that aren't being contemplated right now but yet we think they ought to be listed by name. The ones that are known right now any way.

SEN. CICCARELLO: You will send us a statement will you not?

DAVID ORMSTEDT: I will send a written statement.

REP. MATTIES: You stated before that there is one product that can not be sold, yet is being sold. How did that happen?

DAVID ORMSTEDT: In New York City recently there was a new product introduced frozen yogurt and it caught on very well in New York City where it is legal to be sold. In New York State it is legal. It began to I think the first appearance in Connecticut was at the Civic Center in a shop there now and I think it is being sold in one or two other shops one in Norwalk and one in Fairfield.

It's illegal to be sold under the act. We've tested it. It is a wholesome product. The bacteria count was incredibly low on it. It's technically legal under the law. We could go out I suppose and have those people arrested or attempt to have them arrested but I would prefer to forestall that action until such time as we see whether or not that statute is changed. If it's not changed well perhaps we may just have to do that in the interest of performing our duties although I do think it will not be in the best interest of the people of the State.

SEN. CICCARELLO: Thank you Dave, Robert Langer, Attorney General's office.

ROBERT LANGER: My name is Robert M. Langer, I'm the Assistant Attorney General for the State of Connecticut I had the consumer protection unit of that office and I'm here as a representative of the Attorney General. I'm here to speak in support of Raised Committee Bill 5867 AN ACT CONCERNING DECEPTIVE PRACTICES. I realize that there is some confusion as to whether it was in the Legislative Bulletin but it was printed in the notice of Public Hearing and I'm wondering if I could express my opinions to the committee today concerning this matter.

March 24, 1976

862

GENERAL LAW

SEN. CICCARELLO: I think it would be best if you summarized it and then submit a memorandum to us.

ROBERT LANGER: I have only three paragraphs and I can be very, very brief on it. Our office has worked very, very closely with the Department of Consumer Protection with regard to this bill. The amendment which has been proposed would make an excellent piece of legislation which was originally passed in 1973, in our opinion and even better bill.

But because our office isn't presently engaged in litigation under the current Unfair Trade Practices Act I believe I may not speak with great specificity concerning the bill and under the conditions I suppose it is best I not do so anyway. Let me say that our office adopts whole heartedly the statements made by Mr. Ormstedt on behalf of the Department of Consumer Protection bill.

I briefly wish to address myself to Section III of the bill, 5867,

SEN. CICCARELLO: Why don't you just send us a memoranda on that alright?

ROBERT LANGER: O.K. I will summarize my comments in written form and send them on. May I ask whether there will be a public hearing when the committee has that bill before them, so that if they have any questions?

SEN. CICCARELLO: I think what Mr. Ormstedt said was correct: that there was an attempt to combine 5176 with the bill you are speaking about and he is generally at our meetings so we can ask him any questions. So if we have your summary it would be very helpful.

ROBERT LANGER: Thank you very much.

SEN. CICCARELLO: Thank you sir. Dr. Harold Wildisan.

SB-535 DR. HAROLD WILDISAN: Good morning, I appreciate the opportunity to speak before this committee this morning. My name is Dr. Harold L. Wildisan, I'm director of laboratories and quality control for H.P. Hood, Inc. with principle offices in Boston, Massachusetts. The Hood Company is and interested party in this proposal and we like to support and suggest the adoption of this bill and the endorsement by this committee. I might add that I'm speaking for the Hood Company only at this point but what I'm saying is consistent with the position of our trade associa-

H-177

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1976

VOL. 19
PART 6
2155 2670

House of Representatives

Tuesday, April 20, 1976

22
djh

THE CLERK:

Calendar No. 619, substitute for HB No. 5305, An Act Concerning Itinerant Vendors, File No. 527.

MR. O'NEILL (34th):

Mr. Speaker, may that item be passed temporarily.

THE SPEAKER:

Is there objection? The matter is passed temporarily.

THE CLERK:

Calendar No. 628, substitute H.B. No. 5867, An Act Concerning Deceptive Practices, File No. 544, General Law.

MR. FERRARI (15th):

Thank you, Mr. Speaker. Mr. Speaker, I move acceptance of the joint committee's favorable report and passage of the bill.

THE SPEAKER:

Question is on acceptance and passage. Will you remark?

MR. FERRARI (15th):

Yes, Mr. Speaker. Mr. Speaker, the goal of Raised Committee Bill 5867 is to make the Unfair Trade Practices Act itself a piece of progressive legislation, even more progressive and more responsive to the needs of both the consumer and the office businessman of the State of Connecticut.

Section 1 of the raised committee bill seeks to clarify section 42-110b of the general statutes as amended by Public Act 75-618. The essence of the proposed amendment is to compliment the body of federal law governing unfair methods of competition and unfair or deceptive acts or practices...the public and foster honest and fair competition. Both

House of Representatives

Tuesday, April 20, 1976

23
djh

the federal trade commission act and the Connecticut Unfair Trade Practices Act is the creation of a remedial statute designed to deter deception on its incipency. The thrust of the federal act and its Connecticut counterpart is the protection of the public rather than the punishment of the wrongdoer. Section 1 of the raised committee bill declares that the Commissioner of Consumer Protection, when acting in her quasi-judicial capacity under section 42-110d of the general statutes and the courts of this state shall be guided by interpretations given by the Federal Trade Commission and the federal courts in construing the terms "unfair methods of competition" and "unfair or deceptive acts or practices". The language used in section 1 is similar to language used in the states of Washington, and Massachusetts in their Unfair Trade Practices Act. I might add that this language has been held as being favorably construed by the courts in those jurisdictions.

Section 2 of the raised committee bill 5867 clarifies the exemption provision of the Unfair Trade Practices Act. The language utilized removes the spectre of a businessman dealing in interstate commerce claiming that the Federal Trade Commission administers, claiming the Federal Trade Commission administers my activities and, therefore, the Department of Consumer Protection has no jurisdiction over this matter, no matter how pernicious my actions.

Section 3 of the raised committee bill proposed to amend section 42-110g of the general statutes as amended by section 5 of Public Act 75-618. The purpose of the amendment in section 3 would permit only the plaintiff in private actions to be awarded the costs and reasonable attorney's fees. The proposed amendment is extremely important for the purpose of effective enforcement of unfair trade practices.

House of Representatives

Tuesday, April 20, 1976

24

djh

Mr. Speaker, this is an extremely important amendment to a vital piece of legislation in the State of Connecticut, and I move its passage.

THE SPEAKER:

Will you remark further on the bill?

MR. NEVAS (136th):

Mr. Speaker, I would agree with the remarks of the gentleman that it is an important piece of legislation, and it's important, importance rather, is underscored by the departure from accepted legislative practice that the language of this bill incorporates.

This is the kind of bill, Mr. Speaker, that when many of you go home after the session and constituents say to you, my God, how did you ever pass such a piece of legislation, you say, gee, I don't remember that bill, I'll have to look at it. And then you read it and you, in fact, say, how did I ever vote for such a bill? Well, this is that kind of bill, so take a look at it.

First of all, to derogate the responsibility for the interpretation of Connecticut statutes to the Federal Trade Commission is the height of irresponsibility. This general assembly and the courts of this state are the only ones who should be charged with that responsibility and to say, as it does in line 18 that it's the intent of this legislature to give that authority to somebody in Washington, who isn't elected, who's a member of the Federal Trade Commission or even better still a staff person, because that's basically who does the work on those federal commissions, the authority to say what the law is in Connecticut is outrageous.

Secondly, to state in line 35 what the intention is of this legislature and to say so in those words in a Public Act is, as far as I'm concerned, unheard of. If this legislature intends to enact legislation and have a purpose or a goal, the language of the Public Act should so state and it should speak for itself and it should not fall back on the crutch of saying it's our intention.

Next, if you'll look in lines 98 and 99 and 106 and 107, there is a very substantial change made there. When the initial legislation was enacted, the language provided that if there was litigation, the court, at the end of that litigation, could make an award of costs and attorney's fees to either party, depending in the discretion of the court and in its judgment as to which party should be entitled to such an award. Now what it does is to make--to take away from the court that discretion and to say that that award can only be made to the plaintiff so that if a frivolous or outrageous claim is made against the business person being the defendant and he has to go out and hire a lawyer and defend himself, now under this amendment, he can no longer be given an award of counsel fees, so that it's open season. It's fair game on the businessman.

And lastly, what has to some of you become known and has become a pet gripe of mine, here is another bill that's effective on passage, a bill with sweeping changes, a bill that imposes unreasonable burdens on the business community and before they know what hits them, it's effective as soon as the Governor signs it, if in fact we have the bad judgment to pass this bill.

Mr. Speaker, on all counts, this is a bad bill and it deserves to be defeated.

THE SPEAKER:

For further remarks, the gentleman from the 15th.

MR. FERRARI (15th):

Thank you, Mr. Speaker. Mr. Speaker, I can't help but be moved to remark concerning the remarks of the distinguished Deputy Minority Leader. He indicated that this was a bad bill; that this was a bill that we would not want to say that we voted for. Mr. Speaker, nothing could be further from the truth. This bill is one of the most important bills to come before the legislature this session.

Now, getting more specific concerning the objections of the Minority Leader, or the Deputy Minority Leader, I believe his first objection was that this bill represented an undue delegation of authority to bureaucrats or to people in Washington. I would direct the gentleman to line 8 of the file copy which indicates that we are deleting a section which says "unfair or deceptive acts or practices or unfair methods of competition in the conduct of any business shall be those practices or acts which have been determined to be unfair" etc. etc. by the Federal Trade Commission. We are replacing that section with a section that says the Commissioner of Consumer Protection shall be guided by, which I submit, Mr. Speaker, meets the gentleman's objection. His objection is not well taken, it is not a valid objection for the purpose of that section is to change the very thing to which the gentleman is currently objecting. (record 4)

Secondly, Mr. Speaker, if I can recall, it seems that the gentleman stated that the language, "it is the legislative intent" is unheard of, it's unheard of, and yet, Mr. Speaker, if we look back in the legislative history of the federal trade commission act, we see that

House of Representatives

Tuesday, April 20, 1976

27

djh

as early as 1914, Congress stated, it is impossible to fray definitions which embrace all unfair trade practices. There is no limit on human inventiveness in this field. Even if all known unfair practices were specifically defined and prohibited, it would at once be necessary to begin over again. So the difficulty of our task, Mr. Speaker, is to frame a statute which can be applied by the Commissioner to go after unfair or deceptive practices.

Now as far as this language being unheard of, I have before me statutes of many states which have similar, if not identical, language but I'll just read from the Massachusetts statute: It is the intent of the legislature that in construing paragraph a of this section, the courts will be guided by interpretations given by the Federal Trade Commission and the federal courts, etc. There is similar language, Mr. Speaker, in South Carolina, Vermont, Washington, Florida and Montana.

Finally, Mr. Speaker, concerning the last objection of the Deputy Minority Leader concerning the provision for damages only for plaintiff's attorney's fees, Mr. Speaker, there is good reason for this. The reason is similar to the same reason used for that provision in the Connecticut Anti-Trust Act. The purpose of this act is for it to be a remedial act. The purpose of this act is to stop unfair or deceptive practices. The only way to accomplish that effectively is to encourage litigation by private parties. The only way to encourage that litigation in the public interest is to provide only for attorney's fees in the case for plaintiffs. I was yesterday speaking with a Professor of Law who is a specialist in the field of deceptive trade practices at the University of Connecticut and will be helping to conduct a seminar for

the Connecticut Bar Association on this very topic in the coming weeks, and he told me that one of the worst provisions of the Connecticut law is this provision because an attorney, having a client come into his office and presented with the possibility of adjudicating a case against a big party such as General Motors or Ford Motor Company, would have to say to his client, I don't recommend we take the case, even though it's a good case, I don't recommend it because of the possibility that you could be hit with \$50,000 or \$100,000 in legal fees should you lose. This is the reason for this provision. It's similar to the provisions in the Federal Anti-Trust Statute and in the Connecticut Anti-Trust Statute. It's well founded in law and there's good legal precedent for it.

Mr. Speaker, with that I'll end my remarks and move the passage of the bill.

THE SPEAKER:

Will you remark further on the bill? If not, will the members be seated and the staff come to the well, the machine will be open. The machine is still open. Have all the members voted and is your vote properly recorded? Have all the members voted? If so, the machine will be closed and the Clerk will take a tally.

Will the Clerk please announce the tally.

THE CLERK:

Total Number Voting.....	133
Necessary for Passage.....	67
Those Voting Yea.....	<u>87</u>
Those Voting Nay.....	46
Those Absent and Not Voting.....	18

THE SPEAKER:

S 118

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1976

VOL. 19
PART 6
2171 - 2625

start of the sale. Mr. President, this bill has the support of the Department of Consumer Protection and the retail business community and I urge its passage and if there's no objection, I move its placement on the Consent Calendar.

THE CHAIR:

Hearing none, so ordered.

THE CLERK:

Calendar 698, File 544, Favorable Report of the Joint Standing Committee on General Law. Substitute for House Bill 5867.

AN ACT CONCERNING DECEPTIVE PRACTICES.

SENATOR CICCARELLO:

Mr. President, I move acceptance and passage of the bill.

THE CLERK:

Clerk has an amendment. Clerk has Senate Amendment Schedule "A", File 544, Substitute House Bill 5867, LCO 3134, offered by Senator Bozzuto.

SENATOR BOZZUTO:

Mr. President.

THE CHAIR:

Senator Bozzuto.

SENATOR BOZZUTO:

I move for adoption of the amendment and request the reading be waived and when the vote be taken, it be taken by roll call.

THE CHAIR:

Do you want to proceed to explain the amendment?

SENATOR BOZZUTO:

Yes, Mr. President. The amendment simply removes section 3.

The only change in section 3 is to remove the right of, for cost and reasonable attorney's fees to the defendant. I understand that the court may now award reasonable costs and attorney's fee to either the defendant and/or the plaintiff. Essentially, this takes off either and awards only to the plaintiff. I think if we're to discuss equity that opportunity ought to awarded to both defendant and plaintiff in each case. I think it's reasonable to assume in the case of frivolous cases that certain requirement ought to be the restraining measure so that frivolous cases are not brought in these particular cases. I move adoption.

THE CHAIR:

Senator Ciccarello.

SENATOR CICCARELLO:

Mr. President, I strongly object to this amendment. What it would do is to eliminate section 3 of the Baby FTC Act completely. That section provides for private litigation in this area. I have received a note from the Department of Consumer Protection which is also backed by the Attorney General's Office which indicates that section 3 is extremely important for the purposes of effective enforcement of the unfair practices act. An analogy may be made to both the Federal Anti-trust Law and the Connecticut Anti-Trust Law. In both cases only plaintiffs are permitted reasonable attorney's fees, and the reason behind this is that these plaintiffs are acting in effect as private attorney generals and there is substantial case law which indicates that such action is important in order to protect against unfair and deceptive practices. In fact, in one case Justice

Black indicated private suits under the Anti-Trust Laws are a vital means of enforcing the anti-trust policy of the country and is certainly important enforcing the anti-trust policy in the pursual of the Baby FTC Act in the State. I would urge everybody to oppose this amendment and I think that it's already been requested that there be a roll call.

SENATOR DINIELLI:

Mr. President.

THE CHAIR: (SENATOR HOULEY, PRES. PRO TEMP)

Are there further remarks? Senator DiNielli.

SENATOR DINIELLI:

Mr. President, through you, a question to the Chairman of General Law. Lou, Baby, as I understand it, the effect of this amendment is merely to delete the change which was originally either party which the court could award to and the bill, in this instance, changes it to the plaintiff only. Now...

THE CHAIR:

Does the Senator choose to respond?

SENATOR CICCARELLO:

Yes. May I just check with the Clerk? Are we dealing with LCO No. 3134? That's correct. I read it as follows: "Delete section 3 in its entirety and renumber the remaining sections."

SENATOR BOZZUTO:

Yes. The justification for that Senator, through you, Mr. President, is that the existing law has section 3. The only change in section 3 in your bill, Sir, is the change from either party to the plaintiff. Now the important thing and the purpose

of this amendment is to restore the original thought and that is why deleting section 3 from the bill will not remove it from the statutes.

SENATOR CICCARELLO:

Yes. All right. I may have misunderstood that. On the other hand, the matters that I was talking about, namely that both the Dept. of Consumer Protection and the Attorney General's office and private attorneys are all of the opinion that in order to protect consumers of the State that plaintiff's fees are extremely necessary. The reason for, there is a lot of hesitancy in bringing a law suit of this nature and in order to pursue this sort of private attorney general method, you have to have plaintiff's attorney's fees. I think it's fair and I think it should also be pointed out that reasonable attorney's fees are granted only upon discretion of the court, so therefore, a plaintiff may not be able to receive any fees whatsoever.

SENATOR BOZZUTO:

Mr. President.

THE CHAIR:

Senator Bozzuto.

SENATOR BOZZUTO:

I would disagree. I think if we return the statute to its original form, it indicates either party so there is no such situation wherein the court may not award to either the defendant or the plaintiff. We're simply bringing a certain amount of equity. The further argument is that there are very large corporations which can afford good lawyers and so the average individual would

not bring the complaint, and I think we also have to consider there are a great small corporations, small businesses against which these complaints are made and if they're frivolous, the court ought to have the opportunity to award either to the defendant or the plaintiff. I urge the adoption of the amendment.

SENATOR ROME:

Mr. President.

THE CHAIR:

Senator Rome.

SENATOR ROME:

Mr. President, I rise to support the amendment, as a matter of fact, surprise Dr. Gunther hasn't risen because as a matter of fact the bill is a full employment lawyer's bill. The amendment does exactly what Senator Bozzuto says. It makes reasonable the situations of litigation. We're going to be talking about, I hope, in this session, court reorganization. And the reason we talk about merger and reorganization and unification is because our judicial system is just overburdened with situations which cry for experimental litigation and I frankly think that this is not healthy for a litigance. I don't think it's healthy for the consumers and I'm certainly confident that it is not healthy for the courts and the burdens that are on the courts. If someone has a justifiable cause of action and the existing statutes provide that they can either party be awarded these, I believe that's sufficient incentive for them to go ahead, to go ahead on a flyer, on a contingency basis, on fun and game or make (inaudible).

April 29, 1976 J.G.T. 110

THE CHAIR:

Thank you. Will you remark further? Senator Ciccarello.

SENATOR CICCARELLO:

Mr. President, it should be pointed out that

THE CHAIR:

Excuse me, Senator. Ladies and Gentlemen, let us have some decorum in the Chamber or the Chamber will be cleared. We have a very, very long evening and we can expeditiously carry on our business if we will please give one another our attention. Excuse me, Senator.

SENATOR CICCARELLO:

Mr. President, it should be pointed out that if a plaintiff were to bring a frivolous action under this particular act, they would lose that action and they would have to pay their own attorney's fees, and if they bring an action and they are not successful, it is extremely doubtful that the court would award any fees. Now with respect to what I stated earlier. The Dept. of Consumer Protection, the Attorney General's office and many private attorneys are all of the opinion that little action will be taken by private litigants under our state unfair trade practices act if the defendant is permitted to recover attorney's fees, and the reason for hesitancy of plaintiffs to sue under the act as presently written, is obvious. Can any attorney assure his client that he is so positive of winning that the defendant may not be, under some conditions, under some conditions, extract attorney's fees for its efforts. If the defendant happens to be a major corporation, the attorney's fees for defendant's counsel would be

April 29, 1976 J.G.T. 111

extraordinary. Consequently, section 3 of this act is extremely important in order to make this an effective tool for consumers in the State. I urge defeat of the amendment.

THE CHAIR:

Thank you. Is the Senate Chamber prepared to vote? Senator Bozzuto.

SENATOR BOZZUTO:

Mr. President. For the third and last time, I think Senator Ciccarello has now made the best argument for the adoption of this amendment. If we are then going to discourage them, I think it's only proper that we do so. I think we ought to leave the equity and then the, as he has pointed out, the court has the final say, and they should have the opportunity to make that judgement either on behalf of the defendant or the plaintiff, those stringent measures should remain in the current legislation, we should not take away the opportunity to penalize the plaintiff as well as the defendant.

THE CHAIR:

Will you remark further. If the clerk will please call the Senators, there will be a roll call vote.

THE CLERK:

An immediate roll call in the Senate. Would all Senators please be seated. An immediate roll call has been ordered in the Senate. Would all Senators please take their seats.

THE CHAIR: (SENATOR FAULISO - PRES. PRO TEM).

The roll call concerns Amendment Schedule A offered by Senator Bozzuto. Machine may be open. Please record your vote. Ma-

chine in closed. Clerk may tally the vote. Result of the vote. 32 total voting, 17 necessary for passage, 12 yea, 20 nay, the amendment is defeated. Senator Ciccarello.

SENATOR CICCARELLO:

Mr. President, I would move the bill.

THE CHAIR:

Wish a roll call?

SENATOR CICCARELLO:

If there's no objection, I'll move it to Consent

THE CHAIR:

Have no objection. So ordered.

THE CLERK:

Calendar 699, Files 591 and 822. Favorable Report of the Joint Standing Committee on Government Administration and Policy. Substitute for House Bill 5723. AN ACT CONCERNING THE APPOINTING AUTHORITY FOR CHARTER REVISIONS. (As amended by House Amendment Schedule "A").

SENATOR LIEBERMAN:

Mr. President.

THE CHAIR:

Senator Schneller: Senator Lieberman, do you wish to yield to SENATOR SCHNELLER? He's got something important.

SENATOR LIEBERMAN:

Mr. President, I wanted simply to mark that bill passed retaining.

THE CHAIR:

Passed retained.