

Legislative History for Connecticut Act

HB 7810 <PA 210> 1979

House: pp. 3335-3339 (5p)

Senate: pp. 2574-2576
2587-2588 (5p)

General Law: pp. 1159-1161, 1189 (4p)

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JOINT
STANDING
COMMITTEE
HEARINGS

GENERAL LAW
PART 4
913-1227

1979

LOIS BRYANT: I'm Lois Bryant from the Department of Consumer Protection testifying on behalf of Mary Heslin of D.C.P., for Raised Committee Bill No. 7813. This bill provides an amendment to Section 19422 of Chapter 357. The amendment will simply clarify the statutory authority for the collection of license fees. Consumer Protection's position in support of this bill is based upon the existing practice of licensing manufacturers, renovators, supply dealers and second-hand dealers of bedding and upholstered furniture.

In the recent past, a question has arisen concerning the statutory mandate to obtain a license since Chapter 357 of the General Statutes was transferred to the Department of Consumer Protection from the Labor Department in 1972. Consumer Protection has been administering both the statutes and regulations formally within the Labor Department's jurisdiction. To obviate any further question as to the General Assembly's expressed mandate concerning the requirement for possession of licenses, the Department urges the adoption of legislation such as Raised Committee Bill No. 7813.

REP. GRANDE: This is more or less a housecleaning bill, right?

LOIS BRYANT: Basically, yes. It just makes it clear, right.

REP. GRANDE: Arnold Feigen.

ARNOLD FEIGEN: Mr. Chairman, members of the committee, my name is Arnold Feigen. I'm an Assistant Attorney General in the Consumer Protection Unit of the Attorney General's Office. I'm here to speak in support of Raised Committee Bill No. 7810, on behalf of Commissioner Mary Heslin and Attorney General Carl Ajello.

The Raised Committee Bill is a bill which seeks to make various technical amendments to the existing Connecticut Unfair Trade Practices Act. In essence, it's a housecleaning bill. Section 1A of the proposed bill deletes reference to the phrase "such seller or lessor in the private section of the Connecticut Unfair Trade Practices Act". The deletion will correct an ambiguity which now exists by virtue of a 1975 amendment to the Connecticut Unfair Trade Practices Act. Simply stated, such seller or lessor has no antecedent in the statute. The amendment will now allow a suit by any person who suffers any ascertainable loss of money or property. Numerous arguments have been raised in both state and federal courts that the plaintiff, in order to sue, must be a purchaser or a lessee of a seller or

ARNOLD FEIGEN (Continued): lessor. Clarification of Section 42-110GA is essential in order to avoid needless litigation of the particular phrase now found in the statute.

Section 1C simply places the burden upon the attorney of the plaintiff to send a copy of the complaint filed in court to the Attorney General. Clerks of the court simply do not or are not instructed to comply with Section 42-110GC. The comparable provision in the Connecticut Anti-Trust Act has worked quite well. That section places the burden of notification upon attorney for the plaintiff and you can see Section 35-37 of the General Statutes where it's found in the Connecticut Anti-Trust Act.

Section 1D clarifies an ambiguity which presently exists in the wording of Section 42-110GD, in Section 42-110GA. Subsection D can be read to permit injunctive relief only if damages have been awarded, although Subsection A appears to permit precisely the opposite result. The amendment contained in Section 1D will avoid difficulties by clarifying the language contained in Section 42-110GD by the inclusion of the language "or in lieu of damages".

Section 1E will correct an oversight in the 1975 amendment to the Connecticut Unfair Trade Practices Act. The Attorney General now has the authority under Section 42-110M to sue in Superior Court. The authority of the Attorney General is an alternative remedy available to the state. At present, only final orders contained in an administrative proceeding may be used by private litigants as prima facie evidence in a suit under Section 42-110GA.

Section 1E will apply this prima facie evidence provision to actions brought directly by the Attorney General on behalf of the Commissioner of Consumer Protection in Superior Court. It should be noted that almost all actions by the State of Connecticut under the Connecticut Unfair Trade Practices Act are brought by the Attorney General under Section 42-110M.

The final change which the proposed bill seeks to make is Section 2B -- Section 2B merely conforms the class action notice provision under Section 42-110I with notice provision under Section 42-110H. Since only the Attorney General may appear in court, it is only logical that the Attorney General receive notice of the suit. Thank you.

REP. GRANDE: Arnold, would you leave a copy of your testimony with us?

March 21, 1979

ARNOLD FEIGEN: I could have it -- ah, I could have it sent to you. I could have it copied.--, unless you...

REP. GRANDE: And would you rewrite it in clearer language?
(Laughter).

ARNOLD FEIGEN: When would the committee like to have that by?

REP. GRANDE: Maybe in a couple of days. I'm sure a couple of days will be enough time. Thank you.

Just a brief summary and stay with trying to use clear language, okay... (laughter).

ARNOLD FEIGEN: Clear language, huh? Thank you very much, sir.

REP. GRANDE: Edward Connole.

EDWARD CONNOLE: Good morning. My name is Edward Connole. I represent the International Brotherhood of Police Officers, Hartford Police, Local 308. I'm here to speak on Raised Committee Bill No. 1516.

At present, the Connecticut General Statute, Section 30-45 prohibits police officers from obtaining employment from individuals and organizations operating on a liquor permit granted by the State of Connecticut. This prohibits police officers from not just tending bar or working in a package store, but from working for a distributor of liquor, either in a warehouse operation or in a matter of delivering on their service trucks. It also limits the individuals who have other members of their families in many other business, it eliminates them from being of any assistance to them and it limits, in the case of some veteran officers from planning on a second career, possibly in their own business or working for someone else who has a liquor permit. We find it justifiable that we ask if police officers in this state can work in these establishments. We find no basis for the law originally. We tried to find some history on it and it was extremely difficult to find out why it was included. I just ask that this be passed by this committee and by the House and by the Senate.

SEN. CUTILLO: This bill is the way you want it to take effect?

EDWARD CONNOLE: Yeah, this bill is written much more properly now, sir. Yes.

REP. ZAJAC: Are most states higher or lower than that?

RAPHAEL PODOLSKY: By and large, Connecticut's rates are lower than most other states. They're not as low -- there are some states that are 12% across-the-board, for example. By and large, I would say most states would have higher rates, and in particular, in the past the mail order businesses, whether by deliberation or accident, have managed to worked out of the states that do, indeed, have higher rates. And so the question becomes, "Can they charge their state's rates or do they have to charge our state's rates?"

REP. ZAJAC: Okay, last question. How does that apply on the other end of the sales tax? I remember ordering something once and I forget which way it went, but if you ordered it from a different state and whether their sales tax applied or whether our sales tax applied, and then there was an exclusion that, you know, everybody except those in Indiana...

RAPHAEL PODOLSKY: I think -- and I'm not sure about this -- I think that no sales tax applies on a mail order sale from out of state. I think that you do not pay the Connecticut sales tax because you are not buying from Connecticut and I believe that you do not pay the Illinois sales tax because the sale's not being made in Illinois. Now, I'm not 100% sure on that.

REP. ZAJAC: I think that I had to pay the Illinois sales tax.

RAPHAEL PODOLSKY: This bill would not address the sales tax question at all. The second brief comment is on House Bill No. 7810, Technical Amendments to the Unfair Trade Practices Act. It's a bill supported by the Department of -- or put in by the Department of Consumer Protection. It is a small but necessary bill, and without going into detail, I would just say that I think, again, it is probably something that is not controversial that the Committee ought to run right -- run through very easily.

The other bills on which I have comments, well, the first is House Bill 7812 which is a bill that deals with the Home Solicitation Sales Act. This bill, I think, is not advisable. What the bill attempts to do is to exempt certain sales from coverage of the Home Solicitation Sales Act. Our Act was deliberately passed three years to conform with the federal act. The coverage is equal; that

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GEN. ASSEMBLY

HOUSE

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PART 10

9192-3535

House of Representatives

Wednesday, April 18, 1979 54
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CLERK:

House Bill 5952.

Total number voting 141

Necessary for passage 71

Those voting yea 141

Those voting nay 0

Those absent and not voting 10

SPEAKER ABATE:

The bill passes.

CLERK:

Calendar 542, File 302, House Bill No. 7810, AN ACTCONCERNING UNFAIR TRADE PRACTICES, favorable report of the Committee
on General Law.

REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Robert Frankel of the 121st Assembly District.

REP. FRANKEL: (121st)

Sir, I move acceptance of the Joint Committee's favorable
report and passage of the bill.

SPEAKER ABATE:

Questions on acceptance and passage. Will you remark, sir.

REP. FRANKEL: (121st)

Mr. Speaker, there is an amendment. I would at this time

like to yield to Rep. Hanlon of the 70th District.

SPEAKER ABATE:

Rep. Neal Hanlon, distinguished Deputy Minority Leader, will you accept the yield, sir?

REP. HANLON: (70th)

Thank you, Mr. Speaker, I will. Mr. Speaker, the Clerk has an amendment, LCO 6764. I would ask that he call and read the amendment.

SPEAKER ABATE:

Would the Clerk please call and read LCO 6764, designated House Amendment Schedule "A".

CLERK:

LCO 6764 offered by Rep. Hanlon of the 70th.

In line 17, insert the words "plaintiff or" immediately before the word "defendant".

In line 31, strike out the words "attorney for the".

SPEAKER ABATE:

The amendment is in your possession, sir. What is your pleasure?

REP. HANLON: (70th)

I move its adoption, Mr. Speaker.

SPEAKER ABATE:

Questions on adoption of House Amendment Schedule "A". Will you remark on its adoption?

REP. HANLON: (70th)

Yes, Mr. Speaker. This amendment is fairly simple and I think it is straight forward and I think it is a good amendment. Basically what it provides is that if an action is taken to the Courts under the Unfair Trade Practices Act, it can be brought in either the Court where the defendant or the plaintiff resides. The file copy provides for actions being taken only where the defendant resides. And finally, it addresses itself to a problem regarding service of a copy on the Attorney General of the State of Connecticut. The file copy of the bill provides for the attorney for the plaintiff to provide this copy to the Attorney General. Sometimes I suppose plaintiffs don't have attorneys and I think the bill should address itself to the plaintiff rather than the attorney for the plaintiff.

I think it clarifies the wording of the bill and it ought to be adopted. Thank you.

SPEAKER ABATE:

Will you remark further on the adoption of House Amendment Schedule "A".

REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Frankel, you still have the floor, sir.

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REP. FRANKEL: (121st)

Thank you. I would urge support of the amendment, bearing in mind that the amendment basically is a housecleaning bill and addresses a series of technical amendments to the Connecticut Unfair Trade Practices Act. The amendment before us, I think, does a little bit more in the way of housecleaning and this is definitely desirable and I would urge adoption.

SPEAKER ABATE:

Will you remark further on the adoption of House Amendment Schedule "A". If not, all those in favor of its adoption please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER ABATE:

Those opposed nay. The ayes have it. The amendment is adopted and it is ruled technical.

Will you remark further on the bill as amended by House Amendment Schedule "A".

REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Frankel.

REP. FRANKEL: (121st)

Yes, as was indicated in my comment on the amendment, this is purely a housecleaning bill and it is basically a series of

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technical amendments to the existing Unfair Trade Practices Act and I would urge adoption.

SPEAKER ABATE:

Will you remark further on the bill as amended by House Amendment Schedule "A". Will you remark further on the bill as amended. If not, would all the members please be seated. Would the staff and guests please come to the Well of the House. The machine will be opened.

The House of Representatives is voting by roll at this time. Would the members return to the Chamber immediately. The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately.

Have all the members voted? Have all the members voted? Would the members please check the roll call machine to determine if their vote is properly recorded. The machine will be locked and the Clerk will take the tally.

Would the Clerk please announce the tally.

CLERK:

House Bill 7810 as amended by House Amendment Schedule "A".

Total number voting	143
Necessary for passage	72
Those voting yea	143
Those voting nay	0
Those absent and not voting	8

SPEAKER ABATE:

The bill as amended passes.

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GEN. ASSEMBLY
SENATE

PROCEEDINGS
1979

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PART 8

2397-2748

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Thursday, May 3, 1979

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Substitute for Senate Bill 431, An Act Concerning Discrimination Against The Mentally Ill. (As amended by Senate Amendment "A").

THE CHAIR:

We are on page 11 of the calendar, bottom of the page, an item that had been passed temporarily, calendar No. 608.

SENATOR DEPIANO:

Mr. President, I was going to defer that to Senator Curry who acknowledged that he wanted to be the one to present that bill and speak on it.

THE CHAIR:

Senator Barry.

SENATOR BARRY:

Mr. President, may that bill be passed retaining at Senator Curry's request?

THE CHAIR:

Motion is to pass the item retaining its place. Is there objection? Hearing none, it is so ordered.

THE CLERK:

Turning to page 13 of the calendar, top item on the page, calendar 624, Files 302 and 611, Favorable Report of the Joint Standing Committee on General Law, House Bill 7810, An Act Concerning Unfair Trade Practices. (As amended by House Amendment Schedule "A").

SENATOR CASEY:

Mr. President.

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THE CHAIR:

Senator Casey.

SENATOR CASEY:

I move acceptance of the joint committee's favorable report and passage of the bill.

THE CHAIR:

Question's on acceptance and passage as amended by House Amendment Schedule "A". Will you remark, Senator?

SENATOR CASEY:

Thank you, Sir. The bill was amended in the House and it includes an issue, a venue, that is where the law suit may be brought. It changes the bill from placing the cite (?) of the action in the judicial district of the defendent's place of business or residence to the place of business or residence of the plaintiff or the defendent, and this is on line 31. The bill in general would promote greater cooperation between public and private efforts to enforce the uniform trade practices act. The Attorney General's office is hampered in this enforcement effort by limited staff. Private litigation under this act is essential and the proposal would ease the burden on private individuals and thus encourage private litigation. If there are no objections to this bill, I move for consent calendar, Mr. President.

THE CHAIR:

Question on the bill. Motion is to place the item on

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consent. Is there objection to the motion? Hearing neither, it is so ordered. The item is placed on the consent calendar.

THE CLERK:

Turning to page 36 of the calendar, under the heading Unfavorable Reports, calendar 545, Senate Petition No. 56, File 531, Unfavorable Report of the Joint Standing Committee on the Environment. Substitute for Senate Bill 163, An Act Prohibiting the Use of Steel Jawed Traps.

THE CHAIR:

We are on page 36 of the calendar, calendar 545, an item that is properly before us as a favorable report. Senator Skelley.

SENATOR SKELLEY:

Mr. President, I would ask at this time that this bill be P.R.'d 'til Tuesday, please, retaining its place on the calendar in hope that further and additional conversations could result in a equitable compromise.

THE CHAIR:

Motion is to pass retain this item until a further date. Objection to the motion? Hearing none, it is so ordered.

THE CLERK:

Clerk will turn to page 37 of the calendar, calendar 704, Senate Petition No. 58, File 730. Unfavorable Report of the Joint Standing Committee on Human Services, Senate Bill 618, An Act Providing For Additional Correctional Facilities.

HB 5464, HB 7864, HB 5880, HB 7661, SB 133, SB 790, SB 132, HB 6550, HB 6564,
SB 575, HB 7920, HB 7810, HB 5452, HB 7200, HB 7755, SB 1496, SB 710, SB 1509,
SB 1532, SB 1536, SB 1818, SB 1648, SB 1530, SB 870, SB 293, SB 497, SB 1473,
SB 1602, SB 1604, SB 364, SB 545, SB 1369, SB 1432, SB 1566, HB 7787, HB 7904,
HB 7624, HB 7900, HB 7619, HB 6001, HB 6835, HB 6977, HB 7742, HB 7751,
HB 7754, HB 7756, HB 5365, HB 5653, HB 5712, HB 5750, Thursday, May 3, 1979
HB 7843, HB 7319, SB 1593, SB 1556, SB 1483, HB 7617, HB 6752,
HB 6275, HB 7707, HB 5230, HB 7840, HB 7846, HB 7860, HB 7897,
HB 7618

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calendars 754, 755, 756. On page 26, calendar 760. On page
 27, calendar 767, 769. On page 28, calendar 772. On page 29,
 calendars 782, 783, 785. On page 30, all items, 787, 788, 789,
 790, 791, 792 and on page 31, calendar 794.

SENATOR POST:

Mr. President.

THE CHAIR:

Senator Post.

SENATOR POST:

Mr. President, I would request that calendar No. 510 on SB 132
 the bottom of page 7, File No. 488 be removed from the consent
 calendar, Sir, ^{as} I would like to vote against that proposal.

THE CHAIR:

Bottom of page 7, calendar 510 is requested to be removed
 from the consent calendar. It is so ordered. Senator Prete.

SENATOR PRETE:

Calendar No. 510 was never on the consent calendar. Oh,
 yes, it was. Yes, it was. Sorry. That's my mistake.

THE CHAIR:

We will roll call that item first. Announce an immediate
 roll call in the Senate. Will all Senators take their seats,
 please. Announce an immediate roll call.

THE CLERK:

Immediate roll call in the Senate. Would all Senators
 please take their seats.

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THE CHAIR:

We are voting on an item removed from the consent calendar at the bottom of page 7, calendar 510. The machine is open. Have all Senators voted? Machine is closed. The Clerk will take a tally. The vote is 32 yea, 1 nay. The bill is passed. We shall now vote on today's consent calendar. Will all Senators please take their seats. The machine is open. Have all Senators voted on the consent calendar?

THE CLERK:

Senator Murphy.

THE CHAIR:

Have all Senators voted? Machine will closed. The Clerk will take a tally. The vote is 33 yea, 0 nay. Consent calendar is passed.

SENATOR LIEBERMAN:

Mr. President.

THE CHAIR:

Senator Lieberman.

SENATOR LIEBERMAN:

I move for suspension of the rules to allow for immediate transmittal to the House of those items that should go to the House.

THE CHAIR:

Question is suspending the rules for the immediate transmittal of all items that need further House action. Is there