

Legislative History for Connecticut Act

SB 578

(PA 84-509)

1984

House: 4045-4049

(5)

Senate 1371-73, 1461, 3229-3230, 3822

(7)

Judiciary 735-36, 747-50, 967

(7)

19P.

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

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CITATIONS

House

24 H.R. Proc., Pt. 10, 1981 Sess., p.

Senate

26 S. Proc., Pt. 4, 1983 Sess., p.

Hearings

Comm. Joint Standing Committee Hearings,
Judiciary, Pt. 2, 1981 Sess., pp.

Regulations

Regs., Comm. State Agencies § 31-40 (1986)

EXAMPLE -

3-378

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1984

CL 27

39 APR 13

kpt

House of Representatives

Tuesday, May 1, 1984

CLERK: ✓ ✓

Senate Bill 606 as amended by House "A".

Total number voting 144

Necessary for passage 73

Those voting yea 144

Those voting nay 0

Those absent and not voting 127

DEPUTY SPEAKER FRANKEL:

✓ The bill as amended is passed.

CLERK:

Calendar 593, Substitute for Senate Bill 578,

AN ACT CONCERNING PRODUCT LIABILITY CLAIMS. Favorable

Report of the Committee on Judiciary.

REP. WENG: (60th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Weng.

REP. WENG: (60th)

Thank you, Mr. Speaker. I move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the Senate.

DEPUTY SPEAKER FRANKEL:

The question is on acceptance and passage in concurrence with the Senate. Will you remark, sir?

kpt

House of Representatives

Tuesday, May 1, 1984

REP. WENC: (60th)

Yes, thank you, Mr. Speaker. The Clerk has an amendment, LCO NO. 2058. I request that he call the amendment and that the reading be waived and that I be allowed to summarize the amendment.

DEPUTY SPEAKER FRANKEL:

The Clerk has LCO NO. 2058 designated House "A". Will the Clerk please call the amendment.

CLERK:

LCO 2058 offered by Rep. Frankel et al, designated House "A",

DEPUTY SPEAKER FRANKEL:

Is there objection to summarization? Hearing none, you may proceed, Rep. Wenc.

REP. WENC: (60th)

Yes, Mr. Speaker, the file copy contains a possible ambiguity in that it is not clear whether the recover limitation is meant to include only monetary loss, or whether it is meant to include personal injury or death.

Therefore, the amendment deletes the ambiguous language in lines 22 through 27 in the file copy, and insures that the intent of the legislation is as follows: First of all the bill will exclude commercial loss from recovery in a products liability action, and secondly,

kpt

House of Representatives

Tuesday, May 1, 1984

it makes the recoverability of commercial loss a question that is governed by commercial law and not products liability law.

I move adoption of the amendment.

DEPUTY SPEAKER FRANKEL:

The question is on adoption of House Amendment Schedule "A". Will you remark on its adoption? Will you remark on the adoption of House "A".

If not, all those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER FRANKEL:

Those opposed nay.

The ayes have it. House "A" is adopted.

House Amendment Schedule "A".

In line 6, after the period insert "AS BETWEEN COMMERCIAL PARTIES,"

Delete lines 22 to 27, inclusive, in their entirety

In line 28, delete the words "HARM CAUSED BY A PRODUCT." and substitute in lieu thereof "(c) AS BETWEEN COMMERCIAL PARTIES,".

In line 30, before the word "CLAIMANT" insert the word "COMMERCIAL"

kpt

House of Representatives

Tuesday, May 1, 1984

DEPUTY SPEAKER FRANKEL:

Will you remark further on this bill as amended?

REP. WENC: (60th)

Yes, Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Wenc.

REP. WENC: (60th)

The amendment as adopted now becomes the nuts and bolts of the bill, and I would urge passage by this House.

DEPUTY SPEAKER FRANKEL:

Will you remark further? Rep. Parker.

REP. PARKER: (31st)

Thank you: I rise in support of the bill as amended. The bill would apply only between commercial parties, not the general public, and I think that the amendment does add to the bill, and I urge support also.

DEPUTY SPEAKER FRANKEL:

Will you remark further? If not, staff and guests come to the well of the House. Members please be seated. The machine will be opened.

CLERK:

The House of Representatives is now voting by roll. Members please return to the Chamber immediately.

The House of Representatives is now voting by roll.

kpt

187

House of Representatives

Tuesday, May 1, 1984

Members please return to the Chamber immediately.

SPEAKER STOLBERG:

Have all the members voted? If so, the machine will be locked. The Clerk will take a tally.

Will the Clerk please announce the tally.

CLERK: (131st)

Senate Bill 578 as amended by House "A".

Total number voting	142
Necessary for passage	72
Those voting yea	142
Those voting nay	0
Those absent and not voting	9

SPEAKER STOLBERG:

The bill is passed.

CLERK:

Page 21, Calendar 641, House Bill 5948, AN ACT CONCERNING THE RATE OF INTEREST IMPOSED UPON THE AMOUNT OF ADDITIONAL TAXES DUE FROM CERTAIN COMPANIES AND INDIVIDUALS. Favorable Report of the Committee on Finance, Revenue and Bonding.

REP. BARRETT: (132nd)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Susan Barrett.

1944

GENERAL INVESTIGATION

REPORT ON THE PROGRESS OF WORK

1944

1. INTRODUCTION

2. SUMMARY

3. CONCLUSIONS

4. REFERENCES

5. APPENDICES

6. DISCUSSION

7. ACKNOWLEDGMENTS

8. BIBLIOGRAPHY

9

10

11

12

SENATE

WEDNESDAY
APRIL 18, 1984

144
LFU

Senate. Would all Senators please take their seats. An immediate Roll Call has been called for in the Senate.

Will all Senators please be seated.

THE CHAIR:

The issue before the chamber is Calendar 382, Substitute for Senate Bill 554, File 575 and under Rule 15 Senator Owens has excused himself from the chamber on this vote. The machine is open. The machine will be closed and locked.

TOTAL VOTING	35
NECESSARY FOR PASSAGE	18
VOTING YEA	34
VOTING NAY	1

The measure is adopted. Clerk will call the next item.

THE CLERK:

Calendar 383, File 587, Substitute for Senate Bill 578,
AN ACT CONCERNING PRODUCT LIABILITY CLAIMS, Favorable
Report of the Committee on Judiciary.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

I move acceptance of the Committee's Joint Favorable Report and passage of the Bill. This Bill would specify that a contract is enforceable even though it prevents

SENATE

WEDNESDAY
APRIL 18, 1984

145
LFU

recovery from loss or damage or from harm as long as the contract is between commercial parties and effects only those who are actually parties to the contract. I'd ask if there is no objection that this Bill be placed on Consent.

THE CHAIR:

Any objection to placing the item on Consent? Senator Reginald Smith.

SENATOR REGINALD SMITH:

Yes Mr. President, if I might, a question through you to Senator Owens.

THE CHAIR:

Pose your question, Senator.

SENATOR SMITH:

Could you just confirm for me whether this just applies to commercial parties within the contract, Senator Owens?

THE CHAIR:

Senator Owens, if you care to respond.

SENATOR OWENS:

It applied to commercial parties, that's correct, through you.

THE CHAIR:

Senator Smith.

WEDNESDAY
APRIL 18, 1984

146
LFU

SENATOR SMITH:

It's limited strictly to the commercial communities that are involved. There are no individual liabilities that are being waived under these provisions.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

Through you Mr. President, that is correct.

SENATOR SMITH:

Thank you.

THE CHAIR:

The motion was to place on Consent. Is there any objection? Hearing no objection, the item is moved to Consent.

THE CLERK:

Calendar 386, page 17, file 586, Senate Bill 456, AN ACT CONCERNING THE DISPOSITION OF OFFICE FURNITURE FORMERLY USED BY THE SUPERIOR COURT AT NORWICH, Favorable Report of the Committee on Judiciary.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

Mr. President, one of the more important Bills that have come before the Committee on Judiciary this year.

SENATE

1461

WEDNESDAY
APRIL 18, 1984

234 SB284-SB351LFU HB5166-SB367SB16-SB561

Senate. Will all Senators please take their seats. An SB536-SB484

immediate Roll Call has been called for in the Senate. SB571-HB5536

Will all Senators please be seated. HB5656-HB5181

HB5596-H5503

THE CHAIR:

HB5725-HB5204

Please give your attention to the Clerk as he pro-
ceeds with our rather extensive Consent Calendar. SB95-SB555

THE CLERK: SB576-SB355

SB458-SB427

On page 1, Calendar 392. On page 2, Calendar 393, SB453-SB474

394, 395. On page 3, Calendar 167, 186, 214. On page SB192-SB310

4, Calendar 231, 236. On page 5, Calendar 252. On page SB422-SB496

6, Calendar 277, 282, 286. On page 7, Calendar 290, 297, SB577-SB197

305. On page 8, Calendar 315, 323, 327. On page 9, SB276-SB227

Calendar 329, 333, 334. On page 10, Calendar 337, 339, SB266-SB495

340, page 11, Calendars 343, 344, 346. Page 12, Calendar SB548-SB589

349, 350. SB592-SB215

Page 13, Calendar 360, 361, 362, 364. Page 14, SB281-SB331

Calendar 368, 369, 370, 371, 372. Page 15, Calendar 373, SB400-SB576

374, 375, 376 and 378. Page 16, Calendar 379, 380, 381, SB456-SB194

383. On page 17, Calendar 386, 387, 388, 389, 390. Page SB419-SB520

18, Calendar 391, 396, 397, 398, 399, 400. Page 19, SB603-SB606

Calendar 401, 402, 403, 404, 405. Page 20, Calendar 406, HB5790-HB5600

Calendar 407, 409, and 410. HB5144-HB5558

Page 21, Calendar 413, 414, 416, 417. On page 22, HB5639-HB5575

Calendar 420 and 421. Page 23, 424, 425, ^{or} 526, 427, 428, HB5644-HB5075

HB5173-HB5547

HB5649-HB5726

HB5758-H5760

HB5560-SB130

SB494-HB5872

S-229

CONFIDENTIAL

MEMORANDUM

FOR THE

MEMORANDUM

NOV 1954

CONFIDENTIAL

1

2

PART I

1. INTRODUCTION

2

SENATE

TUESDAY
MAY 8, 1984

102
ROC

favor of Senate Amendment Schedule C will signify by saying Aye. Those opposed Nay. The Ayes have it. SENATE AMENDMENT SCHEDULE C IS ADOPTED.

Now we are on the bill, Senator Owens.

SENATOR OWENS:

Mr. President, I would ask that if there is no objection that this bill as amended by the House Action and by Senate Amendment C be placed on Consent.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Cal. 383, File 587. Substitute for Senate Bill 578.
AN ACT CONCERNING PRODUCT LIABILITY CLAIMS, as amended by
House Amendment Schedule A. Favorable report of the Com-
mittee on Judiciary. Passed Senate on 4/18.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

Mr. President, I move acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the action taken by the House.

THE CHAIR:

Will you remark?

1984 GENERAL ASSEMBLY

SENATE

TUESDAY
MAY 8, 1984

103
ROC

SENATOR OWENS:

House Amendment A removed the proposed language which would have specified that a contract is enforceable even if the contracts waive the rights to recover for personal injury or monetary loss, and the act in itself would preclude a commercial party or organization from suing for commercial loss under the Product Liability Statute and would require that such commercial lawsuits be brought only uniform commercial code statute.

I would ask, if there is no objection, that this bill as amended by House A be placed on Consent.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Cal. 391, File 585. Senate Bill 606. AN ACT CONCERNING REPORTING FORMATS FOR SCHOOL DISTRICT FINANCES, as amended by House Amendment Schedule A. Favorable report of the Committee on Education. Passed Senate on 4/18.

THE CHAIR:

Senator Casey.

SENATOR CASEY:

Mr. President, I move acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with

1984 GENERAL ASSEMBLY

SENATE

TUESDAY
MAY 8, 1984

195
ROC

THE CHAIR:

Please give your attention to the Clerk who will call the items that were put on the Consent Calendar.

THE CLERK:

Page one - Cal. 570. Page two - Cals. 590, 642, 666, 673, 685, 737. Page three - Cals. 753, 762, 772, 775. Page four - Cals. 776, 777, 778 and 27. Page five - Cals. 38, 60, 61, 143, 147. Page six - Cals. 242, 271, 277, 282 and 345. Page seven - Cals. 369, 372, 383, 391, 465. Page eight - Cal. 501. Page nine - Cals. 302, 329. Page ten - Cal. 656.

I believe that completes the list of items on today's Consent Calendar, Mr. President.

THE CHAIR:

Any omissions, corrections? The machine is open. Please record your vote. Has everyone voted? The machine is closed. The Clerk please tally the vote. RESULT OF THE VOTE: 35 Yea. 0 Nay. THE CONSENT CALENDAR IS ADOPTED.

Senator Robertson.

SENATOR ROBERTSON:

Thank you very much, Mr. President. Mr. President, I would like to announce that the Republican caucus will begin at one-thirty, sir. And i would also like to ask in accordance

SB618-HB5794

HB5742-HB5704

HB5605-HB5755

HB5824-HB5629

HB5796-HB5762

HB5088-HB5707

HB5733-HB5239

SB15-SB43-SB108

SB312-SB489

SB261-SB540

SB379-SB536

SB484-SB470

SB276-SB458

SB578-SB606

SB346-HB5084

HB5076-HB5204

SR15

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 3
690-984

1984

43
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JUDICIARY

March 19, 1984

MR. KAHN: (continued)

on larger bonds. The six months stay is important to everyone who wants to make certain that justice is served.

Section 13(b) duplicates existing legislation. This Bill if enacted, would bring about the demise of the bondsmen. It would disenfranchise sureties and bonding agents. It would substantially increase the jail populations because policies that are designed to restrict the bail bondsman and his right to earn a living by the pursuit of his vocation, would also deny defendants their Constitutionally guaranteed right to have bail posted for them by a reliable surety.

We urge you to vote against this Bill. It is critical to the people of Connecticut that we be permitted to continue to serve as productive and independent businessmen and women. We can be proud that in our state the money bail system works effectively and efficiently within the rules and regulations set down by our judicial department. The bail bondsman performs a valuable service that is not taxpayer supported.

A service that is an integral part of our system of criminal justice. Vote no on this Bill and allow us to continue to contribute towards the effective administration of justice in Connecticut.

SEN. OWENS: Any questions? Thank you Mr. Kahn.

REP. TULISANO: Would it be possible to get one of our staff to xerox that so we would have his full statement? Is that possible? Thank you.

SEN. OWENS: Raphael Podolsky to be followed by Ann Marie Martin and Laura Minor and Marlene Warren.

MR. RAPHAEL PODOLSKY: My name is Raphael Podolsky from Legal Services Training and Advocacy project. There are several Bills that I'd like to speak to. The first Bill is House Bill 5877, dealing with some aspects of landlord tenant law. It is on your agenda for committee meeting this afternoon also. Section 1 of the Bill is basically a technical correction that has surfaced because of the

MR. PODOLSKY: (continued)

Department itself thinks the Bill has not been drafted correctly and has offered alternative language to you. That alternative language is acceptable. The problem with this Bill is it totally and completely removes parents from the process, from the transfer from institution to institution of an adult mentally retarded person.

There are two kinds of problems. First of all, it is not drafted correctly. If what it means is in dealing with people who don't have guardians, it should use that phrase. It uses the phrase a person who has been adjudicated incompetent. It's not clear what that means in terms of limited guardianships, full guardianships, conservatorships. You need to clarify that piece. The second is that the Bill is overbroad because there are circumstances when a parent should have notice.

The point is if an adult retarded person who has no guardian affirmatively says I don't want my parents to have notice; I don't want my parents to have the right to appeal, that is the circumstance under which this Bill should take the right of that appeal away.

If it is short of that, I don't think it's such a good idea. And I would also mention that this whole area is fairly sensitive, because there was litigation recently involving the Department of Mental Retardation that deals in part with what role parents should play and it may be that you may want to just let this Bill go for this year so as not to antagonize people, particularly some of the parent groups who are concerned about the parent involvement. But in any event, if you do choose to move the Bill forward I hope you would do a lot of rewrite on the Bill.

Senate Bill 578 deals with product liability claims. I'm not sure that I understand what this Bill means but if it means what I think it means, it seems to say that if a manufacturer and a distributor make a contract saying that basically saying that--limiting liability, that that agreement would be enforceable against anybody down the line. It's structured as if commercial parties might make disagreement. If that's what it means, it would mean that a consumer could be cut off from his products liability

MR. PODOLSKY: (continued)

remedies because the distributor and some middle man, a retailer or a wholesaler, had made some kind of an agreement on this. That would undercut the entire products liability system. If it means something different from that, then I think the Bill needs to be rewritten to say that, because that is the best sense I can make out of this Bill and in any event, I would recommend that you box that Bill.

House Bill 5886, notice to landlord of application for a day care license. This is a Bill also that I would suggest that you either reject or you should delete the section 2 of the Bill.

What the Bill says is that if somebody lives in an apartment and they apply to the Department of Human Resources to have a day care license so that they take kids in their home during the day, that DHR must give notice to the landlord. That's Section 1. I don't think that's objectionable.

Section 2 says it makes an independent ground to deny the license, the fact that the landlord had objected. The grounds for denying licenses now are basically bad moral character. It talks about conviction of felonies, conviction of risk of injury to minor and now it throws in landlord objection along with the moral stuff.

It seems to me that if the landlord and tenant have an agreement, it prohibits the tenant from taking children in for day care purposes, then the landlord has remedies to deal with that. But the landlord should not have the veto, especially if there is no agreement between the landlord and tenant that precludes the landlord or the tenant from taking in children for day care purposes.

REP. TULISANO: Maybe the individuals who brought this one up are thinking that within a residential property particularly, the property is leased with the basic understanding that it is to be used for living quarters and that this shifts what the use of the property is and you say there is no agreement to the contrary, it's not even assumed to begin with. I mean it's not part of a comprehensive--when they enter into it for the use of living quarters. Does he not