

Legislative History for Connecticut Act

PA 87-551

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House Pages:	5878-5879, 11372-11408		39
Senate Pages:	5059-5065		7
Committee:	Judiciary - Public Hearing tape was inaudible - no transcript available. Added testimony in bill file		
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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1987

VOL. 30
PART 16
5647-6042

tcc

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House of Representatives

Tuesday, May 12, 1987

in less than two years, actually, in this kind of a situation. I have no problem with P-T'ing for just that. It makes it a better law.

SPEAKER STOLBERG:

The Chair will construe that as a motion to pass temporarily. Is there objection? Is there objection to the motion made by Representative Tulisano? Seeing no objection, the item is passed temporarily.

CLERK:

Calendar 614, Page 17, House Bill 7268, AN ACT CONCERNING THE RETURN OF SECURITY DEPOSITS. Favorable Report of the Committee on Judiciary.

SPEAKER STOLBERG:

Representative Balducci.

REP. BALDUCCI: (27th)

Mr. Speaker, may that item be passed temporarily?

SPEAKER STOLBERG:

The motion is to pass temporarily. Is there objection? Is there objection? Seeing no objection, it's so ordered.

CLERK:

Calendar 618, Substitute for House Bill 5056, AN ACT CONCERNING DRUG TESTING IN THE WORKPLACE. Favorable Report of the Committee on Judiciary.

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REP. BALDUCCI: (27th)

Mr. Speaker.

SPEAKER STOLBERG:

Representative Balducci.

REP. BALDUCCI: (27th)

May that item be referred to the Committee on Labor?

SPEAKER STOLBERG:

The motion is to refer to the Committee on Labor. Is there objection? Is there objection? Seeing no objection, it's so ordered.

CLERK;

Calendar 620, Page 18, Substitute for House Bill 7629, AN ACT CONCERNING FAMILY SUPPORT AND MAGISTRATES. Favorable Report of the Committee on Judiciary.

REP. BALDUCCI: (27th)

Mr. Speaker.

SPEAKER STOLBERG:

Representative Richard Balducci.

REP. BALDUCCI: (27th)

Thank you, Mr. Speaker. At this time I would like to place some items on the Consent Calendar for action at our next session.

Beginning on Page 18, at the top of the Calendar,

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and I hope you enjoy your tour of the Capitol. I ask my fellow Legislators to vote, to rise and greet these people in their usual fashion.

(applause)

SPEAKER STOLBERG:

Further announcements or points of personal privilege? Representative Fritz.

REP. FRITZ: (90th)

Yes, Mr. Speaker, for the purpose of announcement. I would like to advise all my colleagues that June 1st is fastly approaching, and as we consider taxation, the IRS filing deadline for W-4's is June 1st, or else be subject to penalty.

SPEAKER STOLBERG:

Further announcements of points of personal privilege? If not, will the Clerk please return to the Call of the Calendar.

CLERK:

Page 21, Calendar 618, Substitute for House Bill 5056. AN ACT CONCERNING DRUG TESTING IN THE WORK-PLACE. Favorable Report of the Committee on LABOR AND PUBLIC EMPLOYEES.

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SPEAKER STOLBERG:

Representative Adamo.

REP. ADAMO: (116th)

Mr. Speaker.

SPEAKER STOLBERG:

May I ask our leadership team to get all the Committee Chairmen, get some rope and tie them to their seats?

(laughter)

Representative Adamo.

REP. ADAMO: (116th)

Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

SPEAKER STOLBERG:

Will you remark?

REP. ADAMO: (116th)

Yes, Mr. Speaker. This bill began in the Judiciary Committee. It puts in place what we feel is a necessary need to control random and unnecessary drug testing of employees in the workplace in the State of Connecticut. Before I go forward, I would like to call three clarifying amendments, if I might, Mr.

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Speaker.

Would the Clerk please call LCO 7592, and might I be given leave to summarize?

SPEAKER STOLBERG:

Clerk has an amendment, LCO 7592, House "A". Will the Clerk please call?

CLERK:

LCO 7592, designated House "A", offered by Representative Adamo.

SPEAKER STOLBERG:

Is there objection to summarization? Seeing no objection, please proceed.

REP. ADAMO: (116th)

Thank you, Mr. Speaker. Mr. Speaker, ladies and gentlemen, the amendment came to our, came to us as a concern. It was indicated through the industries and the businesses that to in fact mandate three gas chromatography or mass spectrometry tests would have been extremely expensive and certainly unnecessary to in fact clear up and take care of the possibilities of false positives.

In our consultation with the physicians and the

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laboratories, this was confirmed and this particular amendment changes that to provide for only one of the GSGC tests. I move its adoption, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark further on the adoption of the amendment? If not, will all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

REPRESENTATIVES:

No.

SPEAKER STOLBERG:

The amendment is adopted.

House Amendment Schedule "A":

In line 8, before the period, insert ", excluding the state or any political subdivision thereof"

Delete lines 14 to 24, inclusive, in their entirety and insert the following in lieu thereof:
"unless (1) the employer has given the employee a urinalysis drug test, utilizing a reliable methodology, which produced a positive result, (2) such positive test result was confirmed by a second urinalysis drug test which was separate and independent from the initial test, utilizing a reliable methodology, and (3) such

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positive test result was confirmed by a third urinalysis drug test which was separate and independent from the initial test, utilizing a gas chromatography and mass spectrometry methodology or a methodology which has been determined by the commissioner of health services to be as reliable or more reliable than the gas chromatography and mass spectrometry methodology."

In line 33, delete "and (2)" and insert "to (3), inclusive,"

SPEAKER STOLBERG:

Will you remark further?

REP. ADAMO: (116th)

Yes, Mr. Speaker. Mr. Speaker, the Clerk has an amendment, LCO 8053. Would he call and read, please?

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 8053; House "B". Will the Clerk please call and read?

CLERK:

LCO 8053, designated House "B", offered by Representative Tulisano et al. In lines 97 and 201, delete "person who" and insert "employer, laboratory or medical facility that " in lieu thereof.

SPEAKER STOLBERG:

Representative Adamo, what is your pleasure?

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positive test result was confirmed by a third urinalysis drug test which was separate and independent from the initial test, utilizing a gas chromatography and mass spectrometry methodology or a methodology which has been determined by the commissioner of health services to be as reliable or more reliable than the gas chromatography and mass spectrometry methodology."

In line 33, delete "and (2)" and insert "to (3), inclusive,"

SPEAKER STOLBERG:

Will you remark further?

REP. ADAMO: (116th)

Yes, Mr. Speaker. Mr. Speaker, the Clerk has an amendment, LCO 8053. Would he call and read, please?

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 8053, House "B". Will the Clerk please call and read?

CLERK:

LCO 8053, designated House "B", offered by Representative Tulisano et al. In lines 97 and 201, delete "person who" and insert "employer, laboratory or medical facility that " in lieu thereof.

SPEAKER STOLBERG:

Representative Adamo, what is your pleasure?

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REP. ADAMO: (116th)

Mr. Speaker, I move adoption of the amendment. Again, ladies and gentlemen, Mr. Speaker, this particular amendment and the language changes therein came to our attention in consultation with the affected parties, the industries. It was our thought that the persons should be the persons who were found by these particular sections, but in fact the employer, the laboratory, the medical facility.

I move adoption of the amendment.

SPEAKER STOLBERG:

Will you remark on House "B"? If not, all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

To the contrary, nay.

The amendment is adopted.

REP. ADAMO: (116th)

Mr. Speaker?

SPEAKER STOLBERG:

Will you remark further on the bill?

REP. ADAMO: (116th)

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REP. ADAMO: (116th)

Mr. Speaker? The Clerk has another amendment, LCO 8080. Would he call and read, please?

SPEAKER STOLBERG:

Clerk has an amendment, LCO 8080, House "C".
Clerk, please call and read.

CLERK:

LCO 8080, designated House "C", offered by
Representative Farr.

On line 59, delete the word "No" and insert in lieu thereof: "Notwithstanding the provisions of section 6 of this act, an"

In line 61, delete "unless" and insert in lieu thereof "if"

REP. ADAMO: (116th)

Mr. Speaker?

SPEAKER STOLBERG:

Representative Adamo.

REP. ADAMO: (116th)

Thank you, Mr. Speaker. I move adoption of the amendment.

SPEAKER STOLBERG:

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Will you remark?

REP. ADAMO: (116th)

Yes, Mr. Speaker. This amendment is clearly clarifying language. I have checked with our Council on this side of the aisle as well as the other side. It makes the bill read and work better. I move adoption.

SPEAKER STOLBERG:

Will you remark further on House "C"? If not, all those on favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

Those to the contrary , nay.

The amendment is adopted.

REP. ADAMO: (116th)

Mr. Speaker?

SPEAKER STOLBERG:

Will you remark further?

REP. ADAMO: (116th)

Thank you, Mr. Speaker. Mr. Speaker, now that the bill has been amended, what it basically does is

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put in place standards for testing employees in the workplace.

We were not excited about coming forward with a bill that would have put in place tests, but we found through consultation and through the Public Hearing process that companies and businesses and employers were in fact putting into effect drug testing on employees in a random fashion throughout the State of Connecticut.

There was a feeling in the Judiciary Committee, and that feeling was shared by the Labor Committee, that we ought not to let that run rampant, that we ought to in fact put some controls on those particular tests.

The bill before us provides that a restricted area, that in restricted areas, the employer may in fact test employees. They would have to have cause and have feeling or a knowledge that that employee was being affected by some particular drug.

It goes on to allow it in cases on a random basis, where it is allowed by federal statute, where it is allowed by the description of the position being, the position being safety sensitive. And those regulations would be set down by the Labor Commissioner.

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It goes on to provide that a portion that was added to the bill through the Labor Committee, the same particular protections and prohibitions as it relates to tentative employees or persons seeking jobs. The changes there, of course, are that the prospective employee would be given information: 1) That he, in fact was going to be tested, 2) that he, in fact, was found positive, and 3) the confidentiality of the report would be kept so that he would not find himself on a black roll list of any type.

Mr. Speaker, in a most recent article that I have seen in a newspaper, just yesterday and today, it is quite interesting that suddenly the Boards of Labor Relations here on the State level and on the federal level are starting to act with regard to these particular matters. Just yesterday, the Connecticut State Board of Labor Relations issued an award that indicated that the matter of drug testing of employees was clearly a mandatory subject of bargaining.

Therefore, our amendment, in fact, excluded them just earlier, when I presented it. Secondly, I understand that in today's newspaper, Pratt and Whitney

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was cited as having to in fact negotiate the conditions of drug tests on employees. Therefore, I think we are going in the right direction.

Mr. Speaker, I think... Ladies and gentlemen, I think that the key to this is that certainly drug testing and the things that persons have to in fact do to go through these tests are somewhat of an invasion of privacy. And what I think we are trying to do in bill is to balance, balance that invasion of privacy to some extent with the balance to protect workers and companies from hazards and the dangers of the people who are in fact affected by drugs.

Therefore, I move adoption of the bill.

SPEAKER STOLBERG:

Representative Kiner.

REP. KINER: (59th)

Thank you, Mr. Speaker. Mr. Speaker, I have some serious reservations about this bill. I think Representative Adamo really did hit it on the head when he said that this bill really does not totally protect all employees.

Mr. Speaker, the Clerk has an amendment, LCO

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8436. Would the Clerk please call the amendment, and may I be given leave to summarize?

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 8436, House Amendment Schedule "D". Will the Clerk please call?

CLERK:

LCO 8436, designated House Amendment Schedule "C". Correction...

SPEAKER STOLBERG:

"D"

CLERK:

Schedule "D", offered by Representative

Kiner.

SPEAKER STOLBERG:

Is there objection to summarization? Seeing none, Representative Kiner.

REP. KINER: (59th)

Thank you, Mr. Speaker. Mr. Speaker, basically what this amendment would do is prevent any employer from giving an employee a mandatory urinalysis drug test, unless required by federal law.

Mr. Speaker, I move adoption of the amendment.

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SPEAKER STOLBERG:

Will you remark on House "D"?

REP. KINER: (59th)

Yes, Mr. Speaker, thank you very much. You know, the Constitution of the United States protects all of us from unwarranted intrusions by government. What this bill before us seeks to do is that it seeks to try to prevent or protect the employee from unwarranted intrusions by his employer, which the Constitution does not cover.

Mr. Speaker, ladies and gentlemen, I don't believe this bill protects employees. Compulsory urinalysis test can reveal as much about any one of us as an illegal search of one's home can find out about any one of us. Let me elaborate briefly on this.

SPEAKER STOLBERG:

I hope it is briefly, Representative Kiner.

REP. KINER: (59th)

A lab technician has the ability through the machinery that he uses to determine not only if the urine contains an alleged drug but the lab technician also has the ability to find out a little bit more

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about us that just that. The lab technician can find out whether or not the woman is pregnant, whether or not the person has diabetes , asthma, heart disease and so forth and so on.

Mr. Speaker, ladies and gentlemen, I have an amendment that I intended to call which would have basically said that the lab technician would be precluded from searching for these other drugs within our bodies. I was informed last night that that amendment would not have done any good, because the machinery is so technologically advanced that from what I am being told, what occurs is this.

When the test comes out, it comes out in the way of a graph, much like an EKG graph. This graph contains certain lines or fingerprints of every conceivable compound. So, what I am suggesting to you is this, ladies and gentlemen. That the lab technician, even if he doesn't want to know about your own private life. about your problems, about diseases that you might have.... as I am being told, unless I am being told differently on the floor today, this machinery has the capability of telling the lab, telling the

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employer, that you indeed might have certain diseases, that I don't think you would want anyone to know about.

Let me give you a little scenario of what would happen with this bill if it becomes law, and I assume it is going to pass. I have an inner ear problem. Occasionally, I could be talking and I start... I get dizzy and I weave back and forth. That would have caused my employer to say... he might have reason to believe that perhaps I have a drug problem. If that were to occur, indeed, I would have to be tested, and if I had another problem, that would come out in the examination.

Let me just quickly summarize, Mr. Speaker. One of my favorite Presidents is Harry Truman, and Truman... and this is kind of important, I think, said: there are times when our Constitution, times when our civil rights are at stake is during the times of hysteria.

And I believe that we are going through some hysteria now. We know we have a drug problem; we know we want to resolve that drug problem. And we are saying: let's test for drugs, and let's find out. The problem

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is, ladies and gentlemen, we have to weigh things in the balance. The balance we have to weigh is: number 1: the safety in the workplace, which obviously is a very important factor. I think on the other side, we also have to weigh the rights of Americans in a free country.

Mr. Speaker, again, I move adoption of this amendment.

REP. ADAMO: (116th)

Mr. Speaker?

SPEAKER STOLBERG:

Will you remark further on House "D"? Representative Adamo.

REP. ADAMO: (116th)

Yes, Mr. Speaker, I do... I will be very brief. If we adopt this amendment, we have no bill, we have no ability to control the types of tests, the employees that are tested and their security from invasion of privacy.

Mr. Speaker, certainly the test is all-telling. Yet, it has to be, because it has to be the best test that we can use to prove or disprove that initial

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positive. We do not want to ruin an employee's reputation. We don't want someone whispering in someone else's ear: Hey, so and so was found to have drugs in his urine, because we would be the one who could say it, and no one can take action against this employee until it is recomfirmed by the very best test.

It is uncontrollable to cover the particular problem of Mr. Kiner, and I would hope that you would think about that when we weigh the balance. The balance is very clear. Just recently, a tragedy in Baltimore, the train accident, where it was found that the engineers had been in fact, or someone had in fact been ingesting marijuana. Should we protect the public? I think we ought to, but I think we ought to protect the employees as well and only have a real darn good reason to check them, and I think our bill does that and this amendment guts it.

SPEAKER STOLBERG:

Representative Lescoe.

REP. LESCOE: (49th)

Mr. Speaker. Through you, Mr. Speaker, a question to the proponent of the amendment?

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SPEAKER STOLBERG:

Please frame your question.

REP. LESCOE: (49th)

Yes, to Representative Kiner. You mentioned invasion of privacy, and to this date, have there been any court cases or trial cases, not only in Connecticut, but in surrounding states that have this sort of a bill drug testing in the workplace? And has it been proved constitutional or unconstitutional as you mentioned before?

SPEAKER STOLBERG:

Representative Kiner.

REP. KINER: (59th)

Through you, Mr. Speaker, the, this issue has not been addressed by the courts. However, in a recent court case, in 1985, the courts did say that urine can be analysed in a medical lab to discover numerous psychological facts about the person from whom it came. So, the court case really backs up what I said, in regards to the ability, the technological ability to find out more about us than we would like anyone to know.

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As relates to your specific question, as to the constitutionality, I cannot answer that, sir.

SPEAKER STOLBERG:

Will you remark further on House "D"? Representative Arthur.

REP. ARTHUR: (42nd)

Yes, Mr. Speaker. I can't believe it. Yesterday afternoon, you winced, and today you are wincing when I get up to speak. Yesterday, I was very short.

SPEAKER STOLBERG:

It has nothing to do with you, sir. I am reflecting on the first two hours of the session today.

REP. ARTHUR: (42nd)

Through you, Mr. Speaker, a question. Would Representative Kiner enlighten this body on what is required by the federal law? In the way of drug testing.

REP. KINER: (59th)

Mr. Speaker, through you, sir. I cannot answer that. What I can say to the gentleman, however, is that this amendment was drawn in such a way so as to be sure that we are in conformity with federal laws.

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I am not too sure if there are indeed any federal laws that cover this. What I am suggesting in the amendment is that if indeed there are laws, that perchance will come about in the foreseeable future, that this bill, should this amendment pass and become law, that this law will be in syc with the federal government or with the federal laws.

REP. ARTHUR: (42nd)

Mr. Speaker, I have trouble with that, when he is asking us to adopt an amendment, when he can't even explain what is covered with federal law, and he is using it throughout this amendment.

SPEAKER STOLBERG:

Representative Gyle.

REP. GYLE: (108th)

Mr. Speaker, I would just like to concur, wholeheartedly, with what Representative Kiner has said on the issue of privacy and confidentiality and drug testing. I think that is a very, very significant point.

The only question I have, through you, Mr. Speaker, to the proponent of the amendment, is section

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seven. I am a little concerned about the union's place in negotiating drug testing for some of their employees in sensitive areas. Do you feel the unions would have a place in this negotiation process, should the federal laws not comply?

REP. KINER: (59th)

Through you, Mr. Speaker. I believe that the file copy does cover that. It does indeed allow for negotiations between the union and management.

REP. GYLE: (108th)

Through you, Mr. Speaker. That is true. However, this new section says that it wouldn't be allowed unless it is required by the federal, by the federal laws. That is the intention or are you saying they can't require it without the unions?

SPEAKER STOLBERG:

Representative Kiner.

REP. KINER: (59th)

Through you, Mr. Speaker. I am looking for the section in the file copy. I can't seem to locate it now. There is one section, however, in the file copy that we did not delete, which specifically gives

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the unions and management an opportunity to negotiate for this.

So, that is not covered in this amendment.

REP. GYLE: (108th)

Thank you, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark further on the amendment? If not, all those in favor of the amendment...

Representative Maddox.

REP. MADDOX: (66th)

Thank you, Mr. Speaker. Just very briefly, I stand to strongly support the amendment. We read quickly the file copy; we notice that is ambiguous as to how it deals with the State of Connecticut. I guess it is not covered, or I guess... a question, through you, Mr. Speaker, to Representative Adamo: Is it covered?

SPEAKER STOLBERG:

Representative Adamo.

REP. ADAMO: (116th)

Mr. Speaker. Mr. Speaker, the first amendment that I offered clearly excluded municipalities and

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the State of Connecticut. That was done, based on the most recent Labor Relations finding that said that in the case of municipalities, that is clearly a collective bargaining matter. Secondly, public employees are covered by the Constitution, clearly, right off the bat.

REP. MADDOX: (66th)

All right, thank you, Representative Adamo. I think really, what it almost comes down to, I guess, you can say it is a matter of how you feel on the issue. I do not personally believe that it is proper for any employer to invade someone's privacy, as Representative Kiner has pointed out, for this.

Let me just give you a quick example, and this would add to Representative Arthur's point. If you are in the military, you will submit to random drug testing. For two years, I worked for a Congressman in this State and handled his military affairs, and we would get complaint after complaint from military personnel who felt they were adversely aggrieved with the urinalysis test.

Let me give you a quick example at the moment

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how exact this is not. At the moment..... What would occur, of you had a person who had worked out very aggressively, it would raise the protein level in their urinalysis, in their test. If they continued to work out and get into shape, especially someone who was getting close to a deadline and they were a little overweight, it could raise it to an abnormally high level.

When they take a urinalysis test, it's off. They look like they have a problem, when they don't really have a problem . They are just going through a temporary body fluctuation. That specific example, I handled several of those cases when I worked for the Congressman, of that specific case would occur.

I just don't believe that it is proper, that government or employers should be able to test them. The other point that I discussed with Representative Kiner privately and I will share with this floor is that some people can say: well, how about someone who is hooked?

Well, this amenment does not prohibit as a condition of employment , prior to being hired, drug testing. So, if you are concerned about an addict, you

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can test them before you hire them. I don't know; I strongly support the amendment. I just do not believe that it is government's place nor is it the employer's place to test someone and invade their privacy.

Thank you, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark further on the amendment? Representative Rogg.

REP. ROGG: (67th)

Mr. Speaker. I have serious reservations on this amendment, especially on section seven. With the technology being where it is today, an employee can be responsible for the lives of a great many co-employees. He can be responsible for a tremendous amount of property, and if, in fact, they... the employer decides that certain positions and the responsibilities in certain positions would and should require this, I think we should not automatically foreclose it.

I have no problem with putting all sorts of safeguards on it, but to say that you cannot drug test unless federal law requires it, like an airlines' pilot or whatever,... goes in my estimation way too

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far.

Thank you, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "D"? Representative Fusco.

REP. FUSCO: (81st)

Mr. Speaker, just very briefly, I am in opposition to the amendment. I think it goes way too far, takes rights away from employees, and I would just urge the body to vote against it.

SPEAKER STOLBERG:

Will you remark further? If not, all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

REPRESENTATIVES:

No.

SPEAKER STOLBERG:

The Chair is in doubt and will order an immediate roll call. Members, please be seated.

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Staff and guests, to the Well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll. Members, return to the Chamber. The House is voting by roll call. Members, kindly return to the Chamber immediately.

SPEAKER STOLBERG:

Have all the members voted? Have all the members voted, and is your vote properly recorded?

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

Will Clerk please announce the tally?

CLERK:

House Amendment "D" to House Bill 5056:

Total Number Voting	141
Necessary for Adoption	71
Those voting Yea	20
Those voting Nay	121
Those absent and not Voting	10

SPEAKER STOLBERG:

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The amendment is defeated.

House Amendment Schedule "D":

In line 28, delete everything after "unless" and insert the following in lieu thereof: "required by federal law."

Delete lines 29 to 35, inclusive, in their entirety, and insert the following: "The"

In line 41, delete "program" and insert "required under federal law"

Delete sections 6 and 7 in their entirety and renumber the remaining sections accordingly

After line 94, insert the following and renumber the remaining section accordingly:

"Sec. 7. (NEW) No employer may require an employee to submit to a urinalysis drug test unless such test is required by federal law."

SPEAKER STOLBERG:

Will all members please be seated? Staff and guests, to the Well of the House. Will you remark further on the bill?

Representative Gelsi? Representative Smoko.

REP. GELSI: (58th)

Mr. Speaker, I would like to have permission to speak from the mic on Representative Smoko's... ours is down.

SPEAKER STOLBERG:

As long as you are at your desk, a couple

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of the mics are disfunctional. It is fine, Representative Gelsi.

REP. GELSI: (58th)

Thank you, Mr. Speaker. And, I am not even going to guarantee that I will be brief, sir.

SPEAKER STOLBERG:

That's terrific to hear.

REP. GELSI: (58th)

But, I am going to support this bill, because I do have some reservations and I have some problems with what is happening in the workplace.

Today, in 1987, I have gotten the same letters that you have from the same employers that the random problem of drugs is going to get everyone killed in the workplace. I would like to know where they were since 1960, because the problem has been there.

With one of our major corporations, we couldn't even negotiate an alcohol program til the year of 1972. Of course, people were never fired because of being alcoholics; they were fired for absenteeism. And it is no different with the drug problem.

I am fortunate enough to work for a corporation

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that at least, if an individual gets into trouble, they get one shot, that I think any man or woman deserves that one shot. Working places in this State that are not organized, they don't get that one shot. You are under exactly what the employer wants to do.

And I would like to convey to you, and I would hope, I would hope that... and I can't say the first person, because I know it has already happened, because I have seen it happen. But, I hope that the next person that is brought in by a company investigation team and accused by someone that they were on drugs, and it is proved that they were not... boy, I hope they bring it to a civil law suit. I watched a 15 year employee that never had a problem in that plant be brought into ISID.

Did the company harrass her? Absolutely not, in ten or fifteen minutes, they were absolutely sure that the problem was erroneous. But that isn't where it ended, because the people knew on the floor that she was brought into ISID. They found out that she was there because she was being questioned about drugs, and 300 people are looking at you and in fact, even

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start to question whether her question was selling drugs. Is there a problem? Yes, there is a problem, but I don't think we are addressing it.

We are so worried about the employer that I think we should have some concern for the people that work in these factories. Probably, what we should do next year is mandate at least one shot for rehabilitation. Otherwise, I don't want to hear no complaints when the Welfare Rolls go up and we have to take care of them.

Thank you, Mr. Speaker.

SPEAKER STOLBERG:

Have all the members voted? Representative Arthur.

REP. ARTHUR: (42nd)

Mr. Speaker, the amendment we adopted in changed lines 21 through 30 talks about three different tests, all urinalysis tests. My question is: can these samples all be taken at the same time? If not...

SPEAKER STOLBERG:

Representative Adamo.

REP. ARTHUR: (42nd)

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What kind of frequency between the samples?

REP. ADAMO: (116th)

Mr. Speaker? Mr. Speaker, all of the tests are done on the same sample. It is absolutely necessary to do that for a very particular reason. If we were to take different samples on different days, the person's metabolism would have either reduced or could have changed the content on a day to day basis.

All of the information given to us by the labs indicates you must use the same sample.

REP. ARTHUR: (42nd)

Yes, Mr. Speaker. That is what I wanted to hear, and I have to say to my friend, Representative Maddox: you haven't been steaming around in the deep ocean at high speed with 130 people on board and had the threat of somebody having drugs impair their capability and jeopardize the loss of lives.

SPEAKER STOLBERG:

Will you remark further on the bill? If not, will members please be seated?

Representative Fusscas.

REP. FUSSCAS: (55th)

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Thank you, Mr. Speaker. One question, through you, to Representative Adamo.

I apologize, Representative Adamo. I haven't participated in all of the debates or listened to all the debates on this bill, but my question is: if this bill passes and becomes law, myself as an employer, will it make it easier or more difficult for me to identify, have tested, and provide rehabilitation for an employee that works for me that is drug dependent?

REP. ADAMO: (116th)

Through you, Mr. Speaker?

SPEAKER STOLBERG:

Representative Adamo.

REP. ADAMO: (116th)

Through you, Mr. Speaker. I think, Representative Fusscas, I think it would make it not easier nor more difficult. It would simply set in place a process that you would have to follow, with the reason, and some reason for you to have to test that employee.

You could not randomly test your employees, but you could test those employees that you had cause to believe were impaired.

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REP. FUSSCAS: (55th)

Through you, Mr. Speaker?

SPEAKER STOLBERG:

Representative Fusscas.

REP. FUSSCAS: (55th)

Again, I apologize. But, I have several employees working for me in an office. What is cause? I mean, how do I determine whether or not... you know... I know glassy eyes, and I know... you know... laid-back behavior and so on and so forth. But, is this cause? How do I know what cause is?

How do I know I am not violating the law because I suspect?

REP. ADAMO: (116th)

Mr. Speaker?

SPEAKER STOLBERG:

Representative Adamo.

REP. ADAMO: (116th)

Mr. Speaker, I will try to clarify as best I can. I am not an attorney, sir, but I will simply indicate to you that in section 7, no employer may require an employee to submit to a urinalysis drug

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test, unless the employer has reasonable suspicion that the employee is under the influence of drugs or alcohol, which adversely affects or could adversely affect his job performance.

I think that pretty much gives you the opportunity to make a judgement, sir, and you would have the protection of that judgement.

REP. FUSSCAS: (55th)

Thank you, Mr. Speaker. I have concerns about this bill. It seems to me that a person who is drug dependent has a physical disease which leads to all sorts of social tragedies, tragedies in the family, in the workplace, on our highways and so on and so forth. And it seems to me that whatever policy that the Legislature comes out with should endorse the treatment, the identification and helping people overcome a drug dependency problem.

I am not sure that this is not counter-productive to those objectives. Whether it is in the workplace or whether it is on ther highways.

Thank you.

SPEAKER STOLBERG:

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Will you remark further? If not, will members please be seated? Staff and guests, to the Well of the House. We are on the bill, and the machine will be opened.

CLERK:

The House of Representatives is now voting by roll. Will all members return to the Chamber? The House of Representatives is voting by roll call. Members, please return to the Chamber and cast your vote.

SPEAKER STOLBERG:

Have all the members voted, and is your vote properly recorded? If all the members have voted, the machine will be locked, and the Clerk will take a tally.

Will the Clerk please announce the tally?

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CLERK:

House Bill 5056, as amended by House Amendments

"A", "B", and "C":

Total Number Voting	141
Necessary for Passage	72
Those voting Yea	124
Those voting Nay	18
Those absent and not Voting	9

SPEAKER STOLBERG:

The amendment... excuse me, the bill is passed.

Representative Balducci.

REP. BALDUCCI : (27th)

Mr. Speaker?

SPEAKER STOLBERG:

Representative Balducci.

REP. BALDUCCI: (27th)

Thank you, Mr. Speaker. At this time, I would like to place several items on the Consent Calendar for action in our next session.

SPEAKER STOLBERG:

Please proceed, sir.

REP. BALDUCCI: (27th)

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GEN. ASSEMBLY
SENATE

PROCEEDINGS
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jnw

Has everyone voted?

The machine is closed. Clerk, please tally the
vote.

The result of the vote:

25 Yea

8 Nay

The bill is adopted.

THE CLERK:

Calendar No. 865, File No. 780, 1100. Substitute
for House Bill No. 5056. AN ACT CONCERNING DRUG TESTING
IN THE WORKPLACE. Amended by House "A", "B", and "C".
Favorable Report of the Committee on Labor and Public
Employees.

THE CHAIR:

Senator Spellman.

SENATOR SPELLMAN:

Thank you, Mr. President.

I move acceptance of the Joint Committee's Favorable
Report and passage of the bill.

THE CHAIR:

Will you remark?

SENATOR SPELLMAN:

Thank you, Mr. President.

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THE CHAIR:

Is this in concurrence with the House?

SENATOR SPELLMAN:

In concurrence with the House Amendments "A",
"B", and "C".

THE CHAIR:

Thank you.

SENATOR SPELLMAN:

Thank you, Mr. President.

This bill limits the circumstances under which
an employer can conduct random drug tests to three
circumstances. And those three circumstances would be
where the state Labor Department regulations designate
the occupation involved as high risk or safety sensitive.
The second one being where the employee has voluntarily
submitted to an employee assistance program, part of
which involves drug testing. And the third exception
would be where federal law authorizes drug testing.

In all other circumstances, the bill would require
that prior to drug testing that the employer have
reasonable suspicion of drug use by the employee. And

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it sets up a procedure for this testing after a finding of reasonable suspicion that would require three tests.

The first two tests would have to be reliable tests under current technology. If both of those tests show a positive, then a third test would have to be a Gas Chromatography and Mass Spectrometry test.

By way of background in terms of existing technology, the latter or the third required test is the most accurate available. But even that test will show an occurrence of up to 5% of false positive results.

The feeling, however, is that if we're requiring three tests the first two of which are at least designated as reliable and the third of which is the best technology available, then we are limiting to the greatest extent possible under existing technology human error in regard to the test.

The bill also addresses drug testing of prospective employees and states that such drug testing shall not be undertaken by the employer unless written notification is given to the prospective employee at time of application. And unless the tests are conducted in concurrence with the procedures which I have just outlined for existing employees.

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The bill also provides for confidentiality of test results. Stating that the tests may not be used in a criminal proceeding and indicating that they shall be subject to the same confidentiality that medical records enjoy under existing law, pursuant to Section 1-19b of the Connecticut General Statutes, which indicates that they are not subject to public disclosure; upon a finding that they are personnel or medical records the disclosure of which would constitute an invasion of personal privacy.

The bill allows any employee which is aggrieved by either the actions of an employer who either requires tests in a manner different than that allowed by this legislation or conducts them in a manner not authorized by this legislation to seek relief. They would also be able to seek relief against any laboratory or person gaining access to the records who violates the confidentiality requirements which are contained in the bill.

I think that it's important to note that the bill does not restrict an employer's authority to prohibit alcohol or drug use during work hours. Nor does it prohibit in any way the ability of the employer to discipline employees for being under the influence of drugs or alcohol

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during work hours.

As far as prohibitions in terms of actions by the employer, the employer is prohibited from taking any personnel-related decisions which would essentially mean that they are prohibited from determining eligibility for promotion, additional compensation, transfer, termination, or disciplinary, or other adverse action, solely, and I emphasize the word solely, based upon the results of tests which have been conducted in accordance with the provisions of this legislation.

The Bill applies to only employees in the private sector; employees in the public sector, including state and local employees, enjoy certain constitutional protections which are not enjoyed by those in the private sector because of the state action requirement which is contained if the state or local municipality takes any actions which violate the privacy rights of an employee.

I believe that it is a Bill which provides a workable procedure for controlling and limiting drug and alcohol use in the work place. And it provides sufficient protections in terms of the rights of employees while allowing for the surveillance that will protect the public health, safety and welfare.

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I believe that it is a good Bill, and I would urge its passage.

THE CHAIRMAN:

Further remarks.

Senator Spellman. Senator Lovegrove.

SENATOR SPELLMAN:

I would not like this to go on a consent calendar.

THE CHAIRMAN:

Roll call would be in order. The Clerk please make an announcement for immediate roll call.

THE CLERK:

Immediate roll call has been ordered in the Senate.

Will all Senators please return to the Chamber. Immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber.

THE CHAIRMAN:

Question before the Chamber is a motion to adopt Calendar No. 865, Substitute for H.B. 5056, File No. 780, and 1100. The machine is open. Please record your vote.

Senator DiBella. Senator Larson. Senator Avallone.

Has everyone voted?

The machine is closed. The Clerk please tally the vote.

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The result of the vote:

32 YEA

1 NAY

The Bill is adopted.

THE CLERK:

Page 7, Calendar No. 866, File No. 480, and 1136, Substitute for H.B. 5631. AN ACT CONCERNING INSURANCE BENEFITS FOR RETIREES AFTER THE SALE OF THEIR PREVIOUS EMPLOYER'S BUSINESS. As amended by House LCO Schedule "A". Favorable report of the Committee on Insurance and Real Estate.

THE CHAIRMAN:

Senator Spellman.

SENATOR SPELLMAN:

May that Bill be passed temporarily, Mr. President.

THE CHAIRMAN:

Passed temporarily.

THE CLERK:

Page 8 under Disagreeing Actions, Calendar No. 506, File No. 768, Substitute for S.B. 1209, AN ACT TO STUDY THE COST OF INCREASING HEALTH INSURANCE PREMIUM PAYMENTS ON BEHALF OF RETIRED TEACHERS AND REDUCING ELIGIBILITY REQUIREMENTS FOR NORMAL RETIREMENT. As amended by House