

Legislative History for Connecticut Act

HB 7211	PA 271	1991
House	2383, 5884-5908, 9084-9195	(128)
Senate	2628-2636	(9)
Labor and Public Employees	747-749, 776-777, 781, 794, 799, 863, 871-872, 880-881	(13)

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

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1991

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1988-2401

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House of Representatives

Monday, April 8, 1991

PUBLIC HEALTH. Substitute for H.B. No. 7036 AN ACT CONCERNING PUBLIC HEALTH NURSING SERVICE GRANTS.

The bill was then referred to the Committee on Appropriations.

ENVIRONMENT. H.B. No. 7081 (RAISED) AN ACT CONCERNING PENALTIES FOR WATER RESOURCES VIOLATIONS.

The bill was then referred to the Committee on Judiciary.

FINANCE, REVENUE AND BONDING. H.B. No. 7147 (RAISED) AN ACT CLARIFYING ADMINISTRATIVE RESPONSIBILITY WITH RESPECT TO THE PORTION OF DOG LICENSE FEES TRANSFERRED TO THE STATE BY TOWN TREASURERS AND THE ASSESSMENT OF CERTAIN TOWNS FOR THE COST TO THE STATE OF OPERATING REGIONAL DOG POUNDS ON BEHALF OF SUCH TOWNS.

The bill was then referred to the Committee on Appropriations.

LABOR AND PUBLIC EMPLOYEES. Substitute for H.B. No. 7211 (RAISED) AN ACT CONCERNING EMPLOYMENT DRUG TESTING.

The bill was then referred to the Committee on Judiciary.

GENERAL LAW. Substitute for H.B. No. 7294 (RAISED) AN ACT CONCERNING CONVEYANCES OF MOBILE MANUFACTURED HOMES.

The bill was then referred to the Committee on Finance, Revenue and Bonding.

PUBLIC HEALTH. Substitute for H.B. No. 7306 (RAISED) AN ACT CONCERNING IMPLEMENTATION OF THE THOMAS COMMISSION RECOMMENDATION TO ELIMINATE EXPENSES FOR THE EXAMINING BOARD FOR PODIATRY.

The bill was then referred to the Committee on Finance, Revenue and Bonding.

PUBLIC HEALTH. Substitute for H.B. No. 7307 (RAISED) AN ACT CONCERNING IMPLEMENTATION OF THE THOMAS COMMISSION RECOMMENDATION TO ELIMINATE EXPENSES FOR THE EXAMINING BOARD FOR VETERINARY MEDICINE.

The bill was then referred to the Committee on Finance, Revenue and Bonding.

PUBLIC HEALTH. Substitute for H.B. No. 7308 (RAISED) AN ACT CONCERNING IMPLEMENTATION OF THE THOMAS COMMISSION RECOMMENDATION TO ELIMINATE EXPENSES FOR THE

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House of Representatives

Thursday, May 16, 1991

House Bill 7167 as amended by House "A" and
House "C".

Total number voting	144
Necessary for passage	73
Those voting yea	144
Those voting nay	0
Those absent and not voting	7

DEPUTY SPEAKER POLINSKY:

The bill as amended is passed.

REP. MINTZ: (140th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Mintz, for what purpose do you rise?

REP. MINTZ: (140th)

An announcement when you ask, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

The Clerk please return to the Call of the
Calendar.

CLERK:

Page 8, Calendar 563, Substitute for House Bill
7211, AN ACT CONCERNING EMPLOYMENT DRUG TESTING.
Favorable Report of the Committee on Judiciary.

DEPUTY SPEAKER POLINSKY:

Representative Adamo.

REP. ADAMO: (116th)

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

DEPUTY SPEAKER POLINSKY:

The question is on acceptance and passage. Will you remark?

REP. ADAMO: (116th)

Yes, Madam Speaker. Before I get into the file copy, would the Clerk please call and read, LCO Number 6628.

DEPUTY SPEAKER POLINSKY:

Will the Clerk please call LCO Number 6628 which is designated House Amendment "A", and will the Clerk please read.

CLERK:

LCO6628, House "A" offered by Representative Adamo.

DEPUTY SPEAKER POLINSKY:

Representative Adamo.

REP. ADAMO: (116th)

I had asked that he read the amendment, Madam Speaker.

CLERK:

Delete lines 32 to 36, inclusive, in their entirety.

DEPUTY SPEAKER POLINSKY:

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Representative Adamo.

REP. ADAMO: (116th)

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

DEPUTY SPEAKER POLINSKY:

The question is on adoption of House "A". Will you remark, Sir?

REP. ADAMO: (116th)

Yes, Madam Speaker. The language that we removed from the file copy would have provided that all of the laboratories doing the urinalysis testing be certified by the National Institute on Drug Abuse. This, speaking to the proponents of the bill, the Chamber of Commerce, ACLU, the labor folks, and the Labor Department, it was found that in the State of Connecticut there is one single laboratory that met that requirement and thus it would have been inappropriate at this time to move forward with this language.

It is my understanding through federal statute, that ultimately others will be certified, but until such time, it was thought best to take this language out and I once again move adoption of the amendment.

DEPUTY SPEAKER POLINSKY:

(Gavel) I know it's after the supper hour. One

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does tend to relax after the supper hour. But I would ask that you please relax quietly or out in the Lobby. Please. (Gavel) Thank you.

Motion is on adoption of House "A". Will you remark? Will you remark? If not, let us try your minds. All those in favor, please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Not in favor, nay. The ayes have it. The amendment is adopted and ruled technical. Will you remark further on this bill as amended?

REP. ADAMO: (116th)

Yes, Madam Speaker. The underlying file copy now provides for two changes in our existing drug testing legislation. One, it strengthens the language for privacy with relation to no urinalysis results being transmitted until they have been confirmed in the appropriate manner under the statute and two, and most importantly, it provides for the Commissioner of Labor to adopt regulations to further give a definition to the reasonable suspicion concept that is in the file copy.

It must be understood that the employers' biggest

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concern over the statute was the inavailability of an appropriate definition for reasonable suspicion. It was agree, as I said earlier, by the parties, the Chamber of Commerce, the employers and the like, that this would be the appropriate way, through Chapter 54.

I was just notified my food is here, so I will hurry.

The parties thought that it would be best to have this follow the chapter 54 definition and go through the Regulation Review Department and I would move adoption of the bill, Madam.

DEPUTY SPEAKER POLINSKY:

The question is on acceptance and passage. Will you remark further on this bill as amended?

Representative Beamon.

REP. BEAMON: (72nd)

Thank you, Madam Speaker. There is a problem which I have with this bill. The title itself is very seductive. AN ACT CONCERNING DRUG TESTING, and I know we want everyone to adhere to not utilizing substances which could be dangerous.

But in the Labor Committee and when I looked to line 49 of the file copy, I see an employer having such a reasonable suspicion. Then when I read the summary, it said the Commissioner here, of Department of Labor,

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is to adopt regulations setting circumstances presumed to create a reasonable suspicion.

I submit to my colleagues this evening, that majority of employers and their supervisory personnel really do not know who would be a substance abuser. And I really, really think that in our marketplace which is very, very hard to obtain employment and keep employment, that there are many, many ways of singling people out and getting rid of them in some way.

This bill doesn't go far enough. I also think we should discuss employee assistance programs and who has the opportunity to be involved with employee assistance programs.

Years ago if you had an alcohol abuse problem, you were canned, kicked out. And you would hope that you would have an opportunity to go into an EAP program. But as business is finding it increasingly hard to keep every benefit that our employees expect, it's very, very difficult to fund a good EAP program.

Then there's a problem, will everyone have equal opportunity to get in an EAP program? And will it be effective? So even though it sounds nice, and even though we're giving the Commissioner of the Department of Labor the right to come up with some rules and regulations as to how it's going to be done, I really

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don't see the Commissioner issuing an employment manual as to how to look for substance abusers.

As I say, very seductive, but crafted wrong. I oppose this bill, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, Sir. Will you remark further on this bill as amended?

REP. GYLE: (108th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Rell.

REP. GYLE: (108th)

Gyle.

DEPUTY SPEAKER POLINSKY:

Gyle.

REP. GYLE: (108th)

I've lost my identity, Madam Speaker. We did this bill last year, if you remember correctly, and I think if I'm understanding Representative Adamo correctly, that's exactly why we're doing this bill this year. We have to define reasonable suspicion and I think that's something that we need to have in our Regulations Review Committee.

They'll look at it after the Labor Commission comes out with it. You know, very honestly, reasonable

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suspicion to one person might be when they're staggering. Reasonable suspicion for someone else might be when their eyes are crossed. Reasonable suspicion for someone else may be when someone's talking articulately which they never did before.

And I'll be very honest with you, I have always opposed any kind of indiscriminate testing because I always felt very strongly that those tests could be used in a manner that was not intended by the Legislature.

For example, they could test to see if a woman was pregnant, which wouldn't be any of their business. And very honestly, that's been done. They've taken drug tests for a specific reason and done other tests on that sample, and that's a very disturbing thing to have to have happen.

And that's why we did the drug testing bill, several, I guess it was two years ago, we were very careful to make sure that there was a confidentiality factor. Very, very important. And there is a confidentiality factor and I'll tell you something else about the EAP programs. We wanted to make sure there was access and that those people that are going to them will not, under any circumstances be fired, because it is a sickness. It is something that we

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should be helping these employees with.

It's the same as discovering cancer. We're going to find out if these people are willing to undergo the necessary treatment for whatever drug they're addicted to, or substance abuse. And there are programs outside of companies that companies send their employees to.

Many times they're not even in the State, so there is no chance that this person is going to bear the stigma of seeing their neighbor walk into a We Help You House.

I really do approve of this bill. I think it does what we probably should have done before and I think it clears up an ambiguity that we had all along, and I'm very pleased that the Labor Committee has seen fit to address this issue.

DEPUTY SPEAKER POLINSKY:

Thank you, Madam. Will you remark further on this bill? Representative Samowitz.

REP. SAMOWITZ: (129th)

Thank you, Mr. Speaker. A question to the proponent. Through you, Mr. Speaker.

DEPUTY SPEAKER POLINSKY:

Please frame your question, Sir.

REP. SAMOWITZ: (129th)

If an employee tests positive, is there any

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requirement or anything that the employer has to do with that employee so that they get some help?

DEPUTY SPEAKER POLINSKY:

Representative Adamo.

REP. ADAMO: (116th)

Through you, Madam Speaker, the file copy which is before us does not contain that provision, unfortunately. The file copy in the bill that was JFd out of our Labor Committee to Judiciary, did in fact provide for employee assistance programs paid for by the employer. Unfortunately, that was not acceptable to the primary players in this particular scenario and it was taken out of the Judiciary Committee as a result of negotiations with those prime players.

I could not agree more with the concept of EAPs that my good friend, Representative Beamon and Representative Samowitz are kind of heading toward. I think that we ought not test and fire, we ought to test and help because we ought not to be looking to put people out of work, because I think we'd compound the problem.

Unfortunately, under the provisions of this particular bill and what was acceptable by the most important people that wanted it to go forward, we could not get the bill out of Judiciary with that type of a

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provision, but I certainly share your concerns and would like to have had it in the bill.

DEPUTY SPEAKER POLINSKY:

Representative Samowitz, you still have the floor.

REP. SAMOWITZ: (129th)

Thank you, Mr. Chairman. Madam Speaker, I have an amendment, LCO 6838. May the Clerk call and may I be permitted to summarize.

DEPUTY SPEAKER POLINSKY:

Will the Clerk please call LCO Number 6838 which shall be designated House Amendment "B".

CLERK:

LCO6838, House "B", offered by Representative Samowitz.

DEPUTY SPEAKER POLINSKY:

The gentleman has asked leave of the Chamber to summarize. Is there objection? Seeing no objection, please proceed, Representative Samowitz.

REP. SAMOWITZ: (129th)

Ladies and gentlemen of the Assembly. This amendment simply does as it says, that you shouldn't be drug testing unless if you find out the answers you're capable of doing something about it.

And what it does is, it says that you either have to have health insurance which provides for assistance,

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or it says that you have an employee assistance program. That's the only way that we can have a legitimate drug testing policy that is designed to do something about people with substance abuse.

How could you test and do nothing about it afterwards? If you find the results, what are you going to do about it? Fire the person? Put him on State assistance? Do nothing about it. I don't think that's a good policy.

What this does, it says if you're going to test, you're going to do something about it. You accept that responsibility. Otherwise, as Representative Gyle pointed out, it can be used for a lot of other abuses. At least this puts the employer in the position of dealing with the problem and not just ignoring the problem. And despite the fact that there are players involved, I think it should be the General Assembly that should be deciding this issue and not the so-called players out there.

I move its adoption.

DEPUTY SPEAKER POLINSKY:

The question is on adoption of House Amendment "B". Will you remark? Representative Adamo.

REP. ADAMO: (116th)

Thank you, Madam Speaker. Madam Speaker, first let

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me clarify the word players. The word players are basically the very people who are affected and impacted by the bill, the employers, the employees, the employee representatives and in fact, the employers through the Chamber of Commerce who came to us and ask that we go forward.

With a clarification of what everyone seems to think was the most important clarification, that being one strict confidentiality and two, making sure that the question of reasonable suspicion was addressed.

To my knowledge, most employers try to provide help to those people who test positive, and there are protections for those employees, many times, through collective bargaining agreements to give the protections.

And I am sorry to say, and I mean it sincerely, that I have to reluctantly stand to oppose this amendment. This amendment will kill this bill. And if we're going to kill this bill, I think we do an injustice to employers and to employees alike who are facing a very serious problem today regarding the use of drugs in the workplace.

You know, we had a bill just the other day that came before us regarding drug testing for truck drivers. It will be back to the floor again next week.

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It provides with the federal programs. But not even on a federal basis, and even with the strictest of regulations, do we mandate anywhere EAPs. I would like to do so, but I once again reluctantly stand to oppose the amendment and beg the indulgence of this Chamber and ask that they oppose it as well. Thank you very much.

DEPUTY SPEAKER POLINSKY:

Thank you, Sir. Will you remark further on this amendment? Representative Taylor.

REP. TAYLOR: (79th)

Thank you Madam Speaker. Through you a question to the proponent of the amendment, please.

DEPUTY SPEAKER POLINSKY:

Please frame your question, Sir.

REP. TAYLOR: (79th)

Yes, I was wondering if there was any fiscal note attached to this amendment or if perhaps the goldenrod was stamped with a fiscal note.

DEPUTY SPEAKER POLINSKY:

Representative Samowitz.

REP. SAMOWITZ: (129th)

Through you, I don't have a fiscal note on this amendment. I've been waiting for one and I will certainly relieve the Chamber. I hope to get one very

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soon.

DEPUTY SPEAKER POLINSKY:

Representative Taylor.

REP. TAYLOR: (79th)

Well, I won't raise a point on that at this time, Madam Speaker. I would like to say, and the substance of the amendment, I understand how difficult it must be for Representative Adamo, because I know that he shares a concern that we have these programs.

But we have to look at this thing from two perspectives. One is identifying the problem for the benefit of the employee. The other is identifying the problem for the benefit of not only the employer, but the rest of the people who must work with that individual. They can be posing a threat to others in terms of operating machinery and carrying on their duties and I think our first concern has got to make sure that the workplace remains safe.

And as Representative Adamo had pointed out, adoption of this amendment would probably kill the bill and I don't think we should take this chance at this time. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, Sir. Will you remark further on this amendment? Representative Radcliffe.

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REP. RADCLIFFE: (123rd)

Thank you, Madam Speaker. A question, through you, to the proponent of the amendment.

DEPUTY SPEAKER POLINSKY:

Please frame your question.

REP. RADCLIFFE: (123rd)

Through you, Madam Speaker. Representative Samowitz, where you say no employer may require. In this particular amendment, would that include employers in safety sensitive occupations? Through you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Samowitz.

REP. SAMOWITZ: (129th)

Through you, Madam Speaker, it would be all employees who are tested, whether they're for cause or without for cause.

REP. RADCLIFFE: (123rd)

Then through you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Radcliffe.

REP. RADCLIFFE: (123rd)

Then through you, Madam Speaker, that would include employers who have registered and have been certified by the Department of Labor as engaging in safety

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sensitive occupations. Through you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Samowitz.

REP. SAMOWITZ: (129th)

Yes. However, most employers who are in safety sensitive occupations, in fact all of them that I can think of, have such a health program available, so it would not be really in reality, germane to them.

DEPUTY SPEAKER POLINSKY:

Representative Radcliffe.

REP. RADCLIFFE: (123rd)

Through you, Madam Speaker, I would oppose the amendment on the basis that I think that some employees who have sought certification as safety sensitive who do engage in occupations in the workplace which are dangerous, which can presuppose a danger to other employees in the workplace might not be able to perform tests which they are able to perform under existing law if they have a reasonable suspicion. On a random basis, if this amendment were adopted, I'm certain the amendment is well-intentioned. It certainly was discussed in the Labor Committee, but I would join the Chairman of the Committee in opposing this particular amendment.

I think we may be creating, inadvertently, and I'm

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certain that it's inadvertent, a dangerous condition in the workplace where we have a safety sensitive occupation where the employer has sought designation by the Department of Labor, where they've attempted to test on a random basis where the reasonable suspicion test does not apply, and therefore might be prohibited from doing so and therefore might be prohibited from eliminating or from preventing serious injury or worse in the workplace, so although I'm certain the amendment is well-intentioned, I would have to join the Chairman of the Labor Committee in opposing it on that basis.

DEPUTY SPEAKER POLINSKY:

Thank you, Sir. Will you remark further on this amendment?

REP. SAMOWITZ: (129th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Samowitz.

REP. SAMOWITZ: (129th)

I think that the policy of this State should be one of helping and not one of casting aside those who have troubled pasts, those who have a problem. I think that if we look at the financial impact, maybe there's no fiscal note, but I think it's all obvious to all of us here that without such a thing the employee who's

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discharged, sent back onto the street with the problem will cause a greater cost to society than had there been a program.

I think the small cost of, since most employers as Representative Adamo said, do have it, it would probably not impact a lot of even the major corporations, but for those small corporations who do have this power without having the protections of an employee assistance program or health insurance, I think it's it sets a dangerous course and is not in the best interest of the people of the State of Connecticut.

DEPUTY SPEAKER POLINSKY:

Thank you, Sir. Will you remark further on the amendment? Representative Adamo.

REP. ADAMO: (116th)

Thank you, Madam Speaker. Thank you, Representative Radcliffe for breaking the point about the safety sensitive employers. Over 60 employers have met the standard of safety sensitive, and let me just reiterate for the House if I might for just a quick moment, some of the changes we've made since 1987.

For example, we test all school bus drivers. This amendment undoes that. We just can have that happen. I don't think we want it to happen. I think we want our

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children who are riding school buses to be safe. That is one of many examples that I could give you for I think an excellent reason to vote against this amendment, and at another time and another place, I would certainly join Representative Beamon and Samowitz in moving forward on employer assistance programs, but not now. I think we're doing too much damage with it.

DEPUTY SPEAKER POLINSKY:

Representative Samowitz, for the third time.

REP. SAMOWITZ: (129th)

Yes, thank you.

DEPUTY SPEAKER POLINSKY:

Representative Samowitz is speaking for the third time. Is there objection? Seeing no objection, please proceed, Representative Samowitz.

REP. SAMOWITZ: (129th)

In view of Representative Adamo's promises and assurances, I will withdraw this amendment at this time.

DEPUTY SPEAKER POLINSKY:

The gentleman has asked that the amendment be withdrawn. Is there objection? Seeing no objection, House Amendment "B" is withdrawn. Will you remark further on this bill as amended? Will you remark further? Representative Radcliffe.

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REP. RADCLIFFE: (123rd)

Madam Speaker, I rise in support of the bill, but I think it's necessary perhaps to deal for a few moments with some of the concerns which were raised by the gentleman from the 72nd District earlier, regarding employee testing because I think they're well taken.

And although his was the only vote in Committee against this bill, I wish to assure him he was not a voice crying in the wilderness when it came to these particular concerns.

We do have a bill on our Calendar, as Representative Adamo indicated, actually it's File 302 which does contain some standards that are in federal law. Right now, it's very difficult for any employer to know what a reasonable suspicion is, even if you're looking in the law. We know what probable cause is. There are some standards in the criminal sense for what probable cause is.

Reasonable suspicion is nowhere defined. It is hoped that these regulations will give an employer some guidance, will also give the employee some guidance as to exactly what a reasonable suspicion is, and I would suggest that the Department of Labor has an excellent place to start in terms of federal law that's applicable regarding the definition of reasonable

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cause. They don't use the word reasonable suspicion, they use reasonable cause.

Reasonable cause essentially means that the actions, appearance or conduct of the employee while on duty, are indicative of a use of a controlled substance. It does much farther than that, however. It says that the individual making the observations must have some experience or training in the making of those observations and then provides, as does our law, for a second test.

So I would suggest that what we're essentially doing here is giving the Commissioner of Labor and giving the Department of Labor, the opportunity to address some of the very valid concerns that Representative Beamon has raised. Very valid concerns which are addressed in federal law and the Labor Department might do very well to take a look at federal law on this subject, both for purposes of uniformity and conforming with federal law, as well as for purposes of employee protection and employee rights to a safe, drug free workplace, both of which I think can be accomplished within those regulations.

Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, Sir. Will you remark further on this

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bill? Will you remark further on this bill as amended?
Representative Beamon.

REP. BEAMON: (72nd)

Thank you, Madam Speaker. I'd just like to thank our esteemed Ranking Member for his explanation of my concerns on this bill. Thank you. Thank you.

DEPUTY SPEAKER POLINSKY:

Thank you, Sir. Will you remark further on this bill as amended? Will you remark further?
Representative Newton.

REP. NEWTON: (124th)

Yes, Madam Speaker. I'm just kind of confused and I recognize from listening to the debate, that even if the Commissioner finds out, or we find out that someone is on a substance, and we suspend that person, what do we do to help that individual to get off that substance?

Now the problem is, either we pay now or we pay later. We continue to build more jails to incarcerate people and put them away for committing crimes, or we address the real problem that we have in this country, and that's some sort of substance abuse program to help people get off drugs or alcohol or whatever it might be.

So that's what I'm confused about and we don't

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address that and that's the biggest issue. Thank you.

DEPUTY SPEAKER POLINSKY:

Thank you, Representative Newton. Will you remark further on this bill as amended? Will you remark further? If not, will all members please take their seats. Staff and guests to the well of the House. Staff and guests to the well of the House. The Machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members please report to the Chamber. The House of Representatives is taking a roll call vote. Members to the Chamber, please.

DEPUTY SPEAKER POLINSKY:

Have all the members voted?

SPEAKER BALDUCCI:

If all the members have voted, the machine will be locked. The Clerk take a tally. The Clerk please announce the tally.

CLERK:

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Thursday, May 16, 1991

House Bill 7211 as amended by House Amendment
"A".

Total number voting	141
Necessary for passage	72
Those voting yea	135
Those voting nay	7
Those absent and not voting	9

SPEAKER BALDUCCI:

The bill as amended is passed. Announcements or
points? Representative Mintz of the 140th.

REP. MINTZ: (140th)

For the purpose of an announcement, Mr. Speaker.

SPEAKER BALDUCCI:

Proceed.

REP. MINTZ: (140th)

Thank you, Mr. Speaker. The Judiciary Committee
will meet Tuesday, ten minutes before the convening of
the House Session in the Hall of the House to take up
bills referred from the floor.

Also, 8:30 Saturday morning, Judiciary Public
Hearing in Room 2C to talk about judges.

REP. LOONEY: (96th)

Mr. Speaker.

SPEAKER BALDUCCI:

Further announcements? Representative Looney.

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Saturday, June 1, 1991

SPEAKER BALDUCCI:

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

CLERK:

The House of Representatives is voting by roll.
Members to the Chamber please. The House is voting by roll. Members please report to the Chamber.

SPEAKER BALDUCCI:

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

The Clerk please announce the tally.

CLERK:

House Bill 7339, as amended by House Amendment Schedule "A".

Total Number Voting	146
Necessary for Passage	74
Those voting Yea	144
Those voting Nay	2
Those absent and not Voting	5

SPEAKER BALDUCCI:

The bill as amended is passed.

CLERK:

Page 19, Calendar 563, Substitute for House Bill

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7211, AN ACT CONCERNING EMPLOYMENT DRUG TESTING. (As amended by House Amendment Schedule "A" and Senate Amendment Schedules "A" and "B").

Favorable Report of the Committee on Judiciary.

REP. TULISANO: (29th)

Mr. Speaker. Are you getting tired of me, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Tulisano of the 29th.

REP. TULISANO: (29th)

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

SPEAKER BALDUCCI:

The question is on passage in concurrence. Will you remark?

REP. TULISANO: (29th)

Yes, Mr. Speaker. Mr. Speaker, the Clerk has -- a Point of Information, Mr. Speaker. We've already passed House "A". Do we have to repass it at this point?

SPEAKER BALDUCCI:

No, for clarification, House Bill 7211 was amended by House "A" along with the bill on May 16th. It was then moved along to the Senate. All you have to do,

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sir, is move the Senate Amendments.

REP. TULISANO: (29th)

Mr. Speaker, the Clerk has an amendment, LCO6996.

SPEAKER BALDUCCI:

The Clerk please call LCO6996, designated Senate "A".

CLERK:

LCO6996, Senate "A", offered by Senator DiBella, et al.

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Representative Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, the amendment before us, Senate Amendment Schedule "A", makes sure that an employer/agent cannot require as a condition of employment that an employee not use smoking products outside the course of their employment. Exempted from this is any nonprofit corporation whose purpose is to discourage the use of tobacco products.

It further exempts from the provisions of this statute --.

SPEAKER BALDUCCI:

(Gavel) Please, ladies and gentlemen, so we can get out here of this Chamber in a timely fashion this

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evening, if we'd give our attention to Representative Tulisano and those people who plan on discussing this bill. Representative Tulisano.

REP. TULISANO: (29th)

It also, as I said, exempts municipalities from current hiring practices from the pre-employment test requirements with regard to smoking. That particular relates to the issues of heart and hypertension for policemen and firemen.

I move adoption of the amendment.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark? Will you remark? Representative Farr of the 19th.

REP. FARR: (19th)

Yes, Mr. Speaker, a Point of Order. I don't believe this amendment is germane to the bill before us. I point out to the Speaker that the bill concerns drug testing. There is nothing in this amendment having to do with drug testing.

SPEAKER BALDUCCI:

(Gavel) The Chair is ready to rule on Representative Farr's Point of Order and although at first glimmer it seemed like we could not find a silver or silken thread. In looking over the amendment and the proposed bill, both of the items, the bill and the

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amendment both deal with employment and conditions under which employment can or cannot be allowed. The amendment deals basically with the use of tobacco products and nicotine and the main body of the bill under Section 31 dealing with the use of drugs or alcohol and although I say that this is certainly the silken thread holding the two together, I would think the employment conditions would be enough in this case to make the tie and therefore the Point of Order is not well taken.

Will you remark further on the bill?

Representative Adamo.

REP. ADAMO: (116th)

Thank you, Mr. Speaker. I rise to oppose the amendment. It's ironic that we've just debated for an hour and a half or just about an hour the need for this Chamber to reduce costs for employers. Every fact that has come forward from the National Health Associations, from the Attorney -- I'm sorry, the Surgeon General's Office, every comment indicates that smoking is hazardous to your health. More lost time, more injuries and the like occur as a result of smoking and here we are, right after trying to save some money for employers, moving forward with this -- I think someone is trying to sell this as a civil rights bill, but I'm

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sure that Philip Morris isn't worried about civil rights.

I stand to urge you to oppose this amendment. We're creating another class of protected people. It's wrong and it ought not go forward.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this amendment?

Representative Farr.

REP. FARR: (19th)

Thank you, Madam Speaker. Madam Speaker, Members of the Chamber, I'm sure you're going to hear great arguments about this protection of somebody's rights to do something in his home. I think if anybody has any question about whether smoking is something you do in your home, you ought to take a walk out to the lobby out here because there are many of the vices we all participate, the one we most commonly take to our place of employment is smoking.

Smoking is not something you sit around and say, "Boy, I can't wait for the weekend, until I can light up again." Your employers don't sit there and say, "Boy, I'm going to have a couple of smokes on the way home." Smoking is one of the most -- most health people believe that smoking is the most addicting drug in our society. Those who are addicted to smoking

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can't even sit here during the course of this debate without running out to the hall to get a fix and I -- that may sound funny, but that is the reality.

The reality is that when we ban smoking on flights -- people who wanted to go cross-country had to reschedule their flight so they could get off in Chicago or get off somewhere so they didn't have to go four hours because they couldn't make it. Now we're saying that an employer is going to -- who has somebody who smokes or he's going to hire somebody and says, "I prefer not to have somebody smoking," is interfering with your protected rights, your protected rights, your protected rights to engage in what the Attorney General has described as the most dirty, filthy form of suicide and that's what it is indeed and the problem with this is it doesn't weigh the other rights. It doesn't weigh the other rights.

Representative Lavine distributed to you the recent article on the cost of second-hand smoking and the best estimates are that 53,000 people a year lose their lives to second-hand smoke. Where is the rights of those people in this amendment? We have given them no rights. People are losing their lives as a result of second-hand smoke and now we say, but wait a minute. This, this vice among all else must be elevated to the

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plane of a protected right. This vice among all else.

I urge you, I plead with you, don't adopt this amendment. Thank you.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this amendment? Will you remark further? Representative Young.

REP. YOUNG: (143rd)

Madam Speaker, a question, through you, to Representative Farr.

DEPUTY SPEAKER POLINSKY:

Of course. Frame your question, sir.

REP. YOUNG: (143rd)

You gave us an elegant description of the evils of smoking and handed us an article that has to do with second-hand smoke. I don't see how that in any way relates to somebody's right to smoke in his own home, through you.

REP. FARR: (19th)

Thank you, Representative Young. I'd point out two things.

DEPUTY SPEAKER POLINSKY:

Through the Chair, sir.

REP. FARR: (19th)

Through you, Madam Chairman, two points. Number

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one, if someone's right -- if we're concerned about rights and protecting the right to smoke in the home, the irony is why would you preclude policemen and firemen? What happened to their rights? What happened to their rights. They're precluded from having any rights under this amendment, but secondly, my point is there has been no testimony in any hearings of people losing jobs, being denied employment because of smoking.

The fact of the matter is that smoking is not something people engage in after hours. If you're an addict, the vast majority of addicts can't go eight hours without smoking. That's the bottom line.

REP. YOUNG: (143rd)

Madam Speaker, you're not answering the question. I don't care whether we tell them they can't smoke in the working place or certain places in the working place. I asked you what does that have to do with their right to smoke at home.

DEPUTY SPEAKER POLINSKY:

Representative Young, through the Chair.
Representative Farr.

REP. FARR: (19th)

My point is that it's an absurdity to say that we're passing legislation to guarantee the right of

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those people who only smoke at home. They don't exist. They may exist. I shouldn't say they don't exist. Obviously in our society there are all sorts of people out there and maybe one or two percent of the smokers actually smoke occasionally, but what we're dealing with is a pool of people who smoke all day long and so if somebody's employed and you say, "Well, I have to hire you because you're a protected right."

REP. YOUNG: (143rd)

Madam Speaker, this does not deal with people who smoke all day long. It deals with people who smoke outside the workplace.

DEPUTY SPEAKER POLINSKY:

Representative Young, you still have the floor.

REP. YOUNG: (143rd)

The other question I'd like to ask is to carry this to extreme, if we're dealing with second-hand smoke, what about people who go home to spice (spouse), that smoke, spice being the plural of spece? Should we prevent them from working because they're going to contend with second-hand smoke. This is absurd, Madam Speaker, thank you.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further?

Representative Lavine.

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REP. LAVINE: (100th)

Madam Speaker, before I -- I wonder if we could have just a little order, Madam Speaker, before we get on.

DEPUTY SPEAKER POLINSKY:

It's been a fun afternoon, folks, but Representative Lavine had to ask for a little order so he could hear himself think and I think it is a courtesy that you should extend to all the speakers this afternoon. Keep the noise down so we can hear each other. If you have conversation, take it out into the lobby. Please take it out into the lobby. Thank you. I apologize, Representative Lavine. Please proceed.

REP. LAVINE: (100th)

Thank you, Madam Speaker. You know, ladies and gentlemen, this year in Connecticut 700 people are going to die because of passive smoke inhalation. That's a figure which is extracted from the 53,000 deaths which will occur across the nation.

I'd like to answer Representative Young's query. He asked a very good question. He said what is the relationship of people who smoke at home and should be protected. What's that relationship to the workplace? The answer very simply is that people who smoke at home

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have a much higher absentee rate, have a much higher illness rate and cost the employer considerably more dollars. That, sir, is the reason why when you give them a protected class you are in fact affecting the business community.

There's an interesting article and I'd be glad to share it with anybody called, "Can You Afford to Hire Smokers?" It deals with both smoking at home and smoking in the workplace, but if you hire a smoker, and the article is from the "Personnel Administrator Magazine." What it says is that the annual costs of employing smokers and allowing smoking in the workplace is \$4,600, but a number of those costs are absentee costs and medical costs.

You know, ladies and gentlemen, we may pass this amendment today. It's been before us and there has been in this session an inclination to go with amendments such as this one which are substantially lobbied, but ladies and gentlemen, you can be sure that the tide on smoking is running the other way.

Let me tell you several things that may be of interest in this debate. At home if you are a smoker and your spouse is a smoker, your child has twice the chance of getting lung cancer. Should we make that a protected class? If indeed you are a smoker, if you

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are a smoker, whether you smoke on the workplace or not, you have a 25 percent higher chance of being in an automobile accident and we will be glad to share this from the Surgeon General's Report. You are liable to affect your fellow workers. You are going to be yourself the primary cause of death in the United States which is avoidable and passive smoke is the third largest cause of avoidable death.

Ladies and gentlemen, we may pass this this year, but we will be back. These facts are coming very quickly. The facts are on the side of the health detriment of those who smoke and those who inflict smoke on others and, ladies and gentlemen, the cost to the nation, the cost to the nation, the cost to the business place, the cost to the home place, the cost to our children is too much to accept. We will recognize it and we will be back.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this amendment? Representative Stolberg.

REP. STOLBERG: (93rd)

Madam Speaker, it's a shame that the Chamber is relatively empty because this is a very important issue and it is an issue of the utmost importance because it is an issue that introduces rights in conflict. There

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are conflicting rights and this amendment brings them into a nature of conflict that is precedent setting and vital to be understood in order to cast a reasoned vote on this amendment.

Representative Young has posed a question that I don't think has been adequately answered yet and that is if the person is smoking at home, isn't it a violation of that person's rights to prevent them from a job or a promotion or other workplace considerations? I think there are two responses to that question that need to be examined in full.

One is that the costs of employing that person are indeed higher even if that person does not smoke at the workplace, but smokes only at home, only at home. Insurance costs are higher, a whole range of costs are higher. Now that can be dealt with and has been dealt with in some circumstances by having those particular employees pay an additional premium to cover the additional costs of employing those employees. That's only one thing.

The second item, though, where I would respond to Representative Young is that those employees who smoke not in the workplace, but come into the workplace, have to work with other individuals. One, they sometimes reek from smoke and individuals who are sensitive to

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that, in day care institutions, in a wide range of institutions, are very sensitive to it. You may laugh, but I have some sensitivity to smoke and in workplaces, I have had to sit next to people. Now some smokers, fine. Others, their clothing, my clothing, sitting next to sometimes it's the point where it affects me.

Now that is a situation where rights come into conflict. You have a workplace where a majority of people do not smoke, do not like the smell of smoke and people carry the smell of smoke in with them. How are rights going to be protected?

Mr. Speaker, this is a type of bill or amendment that is being pushed very hard by the tobacco industry now. What they have not accomplished through the front doors, they are trying to bring in through the back doors of what pretends to be workers' rights or civil rights legislation. This is not workers' rights. It is not civil rights.

If a person smokes once a week, twice a week, three times a week, does not bring the effects of smoking in terms of endangered health, higher insurance premium, a whole range of additional factors, the person could pass as a non-smoker.

Madam Speaker, this amendment was considered as a bill. The bill is not before us. It comes by a

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circuitous Senate Amendment and the American Lung Association, the American Cancer Society, virtually all of the health groups who have made some progress in protecting the health of our children are opposed to this concept because it is the kind of thing that establishes a legal basis for the tobacco industry to move further and further and suck our children into the vice that unfortunately some of us suffer from.

I urge rejection of this amendment. One, to protect the rights of the non-smokers in the workplace who don't want stale tobacco smoke brought into their environment, and two, to protect the employers who want to minimize their overhead and minimize their cost and should they, very few do now, but I admit in the future, in the future we may see rampant requests by employers that their employees not smoke, and if they do, certainly that they at least compensate for the additional costs they are bringing to the job.

Madam Speaker, I strongly urge rejection of this amendment.

DEPUTY SPEAKER POLINSKY:

Thank you. Will you remark further?

Representative Gelsi.

REP. GELSI: (58th)

Madam Speaker, thank you. I rise to support the

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amendment and I found some of the arguments to the people who are opposed to it a little bit insulting, but I guess that's the nature of the beast. I've asked those same associations that Representative Stolberg just mentioned that would be opposed to this amendment passing why they never went after the people that burn wood in their fireplaces that I find repugnant when I can't breath in my home because of the wooden smoke and not knowing what's in that smoke and they kind of smile and I said, "Isn't that the reason why people send donations to you and your money and you wouldn't dare go after them?" They never answer the question. They just smile.

We look at a government that operates a little bit crazy. The Surgeon General says passive smoke is bad. Smoking is bad. People are going to die. The Congress of the United State and the President of the United States subsidize the tobacco farms. The federal government taxes cigarettes and tobacco. The State of Connecticut taxes cigarettes and tobacco at the tune of about \$118 million to \$126 million a year. I don't see anybody having the guts to say, "Let's get rid of the taxes on cigarettes." I think that Coalition Package was trying to raise it another ten cents for those of you that are so disdained to people smoking you were to

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at least take their money and just say you can't smoke anyplace but outside and in the person's own individual and private home because I can tell you, no matter what you pass here or no matter what my employer says, as long as I paid for that home of mine, and it is mine and I'll damn sight do what I will and I defy anyone to pass a piece of legislation that would say that I won't or that anybody else shouldn't and I really don't think it's anybody's damn business what I do in my home. I worked for it. I paid for it and I didn't lose the times that Representative Lavine was talking about or Representative Stolberg. I went to work every day of my life and I paid for that home. And it's mine and I be damned if you can tell me what I can or can't do inside of my house.

DEPUTY SPEAKER POLINSKY:

Will you remark further? Representative Norton.

REP. NORTON: (48th)

Thank you, Madam Speaker. Well, first of all, I rise to support the amendment. Let me say that. I have been proud to have been associated for voting for quite a few bills that have extended rights to people in the past five years here.

I voted for the Gay Rights Bill which not everyone in this direction does, but I did and a lot of people

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who opposed it said, why should you have to have that right? It's a behavior and it's something that isn't necessarily going to automatically be subject to discrimination like being black, like being a woman and I hear Representative Stolberg talk about smokers who if they didn't smoke at work and wore clean clothing could pass when they got to the worksite. Well, I'm sorry, but many people with whom you certainly disagreed talked about homosexuals if they wanted to could pass when they got to the worksite.

I voted for bills that protected workers' rights when it came to drug testing, and as a matter of fact, a lot of companies are very apprehensive about testing people for drugs even if they have a rather obvious reason, stumbling around the job, for testing them. You can't tell me that drug use might not affect absenteeism and job use -- job performance and health insurance premiums and yet this General Assembly passed a law which very much restricted an employer's right to test for someone's drug use even if it was on the worksite, forget at home.

A few years ago I voted for a bill which protected people from discrimination if they had AIDS. Let me tell you folks, I'm guessing there's some absenteeism associated with having AIDS which Representative Lavine

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thought was very important in opposing this amendment because there'd be absenteeism and job performance and health insurance premiums and people are exposing their children to these dangers. People who take their kids rock climbing, allow their kids to skateboard, allow their kids to downhill ski, allow their kids to get near a swimming pool are endangering the lives of their kids and I'm sure are killing more kids than passive smoke is.

If 700 is the number for everyone in the population, how many kids under 12 are dying from passive smoke? Not as many are dying in swimming pools, beaches, climbing rocks or driving in automobiles. The tendentiousness is so obvious. We are willing, as a General Assembly, to afford protections to people who have acquired AIDS, to people who are homosexual, to people who are -- or drug users, but mainstream America that likes smoking cigarettes, tough luck. You're bad and I'm with you on extending those other protections and I'm going to extend this one too.

Absenteeism at work, an observant Jew would contribute to absenteeism at work. It just doesn't seem to me to make sense to worry about someone's home life in their work life. That's why I voted for the AIDS

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protection bill. That's why I voted for the drug testing bill and that's why I voted for the Gay Rights Bill and that's why I'm going to vote for this bill.

Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further?

Representative Graziani.

REP. GRAZIANI: (57th)

Thank you very much, Madam Speaker. You know, the law is a wonderful creature because the law is able to eradicate an injustice and when we can eradicate discrimination based upon age, that's a good thing. When we can eradicate discrimination based upon religion, that's a good thing. When we can eradicate discrimination based upon sex discrimination, that's a good thing, but, ladies and gentlemen, we've gone too far today with this particular amendment because what we're trying to do is create smokers' rights and smoking is a habit that is unquestionably harmful to the people who participate in it. Smoking is a habit that is unquestionably harmful for people who are near people who participate in it and smoking is a habit that is unnecessary.

My question is why stop there? If we pass this amendment are we going to have people coming in

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requesting anti-discrimination laws for people who eat fatty foods? Are we going to have people coming in requesting anti-discrimination laws for people who consumer alcohol? Are we going to have people coming who drive motorcycles, who do skiing, who have other dangers? Ladies and gentlemen, we're going to be opening up the door to a lot of other issues and habits that are going to say if you did it for the smokers, do it for us.

Ladies and gentlemen, with this amendment and with the creation of smokers' rights we picked as an avenue for the law to address as another right a habit that creates 400,000 deaths a year for people who smoke. We've picked a habit that creates an approximate amount of 53,000 deaths a year for people who don't smoke who are associated with people who do in fact smoke.

Ladies and gentlemen, let's not be hypocritical. We have sin taxes placed on cigarettes because we want to send the message to discourage cigarette smoking. We have it illegal for a minor to buy a cigarette because we feel it's not good for minors and send a message that cigarette smoking is not good. We have laws that say that you can't smoke in a public place, that you can't smoke on an airplane, you cannot smoke in this esteemed House, but now all of a sudden we're

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coming forward and saying, "Well, we've got to protect the smokers from their particular rights.

Ladies and gentlemen, what I'm suggesting to you is that if we pass this amendment, God only knows what other people are going to come in and expect fair and equal treatment.

When you look at the Constitution of the United States, the Bill of Rights eliminates or states certain rights that people have, but there's one important amendment that people forget about and what it says is that the rights not enumerated in the Bill of Rights belong to the people, not that they don't belong unless you're given them. If it wasn't mentioned, it belongs to the people, and so I suggest, ladies and gentlemen, that it would be a very bad public policy mistake, not only for smokers, but for all of the other tens of thousands of habits that can be deemed to be expensive.

Additionally, smoking does create a burden for our health system. We should send a clear and distinct message that the State of Connecticut is not going to do any laws that it's going to encourage smoking. Ladies and gentlemen, it is my suggestion that this amendment go up in smoke and be defeated.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this

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amendment? Representative Taylor.

REP. TAYLOR: (79th)

Thank you, Madam Speaker. I guess the interesting thing about rights around here is rights are only good as long as they don't interfere with your own view of what a perfect world ought to be. I'm not a smoker and I don't particular like smoke, but as long as it remains a legal activity in this state and in this country, how in God's name can we say it's okay to discriminate against somebody in terms of their employment because of what they do?

You've already said they can't smoke on the flights. You've already said that certain rooms in public buildings are off limits. They can't smoke there. Every day we say you can't do it here, you can't do it there because we're going to protect all the rest of the public from your habit, but now you're going to say, oh, we're going to reach into your own house and we're going to say you can't do it there because if you do it there, you can't work here. It's the most ridiculous argument I've ever heard and you're right, Representative Graziani, what next? The red meat eaters, people with high cholesterol, the people who have a couple of beers at night? Because it doesn't fit our view of what a nice, clean perfect

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world is.

Well, I'll tell you what. There were a lot of people in this Chamber who didn't think that homosexuality was fit their view of a nice, clean perfect world, but a number of us stood up and said, sorry, just because it doesn't fit your moral standards, doesn't mean you're going to use that as a reason to discriminate against someone in terms of employment and that's the same principle that applies here. You can twist the arguments any way you want. You can get up on your high horses any way you want, but it's the same principle. It's a legal activity and as long as it is, you can't discriminate.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this amendment? Representative Loffredo.

REP. LOFFREDO: (33rd)

Madam Speaker, a question to the person that brought the bill out, the proponent of the bill.

DEPUTY SPEAKER POLINSKY:

Please frame your question.

REP. LOFFREDO: (33rd)

The amendment. The question has to deal with Section B.

DEPUTY SPEAKER POLINSKY:

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(Gavel) I doubt if Representative Tulisano could have heard Representative Loffredo and certainly if Representative Tulisano replied, I doubt if Representative Loffredo could have heard Tulisano. One way or the other, there is too much noise in the Chamber, and again, I would ask you to take your conversations out into the lobby.

REP. LOFFREDO: (33rd)

Madam Speaker, my question has to deal with Subsection B of the amendment and I would ask, through you, to Representative Tulisano if he could explain for what purpose Subsection B, 1, 2 and 3 is within the amendment. I would appreciate hearing his words on that.

DEPUTY SPEAKER POLINSKY:

Representative Tulisano.

REP. TULISANO: (29th)

Through you, Madam Speaker, I believe it deals with the issue of heart and hypertension as it affects the municipality, particularly police departments and fire departments, I think.

DEPUTY SPEAKER POLINSKY:

Representative Loffredo.

REP. LOFFREDO: (33rd)

Through you, Madam Speaker, then I assume the State

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of Connecticut at some time adopted as public policy heart and hypertension statutes and I guess I'd like to know what those particular statutes have to do with Subsection A of the amendment.

DEPUTY SPEAKER POLINSKY:

Representative Tulisano.

REP. TULISANO: (29th)

Subsection A makes it clear that no employer, as a condition of employment refrain from smoking or using tobacco products outside the course of their employment. So Subsection B then, in relation to that, makes three either clarifications or exclusions. One is a clarification and the other an exclusion.

One, construed to affect is a clarification, the smoking in the workplace issues. That's 31-40q through 31-40r. Two, municipal hiring practice involving fire fighters and paid officers. Under current -- I understand under some current practices with regard to pre-employment, the municipalities are excluding from employment people who smoke and that is, I guess, indirectly related to the issue of heart and hypertension which is another issue in the General Assembly, and number three, a collective bargaining agreement, pay fire fighters or pay police officer what the relationship is after employment with regard to

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those two also in relationship to heart and hypertension.

So because it is a general statement in Section A, these are the exclusions or clarifications with regard to the general statement of Section A.

DEPUTY SPEAKER POLINSKY:

Representative Loffredo, you still have the floor, I think.

REP. LOFFREDO: (33rd)

Madam Speaker, through you, is there therefore any relationship between the use of tobacco and smoking outside of employment that relates to heart and hypertension as contained in Subsection 31-40q and 31-40r?

DEPUTY SPEAKER POLINSKY:

Representative Tulisano.

REP. TULISANO: (29th)

Through you, Madam Speaker, I personally have no evidence of what section, but I'll listen to Mr. Adamo. He seems to indicate there might be, I think his initial statements on this bill and this amendment and I gather there are people who think there is. I mean I don't whether there is or isn't, to be honest with you, but I presume some folks think that is true and because heart and hypertension, specifically

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the problems that relate to early retirement as a result from that and getting Workmen's Compensation, that you know, everybody in this Chamber knows that issue, there have been some municipal practices with regard to the issue. I mean given that is true, I can't guarantee that it is or isn't.

DEPUTY SPEAKER POLINSKY:

Representative Loffredo.

REP. LOFFREDO: (33rd)

Madam Speaker, then heart and hypertension is a health matter and a health issue, as I understand it, and I gather based on the comments made by Representative Tulisano that there may be some relationship, at least some people believe there may be a relationship.

I guess my problem or my question has to deal with, well, what relationship does that have to do with the collective bargaining for fire fighters and police officers and collective bargaining groups, that relationship with the municipalities. Why are those individuals or why is this Subsection B contained within this amendment?

DEPUTY SPEAKER POLINSKY:

Representative Tulisano, would you like to take a stab at this?

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REP. TULISANO: (29th)

Through you, Madam Speaker? Through you, Madam Speaker, I don't know the reason. I have my guess as why, which I would be happy to stab at, but I am informed that Mr. Adamo has the exact reason why and I would at this point --.

DEPUTY SPEAKER POLINSKY:

Representative Loffredo, Representative Tulisano suggests that you might wish to ask the same question of Representative Adamo.

REP. LOFFREDO: (33rd)

Yes.

DEPUTY SPEAKER POLINSKY:

Representative Adamo, would you care to respond to Representative Loffredo's question?

REP. ADAMO: (116th)

Yes, Madam Speaker, if I understand the question correctly, the Representative is inquiring as to the relationship between heart and hypertension on this particular bill and the matter related to collective bargaining.

I would say that approximately 50 or 60 contracts across the state in police and fire contracts contain language that prohibit smoking, that the cities and towns have negotiated with the fire and police unions

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because of their exposure to heart and hypertension disease. Obviously I think that does indicate to the Chamber that there's a direction relationship between heart and hypertension disease and smoking and subsequently many of the fire departments and police departments have either through collective bargaining adopted the standards. In fact, my very own fire department in West Haven has, as a condition of employment prior to hiring a fire fighter that he cannot smoke or he or she cannot smoke. That is -- I think Section B of this amendment is written to protect those town's rights.

REP. LOFFREDO: (33rd)

Madam Speaker, my question has to do with then -- if this amendment were to pass, would this amendment allow or not allow for an employer, through collective bargaining, dealing with an employee group to also raise as a condition of employment and therefore subject to collective bargaining, the issues that are contained in Subsection B that are raised for fire fighters and police officers?

DEPUTY SPEAKER POLINSKY:

Representative Adamo.

REP. ADAMO: (116th)

Through you, Madam Speaker, yes, they would be

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allowed to be raised. In fact, my recollection of the standards set in West Haven, for example, go beyond smoking. They go beyond -- I think they talked about body fat, height and weight relationships and the like, so all of those issues related to health as a result of the exposure to heart and hypertension are in fact negotiable and are in fact part of the agreement and are in fact part of our hiring practice in West Haven.

REP. LOFFREDO: (33rd)

Madam Speaker, the question has to deal beyond just police and fire. What about other groups of employees that are under a collective bargaining agreement? Would this amendment allow for that issue to be put on the table?

DEPUTY SPEAKER POLINSKY:

Representative Adamo.

REP. ADAMO: (116th)

Through you, Madam Speaker, I would suggest, through you, to the Representative that almost any subject is generally open to the collective bargaining process. We generally do not legislative set those issues that are mandated to be collectively bargained. They're generally those set by the Board of Labor Relations, but my quick answer would be, yes, they would be.

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DEPUTY SPEAKER POLINSKY:

Representative Loffredo. Thank you, sir. Will you remark further on this bill? On this amendment?

Representative Santiago.

REP. SANTIAGO: (130th)

Through you, Madam Speaker, I did not understand the question before that Representative Loffredo asked Representative Adamo. Through you, Representative Adamo, if this amendment is passed, can we still, through collective bargaining, negotiate a contract where the employer can deny the right for an individual to smoke in their home?

REP. ADAMO: (116th)

Through you, Madam Speaker, yes, Representative.

REP. SANTIAGO: (130th)

We can still do that? Madam Speaker, I rise in opposition to this amendment for various reasons. Somebody has brought up the issue of civil rights. How does a person smell in the workplace or here in the Hall of the House or what kind of food do we eat, but my concern is that if we really care for the health of the citizens of this country and if we really care for a person to get adequate employment, we shouldn't be butting in on the question yes or no when it comes to an issue of working in the workplace or getting the

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right to work by denying them a job because they smoke in their homes.

If they smoke in their own homes, that's their rights and if we want to deny that right, let's make smoking illegal in the State of Connecticut. That's the issue here. The issue is if it is a health hazard or not and if it is a health hazard, we should make smoking illegal in the State of Connecticut altogether. I don't smoke. Maybe once in a while I smoke a cigarette and I work in a factory and in the place that I work they don't want us to smoke in the workplace, and believe me, they have selected an area where we can go smoke and when we walk through there, it's very difficult because there's a lot of people smoking, but that's the way that it was set up and that's the right that they have, and like Representative Gelsi said, that's the right of the people.

The only reason that we allow these people to smoke is because it's a right in the State of Connecticut it's legal to sell cigarettes. It's just making illegal drugs, like to sell cocaine is illegal and if you get busted at home selling drugs or using drugs, you get put in jail. So the same thing should be with cigarettes. If you don't think that cigarettes --.

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(Gavel) It's a long debate. Maybe not all of you are listening to it, so to those of you who are not listening to it, I would ask you to remove yourself from the Chamber. If you are having conversations and are not interested in the debate, please remove yourself from the Chamber. Representative Santiago, please proceed.

REP. SANTIAGO: (130th)

Thank you, Madam Speaker. As I was saying, it's just like selling illegal drugs. Some person gets caught using illegal drugs, they get sent to jail. Their rights are denied because drugs are illegal. So the bottom line here is that cigarettes are legal in the State of Connecticut and that's why people have that right.

What's going to happen in the future? What will have to a worker that has four or five months to get a retirement from a particular place or get a pension and that person gets laid off and goes to apply to another job and that person is hired and in a different job and you say, you cannot get a job because you smoke. Are they going to try to pass a law that you won't be able to get your pension because you are a smoker or you won't be able to get your Social Security benefits or you won't be able to receive Title 19 because you're a

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smoker? How many people are we going to say here you can do it or not do it? Where is it going to end.

I think we should stop kidding around here and let's make it a law that cigarettes are not good for your health, which they are not, and make cigarettes illegal or quit playing games. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this amendment? Representative Lescoe.

REP. LESCOE: (49th)

Thank you, Madam Chairman -- Speaker. I stand in support of this bill. Last week I was at home watching some movies and it was funny to see in the First World War or Second World War where they had newsclips, just about every GI had a cigarette hanging out of his mouth. I turned on to the next channel and I saw Garbo and I saw Bogart. They had cigarettes hanging out of their mouth, love scene on top of it. Time goes on, and believe me, I am a smoker. I can make it eight hours a day without a cigarette. In the evening I enjoy a cigarette. I think that's my personal right. What I do in my home is my business, but as I see, as a teacher also I think the school systems are doing their jobs. I don't like smoking. It's hard to give it up,

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but still yet I can see the decrease of smoking everywhere.

I also look and I see something else. It's a difference between rich and poor unfortunately. I hate to say this, but I think it's true. I always like to say I'm a realist. I look at things and say this is the way it is. When I go from house to house, I go to the rich, upper income people's homes, they don't smoke. This last week we were very concerned about the budget and 20 or 30 calls that I got, it wasn't about the budget, it wasn't about an income tax, a conventional package, how are you going to vote? About 75 percent of the phone calls I received from my area was please, Mr. Lescoe, don't tax my cigarettes. It's the only thing that I can afford. It's the only thing I enjoy.

So I think, in closing I'd just like to say Mr. Farr made a -- Representative Farr made a statement that he didn't think some of us could make it through the debate and hopefully I'm hanging on. I think I can. Thank you.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this amendment? Representative Farr for the second time.

REP. FARR: (19th)

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Thank you, Madam Speaker. Madam Speaker, a brief question for Representative Norton. Representative Norton, I too was one of the members of this side that supported the so-called Gay Rights Legislation. Representative Norton, it's my recollection that that bill provided rights and prohibited discrimination based upon sexual orientation.

Through you, Madam Speaker, wasn't the thrust of that bill to discriminate -- prohibit discrimination based upon sexual orientation, through you, Madam Speaker, to Representative Norton.

DEPUTY SPEAKER POLINSKY:

Representative Norton.

REP. NORTON: (48th)

I believe it was to prohibit discrimination based on sexual orientation and activity, yes.

REP. FARR: (19th)

So, through you, Representative Norton, as I understood that bill, if I sought employment at a place of work and the particular employer was gay and turned me down because I wasn't, I would be protected? Through you, Representative Norton, isn't that correct?

REP. NORTON: (48th)

If that was the only grounds of his discrimination, yes.

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REP. FARR: (19th)

Thank you, Representative Norton. I want to point out to the Chamber how bad a piece of legislation you have here. I know people aren't reading it and I know it's something that's wired and the lobbyists have gotten to you, but keep in mind this. Keep in mind this, if you discriminate in this state against a gay, it's against the law. If you discriminate against somebody because he's not gay, it's against the law. If you discriminate against somebody because he's black, it's against the law. If you discriminate against him because he's not black, it's against the law.

We passed legislation in this state that says it's wrong to discriminate against somebody based upon classes. What does this piece of legislation say? It doesn't say it's wrong to discriminate against somebody because he smokes or because he doesn't smoke. It says the only protected class is the smoker.

If you're an employer and you've got two applicants and one smokes and one doesn't and you hire the non-smoker, my God, a cause of action by the smoker. Were you to hire, of course, there is no cause of action by the non-smoker. This bill isn't about rights. This bill is about a statement by the tobacco

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industry that they don't want us -- that they don't want us to ban smoking in the State of Connecticut.

Let me make some other points. Let me make some other points on this amendment. First of all, let me make a very personal point. When this bill was before the Public Health -- excuse me, before the Judiciary Committee, I made a presentation in that committee and at that time I came in and I said I had some very personal feelings about this. I had some personal feelings because my father died when I was 12 and my father was a three-pack a day cigarette smoker and he died of a heart attack.

I have some personal feelings because I share an office next to a State Senator whose sister is 39 years of age, who has two children and is dying of lung cancer. I have some personal feelings because a very good friend of my in my community is 49 years of age, three children, diagnosed shortly after Christmas with lung cancer, may never see another Christmas.

And when I testified that this was a very personal issue to me, the response from a member of the committee was, so what? We all have friends who have died from lung cancer. We all have had friends who smoke excessively and have heart attacks. Why do you get upset about it? And I guess my only response is

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why don't you get upset about it? The irony today is my father died 35 years ago. My mother is having an anniversary mass at 5:00 and I told her I would be there unless there was something more important in this Chamber and the only thing that I can think of that would keep me from going there today is trying, trying to save somebody else from the tragedy of cigarette smoking. That's what this amendment is about.

I know that people are going to say that's an overly emotional type of approach. It's not. There was no testimony in the committee that there's a real need for this bill. The bill is a result of the smoking industry. It's a bad bill. It gives a right of action to people if they're smokers and no right of action if they're non-smokers. I would urge rejection of the amendment.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this amendment? Will you remark further? Representative Tulisano.

REP. TULISANO: (29th)

Madam Speaker, I wasn't going to speak additionally on this until a few comments were made during the debate and just to say that, you know, there were some comments made if you hire one person over another

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person, you have a cause of action. I don't think that's true.

If you fire me or refuse to hire me for what I do at my home, and I admit that's admittedly hard to prove, but if that is the reason, certainly post employment, it will be easier to show, then you might have a cause of action, and frankly, Madam Speaker, I think that's okay and I think the issue is privacy. Most of this debate has been over the benefits or detriments of smoking. Despite my chewing a cigar a little while ago, I do not smoke and gave up smoking 30 years ago and I am allergic to smoking, but I'll be darned if I'm going to say that someone should not be employed because of what they do somewhere else in their own home and Representative Adamo is correct.

One of the major proponents he mentioned during his statement, there's no denying that, but the original draft of this language came to the Judiciary Committee from a labor union and in debating the rest of this bill and what else is in this bill, the National American Civil Liberties Union has also indicated that the principle here is not whether or not smoking is good or bad. The principle, and that's what we're talking here, the principle here is what I do in the privacy of my own home, whether or not we will let an

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employer dictate to you and some people will ask what is the evidence that it has happened? I guess it's anecdotal. I guess there isn't a lot of it, but you certainly can say this against skiing and all the other issues we heard before is that there are plenty of laws being written now against people who do smoke and you can anticipate, just like in those who drink, lots more will come in the future. We seen them every day on the Calendar here on those two issues.

No one has yet gotten to say, but you could based on all of the arguments here, that an employer may very well be out there discriminating against people who engage in other legal activities. That shouldn't be done and let's put it in perspective. We're dealing about here a principle and it is not as broad-based as we might be led to believe that where causes of actions could occur. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Newton.

REP. NEWTON: (124th)

Thank you, Madam Speaker. I've been listening to the debate and I guess I need to ask why this bill is here. I have yet to hear anyone say to me that there have been proven records or proven facts where an employer has fired employees because they've smoked at

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home. I have yet to hear that and I need to ask -- I guess to Representative Tulisano have we any proven records that state employer have fired employees because they smoked at home or didn't hire them?

DEPUTY SPEAKER POLINSKY:

Representative Tulisano.

REP. TULISANO: (29th)

Thank you, Madam Speaker. I do have a copy of a letter at least in some place else in the country where the City of Miami, North Miami instituted a public policy requiring all job applicants as a condition of employment to execute affidavits that they do not smoke tobacco products and they have not used them for the preceding 12 months, so there's some evidence that it has occurred some places in the state.

DEPUTY SPEAKER POLINSKY:

Representative Newton.

REP. NEWTON: (124th)

Madam Chairman, so I guess it's through most municipalities that have set policies on smoking and should you not be able to smoke. If I worked for a company, most companies allow you to smoke in different places of the company and, to me, it would be ludicrous for them to say you cannot smoke at home because most places allow you to smoke within the facilities that

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you work.

So it's kind of, you know, and I'm one for protecting people's rights because I believe in civil rights and I believe that people should have the right to do those kind of things, but I've noticed even in this debate here people have tied in blacks and gays and protecting civil rights for people to smoke. I guess tomorrow if someone was discriminated against for wearing glasses, we would be here in the General Assembly doing some legislation to protect folk who wear glasses and I just can't understand every time something goes on and happens we've got to protect someone from whether they smoke or whether they wear glasses, and with that, Madam Speaker, I would have to rise in opposition to this amendment because tomorrow it might be alcohol and your employer might say, "If I find out that you drink beer in your home, I'm going to have to let you go and not hire you because you drink beer on your premises." So you know, I have to rise in opposition to this amendment. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this amendment? Representative Stolberg for the second time.

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REP. STOLBERG: (93rd)

Madam Speaker, could I ask, through you, a question to my distinguished chairman of the Judiciary Committee?

DEPUTY SPEAKER POLINSKY:

You certainly may.

REP. STOLBERG: (93rd)

Is there a penalty for this? What if an employer did discriminate? What would be the penalty, through you, Madam Speaker?

DEPUTY SPEAKER POLINSKY:

Representative Tulisano?

REP. TULISANO: (29th)

Every statute in the State of Connecticut, there is a General Statute which states there is no stated penalty, it's \$100, \$500 now. It went up from \$100 to \$500.

REP. STOLBERG: (93rd)

A \$500 fine.

REP. TULISANO: (29th)

Yes, Ma'am. Yes, sir.

REP. STOLBERG: (93rd)

Through you, madam, a question. I notice that municipal hiring practices are excluded from this. What about state hiring practices, through you, Madam

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Speaker?

DEPUTY SPEAKER POLINSKY:

Representative Tulisano.

REP. TULISANO: (29th)

If it's not excluded in the amendment, which has just disappeared, Madam Speaker, it is not excluded.

REP. STOLBERG: (93rd)

State employment practices are not excluded, is that correct?

REP. TULISANO: (29th)

Through you, Mr. Speaker --.

DEPUTY SPEAKER MARKHAM:

Representative Tulisano.

REP. TULISANO: (29th)

Whether or not it is excluded, I'm not sure. The statute makes it clear that nothing in the section shall be construed to affect municipal practices.

REP. STOLBERG: (93rd)

Through you, Mr. Speaker, could the gentleman share with us the fiscal note on the amendment?

REP. TULISANO: (29th)

Through you, Mr. Speaker, no, I couldn't.

REP. STOLBERG: (93rd)

Mr. Speaker, I would ask for the fiscal note on Senate Amendment Schedule "A".

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REP. TULISANO: (29th)

Through you, Mr. Speaker, I can't share the fiscal note because I understand that the Senate did not send down the fiscal note and that has to be interpreted as there is no fiscal note or minimal impact. That's what I have been advised. So there was none provided with the Senate.

REP. STOLBERG: (93rd)

Mr. Speaker, our rules do require a fiscal note and I would ask to have it shared with the Chamber at this time.

Mr. Speaker, if we do not have a fiscal note, I would suggest --.

DEPUTY SPEAKER MARKHAM:

Representative Stolberg, just a moment please. I'm going to put the Chamber at ease for a moment. We're in the process of trying to locate one.

REP. STOLBERG: (93rd)

Thank you, sir.

REP. TULISANO: (29th)

Mr. Speaker. Mr. Speaker. Mr. Speaker, for a Point of --. Mr. Speaker, if I may try to explain a little further.

DEPUTY SPEAKER MARKHAM:

Representative Tulisano, in response to

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Representative Stolberg's question of a fiscal note.

REP. TULISANO: (29th)

The goldenrod which is in the Clerk's Office is stamped no fiscal impact. In order to further elucidate, however, and to ensure the correctness of that statement, one might look to File No. 618 which is substantially the same kind of language as in this amendment which does have a following fiscal impact, state impact none, municipal impact none. I gather from what I see in here it has to go up for the --.

DEPUTY SPEAKER MARKHAM:

Representative Stolberg, I believe you have the floor, sir.

REP. STOLBERG: (93rd)

Yes, Mr. Speaker, I would suggest that Senate "A" is not properly before us unless it is accompanied by a fiscal note.

REP. TULISANO: (29th)

Through you, Mr. Speaker, might I ask a Point of Parliamentary Procedure at this point? Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Tulisano, I'm going to put the Chamber at ease again.

REP. TULISANO: (29th)

Would you give -- I was going to ask if you might

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put us at ease, Mr. Speaker, so I can go upstairs and get it, thank you, Mr. Speaker. I would be happy to do that.

DEPUTY SPEAKER MARKHAM:

At this point the Senate Clerk's Office is locked. We're getting the security to unlock that and get the copy of the --.

The Chamber please stand at ease.

DEPUTY SPEAKER MARKHAM:

The Chamber please come to order. Representative Stolberg, for what purpose do you rise?

REP. STOLBERG: (93rd)

Mr. Speaker, in order to facilitate this, if any individual has seen the fiscal note, any member of the Chamber has seen it or has seen the goldenrod copy stamped, I will accept that without having it in our possession, but I think a member of the Chamber should at least --.

DEPUTY SPEAKER MARKHAM:

Representative Stolberg, for the edification of the membership here, I will point out that Fiscal Analysis has just called us and said that they are sending a fiscal note over that is stamped as Representative Tulisano had indicated previously and it is on its way over.

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REP. STOLBERG: (93rd)

If Fiscal Analysis has communicated that to you,
that is acceptable to me, Mr. Speaker.

REP. GELSI: (58th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Gelsi.

REP. GELSI: (58th)

Mr. Speaker, Representative Stolberg is really
being gracious, but I don't think there should be one
amendment go through this Chamber without a fiscal note
from now until the end of time.

DEPUTY SPEAKER MARKHAM:

Will you remark further on the amendment?

Will you remark further?

REP. BURNHAM: (147th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Burnham of the 147th.

REP. BURNHAM: (147th)

I had wanted to put a question, through you, to the
chairman of the Judiciary Committee. Not seeing the
chairman, perhaps I could give it to the future
chairman or future chairman of Judiciary. To my good
friend, Representative Mintz from Norwalk.

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Through you, Mr. Speaker, Mr. Speaker, and Representative Mintz, I'm finding it difficult to believe that there is nothing in our rule of law or history of law or in our Bill of Rights or our Constitution. I find it hard to believe that if someone, and of course, we haven't been told that there's anyone out there, but is there nothing that an individual who were fired or who were denied employment because they admitted to smoking in the privacy of their home, is there no statute that now exists, no right that they could bring suit against a prospective employer or current employer, through you, Mr. Speaker?

DEPUTY SPEAKER MARKHAM:

Representative Mintz.

REP. MINTZ: (140th)

Through you, Mr. Speaker, not to my knowledge, and I think that's why we're doing this amendment.

REP. BURNHAM: (147th)

So, that, through you, Mr. Speaker, so that an individual at this time could be discriminated against, that an employer has the right to come in and say you could not do any number of things in your home?

REP. MINTZ: (140th)

Through you, Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

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Representative Mintz.

REP. MINTZ: (140th)

Somebody might be able to make a defense interpreting some other statute that I'm unaware of, but nothing that is directly on point as this amendment.

REP. BURNHAM: (147th)

Through you, Mr. Speaker, how about the Bill of Rights?

REP. MINTZ: (140th)

They can try, through you, Mr. Speaker.

REP. BURNHAM: (147th)

Thank you, Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Will you remark further on House Amendment Schedule "A"? Will you remark further? Representative Samowitz of the 129th.

REP. SAMOWITZ: (129th)

Thank you, Mr. Speaker. I think the issue is very clear, but a lot has been talked about, the right of privacy and other rights, but there's one other right that I'd like to bring to the attention of this body and that's the right of freedom. Freedom -- what this amendment does is this is an amendment that provides for freedom from the state, freedom from the employer

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Representative Mintz.

REP. MINTZ: (140th)

Somebody might be able to make a defense interpreting some other statute that I'm unaware of, but nothing that is directly on point as this amendment.

REP. BURNHAM: (147th)

Through you, Mr. Speaker, how about the Bill of Rights?

REP. MINTZ: (140th)

They can try, through you, Mr. Speaker.

REP. BURNHAM: (147th)

Thank you, Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Will you remark further on House Amendment Schedule "A"? Will you remark further? Representative Samowitz of the 129th.

REP. SAMOWITZ: (129th)

Thank you, Mr. Speaker. I think the issue is very clear, but a lot has been talked about, the right of privacy and other rights, but there's one other right that I'd like to bring to the attention of this body and that's the right of freedom. Freedom -- what this amendment does is this is an amendment that provides for freedom from the state, freedom from the employer

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and freedom from this Legislature, freedom from Representative Stolberg and Representative Farr, with all due respect, telling the people what to do, even if they are right as far as health policy.

What a smoker does in his own time in his own home is his own right, his own freedom and the little people of this state should not be told what to do. I urge that this body let freedom ring and let smokers do what they want to do even if it's a health problem. Thank you.

DEPUTY SPEAKER MARKHAM:

Will you remark further on Senate Amendment Schedule "A"?

REP. WINKLER: (41st)

Mr, Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Winkler of the 41st.

REP. WINKLER: (41st)

Yes, thank you, Mr. Speaker. I would just like to make a few comments. I used to smoke. I had smoked for five years, smoked a pack and a half to two packs a day.

DEPUTY SPEAKER MARKHAM:

Madam, hold on just a moment. (Gavel) I would like to bring this Chamber to order please. Members

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take their seats. Please proceed, madam.

Representative Winkler.

REP. WINKLER: (41st)

Thank you, Mr. Speaker. Again, I'll start. I used to smoke. I smoked for about five years, smoked a pack and a half to two packs a day and it's been approximately 20 years since that time. I don't enjoy sitting in a restaurant or any place and having smoke -- be eating and having smoke going in my face, however, I don't believe we have the right to legislate what people do in their own homes and I would like to leave the Chamber with one thought and that's if we have a population explosion in Connecticut, will we be back here to pass legislation? Thank you.

DEPUTY SPEAKER MARKHAM:

Will you remark further on Senate Amendment Schedule "A"? Will you remark further? Representative Lavine of the 100th.

REP. LAVINE: (100th)

Mr. Speaker, ladies and gentlemen, in a moment I'm going to ask for a roll call, but the one most salient thing which was said in this debate was said by Representative Newton. He asked the question, who has been harmed and a very favorite Representative of mine says if it ain't broke, don't fix it.

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What's broke? What's broke here? Representative Tulisano in the answer to Representative Newton cited one letter from the northern part of Florida. Is that's what's broke? One letter from Florida? Is that why we're here at a quarter after 5:00 on a Saturday afternoon, because we have one letter from Florida? Ladies and gentlemen, let's vote this down.

Mr. Speaker, I would ask for a roll call.

DEPUTY SPEAKER MARKHAM:

The gentleman from the 100th has asked for a roll call when the vote is taken. All those in favor of a roll call please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER MARKHAM:

Clearly 20 percent of the Chamber has been satisfied. A roll call will be so ordered. Will you remark further on Senate Amendment "A"? If not, staff and guests come to the well of the House. Members take their seats. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber please. Members to the Chamber please. The House is taking a roll call vote.

DEPUTY SPEAKER MARKHAM:

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Have all members voted? Have all members voted?
Please check the roll call machine to see when your
vote is properly cast. The machine will be locked.
The Clerk please take a tally.

The Clerk please announce the tally.

CLERK:

Senate Amendment "A" to House Bill 7211.

Total Number Voting 144

Necessary for Adoption 73

Those voting Yea 95

Those voting Nay 49

Those absent and not Voting 7

DEPUTY SPEAKER MARKHAM:

The amendment is passed.

REP. TULISANO: (29th)

Mr. Speaker, I thought I had the floor before you
went on to that vote, Mr. Speaker. When we went at
ease I still had the floor, how did that happen?

DEPUTY SPEAKER MARKHAM:

Representative Tulisano, I believe you did not have
the floor. I believe you were answering a question,
sir, of Representative Stolberg.

REP. TULISANO: (29th)

I had asked for an at ease to obtain the fiscal
note, Mr. Speaker.

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DEPUTY SPEAKER MARKHAM:

I believe I set the Chamber at ease. I don't believe you asked, sir.

REP. TULISANO: (29th)

At the same time it was to obtain the fiscal note, Mr. Speaker, is that correct? I just want you to know I have the fiscal -- I think, Mr. Stolberg, I heard it on the intercom as I was getting it, really got off too easy. Here's the fiscal note. You can't back off so easy when you make a challenge. It's here. I make it part of the record and let me give it to him now.

Okay, thank you, Mr. Speaker. Thank you.

DEPUTY SPEAKER MARKHAM:

You're welcome.

REP. TULISANO: (29th)

And I'll share the same with the Clerk's Office. Thank you.

DEPUTY SPEAKER MARKHAM:

Will you remark further on the bill as --.

REP. STOLBERG: (93rd)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Stolberg.

REP. STOLBERG: (93rd)

Mr. Speaker, I had hoped you would relate to

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Representative Tulisano, who is out of the Chamber, one, I indicated it was not necessary, and two, that Fiscal Analysis called you, indicated what the fiscal note was and we proceeded with the debate on that basis, but as Representative Gelsi said, the rules do require that we have the fiscal notes on the amendment and I thank the distinguished chairman for getting the copy.

DEPUTY SPEAKER MARKHAM:

Will you remark further on the bill as amended?
Representative Adamo of the 116th.

REP. ADAMO: (116th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Adamo.

REP. ADAMO: (116th)

Mr. Speaker, there's another amendment, LCO7407.
Will the Clerk please call that amendment.

DEPUTY SPEAKER MARKHAM:

The Clerk has in his possession amendment, LCO7407,
previously designated Senate Amendment Schedule "B".

CLERK:

LCO7407, Senate "B", offered by Senator Maloney.

DEPUTY SPEAKER MARKHAM:

The gentleman has sought leave of the Chamber to

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summarize. Is there objection? Is there objection?
Hearing none, please proceed.

REP. ADAMO: (116th)

Mr. Speaker, I --.

LAUGHTER

DEPUTY SPEAKER MARKHAM:

Yes, Representative Adamo.

REP. ADAMO: (116th)

It's very simple, sir. It simply reduces the number of drug tests from three to two. It's an excellent business community amendment and I've been doing business community amendments all day today and I feel real good about it.

DEPUTY SPEAKER MARKHAM:

Will you remark further on Senate Amendment "B"?

REP. ADAMO: (116th)

Yes, Mr. Speaker, and I'm really sorry that my name isn't on it instead of my Senator's.

DEPUTY SPEAKER MARKHAM:

Will you remark further on Senate "B"? If not, I shall try your minds.

REP. TAYLOR: (79th)

Point of Order, Mr. Speaker. I don't believe that he moved adoption of the amendment, Mr. Speaker.

REP. ADAMO: (116th)

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I'm sorry, Mr. Speaker. He's absolutely right. I move adoption, sir.

DEPUTY SPEAKER MARKHAM:

The gentleman has now moved adoption. Thank you for the correction, Representative Taylor. Will you remark further on Senate "B"? Those in favor of Senate Amendment --. Those in favor of Senate Amendment Schedule "B" please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER MARKHAM:

Opposed nay.

REPRESENTATIVES:

No.

DEPUTY SPEAKER MARKHAM:

The ayes have it.

The amendment is adopted and ruled technical.

REP. STOLBERG: (93rd)

Mr. Speaker. Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Stolberg, for what purpose do you rise?

REP. STOLBERG: (93rd)

Mr. Speaker, I would ask as privilege in the Chamber that in the future you not gavel an amendment

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until you have taken the nays and made a judgment. The gavel fell before the nays were concluded, sir.

DEPUTY SPEAKER MARKHAM:

I do not believe you are correct, Representative Stolberg.

REP. STOLBERG: (93rd)

Well, you're wrong.

DEPUTY SPEAKER MARKHAM:

Will you remark further on the bill as amended? Representative Beamon of the 72nd.

REP. BEAMON: (72nd)

Thank you, Mr. Speaker. I'm not sure if this is the appropriate time to inject a few questions in the debate on the bill. This bill is AN ACT CONCERNING EMPLOYMENT DRUG TESTING and within the file it requires the Labor Commissioner to define by regulation circumstances which would provide reasonable suspicion. My question, through you, Mr. Speaker, to Representative Tulisano or Representative Adamo would be where would the Labor Commissioner find those circumstances in order to train those employees, basically managers, who would be looking for a reasonable suspicion in an employee, through you, Mr. Speaker?

REP. TULISANO: (29th)

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Through you, Mr. Speaker.

SPEAKER BALDUCCI:

(Gavel) It's late in the day. This will be the last bill we do.

REP. BEAMON: (72nd)

Have mercy.

SPEAKER BALDUCCI:

I don't need mercy, Representative Beamon. I need quiet. Representative Tulisano, do you care to respond to Representative Beamon's question?

REP. TULISANO: (29th)

Yes, Mr. Speaker. Mr. Speaker, just as prefatorily, this is the -- we had already passed this section and we discussed it another day and what this is designed to do is by after hearing, as you do regulations because the bill requires for regulations, for the Labor Commissioner after hearing and getting all sides, to be able to try to determine that kind of behavior which an employer could look for which generally results in the kind of probable cause. That then will be supplied to the -- given to the Regulations Review Committee to review that decision making and then become a regulation.

It is not intended to be exclusive, but only to be helpful. One of the complaints about our current bill,

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our current legislation is that although there is a way to go to the Labor Commissioner, may non-sophisticated employers do not know what to look for in probable cause. They're afraid to make judgments and this is an aid to the employer in that area.

REP. BEAMON: (72nd)

Well, through you, Mr. Speaker, to follow-up.

Through you, Mr. Speaker, a follow-up.

SPEAKER BALDUCCI:

Proceed, Representative Beamon.

REP. BEAMON: (72nd)

Thank you, Mr. Speaker. Then the follow-up question, Representative Tulisano, would be are there any national standards for which the Labor Commissioner would be looking to adopt in order to standardize this "reasonable suspicion", through you, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Adamo, do you care to respond?

REP. ADAMO: (116th)

Yes, Mr. Speaker, I'll certainly try.

Representative Beamon, this particular standard might be found under the federal regulations in the Federal Register that provides for the same type of training and the same type of coverage. It was my understand, through Representative Tulisano's Office when this

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amendment first was adopted and changed in his committee that we were going to mirror the federal regulations as closely as possible, so there are two portions of the federal regulations that contain methodology for knowing what a person looks like and under the circumstances and the reasonable cause questions and the like.

REP. BEAMON: (72nd)

Well, then, through you, Mr. Speaker, to Representative Adamo, would the Labor Commissioner then issue regulations through I guess Program Review in order to standardize the testing procedure for reasonable suspicion throughout the entire labor force, through you, Mr. Speaker?

REP. ADAMO: (116th)

Through you, Mr. Speaker, yes, he probably would.

REP. BEAMON: (72nd)

So, therefore, through you, Mr. Speaker, it would seem that all employers would have to adopt this new standard in order to perform at drug tests based, again, on what is called, "reasonable suspicion." Is that correct, through you, Mr. Speaker?

REP. ADAMO: (116th)

Through you, Mr. Speaker, yes, that's correct.

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Representative Adamo.

REP. BEAMON: (72nd)

I'm sorry, through you, Mr. Speaker, I didn't hear the answer.

REP. ADAMO: (116th)

I'm sorry, through you, yes, you're right.

REP. BEAMON: (72nd)

Mr. Speaker, and members of the House, for many, many bills, I've stood steadfast against employee drug testing. The main reason why is that we, for some strange reason, adopt some laws that impact many different people many different ways and in that impact sometimes there aren't employee assistant programs to help those people that we're trying to single out for different types of behavior, but this time I think I will let this one go by and the main reason why I think I will vote in the affirmative is that we should adopt some standards.

It's not correct for people to come in to the workforce on a Monday morning and someone looks at the funny and the next thing you know, they're ask to go urinate somewhere. We do need some standards. There has to be some training and if the Labor Commissioner is going to train based upon the code of federal regulations and federal drug testing, then I do believe

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this deserves a try, but I also want to send a message out to our business community that this should in no way be another way to enact different forms of discrimination against people.

This should also serve as a way for the business community to realize and understand that people do have substance abuse problems and when those problems do come about, that the business community, along with the insurance companies, should assist an employee instead of firing an employee.

Earlier in this debate on Senate Amendment "A" Representative Farr talked about personal observations. I have some too Representative Farr. I know what alcoholism does in a family and I know it very well and I also know when people are hurting, that hurts, and I also know when people can't go to work because of alcoholism or their performance on the job is hindered in some way, then it's not industry's right to say, get the heck out when sometimes those working conditions have been so stressful where people cannot have decent air conditioning as we have here and ventilation and when it's so cold in factories that you come home with arthritis, I know those personal experiences.

So I'm sending a message today. I don't care if it's 5:00 or 5:30. That message is clear, that we have

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to assist employees that have substance abuse problems and not deter them by kicking them out the back door and cutting down their unemployment, Workmen's Comp and every other thing that people need.

So I stand ready to vote for this bill. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Thank you, Representative Beamon. Will you remark further? Representative Farr of the 19th.

REP. FARR: (19th)

Yes, Mr. Speaker, a question, I guess, through you, to Representative Tulisano. I don't see him in the Chamber.

SPEAKER BALDUCCI:

He's right here in front, sir.

REP. FARR: (19th)

Yes, Representative Tulisano, has this bill been to the Public Health Committee?

REP. TULISANO: (29th)

Through you, Mr. Speaker, no, I believe because the original bill generally is a discrimination bill and drug testing, has always had the jurisdiction solely of both Labor and Judiciary over the years. Those two committees dealt with drug testing and Judiciary in the Discrimination Act.

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REP. FARR: (19th)

Mr. Speaker, a Point of Order then. I believe this bill has to do with the promotion of cigarettes. I can't believe that a bill having to do with cigarettes would not go to the Public Health Committee and I raise a Point of Order.

SPEAKER BALDUCCI:

Representative Farr, this is not a smoking bill. It deals with drug testing and discrimination. It has been to the two committees, I think as Representative Tulisano has indicated, Labor and Judiciary, and I do not believe that this bill should be in the Public Health Committee and your Point of Order is not well taken, sir.

REP. FARR: (19th)

Mr. Speaker, then --.

SPEAKER BALDUCCI:

Will you remark further?

REP. FARR: (19th)

Yes, I would appeal the Point of Order.

SPEAKER BALDUCCI:

The Chair does not invite debate. Is there a second to the motion?

REP. KRAWIECKI: (78th)

Mr. Speaker, I would second the request.

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SPEAKER BALDUCCI:

Thank you, Representative Krawiecki. The Chair doesn't invite debate. The motion has been made and seconded. Is there discussion? Representative Stolberg.

REP. STOLBERG: (93rd)

Mr. Speaker, I am going to vote to uphold the decision of the Chair even though I think it raises some serious questions. I'm going to vote to uphold it, largely for the most traditional reason in this Chamber and that is on procedure motions they're probably one of the last items we have that do have some semblance of commitment to party.

Mr. Speaker, I'm going to uphold it because there is some discretion in a reference of this sort. I do think the Speaker pointed out that the appeal was made on the basis of the reference to the Public Health Committee. The Speaker pointed out that the underlying bill has to do with drug testing and that the amendment largely has to do with rights of employees, vis-a-vis, employers.

Those are the predominant qualities. I think if it were earlier in the session and if we were not all suffering from some tension on a Saturday afternoon, the option to send this to the Public Committee might

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well have been exercised. It would seem that the amendment has a good deal of thrust behind it.

In my opinion, the bill probably would not have been called had not the proponents felt that the votes were there for the underlying amendment. So I think holding it on procedural grounds at this time would frustrate a majority of the Chamber with whom I happen to disagree, but I think we should move forward with the bill as amended and I think the appeal of a reference decision now probably is not a constructive debate.

REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Frankel.

REP. FRANKEL: (121st)

Mr. Speaker, I'd like to make two points. The first has to do with the distinction between discretionary references and mandatory references. Clearly, the Public Health Committee deal with drugs. Clearly, the Public Health Committee deals with issues of public health and smoking can be considered that. On the other hand, I would ask the members to examine the content of the two components in this bill.

One deals with an individual's right to employment.

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That is what was the substance of Senate "A" and that clearly is a matter within the purview of the Judiciary Committee and this bill has been there and clearly not within the purview of the Public Health Committee.

The underlying file deals with drug testing and while there is some semblance of connection with Public Health and perhaps matters can be and in some instances should be referred there, I don't believe this is one of them. So I firmly believe the Chair is quite correct. This is, at best, a discretionary reference, but I'd like to make one other point and this was raised at least once earlier in the session and it has to do with the timeliness of motions.

The Point of Order before us is on the reference and clearly someone could have raised a Point of Order as to whether the Point of Order was in order because one does not wait in good faith to make such a motion at this point in the debate. One had every opportunity to make a motion on the main bill and after Senate "A" was before us to make such a motion.

For it to come at this point of debate, in my opinion, is not timely. I'm not suggesting that the member who made that motion was using dilatory tactics, but I believe there is a timely frame for making such motions.

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Going back to the thrust of the Point of order, I believe at best, it's a discretionary matter and I believe the Chair is correct and I would urge the members to uphold the Ruling of the Chair.

REP. KRAWIECKI: (78th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Krawiecki.

REP. KRAWIECKI: (78th)

Mr. Speaker, I really don't want to involve myself in the specific part of the debate except for the comment that the Majority Leader had just made and notwithstanding the fact that I can also understand the frustration. The amendment that would have brought the request, was, frankly, only adopted a few moments ago and I think any prior motion to refer would have been inappropriate because there was nothing to refer at that moment, so on that one item I think I perhaps disagree with the Majority Leader, but on that issue I would yield to anyone else who wants to make comments.

SPEAKER BALDUCCI:

Will you remark further? Representative Farr of the 19th.

REP. FARR: (19th)

Yes, Mr. Speaker, Members of the Chamber. This

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motion wasn't made -- this issue -- the Point of Order wasn't raised frivolously. I point out to the Chamber that this bill, the Smokers' Rights Bill was in fact sent by this body or through the Clerk and the leadership to Public Health. During the normal process there was a bill, the same bill as this, that was sent to Public Health. It didn't survive the process and now it comes back to us via an amendment. I think it's appropriate that it go there.

As to the question of germaneness, the Minority Leader is absolutely correct. I don't challenge the need for the underlying bill to go there, but I raise the issue and I raise it because I think smoking is probably the single most important public health issue this body is going to deal with and not to send that to Public Health, to me, just tremendously weakens that committee and I think there ought to be a record, if that's what we're going to do in this body, we ought to establish that. We ought to clearly establish this and I don't raise these issues frivolously. Thank you.

SPEAKER BALDUCCI:

Will you remark further? If not, all those in favor to clarify the motion. The motion is to refer -- the motion is Appealing the Ruling of the Chair. So a yes vote or a yea would be in support of the Chair, in

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support of the Chair. We'll clarify it easier. We'll make it a roll call vote and I'll clarify the question so there's no doubt.

Green or yea will be support of the Chair. Red or nay will be in support of the appeal and I'll vote first. The machine will be opened.

CLERK:

The House of Representatives is voting by roll.

Members to the Chamber please. The House is voting by roll. Members please report to the Chamber. Members to the Chamber please.

SPEAKER BALDUCCI:

Have all the members voted? If all the members have voted, the machine will be locked. The Clerk take a tally. Representative Coleman of the 1st.

REP. COLEMAN: (1st)

In the affirmative please.

SPEAKER BALDUCCI:

Representative Coleman in the affirmative.

The Clerk please announce the tally.

CLERK:

Appeal of the Ruling of the Chair on House Amendment "B" to House Bill 7211.

Total Number Voting 142

Necessary to Sustain the

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Ruling	72
Those voting Yea	132
Those voting Nay	10
Those absent and not Voting	9

SPEAKER BALDUCCI:

The motion is sustained.

Will you remark further on the bill?

Representative Lavine of the 100th.

REP. LAVINE: (100th)

Mr. Speaker, the clerk has an amendment, LCO5048. Would the Clerk please call and may I be allowed to summarize.

SPEAKER BALDUCCI:

The Clerk please call 5048, designated House "A".

CLERK: .

LCO5048, House "A", offered by Representative
Lavine.

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Representative Lavine.

REP. LAVINE: (100th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Lavine.

REP. LAVINE: (100th)

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This amendment --.

SPEAKER BALDUCCI:

(Gavel) Please, members of the Chamber, direct your attention to Representative Lavine.

REP. LAVINE: (100th)

This amendment removes firemen and policemen and treats them as other smoking human beings.

I move adoption.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark, sir?

REP. LAVINE: (100th)

Mr. Speaker, we've had some dialogue on this bill and it seems that what is fair if this body determines that you should be able to smoke in the privacy of your home, it would be fair also for our firemen and policemen to enjoy this privilege and I would hope we would give it to them.

SPEAKER BALDUCCI:

Will you remark further on the amendment? For clarification purposes, since we've been -- since this bill has been before this Chamber --. (Gavel) For clarification of the membership, this bill has been before the Chamber before. House "A" was passed. House "B" was offered and withdrawn. This should be House Schedule "C" before the membership. Will you

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remark further on House "C"? Representative Taylor of the 79th.

REP. TAYLOR: (79th)

Thank you, Mr. Speaker. Since we are being sticklers for rules today, I might inquire, through you, to the proponent whether he has a fiscal note.

SPEAKER BALDUCCI:

Representative Lavine.

REP. LAVINE: (100th)

I'm sorry, Mr. Speaker, what was the question?

SPEAKER BALDUCCI:

Fiscal note.

REP. LAVINE: (100th)

Yes, through you, Mr. Speaker, on this and every amendment which I will be offering there is a fiscal note and this fiscal note shows there's no impact.

SPEAKER BALDUCCI:

Representative Taylor, you still have the floor, sir.

REP. TAYLOR: (79th)

Thank you, Mr. Speaker. The man's word is good enough for me. Mr. Speaker, I think it is obvious what this is to many of us. This is an attempt to gut the underlying commitment of Senate Amendment "A", however, I think it's also obvious as to the reason why the

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police and firemen were put in for an exemption.

Policemen and firemen in this state enjoy a benefit that is above and beyond that, that other employees enjoy in terms of heart and hypertension, and as a result, the municipalities in many cases have or may collectively bargain to set up certain smoking or other requirements that may apply.

The effect of this amendment would be certainly to impact on some of those collective bargaining requirements, but it will also strike down the purpose of the bill which is to say what you do in the privacy of your home is one thing unless you enjoy a special benefit. That's it. Everyone is aware of why it was put in there. The amendment was very carefully crafted so as not to infringe on anyone's rights, including the rights of the municipalities to negotiate with the union firemen and policemen as a result of a special benefit that they have under Connecticut and I would urge rejection of the amendment.

SPEAKER BALDUCCI:

Representative Nystrom of the 46th.

REP. NYSTROM: (46th)

Thank you, Mr. Speaker. I haven't spoken yet on this and I said to myself I wasn't going to do it, but for crying out loud, first of all, I voted against that

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amendment that we had the big battle over. This amendment just makes that worse. Don't expand it, and for crying out loud, don't drag these other employees into this mess.

SPEAKER BALDUCCI:

Will you remark further? Representative Farr.

REP. FARR: (19th)

Yes, thank you, Mr. Speaker. Commenting briefly on the amendment, I think Representative Taylor points out the whole problem with the bill. He talks about rights that people have and the employers having to pay a cost because I understand his argument now is that we don't want employers who are municipal employers to pay the cost of smoking, but everybody else ought to. I think the underlying bill is bad, but I'm just startled to find that people who think that this -- what people do as they describe it in the privacy of their homes ought not to apply to everybody. Thank you.

SPEAKER BALDUCCI:

Will you remark further on House "C"? If not, all those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed nay.

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REPRESENTATIVES:

No.

SPEAKER BALDUCCI:

House "C" fails.

House Amendment Schedule "C":

Strike section 3 in its entirety and insert the following in lieu thereof:

"Sec. 3. (NEW) No employer or agent of any employer shall require, as a condition of employment, that any employee or prospective employee refrain from smoking or using tobacco products outside the course of his employment, or otherwise discriminate against any individual with respect to compensation, terms, conditions or privileges of employment for smoking or using tobacco products outside the course of his employment, provided any nonprofit organization or corporation whose primary purpose is to discourage use of tobacco products by the general public shall be exempt from the provisions of this section."

SPEAKER BALDUCCI:

Will you remark further on the bill?

Representative Farr of the 19th.

REP. FARR: (19th)

Yes, thank you, Mr. Speaker. With the comments that Representative Taylor made on that last bill, I would now call LC07242 and ask permission to summarize.

SPEAKER BALDUCCI:

The Clerk please call LC07242, designated House "D".

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CLERK:

LCO7242, House "D", offered by Representative Farr.

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Representative Farr.

REP. FARR: (19th)

Thank you. As has been pointed out to us, the underlying bill has to do with the question of heart and hypertension. The explanation of why we were excluding police and firemen in that bill was because they had special benefits.

What this amendment does is it says that in fact none of those police or firemen who have that special benefit shall continue to have that benefit provided they continue to smoke. This is a simple amendment and I move adoption of the amendment.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark, sir?

REP. FARR: (19th)

Yes, thank you, Mr. Speaker. The bill before us, as amended, has an exclusion for police and firemen and the reason it does that is because of the fact that we don't want to incur that extra costs that results from police and firemen smoking.

What this amendment does is it now says that we

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will not only deal with new employees, but we'll deal with present employees. There is a fiscal impact statement. While the Fiscal Analysis was not able to come up with the actual -- pin down the actual cost, they clearly point out that this may result in savings to municipalities.

If you're concerned about heart and hypertension, this is an amendment that would in fact give your municipality some release. It's consistent with what we're trying to do in the bill and I would urge adoption of this amendment.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

Representative Adamo of the 116th.

REP. ADAMO: (116th)

Thank you, Mr. Speaker. Ladies and gentlemen, I rise to oppose the amendment, but I think the underlying bill goes just a little bit further than Representative Farr indicated.

The existing bill allows for the communities to continue to negotiate these standards. It allows the communities to continue to having hiring practices that in fact prohibit smoking and I see this particular amendment as a step in the wrong direction. It undoes the right to collectively bargain this subject and i

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would ask that you oppose the amendment. Thank you.

SPEAKER BALDUCCI:

Will you remark further on the amendment? If not, all those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed nay.

REPRESENTATIVES:

No.

SPEAKER BALDUCCI:

The nays have it.

The amendment fails.

House Amendment Schedule "D":

After section 3, add the following:

"SEC. 4. Section 7-433c of the general statutes is repealed and the following is substituted in lieu thereof:

In recognition of the peculiar problems of uniformed members of paid fire departments and regular members of paid police departments, and in recognition of the unusual risks attendant upon these occupations, including an unusual high degree of susceptibility to heart disease and hypertension, and in recognition that the enactment of a statute which protects such fire department and police department members against economic loss resulting from disability or death caused by hypertension or heart disease would act as an inducement in attracting and securing persons for such employment, and in recognition, that the public interest and welfare will be promoted by providing such protection for such fire department and police department members, municipal employers shall provide compensation as follows: Notwithstanding any provision

of chapter 568 or any other general statute, charter, special act or ordinance to the contrary, in the event a uniformed member of a paid municipal fire department or a regular member of a paid municipal police department who successfully passed a physical examination on entry into such service, which examination failed to reveal any evidence of hypertension or heart disease, suffers either off duty or on duty any condition or impairment of health caused by hypertension or heart disease resulting in his death or his temporary or permanent, total or partial disability, he or his dependents, as the case may be, shall receive from his municipal employer compensation and medical care in the same amount and the same manner as that provided under chapter 568 if such death or disability was caused by a personal injury which arose out of and in the course of his employment and was suffered in the line of duty and within the scope of his employment, and from the municipal or state retirement system under which he is covered, he or his dependents, as the case may be, shall receive the same retirement or survivor benefits which would be paid under said system if such death or disability was caused by a personal injury which arose out of and in the course of his employment, and was suffered in the line of duty and within the scope of his employment. If successful passage of such a physical examination was, at the time of his employment, required as a condition for such employment, no proof or record of such examination shall be required as evidence in the maintenance of a claim under this section or under such municipal or state retirement systems. The benefits provided by this section shall be in lieu of any other benefits which such policeman or fireman or his dependents may be entitled to receive or the municipal or state retirement system under which he is covered, except as provided by this section, as a result of any condition or impairment of health caused by hypertension or heart disease resulting in his death or his temporary or permanent, total or partial disability. NO BENEFITS SHALL BE PROVIDED UNDER THIS SECTION TO UNIFORMED MEMBERS OF PAID FIRE DEPARTMENTS AND REGULAR MEMBERS OF PAID POLICE DEPARTMENTS WHO SMOKE. As used in this section, the term "municipal employer" shall have the same meaning and shall be defined as said term is defined in section 7-467."

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SPEAKER BALDUCCI:

Representative Lavine of the 100th.

REP. LAVINE: (100th)

Well, it seems to me between Representative Farr and myself, but, ladies and gentlemen, it seems clear that the Chamber does not want to deal with this particular issue. Let me try you on a collateral issue and get your feeling. We had a lot of discussion today on the issue of the health effects of smoking.

Clearly, and I believe each and every one of you are intelligent men and women, otherwise you wouldn't be here at a quarter of 6:00 on a Saturday and it's clear that this Chamber is not convinced of the argument. It's clear. It's clear you don't believe that these things are really as debilitating as we've suggested.

Mr. Speaker, would the Clerk please call LCO7450 and might I have permission to summarize.

SPEAKER BALDUCCI:

The Clerk please call LCO7450, designated House "E".

CLERK:

LCO7450, House "E", offered by Representative
Lavine.

REP. LAVINE: (100th)

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Mr. Speaker.

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Representative Lavine.

REP. LAVINE: (100th)

Mr. Speaker, ladies and gentlemen, this amendment asks that health centers, health care centers gather information on heart and lung disease among smokers and non-smokers and send that information to the comptroller. That's what it does. And there is no fiscal impact because we have the fiscal note on it and it may be very useful in trying to determine and see where we're going in this state on these issues, to require this information to be given to the comptroller.

Mr. Speaker, I would urge the adoption.

WHISTLES

SPEAKER BALDUCCI:

I recognize that it is Saturday afternoon and quite late. I recognize that it's late in the session and I recognize that each and every one of you would much rather be elsewhere than here, just as I would, but over the years, having served here, this Chamber has also had a sense of respect for each and every member in it, whether or not you agree or disagree with

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whichever issue they're discussing and the hissing and the booing and the whistling is absolutely unnecessary and I would appreciate it if we would cease.

Would you remark further on House "E"?

Representative Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, because I believe Representative Lavine has clearly defined reality in the Chamber this afternoon as to the desires of the Chamber and because I think it is not germane, I will not raise a germaneness issue and just as soon that we vote this down immediately and get on with the business of the day. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Thank you, Representative Tulisano. Will you remark further on the amendment? If not, all those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed nay.

REPRESENTATIVES:

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SPEAKER BALDUCCI:

The noes have it.

House "E" fails.

House Amendment Schedule "E":

After line 66, insert the following:

"Sec. 4. (NEW) Each health care center, as defined in subdivision (9) of section 38a-175 of the general statutes, shall provide to the comptroller data regarding instances of heart and lung disease amount enrollees. Such data shall include, but not be limited to, the following: (1) whether the enrollee has ever smoked; (2) the length of time the enrollee smoked; and (3) the type of disease."

SPEAKER BALDUCCI:

Representative Farr of the 19th.

REP. FARR: (19th)

Thank you, Mr. Speaker. Mr. Speaker, the Clerk has an amendment, LCO7326. Will the Clerk please call and I be allowed to summarize.

SPEAKER BALDUCCI:

The Clerk please call LCO7326, designated House "F".

CLERK:

LCO7326, House "F", offered by Representative Farr.

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Representative Farr.

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REP. FARR: (19th)

Thank you, Mr. Speaker. The underlying bill or the amendment to the underlying bill talks about the rights of smokers. What this talks about is the right of non-smokers. What this simply says is that we won't allow smoking in public areas in the state.

I move adoption of the amendment.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark, sir?

REP. FARR: (19th)

Yes, Mr. Speaker. We've heard a lot of arguments and a lot of debate about these sacred rights of people to smoke in their homes. Well, if they have a right to smoke in their homes, that may be fine, but why do they have to smoke in places where other people have to share in their smoking.

As I've pointed out to you before, the underlying bill is not a balanced bill. It grants a right -- it grants a right only to smokers and there's no rights given to non-smokers. A cause of action is granted.

What this says, if you want to talk about balance and you want to talk about rights, non-smokers have rights in our society. It's been pointed out that smoking causes -- it is not estimated -- second-hand smoke is estimated to take 53,000 lives, 600 to 700 in

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the State of Connecticut in the next year, 600 to 700 and what you're saying is, boy, we're going to elevate the right for somebody to go home and smoke at home, but we're not going to protect the person who choose not to smoke from being exposed to that cigarette smoke.

I would urge adoption of this amendment.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark further on the amendment? Will you remark? If not, all those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed nay.

REPRESENTATIVES:

No.

SPEAKER BALDUCCI:

The noes have it.

House "F" fails.

House Amendment Schedule "F":

After section 3 add the following:

"Sec. 4. (NEW) Notwithstanding the provisions of section 1-21b of the general statutes, no person shall smoke in any room or area of any building which is open to the general public."

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SPEAKER BALDUCCI:

Will you remark further? Representative Lavine of the 100th.

REP. LAVINE: (100th)

Well, Mr. Speaker, ladies and gentlemen, we're on a most serious issue. I really appreciate the Speaker's words earlier. This is an issue which is going to affect some of us in the Chamber statistically, undoubtedly in the next year, two years.

Mr. Speaker, would the Clerk please call 7065 and, Mr. Speaker, I think I will have the Clerk read to see if it makes a change.

SPEAKER BALDUCCI:

The Clerk please call and read LCO7065, designated House "G".

CLERK:

LCO7065, House "G", offered by Representative
Lavine.

After the last section, insert the following:

"Sec. 4. (NEW) On and after the effective date of any federal statute, regulation or occupational health and safety standard that classifies passive smoking as a carcinogen, passive smoking shall be classified as a carcinogen for the purposes of title 31 of the general

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statutes."

REP. LAVINE: (100th)

Mr. Speaker, I would move adoption.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark, sir?

REP. LAVINE: (100th)

Yes. Mr. Speaker, this may or may not turn out to be necessary, but let me explain what it is.

Essentially we offer our workers in the State of Connecticut protection if they have to work in hazardous conditions, particularly if there is a known carcinogen. We expect very shortly that the federal government will be indicating that smoke, passive smoke is a Class A carcinogen and this would ask that under those conditions that it be added to Title 31 of our statutes.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

Representative Farr.

REP. FARR: (19th)

Thank you, Mr. Speaker. I just point out to the Chamber that what Representative Lavine is point out is we're spending billions of dollars in our society concerned with protecting people from the rights of poisons in our environment. There is not greater

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poison in our society. There's no poison doing more damage, more harm than any other and in fact all other poisons combined than tobacco smoke. It is the number one carcinogenic in our society. We don't license it right now. We don't prohibit it. This simply says that when they recognize, as they will, that it's a carcinogenic, that it ought to be controlled, that we in fact, as a state, will do the same.

I urge adoption of the amendment.

SPEAKER BALDUCCI:

Representative Tulisano.

REP. TULISANO: (29th)

Yes, Mr. Speaker, through you, Mr. Speaker, a question to the proponent of the amendment.

SPEAKER BALDUCCI:

Representative Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker, just so we would understand, what would Mr. Lavine consider the effective date of a regulation by the general government?

SPEAKER BALDUCCI:

Representative Lavine.

REP. LAVINE: (100th)

Through you, Mr. Speaker, the date of adoption by

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the federal government.

REP. TULISANO: (29th)

Well, through you, Mr. Speaker, often these are promulgated and adopted, but then they're subject to comment period. Is it before the comment period or after the comment period, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Lavine.

REP. LAVINE: (100th)

Through you, Mr. Speaker, it would be after the comment period when it is adopted as a regulation.

REP. TULISANO: (29th)

Through you, Mr. Speaker, and --.

SPEAKER BALDUCCI:

Representative Tulisano.

REP. TULISANO: (29th)

No more questions. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further on the amendment? If not, all those in favor signify by saying aye.

REPRESENTATIVES:

Aye.sd

SPEAKER BALDUCCI:

All those opposed nay.

REPRESENTATIVES:

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No.

SPEAKER BALDUCCI:

The noes have it.

The amendment fails.

Representative Farr of the 19th.

REP. FARR: (19th)

Thank you, Mr. Speaker. Mr. Speaker, the Clerk has an amendment, LCO5066. The Clerk please call and I be allowed to summarize.

SPEAKER BALDUCCI:

The Clerk please call LCO5066, designated House "H".

CLERK:

LCO5066, designated House Amendment Schedule "H", offered by Representative Farr.

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Representative Farr.

REP. FARR: (19th)

Yes, Mr. Speaker, what this amendment does is it restricts the placement of vending machines in Connecticut to places that are not open to the general public.

I move adoption of the amendment.

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The question is on adoption. Will you remark, sir?

REP. FARR: (19th)

Thank you, Mr. Speaker. Mr. Speaker, I have a series of amendments and I recognize that it's late and the House is tired. None of these amendments are frivolous amendments. All of these amendments were bills that were before this body. All of these amendments are proposals that other states have adopted. All of these amendments are amendments and issues that the Surgeon General of the United States has urged us action, he's urged us to take.

These amendments have not survived the committee process since the amendment that we passed earlier didn't either and was resurrected, I think it's appropriate to bring it before the body.

What this particular amendment does is restrict vending machines. The Surgeon General has pointed out, and the State of California has found the same thing, that vending machines are a source of cigarettes for minors. If you want to reduce cigarette addiction, addiction to nicotine in our society, then you reduce the access to children.

The fact of the matter is in the State of Connecticut today any youngster tall enough to get his

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quarters in the machine can buy cigarettes. There is in fact a law that makes that illegal. There's a law that requires a little sticker to be on the machine. Those are obviously totally ineffective.

What this says is if we want to deal with the problem, if we want to deal with the problem, it takes hundreds of thousands of lives in our society a year, the easiest and most reasonable way is to restrict access to our youngsters. That's what this amendment does.

I urge passage of the amendment.

SPEAKER BALDUCCI:

Will you remark further? Will you remark further on the amendment? If not, all those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

All those opposed nay.

REPRESENTATIVES:

No.

SPEAKER BALDUCCI:

The nays have it.

The amendment fails.

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House Amendment Schedule "H":

After section 3 add the following:
"Sec. 4. (NEW) No employer may place a cigarette vending machine in a place of employment in a location which is open to the general public."

SPEAKER BALDUCCI:

Will you remark further on the bill?

Representative Chase of the 120th.

REP. CHASE: (120th)

Thank you, Mr. Speaker. Mr. Speaker, through you, a question to Representative Lavine.

SPEAKER BALDUCCI:

Proceed, sir.

REP. CHASE: (120th)

Thank you. Through you, Mr. Speaker, Representative Lavine, I have looked at all of your amendments that are on file. Could you just share with me, as a courtesy, how many of these you plan on offering?

REP. LAVINE: (100th)

Through you, Mr. Speaker, I only intent now to comment on the bill.

REP. CHASE: (120th)

Thank you. Mr. Speaker, through you, a question to Representative Farr.

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SPEAKER BALDUCCI:

Proceed.

REP. CHASE: (120th)

Thank you. Representative Farr, as a courtesy to this member, could you tell us how many of the 12 amendments you have left to go you'll be offering?

REP. FARR: (19th)

Approximately three, I believe.

REP. CHASE: (120th)

Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further? Representative Farr.

REP. FARR: (19th)

Yes, Mr. Speaker. Again, the Clerk has an amendment, LCO5067. Will the Clerk please call and I be allowed to summarize.

SPEAKER BALDUCCI:

The Clerk please call LCO5067, designated House "I".

CLERK:

LCO5067, designated House Amendment Schedule "I",
offered by Representative Farr.

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Representative Farr.

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REP. FARR: (19th)

Thank you, Mr. Speaker. Mr. Speaker, this is an amendment that deals with an issue that we passed -- the House of Representatives passed last year, stripped off by the Senate.

What this amendment does is prevent the distribution of free cigarettes in the State of Connecticut. Again, if you want to deal with the problem of cigarette addiction in our society, it makes no sense whatsoever to have laws that say you can't sell to minors and then allow people to go out on our streets and hand out free cigarettes.

I move adoption of the amendment.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark, sir?

REP. FARR: (19th)

Yes, again, Mr. Speaker, this is not a unique or novel proposal.

SPEAKER BALDUCCI:

Please, again, I cannot hear Representative Farr and I'm sure there are others that would like to. Representative Farr.

REP. FARR: (19th)

Yes, again, Mr. Speaker, this is not a unique or

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novel proposal and it was in fact one adopted last year by this body. It is one that is supported, again, by the Surgeon General. It is one that has been adopted by other states in this nation.

Again, it makes no sense whatsoever to allow free distribution of cigarettes in a state in which we do not allow minors to purchase them.

I urge adoption of the amendment.

SPEAKER BALDUCCI:

Thank you, Representative Farr. Would you remark further on the amendment? If not, we'll try your minds. All those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed nay.

REPRESENTATIVES:

No.

SPEAKER BALDUCCI:

The amendment fails.

House Amendment Schedule "I":

After section 3 add the following:

Sec. 4. (NEW) No employer or agent of any employer shall require, as a condition of employment, that any

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employee or prospective employee distribute cigarettes free of charge during the course of such employee's employment."

SPEAKER BALDUCCI:

Will you remark further? Representative Farr.

REP. FARR: (19th)

Yes, thank you, Mr. Speaker. The Clerk has an amendment, LCO7589. Will the Clerk please call and I be allowed to summarize.

SPEAKER BALDUCCI:

The Clerk please call LCO7589, designated House "J".

SPEAKER BALDUCCI:

LCO7589, designated House Amendment Schedule "J",
offered by Representative Farr.

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Representative Farr.

REP. FARR: (19th)

Yes, Mr. Speaker. What this does is it establishes similar to the State of California a special fund for cigarette -- education about the harms of tobacco in the State of Connecticut.

California has set up this fund. It has been very successful. They have in fact have an education

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program going on a statewide basis and have reduced addiction to cigarettes in their society.

I move adoption of the amendment.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark, sir?

REP. FARR: (19th)

I just urged adoption of it. I point out that, again, this shows you how dramatically different and how out of step the State of Connecticut is. In other states in this nation, they're actively trying to reduce -- reduce addition to cigarettes while the State of Connecticut is trying to elevate to a protected statutes. What a shame.

I urge adoption of the amendment.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark? Will you remark further on the amendment? If not, we'll try your minds. All those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

All those opposed nay.

REPRESENTATIVES:

No.

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SPEAKER BALDUCCI:

The noes have it.

The amendment fails.

House Amendment Schedule "J":

After section 3 add the following:

"Sec. 4. Section 12-296 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) A tax is imposed on all cigarettes held in this state by any person for sale, said tax to be at the rate of twenty mills for each cigarette and the payment thereof shall be for the account of the purchaser or consumer of such cigarettes and shall be evidenced by the affixing of stamps to the packages containing the cigarettes as provided in this chapter.

(b) IN ADDITION TO THE TAX IMPOSED BY SUBSECTION (a) OF THIS SECTION, A TAX IS IMPOSED ON ALL CIGARETTES HELD IN THIS STATE BY ANY PERSON FOR SALE, SAID TAX TO BE AT THE RATE OF TWO CENTS PER PACKAGE AND THE PAYMENT THEREOF SHALL BE FOR THE ACCOUNT OF THE PURCHASER OR CONSUMER OF SUCH CIGARETTES AND SHALL BE EVIDENCED BY THE AFFIXING OF STAMPS TO THE PACKAGES CONTAINING THE CIGARETTES AS PROVIDED IN THIS CHAPTER.

Sec. 5. (NEW) (a) There is established a smoking education fund, which shall be a separate, nonlapsing account within the general fund. The revenues produced by the tax imposed by subsection (b) of section 12-296 of the general statutes, as amended by section 4 of this act, shall be deposited in the general fund and shall be credited to and become part of the smoking education fund.

(b) The smoking education fund established under subsection (a) of this section shall be used to fund programs which educate children and employees as to the health hazards associated with smoking and to provide stop-smoking programs free of charge to employees who smoke."

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SPEAKER BALDUCCI:

Representative Farr.

REP. FARR: (19th)

Yes. Mr. Speaker, as I've indicated earlier, all of the amendments I've previously offered were bills that were introduced and that were issues that other states have addressed, but at this point I would call LCO7245 and I be allowed to summarize. Mr. Speaker, I think that could be read, LCO No. 7245.

SPEAKER BALDUCCI:

The Clerk please call and read LCO7245, designated House "K".

CLERK:

LCO7245, House "K", offered by Representative Farr.

After section 3, add the following:

"Sec. 4. (NEW) Notwithstanding any provision of the general statutes, an employee may bring a civil action for damages against a fellow employee for personal injury or property damage resulting from such fellow employee's smoking in the workplace."

REP. FARR: (19th)

Mr. Speaker, I move adoption of the amendment.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark?

REP. FARR: (19th)

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Yes, Mr. Speaker. Again, it is intended to demonstrate how bizarre the legislation before us is. What we've said is the smoker is protected. The non-smoker has no rights whatsoever. A smoker can smoke supposedly in the privacy of his home, but of course, if he smokes in his place of employment, what happens? His fellow employees, of course, inhale the smoke, share in that smoking.

I think, Mr. Speaker, if we're going to be fair, if we're going to talk about rights, non-smokers have rights too. Apparently this body doesn't think so, but again, I urge adoption of that amendment.

SPEAKER BALDUCCI:

The question is on adoption of House "K". Will you remark? If not, all those in favor of House "K", signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed nay.

REPRESENTATIVES:

No.

SPEAKER BALDUCCI:

The nays have it.

House "K" fails.

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Will you remark further on the bill?

Representative Lavine of the 100th.

REP. LAVINE: (100th)

Mr. Speaker, next year three times as many Connecticut citizens will die in the state of passive smoking as died in Desert Storm.

Ladies and gentlemen, we can't do it today. We've tried and we can't do it. I invite the Connecticut business and industry who have an interest in this issue to become vocal. I invite the medical industry who has a real concern about this issue to become vocal. I invite the insurance industry who has every reason to be concerned about the rising costs about this to become vocal. We need your voices, we need your assistance and I'm sure we will listen if you give us that type of work.

I've been here long enough to know that issues come and issues return and this afternoon we didn't make it, but there will be other afternoons, ladies and gentlemen, we need a broader support and a broader acknowledgement as to what this problem is.

I would urge you to vote against this bill.

SPEAKER BALDUCCI:

Will you remark further? Representative Stolberg of the 93rd.

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REP. STOLBERG: (93rd)

Mr. Speaker, this will be very brief because it's clear that the sentiment of the Chamber will be expressed on this issue, but it's ironic that there are contradictions in the action we're taking today. We are concerned about Workers' Compensation. We are concerned about medical insurance costs and yet the action we're taking now flies in the face of those concerns.

This strategem by the tobacco companies is unfortunate. They should be placing their energies in diversification of their products so that the corporate contributions to the economy could continue.

It is clear that the number of smokers is going down. It is clear that our children are being educated in schools about alcohol and drugs and tobacco far better than we were and it is clear that the pressure in the next generation and the generation after that against smoking, against the deaths, against the illness, against the costs that it brings with it will be mounted, but today we're still not prepared to resist the befuddlement of a pro-smoking bill that masquerades as a rights bill. That is a shame, but it seems clear that the lobbying homework has been well done on this issue and rather than frustrate a majority

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of the Chamber, I guess we have no choice but to move forward and vote on the issue as amended by that sinister, sinister Senate Amendment Schedule "A" on this bill.

SPEAKER BALDUCCI:

Will you remark further? Representative Farr.

REP. FARR: (19th)

Yes, thank you, Mr. Speaker. I understand the impatience of the Chamber. I just point out that we spent three hours the other day talking about death penalty which may or may not affect a few lives in the State of Connecticut. This is an issue that clearly will affect thousands of lives in the State of Connecticut.

It's unfortunate. It is indeed a sad day in the State of Connecticut on June 1, 1991 that the State of Connecticut would be so out of touch with the realities of our society that the one piece of legislation that we vote out of this body is pro-smoking, the one piece we vote out.

I raised all those amendments before not in an issue to simply antagonize the Chamber or delay it, but to point out that those are the issues and those are the bills that other legislators in other states are adopting. That's what we should be doing. We ought to

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be savings lives, saving lives, not taking lives.

I don't know how the members of this Chamber justify not doing something to save some of these lives. It's been pointed out that people say they can remember back in World War II when we used to give out free cigarettes to soldiers. Fortunately, we don't do that any more. We found out we gave them out and we killed a lot of those soldiers. We don't do that anymore. Society is changing. This Chamber has to change.

It's a sad, sad day for me. It's probably, to me, the worse piece of legislation I've seen up here in my 11 years up here and the worse direction I've seen this Chamber, directly contrary to the best interests of the State of Connecticut. Thank you.

SPEAKER BALDUCCI:

Thank you, Representative Farr. Will you remark further on the bill? If not, staff and guests please to the well. Members be seated. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber please. The House of Representatives is taking a roll call vote. Members kindly report to the Chamber.

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SPEAKER BALDUCCI:

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

CLERK:

The House is voting by roll. Members to the Chamber.

SPEAKER BALDUCCI:

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

The Clerk please announce the tally.

CLERK:

House Bill 7211, as amended by House Amendment Schedule "A" and Senate Amendment Schedules "A" and "B", in concurrence with the Senate.

Total Number Voting	136
Necessary for Passage	69
Those voting Yea	98
Those voting Nay	38
Those absent and not Voting	15

SPEAKER BALDUCCI:

The bill as amended is passed.

Are there any announcements or Points?

REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER BALDUCCI:

S-321

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1991

VOL. 34
PART 8
2563-2951

WEDNESDAY
May 29, 1991

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remark on this item? Anybody else wish to remark on Senate Calendar 481 as amended? If not, would the Clerk make the necessary announcement for a roll call vote please.

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 CHAIR:

Thank you. The issue before the Chamber is Senate Calendar 481, Substitute HB6398 as amended. The machine is open. You may record your vote. Thank you. All Senators voting have voted. The machine is closed.

The result of the vote.

29 Yea

7 Nay

0 Absent

The bill is adopted.

Mr. Clerk.

THE CLERK:

Calendar Page 7, Calendar 500, File 656, Substitute HB7211, AN ACT CONCERNING EMPLOYMENT DRUG TESTING. As amended by House Amendment Schedule "A". Favorable Report of the Committee on JUDICIARY. Clerk is in

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possession of three amendments.

THE CHAIR:

Thank you. The Chair recognizes Senator Maloney.

SENATOR MALONEY:

Thank you, Madam President. I would move the Joint Committee's Favorable Report and passage of the bill in accordance with the House.

THE CHAIR:

Thank you. Mr. Clerk.

SENATOR MALONEY:

And I would ask the Clerk to start with LCO6996.

THE CLERK:

LCO6996 designated Senate Amendment Schedule "A"
offered by Senator Barrows of the 2nd District et al.

THE CHAIR:

Senator Barrows, do you wish to introduce the amendment?

SENATOR BARROWS:

Yes, Madam President, I move adoption of the amendment.

THE CHAIR:

Thank you very much, Senator.

SENATOR BARROWS:

Yes, I would like to speak to the amendment. This amendment would prohibit the firing or hiring of anyone

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as long as they abide by rules of the workplace and also this amendment would exempt paid firefighters and paid policemen if it allows municipalities to continue policies concerning heart and hypertension of the paid policemen and firemen.

THE CHAIR:

Thank you, Senator. Would anyone wish to comment on LCO6996? LCO6996? If not, then please let me know your mind. All those in favor of Senate Amendment Schedule "A" please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed? The ayes have it. The amendment is adopted. Senator Maloney.

SENATOR MALONEY:

I would ask the Clerk to call LCO7407.

THE CLERK:

LCO7407 designated Senate Amendment Schedule "B" offered by Senator Maloney of the 24th District.

THE CHAIR:

Senator Maloney.

SENATOR MALONEY:

Thank you. I would move the amendment and seek leave to summarize.

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THE CHAIR:

Please proceed.

SENATOR MALONEY:

Current law requires three separate tests in regard to drug use on the job. The bill emerged from the Labor Committee reduced the three test requirements to two test requirements. That during this bill's journey through other committees that was then restored back to three. This amendment restores it to two which was the original intent of the bill as it was approved by the Labor Committee.

THE CHAIR:

Thank you, Senator. Would anyone else wish to remark on Senate Amendment "B", LCO7407? Are there any further remarks? If not, then would you please let me know your mind. All those in favor of the amendment please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed? The ayes have it. The amendment is adopted. Senator Maloney.

SENATOR MALONEY:

I have no further amendments.

THE CHAIR:

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Mr. Clerk.

THE CLERK:

Madam President, it is my understanding that the other amendments filed by Senator Barrows are to be withdrawn.

THE CHAIR:

Thank you. Is that correct, Senator? Fine, Senator Maloney you now have before you the bill as amended.

SENATOR MALONEY:

Thank you, Madam President. On the bill...the principle purpose of the bill is under existing law an employer may perform a drug testing upon reasonable suspicion. That term is not defined in the statute. What this bill does is require that the Labor Commissioner adopt regulations which will give guidelines in defining reasonable suspicion and secondly it makes it clear that until there is a definitive finding of now under Senate "B", the additional test, which means two tests, affirmatively finding the presence of drugs that an adverse personnel action could not be taken, nor may a disclosure of that information be made until in fact the two tests are both affirmatively returned.

THE CHAIR:

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Thank you, Senator. Would anybody else wish to remark on Senate Calendar 500? Anybody else?

SENATOR MUNSTER:

A question through you. The provision about two additional tests. Does that mean the employee has to be effectively found in the circumstance of having drugs three times, or does that really mean that in three separate independent drawings of blood and have those...take a single drawing or a sample of urine and separate it into the three pieces to have infinite tests done on them?

SENATOR MALONEY:

Thank you, Madam President. Through you, Madam President. As amended, only two tests are required so we never get to the issue of three, but it could in fact, it is intended to be from the single sample. The first test is recognized to be a quick and reasonably accurate test in that it will not give false negatives, but it does give some false positives. So in order to verify the results that is why there is the requirement for the second test of the same sample.

THE CHAIR:

Thank you very much, Senator. Senator Munster, do you have any further questions?

SENATOR MUNSTER:

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Thank you, no.

THE CHAIR:

Would anyone else wish to remark on this bill?

Senator Fleming.

SENATOR FLEMING:

Yes, Senator Barrows is not here. Only the comment that with the passage of Senator Barrow's amendment I would not want this to go on Consent because I would like to be recorded on the roll call machine as against this. I believe that Senator Barrow's amendment is going to cause some confusion particularly when I look at the language of the amendment where it says no employer or agent shall require as a condition of employment that any person or prospective employer refrain from using tobacco products outside the course of his employment and one of the concerns I have about that is when somebody is on their lunch hour they technically working in the course of their employment?

You know, we just finished in the Legislature over the last couple of years passing legislation to allow companies, and in fact force companies to stop employees from smoking and creating smoke free environments, I think what we are doing here is sending a conflicting message now to the private sector. And I think the Legislature should be discouraging smoking in

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employment and should be discouraging smoking in general because of the health problems that it causes. And so it's a shame this is being tacked onto this bill. Had I had an opportunity to look at this amendment before it was passed by a voice vote I would have asked people to reject it, so I would like to be recorded in the negative on the bill.

THE CHAIR:

Thank you very much, Senator. Does anybody else wish to comment? Senator Maloney.

SENATOR MALONEY:

I believe with Senator Fleming's comment that a roll call then would be in order.

THE CHAIR:

Yes, sir. If not, Mr. Clerk, would you please make the necessary announcement for a roll call vote.

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 CHAIR:

The issue before the Chamber is Senate Calendar 500, Substitute HB7211, as amended. The machine is open. You may record your vote. Thank you. All

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Senators voting have voted. The machine is closed.

The result of the vote.

26 Yea

10 Nay

0 Absent

The bill is adopted.

Mr. Clerk.

THE CLERK:

Calendar Page 14, Calendar 544, Files 407 and 869,
Substitute HB6224, AN ACT CONCERNING A STATE PLAN TO
PROMOTE TOURISM. As amended by House Amendment
Schedules "A" and "B". Favorable Report of the
Committee on GOVERNMENT ADMINISTRATION AND ELECTIONS.
Clerk is in possession of one amendment.

THE CHAIR:

Thank you very much, Mr. Clerk. The Chair
recognizes Senator Avallone.

SENATOR AVALLONE:

Can we stand in recess for just a moment, Madam
President.

THE CHAIR:

We can stand at ease, how's that?

The Senate will come to order. Senator O'Leary.

SENATOR O'LEARY:

Thank you, Madam President. We don't, can't locate

ONTARIO
STANDING
COMMITTEE
HEARINGS

LABOR AND
PUBLIC EMPLOYERS
PART 3
639-018

1991

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kr LABOR AND PUBLIC EMPLOYEES

March 21, 1991
2:00 p.m.

PRESIDING CHAIRMEN: Senator Allen
Representative Adamo

COMMITTEE MEMBERS PRESENT:

SENATORS: Maloney, Robertson

REPRESENTATIVES: Beamon, Betkoski, Dargan,
Emmons, Gambardella,
Jones, Joyce, Loffredo,
Miller, Pudlin, Radcliffe,

(cass 1 completely blank, hearing picks up on cass 2
halfway through side B)

TAMAR H. MACFADYEN: -- Labor and management programs
to educate, encourage treatment, and counseling for
workers who are identified as being in trouble.
Reaching out and helping co-workers rather than
searching for suspicious behavior. It is a known
fact that treatment is more successful when it is
voluntary.

REP. ADAMO: Thank you Tammy, any questions?
Representative Emmons.

REP. EMMONS: This bill has come up before and I have
no position on it but you and other people have
been, trade unions, have been opposed to it. It
seems to me that at some point that unions should
come up with what might be some satisfactory
language. I can see, the one issue last year was
on truck drivers, that they didn't want to have
drug testing and I have a little bit of problem
with that because I think we have DWI and all kinds
of punishment. Truck drivers who are on drugs can
be as big a hazard on the road as drunk

HB 7211
People who are in the workplace who are working on
machines who are under the influence of drugs can
cause something to happen to an innocent other
worker. So somehow we have to find a balance, it's
not really at the moment.

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LABOR AND PUBLIC EMPLOYEES

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TAMAR H. MACFADYEN: Our position is that the balance is in there. Reasonable suspicion is cause for an employer to have an employee tested. If an employee is behaving in, I mean there are many indications that he may have a problem, I don't, I think saying has caused an accident, I mean that has been involved in an accident, has caused an accident I mean you could trip over a wire and that's cause to be tested? There are extremes that we're concerned that will be abused if the language is opened up.

REP. EMMONS: I guess I'm looking at it from the other side of employees who are in positions where you really don't have a lot of surveillance are not, it is appropriate maybe to do some testing. I mean I certainly would like airplane pilots tested before they started off in an airplane, to tell you the truth.

TAMAR H. MACFADYEN: I'm sympathetic to that.

REP. EMMONS: And I wouldn't mind having tandem truck drivers tested before they started off on their trip. So I think there's a balance between protection of the employee and protection of the worker. And I think that's...

TAMAR H. MACFADYEN: There's provision for sensitive occupations too. I mean certainly Ensign Bickford, which does explosives is a sensitive, they probably have the exemption to do drug testing. Truck driving again is the same...

REP. EMMONS: No, truck driving didn't, truck driving didn't pass last year.

TAMAR H. MACFADYEN: Right, interests...

REP. ADAMO: Nor did truck driving apply to the Department of Labor for safety sensitive designation which they would have gotten.

TAMAR H. MACFADYEN: Right.

REP. ADAMO: That's the problem.

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TAMAR H. MACFADYEN: The problem is that right now there are provisions that were worked out with a lot of effort on everybody's part and they're not being utilized. We're just saying utilize them and if you utilize them and you're not successful, come back and let's talk about it again.

REP. ADAMO: Thank you. If anyone see John McCarthy tell him I need to see him. I think it's important that..

TAMAR H. MACFADYEN: He's outside.

REP. ADAMO: I think the committee ought to be getting from the Labor Department a list of those jobs that have been found to be safety sensitive. Every single one that has applied has been given the designation and you'd be surprised how simple some of them were.

TAMAR H. MACFADYEN: And very few have applied.

REP. ADAMO: No one is using the darn thing frankly. Thank you. Tony Statka please, Tony. Followed by Tim Morse is Tim here? O.K. I think you'll find him there he is.

TONY STRATKA: Good afternoon Representative Adamo and members of the committee. I'm here to speak today on behalf, concerning two bills. The first of which is raised bill HB7088, AN ACT CONCERNING OCCUPATIONAL HEALTH CLINICS. As I understand it the bill would provide a means of continued funding for the network of clinics in the system of occupational disease surveillance which was addressed in Public Act 90-226.

Essentially it's an attempt to introduce a stable source of funding for this program by assessing workers compensation insurance carriers for cost in the same manner as the expenses of the workers compensation commission are presently funded. I believe that this is generally a positive concept and pretty much the right direction to go. The bill as written however, caps the level of funding at \$750,000 for fiscal year ending June 30, 1992. That was the same amount of funds allocated in Public Act 90-226.

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We are opposed to it mainly because we are afraid of the fact that there right be retaliation by other states and Connecticut contractors do work in other states when there is a lack of construction in the State of Connecticut. Our comments on that preference bill or preference of Connecticut-based contractor hiring is because of the fact that we believe that Connecticut companies are at a distinct competitive disadvantage because of other circumstances in the State of Connecticut, including the high cost of workers' compensation and other taxes.

I would like to make a comment on Section 2 in the bill. I know that previous speakers talked about the licensing provisions. I'd just like to say that you don't currently license laborers or workmen, although we are trying to get a licensing bill for our laborers who lay pipe and conduit in another Committee because we're still having a problem in that end. But that's a problem also.

The gentleman that spoke about the problem of Massachusetts...a lock-out by Massachusetts operating engineers, or heavy equipment operators...we did have a discussion with him and he's asking for a license of equipment operators in Connecticut. I don't think that's the proper way to attack the problem. He gave me some information and it seems as though their application requires a very strange provision that says that they have to be sponsored or endorsed by a licensed holder in the other state.

Our association will look into that because we were not aware of it prior to today's hearing or within the last couple of day~.

HB 7211
Commenting on the employment drug testing bill HB7211: we support the provisions and hope that your Section 3 of the bill that includes drug testing of former employees who are also prospective employees clear up a problem that we've had. In 1989, the Department of Labor ruled that under your drug testing law, if you had a drug testing policy, and you had a prospective employee

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who was a former employee, you could not subject that individual to any drug testing that your other prospective employees were subjected to.

This does present a problem because you could have had that person as a former employee and could have worked for you five years ago, and you've lost touch with him. I think it's what the bill's trying to do but I'm not positive.

: (inaudible, away from microphone).

JOYCE WOJTAS: Okay, thank you. Another drug testing provision which is absent from this bill but that you will be getting, possibly, from another Committee is the drug testing for intra-state drivers. Mike Reilly from motor transport is here and he will be talking at more extent on that particular provision, I'm sure. But we would hope that this Committee could see the light. Since the Federal motor carrier safety regulation drug testing provisions apply to drivers who drive trucks inter-state, it really doesn't make much sense to not make those same rules and regulations apply to those drivers who are driving the same sized vehicles within Connecticut.

It creates some confusion and some problems for Connecticut-based employers who have some drivers who may go over the state line, and who have some drivers who stay within Connecticut. They're driving the same vehicles. They're subject to the same safety rule, regulations, and everything, but the drug testing provision is different. I would hope that you would take positive action on that when it comes before you.

Thank you Mr. Chairman for giving me this opportunity to appear before you today.

REP. ADAMO: Anytime Joyce. It's always our pleasure. Is Kurt Westby here please? Followed by Bonnie Stewart, who I know is here.

KURT WESTBY: Hi, my name is Kurt Westby. I am affiliated with Local 531 of the Service Employees International Union and I'm here in support of HB6965, just to re-kindle some of the comments that

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Drug testing, HB7211: We strongly support this bill. Particularly the streamlining of the testing and the expansion of the reasonable suspicion definition. A number of our members have found that the way the bill is presently written, it's either unworkable or very expensive and, therefore, not used. We feel that that will improve the statute as is presently written.

HB5739

HB5738, AN ACT CONCERNING APPRENTICESHIP PROGRAMS: We also support this. We feel that this is a necessary measure to ease the financial burdens of the technical/vocational apprenticeship programs. Due to recent budget cuts, as you are aware, the funding for the program has dropped. At one time, we were able to serve 4,800 applicants. We're down now to 2800. This bill would allow apprentices to receive those educational components necessary to complete their training by permitting the charging of tuition.

The private sector should then be allowed by pay for instruction needed to ensure highly skilled graduates for our employers. CBIA encourages you, however, that existing statutory language be further amended to make vocational education extension funds available to apprenticeship programs. That's one of the areas that we find a problem in our job-training areas because it's not extended there. That would be one other area that we encourage you to extend it to, because it would allow for more people to be trained.

Questions?

REP. ADAMO: No just a comment. I think that that last comment you made...that particular aspect of the bill is, in fact, in a bill on education. This bill will be going to education. The two will be merged and I think they will all be taken care of.

BONNIE STEWART: Together?

REP. ADAMO: Yes. Thank you. Jerry.

HB6369

JERRY POTTS: Good afternoon, my name is Jerry Potts. I am an instructor. I have been an instructor of human physiology for about eight years. I am

TESTIMONY OF
BONNIE D. STEWART
CONNECTICUT BUSINESS AND INDUSTRY ASSOCIATION
BEFORE THE
LABOR AND PUBLIC EMPLOYEES COMMITTEE
MARCH 21, 1991
LEGISLATIVE OFFICE BUILDING
HARTFORD, CONNECTICUT

Good afternoon. My name is Bonnie Stewart. I am an attorney with the Connecticut Business and Industry Association (CBIA). CBIA represents approximately 7,000 firms which employ over 700,000 men and women in Connecticut. Our membership includes firms of all sizes and types, the vast majority of which employ fewer than 100 people.

There are five bills before the committee today that I will comment on. They include:

HB-7088 An Act Concerning Occupational Health Clinics;

HB-6369 An Act Concerning Smoking In The Workplace;

HB-6965 An Act Concerning Standard For Heating, Air
Conditioning And Ventilation In The Workplace;

HB-7211 An Act Concerning Employment Drug Testing; and

HB-5739 An Act Concerning Apprenticeship Programs.

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HB-7211 An Act Concerning Employment Drug Testing

CBIA supports HB-7211 which would improve the statutory provisions concerning drug testing.

Some modifications to the current drug-testing law such as the streamlining of the testing procedure as stated in Section 31-51(u) and in Section 31-51x the expansion of the definition of reasonable suspicion will improve the statute considerably.

000863

UI United
Illuminating

General Offices: 80 Temple Street

P.O. Box 1564, New Haven, CT 06506-0901

March 21, 1991

Honorable Joseph A. Adamo
Legislative Office Building, Room 3800
State Capitol
Hartford, CT 06106

Dear Representative Adamo: *Joe*

I am writing to offer United Illuminating Company's comments and strong support for Raised Bill 7211 AN ACT CONCERNING EMPLOYMENT DRUG TESTING.

United Illuminating supports the expansion of "reasonable suspicion" to include employee violation of an employer's written work rules prohibiting the use, possession and transfer of drugs or alcohol within the employer's premises or while performing work for the employer. UI's Substance Abuse policy addresses this issue and goes beyond prohibition. Our policies include an Employee Counseling Program for guidance and assistance to employees. United Illuminating's rules protect the interests of both The Company and its employees.

The Company has been, and will continue be, committed to provide a safe work environment for all its employees. That commitment includes the prevention of accidents as well as the identification of causes of accidents. This bill would permit the assumption of reasonable suspicion of drug influence in employee actions which have caused a work related accident that resulted in bodily injury or death.

During this legislative session the Labor Committee has considered and favorably reported legislation which promote a safe and healthy work environment. This legislation is a clear compliment to safety in the workplace. In addition you have heard the cry of us in the business community about the burden of workers' compensation. Safety in the workplace and accident prevention go hand in hand with a reduction of work related injuries.

For these reasons United Illuminating supports Raised Bill 7211, AN ACT CONCERNING EMPLOYEE DRUG TESTING and urges a Joint Favorable Report by the Labor & Public Employees Committee favorable report.

If you have any questions on this issue please call me on 777-4911 and we could meet at your earliest convenience to discuss it further.

Sincerely,

Carlos
Carlos M. Vazquez
Manager - Public Affairs

The United Illuminating Company
an investor-owned electric light and power company



Testimony of William Olds, Executive Director
of the Connecticut Civil Liberties Union
before the Labor Committee
of the Connecticut General Assembly
March 21, 1991

House Bill No. 7211 - An Act Concerning Employment Drug Testing.

When the state legislature in 1987 passed a measure protecting the privacy rights of employees, its intent was to shield employees from unfair and unreasonable drug tests when the employees had done nothing wrong. The legislation, which was overwhelmingly passed in both houses of the General Assembly, prohibited random drug testing with an exception for employees in "safety-sensitive" positions and for job applicants.

I was involved with that issue in 1987 and worked closely with the Connecticut State Labor Council. It was the intent of the legislature to insure that private employees enjoyed the same right to privacy as public employees. The legislature, and this committee, said, in effect, that it was unfair to force workers who were not even suspected of using drugs and whose job performance was satisfactory to submit to a drug test.

With some narrow exceptions the United States Supreme Court has interpreted privacy protections in the Fourth Amendment to protect most government employees from unreasonable searches and seizures including random drug tests. The exceptions have been applied to only those government employees who are in certain safety-sensitive positions. The courts have not permitted random drug testing of other government employees.

I would urge the Labor Committee to not dilute the present state law which protects most private employees from being required to submit to a drug test when they have done nothing wrong and they are performing well on the job. Private employees deserve the same rights as public employees.

There are three sections in House Bill No. 7211 which could dilute privacy protections.

First, the present law requires that a positive test be confirmed by two more tests. The proposed legislation would require that the confirmation involve only a second test. While

Connecticut
Civil Liberties Union

32 Grand Street
Hartford, CT 06106
203/247-9823

Emanuel Margolis
chairperson
Margery Gross
vice chairperson
Cliff Noll, Jr.
secretary

Ralph Clifford
treasurer
Drew Days, III
legal advisor
William Olds
executive director

An affiliate of
The American
Civil Liberties Union

improvement in testing methodology have been made, errors are inevitable in any large-scale testing program. The Council of Scientific Affairs of the American Medical Association finds (JAMA, Vol. 257, No. 22) that: "...One of the major drawbacks to all gas chromatography techniques is the time it takes to prepare the sample before testing. Unless this is done properly, the results can be highly inaccurate...it...also requires a highly skilled operator."

Second, the Bill proposes to include "any new employee who is also a prospective employee" to submit to a random drug test. While the present law does exempt job-applicants, we do not believe a new employee should be considered a job applicant. A new employee should enjoy the same privacy protections as other employees. A new government employee does not have to waive his/her right to privacy.

Third, the Bill says a reasonable suspicion shall be presumed to arise whenever an employee is involved in a work-related accident. (lines 83 and 84) The language in this section indicates that there does not have to be any reasonable suspicion that the employee was using drugs. The same employee who had an accident with his/her motor vehicle off the job could not be forced to submit to a drug test unless the police had probable cause that alcohol or drugs were involved. That same standard of individualized suspicion based on some facts should apply in the workplace just as it does off the job.

We urge the Labor Committee to move cautiously with this Bill. We urge the Committee not to reduce the privacy protections of private employees. We urge the Committee not to establish a double standard between private and public employees.

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expressed a desire to be represented by a union. We ask for your support for this legislation.

Finally, I will speak in opposition to HB 7211, AN ACT CONCERNING EMPLOYMENT DRUG TESTING. It is still the position of the Connecticut AFL-CIO that the present law has not been tested or utilized properly and that the proposed legislation does not address our concerns. We are not convinced that there is the "major" problem that our opponents would have us believe: in a survey widely publicized last fall to convince the world that the majority of workers support random drug testing, some of the following statistics were related:

- * 96% favor drug testing under "some circumstances".

What circumstances. Are 96% confident that they will test negative? If they are referring to safety sensitive jobs, the present statute allows their employer to secure an exemption from the Labor Department which allows them to test.

- * 38% have "seen or heard" of co-workers using illicit drugs. 1% could have "seen" only one person or 37% "heard" about the same one person that the other 1% saw.

- * While 96% approve of testing, only 14% felt it was a necessity.

We were not given the information as to how the questions were asked, although this was proported to be a Gallup poll.

Please be assured that the AFL-CIO is not in support of drug abusing and we certainly would like to see workers who are in trouble placed into rehabilitation programs and helped to heal. We have serious reservations, however, with any program or language that has thus far been suggested because it cannot solve some of the basic "human" problems:

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- * The tests are not accurate
- * A simple rumor of a person "failing" a drug test can ruin that persons life irreparably.
- * Too many over-the-counter drugs affect some persons' systems in questionable ways -- persons of color can test positive because they have taken certain aspirins or antihistamines.

We would suggest the development of labor/management programs to educate, encourage treatment and counseling for workers who are identified as being in trouble -- reaching out and helping co-workers rather than searching for suspicious behavior. It is a known fact that treatment is more successful when it is voluntary.