

Legislative History for Connecticut Act

Public Act: 01-42

Bill Number: 6557

Senate Pages: 1970, 2021-2023

House Pages: 1478, 1710-1712

Committee: Labor: 18-19, 30-31, 158, 185-186

4
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7

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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
2001

VOL. 44
PART 7
1799-2156

pat
Senate

10

001970

May 17, 2001

252 is PR.

256 is Go.

271 is to be passed temporarily.

286 is PR.

Page 6, 288 is PR.

292, PR.

297 is Go.

315 is PR.

318 and 319 are PR.

Page 7, 322 is Go.

333 is to be passed temporarily.

334 is PR.

338 is to be passed temporarily.

344, H.B. 6535 I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

346, H.B. 6557 I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Page 8, 363, S.B. 823 I move to the Committee on
Planning and Development.

THE CHAIR:

Without objection, so ordered.

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Senate

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May 17, 2001

THE CHAIR:

Mr. Clerk, would you first announce a roll call vote on the Consent Calendar and then call those items, please.

THE CLERK:

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

Madam President, the First Consent Calendar begins on Calendar Page 2, Calendar 123, S.B. 1254.

Calendar Page 5, Calendar 256, Substitute for S.B. 175.

Calendar Page 6, Calendar 297, S.B. 1119.

Calendar Page 7, Calendar 345, Substitute for H.B. 6535.

Calendar 346, Substitute for H.B. 6557.

Calendar Page 9, Calendar 396, Substitute for H.B. 6925.

Calendar Page 10, Calendar 453, H.B. 65, correction H.B. 6775.

Calendar Page 11, Calendar 454, Substitute for H.B. 6860.

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Calendar Page 12, Calendar 462, Substitute for H.B.
6642.

Calendar 463, Substitute for H.B. 6660.

Calendar 464, Substitute for H.B. 6740.

Calendar 465, H.B. 6628.

Calendar Page 13, Calendar 476, H.B. 5307.

Calendar Page 14, Calendar 483, Substitute for
H.B. 6796.

Calendar Page 17, Calendar 290, Substitute,
correction, Calendar 209, Substitute for S.B. 1389.

Calendar 214, Substitute for S.B. 1219.

Calendar Page 19, Calendar, correction. On Page 17
it was Calendar 214, Substitute for S.B. 1209.

Calendar Page 19, Calendar 264, Substitute for S.B.
1381.

Calendar Page 20, Calendar 294, Substitute for S.B.
419.

Calendar Page 21, Calendar 323, Substitute for S.B.
177.

Calendar Page 24, Calendar 486, S.R. 25.

Madam President, that completes the First Consent
Calendar.

THE CHAIR:

Thank you, Sir. Would you once again announce a
roll call vote. The machine will be opened.

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Senate

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May 17, 2001

THE CLERK:

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

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

THE CLERK:

Motion is on adoption on Consent Calendar No. 1.

Total number voting 36; necessary for passage, 19.

Those voting "yea", 36; those voting "nay", 0. Those absent and not voting, 0.

THE CHAIR:

The Consent Calendar is adopted. At this time the Chair will entertain points of personal privilege or announcements.

Last chance. Are there any announcements or points of personal privilege? Seeing none, Mr. Clerk.

THE CLERK:

Madam President, the Clerk is in possession of Senate Agendas No. 2 and 3 for Thursday, May 17, 2001,

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
2001

VOL. 44

PART 5

1375-1725

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House of Representatives

Thursday, April 19, 2001

Hearing no objection, so ordered. Representative Godfrey.

REP. GODFREY: (110th)

Thank you Madam Speaker. Madam Speaker, ladies and gentlemen at this time I would like to move about four bills on the Calendar on the Go List to the Consent Calendar for action by this body at our next session.

Those would be: Calendar 159, HB6830, AN ACT CONCERNING TECHNICAL REVISIONS TO THE PUBLIC SERVICE COMPANIES LAW; Calendar 215, Substitute for HB6557, AN ACT TECHNICAL REVISIONS TO CERTAIN LABOR STATUTES;

Calendar 229, Substitute for SB791, AN ACT CONCERNING BY COMMUNITY REINVESTMENT CREDIT UNIONS; Calendar 230, SB997, AN ACT CONCERNING THE ADMINISTRATION OF OATHS.

I would move that those four items be placed on the Consent Calendar for action at our next session.

DEP. SPEAKER FRITZ:

Without objection, those items are placed on the Consent calendar.

REP. GODFREY: (110th)

And Madam Speaker.

DEP. SPEAKER FRITZ:

Representative Godfrey.

REP. GODFREY: (110th)

kmr

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House of Representatives

Wednesday, April 25, 2001

Those absent and not voting 7

DEP. SPEAKER HYSLOP:

Bill passes. Representative Godfrey.

Clerk please call Calendar 159.

CLERK:

On page one, Calendar 159, HB6830, AN ACT
CONCERNING TECHNICAL REVISIONS TO THE PUBLIC SERVICE
COMPANIES LAWS. Favorable report of the Committee on
Energy and Technology.

DEP. SPEAKER HYSLOP:

Representative Godfrey.

REP. GODFREY: (110th)

Thank you Mr. Speaker. Mr. Speaker, ladies and
gentlemen I'm about to call today's Consent Calendar.
There are four items on today's Consent Calendar,
Calendar 159, HB6830; Calendar 215, Substitute for
HB6557; Calendar 229, Substitute for SB791; and Calendar
230, SB997. I move adoption of the Consent Calendar and
passage of the bills thereon. Mr. Speaker, I am aware
that there is at least one member who wants pull a bill
off of the Consent Calendar. I would like to yield to
Representative Giannaros.

REP. GIANNAROS: (21st)

Thank you Mr. Speaker.

DEP. SPEAKER HYSLOP:

kmr

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House of Representatives

Wednesday, April 25, 2001

Do you accept the yield?

REP. GIANNAROS: (21st)

I kindly request that Calendar 159, HB6830 be taken off the Consent Calendar.

DEP. SPEAKER HYSLOP:

The request is for Calendar 159, HB6830 be removed from the Consent Calendar. Seeing no objection it's moved.

REP. GIANNAROS: (21st)

Thank you.

DEP. SPEAKER HYSLOP:

Representative Godfrey.

REP. GODFREY: (110th)

Mr. Speaker, then Calendar 215, Calendar 229, and Calendar 230 comprise today's Consent Calendar. I move passage of the bills on the Consent Calendar.

DEP. SPEAKER HYSLOP:

Staff and guests to the well of the House, the machine will be open.

CLERK:

The House of Representatives is voting the Consent Calendar by roll call, members to the Chamber. The House is voting the Consent Calendar by roll call.

DEP. SPEAKER HYSLOP:

Have all the members voted? If all members have

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House of Representatives

Wednesday, April 25, 2001

voted, please check the machine to make sure that your vote is properly recorded. The machine will be locked and the Clerk will take a tally. The Clerk will please announce the tally.

CLERK:

On today's Consent Calendar

Total Number Voting	144
Necessary for Passage	73
Those voting Yea	144
Those voting Nay	0
Those absent and not voting	7

DEP. SPEAKER HYSLOP:

Consent Calendar passes. Clerk please call Calendar 87.

CLERK:

On page three, Calendar 87, Substitute for HB5861, AN ACT INCREASING THE MILEAGE REIMBURSEMENT RATE FOR WORKERS' COMPENSATION CLAIMANTS. Favorable report of the Committee on Labor.

DEP. SPEAKER HYSLOP:

Representative Newton.

REP. NEWTON: (124th)

Thank you Mr. Speaker. I move that this be referred to the Finance Committee.

DEP. SPEAKER HYSLOP:

**JOINT
STANDING
COMMITTEE
HEARINGS**

**LABOR
AND
PUBLIC
EMPLOYEES**

PART 1

1-317

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2001

that bill.

The second bill is raised H.B. 6557, AN ACT CLARIFYING THE EXEMPTION OF NEWSPAPER DISTRIBUTORS FROM THE UNEMPLOYMENT COMPENSATION LAW.

We would respectfully speak against this. The result of this, if this were to pass, certain individuals would no longer be covered by the unemployment compensation law.

At the present time, if there should be a claim made by an individual, no matter where they're working, as you know, we have a fact finding that we must do. There are occasions where an employer raises a defense that the individual is not actually an employee and those cases are ruled upon in a one-by-one as they come up.

The unemployment compensation system evolved from partial coverage to nearly universal coverage with all employers paying their part into the fund. And so, in this particular case, to just automatically carve out a certain group of individuals, we would feel is not to the benefit of the overall system.

I'd be glad to answer any questions.

REP. DONOVAN: Any questions from the committee?
Senator Guglielmo.

SEN. GUGLIELMO: Thank you, Mr. Chairman.

John, under the present system, would somebody whose delivering newspapers in the car, major papers, are they now covered under workers' compensation if they are injured or they are not or is that what the question is here?

HB 6557

JOHN A. MCCARTHY: It's a factual case. We have to determine what their relationship is. Some are, some may not be.

SEN. GUGLIELMO: Right.

JOHN A. MCCARTHY: It's kind of an evolution of the industry where now, largely, the delivery of

newspapers in many cases is not no longer by children, but by grownups who are driving around the State and doing those distributions of the papers.

So, you can't really make it broad statement. It would be a factual instance that we would have to look at and see what the relationship is. Just as we do at any time when the question is raised, is the person an employee?

SEN. GUGLIELMO: Alright. Just the same as a contractor and subcontractor, whether they're really a subcontractor or an employee?

JOHN A. McCARTHY: Yes.

SEN. GUGLIELMO: Okay. Thank you.

REP. DONOVAN: Representative Cafero.

REP. CAFERO: Thank you, Mr. Chairman. Can you explain to me this bi-weekly business? Am I now to understand that every employer has the right to request the permission to pay their employees bi-weekly? Is that correct under current law? HB 5215

JOHN A. McCARTHY: Yes.

REP. CAFERO: And for the most part, I guess what you're saying is that you feel and the current law says it's necessary to review that request, make sure this employer has some solvency history of good timely payments to his employers - employees, rather. So you're not in a situation where somebody's trying to stall off paying their employees and they go belly up or they're really bad fiscal managers and they're borrowing from Peter to pay Paul, etc. Is that the rational behind it?

JOHN A. McCARTHY: Yes. For example, if there were outstanding complaints or if there had been an adjudication, either informally or formally, that an employer had violated the law, we certainly wouldn't want to grant them an exemption and give them a bi-weekly.

JOHN A. MCCARTHY: I don't know the answer to that, but I will certainly find out for you.

REP. CAFERO: I appreciate it. Thank you.

REP. DONOVAN: Representative Frey.

REP. FREY: One quick. John, how does the State pay their employees?

JOHN A. MCCARTHY: Do I have to answer that? The State pays bi-weekly, I believe, but I'm not sure I'll answer your next question, if you have a further question. I don't think I will do that.

REP. FREY: Okay. Thank you.

REP. DONOVAN: I'm sure there's a waiver some place. Governor Pratt, in 1849.

John, I have a couple of questions. Actually one story I remember was when my son first got a job, after the first week he didn't get paid, after the second week he didn't get paid and after the third week he didn't get paid and finally the father intervened on the fourth week. You know, you want to let your children learn the workplace and I did intervene. He did get paid. And then they forgot and they weren't paying the minimum wage.

I talked to the manager and he said, "I know it's a problem." I said, "Yeah, and it's against the law." And he said, "What is the penalty?" I said, "A fine and possible imprisonment." And then he said, "We'll get on it right away." And he did.

But I think - I mean, this is just one instance and he was unlucky to have my son as a worker, but it just shows that there are some problems out there in workers getting paid and here my son had worked a month and hadn't gotten paid and that wasn't right.

On another issue on the issue of the newspaper carriers and you mentioned the trend. I notice, I certainly have noticed there are more adults

HB6557

performing this work which had been kind of young - children going out working and collecting the dollars and sending it back. And in some ways, that relationship was kind of selling the paper that you would then pay for. But I know there's also not only a trend of deliverers not only being hired by the newspaper, but also the fact that people are now paying the newspaper directly.

And I was wondering if that is even a trend away from a contractor and actually more towards an employee type of an arrangement. I wonder if you could comment on that.

JOHN A. McCARTHY: Well, the newspaper that I have daily at home, we pay the newspaper directly. They have a slot there for a tip if you want to pay the tip to the newspaper and then they will hopefully give it to the person.

So, the relationship between the consumer is directly to the entity, to the newspaper itself in my case. I don't know about all the rest of the State.

REP. DONOVAN: Thank you. Okay, thank you.

JOHN A. McCARTHY: Thank you.

REP. DONOVAN: Next -- according to my sign-up sheet, that's the last public official we have before us. Any other public officials hiding in the wings? No.

If not, then we will move onto the public portion of the hearing and I'll call the first speaker, Nathan Shafner.

NATHAN SHAFNER: Good afternoon, Representative Donovan, members of the committee. I'm Nathan Shafner. I'm an attorney and I'm here as the co-chairman of the Connecticut Trial Lawyers Association's Workers' Compensation Committee.

SB 121
SB 1008
SB 1009

I've provided the committee with our position with respect to the bills that are being presented today, but I'd like to specifically address three



CONNECTICUT AFL-CIO

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TESTIMONY OF LORI J. PELLETIER
Secretary-Treasurer
Connecticut AFL-CIO

Before the Labor and Public Employees Committee
February 1, 2001

Good afternoon Senator Prague, Representative Donovan and the members of the Committee. I am Lori Pelletier, and I serve as Secretary-Treasurer of the Connecticut AFL-CIO, with more than 900 affiliated unions throughout the state.

I am here to speak briefly on several bills raised for today's hearing:

S.B. No. 121, AN ACT CONCERNING EMPLOYERS' LIABILITY UNDER THE WORKERS' COMPENSATION ACT. We support this bill because it provides recourse to workers' families due to the negligence of employers.

S.B. No. 187, AN ACT PROVIDING INJUNCTIVE RELIEF TO STATE EMPLOYEES EXPOSED TO SAFETY RISKS IN THE WORKPLACE. We support this bill because people should have the right to sue when exposed to unsafe working conditions.

S.B. No. 1007, AN ACT CONCERNING CONTINUATION OF HEALTH INSURANCE BENEFITS UNDER THE WORKERS' COMPENSATION ACT. We support this bill because it would ensure injured workers receive the full range of benefits to which they're entitled.

S.B. No. 1008, AN ACT REQUIRING DIRECT PAYMENT OF PRESCRIPTION MEDICATION FOR WORKERS' COMPENSATION CLAIMANTS. We support this bill because it makes the process of securing pharmaceutical treatment less cumbersome at a time when injured workers' resources are already stretched thin.

S.B. No. 1009, AN ACT CONCERNING NOTICE OF WORKERS' COMPENSATION CLAIMS FOR REPETITIVE TRAUMA INJURIES. We support this bill because it strengthens current language enabling injured workers to file claims.

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Gary Waterhouse
Kurt Westby
Thomas Wilkinson
Shirley Williamson

H.B. No. 5315, AN ACT PROHIBITING THE DISQUALIFICATION OF JOB APPLICANTS ON THE BASIS OF JUVENILE MISDEMEANOR CONVICTIONS. We support this bill.

H.B. No. 6557, AN ACT CLARIFYING THE EXEMPTION OF NEWSPAPER DISTRIBUTORS FROM THE UNEMPLOYMENT COMPENSATION LAW. We oppose this bill because it exempts some newspaper sales people but not others, when in fact every worker should be covered.

H.B. No. 5416, AN ACT EXPANDING THE DEFINITION OF PERSONAL INJURY UNDER THE WORKERS' COMPENSATION ACT. We support this bill because it is long overdue in restoring a critical benefit to law enforcement officers who put their safety and lives on the line everyday.

H.B. No. 5215, AN ACT ALLOWING BIWEEKLY PAYMENT OF WAGES. We oppose this bill because it is an unnecessary piece of legislation. The Labor Department already allows responsible employers to do this if they seek a waiver. Let's not undermine the Labor Department's ability to enforce wages and standards.

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State of Connecticut
SENATE
STATE CAPITOL
HARTFORD, CT 06106-1591

SENATOR JUDITH G. FREEDMAN
TWENTY-SIXTH DISTRICT

ROOM 3100 - LEGISLATIVE OFFICE BUILDING
HARTFORD, CONNECTICUT 06106-1591

February 1, 2001

To: Labor Committee
From: Senator Judith G. Freedman
Re: HB 6557 AA Clarifying the Exemption of Newspaper Distributors from the Unemployment Compensation Law

I want to begin by thanking Sen. Prague, Representative Donovan and all the members of the Labor Committee for holding a public hearing on HB 6557 An Act Clarifying the Exemption of Newspaper Distributors from the Unemployment Compensation Law.

Unfortunately, family considerations prevent me from personally testifying at today's public hearing. However, if there are questions from committee members I will supply the answer upon my return next week.

This legislation is intended to clarify existing statute regarding unemployment compensation of newspaper distributors by conforming it to federal law. This bill would exempt newspaper carriers from the Connecticut unemployment compensation if they were exempt under federal law.

Current Connecticut law exempts individuals under the age of eighteen who perform the service of delivering or distributing newspapers from unemployment compensation. But current law does not address whether or not carriers are classified as subcontractors or independent contractors to the newspaper.

For some time now questions regarding this gray area have resulted in a wide array of legal challenges to newspapers that subcontract out their delivery service. In my district, there was a case where a newspaper spent thousands of dollars in legal fees and fines to determine the unemployment of a carrier, even though the carrier's hours of employment were not determined by the newspaper. Simply speaking, newspaper carriers and distributors are not employees of the newspaper and thus should be exempt from the Connecticut unemployment compensation law as well.

Passing this legislation would put an end to any confusion Connecticut's newspapers and distributors might have. I urge your support. Thank you.

Feb. 1, 2001

TESTIMONY of Richard H. King, Executive Director, Connecticut Daily Newspaper Association in support of Raised Bill No. 6557, AN ACT CLARIFYING THE EXEMPTION OF NEWSPAPER DISTRIBUTORS FROM THE UNEMPLOYMENT COMPENSATION LAW.

Senator Prague, Representative Donovan, Members of the Committee on LABOR AND PUBLIC EMPLOYEES I would like to support the proposed change in Raised Bill No. 6557 to Section 31-222, especially subsection J (5) (I), namely (I) Service performed by an individual [under the age of eighteen] AS A DIRECT SELLER in the [delivery or distribution of] BUSINESS OF DELIVERING OR DISTRIBUTING newspapers or shopping news [not including delivery or distribution to any point for subsequent delivery or distribution] INCLUDING DIRECTLY RELATED SERVICES SUCH AS SOLICITING CUSTOMERS AND COLLECTING RECEIPTS, PROVIDED (i) ALL OR SUBSTANTIALLY ALL OF THE INDIVIDUAL'S PAY FOR SUCH SERVICE RELATES TO SALES OR OTHER OUTPUT RATHER THAN TO THE NUMBER OF HOURS WORKED, AND (ii) THE INDIVIDUAL PERFORMS SUCH SERVICE UNDER A WRITTEN CONTRACT WITH THE NEWSPAPER OR SHOPPING NEWS PUBLISHER PROVIDING THAT THE INDIVIDUAL WILL NOT BE TREATED AS AN EMPLOYEE FOR FEDERAL TAX PURPOSES;

This language would incorporate into Connecticut unemployment compensation statute the same definition of Direct Seller as is used in the 1996 IRS Publication 911, Direct Sellers, which reflects the changes in the Internal Revenue Code (IRC) section 3508 caused by the passage of The Small Business Job Protection Act (H.R. 3448), which was signed into law in August 1996. In as much as present workers compensation statutes exempt individuals from workers compensation coverage when the performance of the service is done off the premises of the service recipient (which almost by definition would have to be the case for newspaper distributors and carriers), and this change in the unemployment compensation statute would exempt them from workers compensation coverage, newspaper carriers and delivery persons would be classified as Direct Sellers (i.e. non employees) for both Federal and State purposes, thereby eliminating the chance that an individual performing exactly the same services would be classified as an employee under state law, but a non employee under federal law.

Some other points relative to this proposed change to Section 31-222 J (5) (I) :

The removal of the bracketed sections would extend the exemption to all carriers and delivery persons, not just to those under 18, and to those individuals who deliver newspapers to other entities other than to the final customers (such as delivering bundles to stores or to other carriers who then deliver individual papers to subscribers). In addition to making this section consistent with the federal definition of newspaper distributors and carriers, it would eliminate the potential change in employment status of a person who picks up bundles of newspapers from the newspaper's facilities, some of which he delivers as bundles to other carriers or stores, and some of which he delivers to individual subscribers.

This change would in no way change the duties, compensation or age of newspaper distributors and carriers. It would simply recognize in the Connecticut Statutes the common law status that newspaper distributors and carriers have enjoyed for decades as independent contractors by virtue of their Direct Seller status.

This change would not affect the status of newspaper truck drivers or circulation employees who drive company vehicles and are compensated on either an hourly or per run basis, (regardless of number of papers delivered.) These individuals have traditionally been classified as employees (as among other things, they do not meet the above definition of Direct Seller), and would continue to be so classified.