

PA13-168

HB6151

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2013**

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PART 14
4512 – 4855**

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HOUSE OF REPRESENTATIVES

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May 16, 2013

Thank you, Representative, and welcome to the Chamber. Have a great afternoon.

The House now will return to the Call of the Calendar. Will the Clerk please call Calendar Number 227.

THE CLERK:

Mr. Speaker, Page 45 of the House Calendar, House Calendar Number 227, Favorable Report of the Joint Standing Committee on Finance, Revenue and Bonding, Substitute House Bill Number 6151 AN ACT CONCERNING CERTAIN OPERATORS OF MOTOR VEHICLES AND ELIGIBILITY FOR UNEMPLOYMENT BENEFITS.

DEPUTY SPEAKER BERGER:

Representative Tercyak.

REP. WILLIAMS (68th)

Mr. Speaker.

DEPUTY SPEAKER BERGER:

Excuse me, if you could please hold, Representative. Representative Williams, for what purpose do you rise sir? Sorry.

REP. WILLIAMS (68th):

Thank you, Mr. Speaker. Good thing I'm a very loud person. Under our rules, I will be recusing

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myself and leaving the Chamber due to a possible conflict of interest.

Thank you.

DEPUTY SPEAKER BERGER:

Thank you, Representative. We will return to the Call of the Calendar. Representative Tercyak.

REP. TERCYAK (26th):

Thank you very much, Mr. Speaker. I move for the acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER BERGER:

Motion before the Chamber is acceptance of the Joint Committee's Favorable Report and passage of the bill. Please proceed.

REP. TERCYAK (26th):

Thank you very much, Mr. Speaker. This bill pertains to certain truck drivers, a size of a truck over 10,000 pounds, other considerations. Basically it boils down to this.

To be an independent contractor you have to fulfill what the Department of Labor calls the A,B,C test about being independent, being able to take the time off when you want to, controlling your own hours, controlling who you work for, doing work that can be

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done outside of the employer's business, doing work
the employer doesn't normally have employees doing.

Some truck drivers, there's been confusion about
whether they're independent contractors or not. The
complaints have made it to at least one Legislator who
looked into it and by working with the Labor
Department, we've now worked on a definition that will
make it clear that these people are independent
contractors. They are not employees, and it makes it
clear that you do not have to actually accept work
from more than one business in order to prove that you
are able to be an independent contractor accepting
work for more than one business.

Thank you very much, Mr. Speaker. Through you, I
hope people will vote for this bill.

DEPUTY SPEAKER BERGER:

Thank you, Representative. Will you move
adoption of the bill?

REP. TERCYAK (26th):

And I move adoption.

DEPUTY SPEAKER BERGER:

Thank you, Representative. Representative Smith
of the 109th, 108th, I'm sorry.

REP. SMITH (108th):

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Thank you, Mr. Speaker. You know, this is one of those bills that actually is good for business, so I'm happy to rise in support of it. There's always a question on whether one is an employee versus an independent contractor. Those types of questions create litigation, expense for business in Connecticut.

This bill helps define the fact that those who are transporting goods with a weight of over, in a truck or vehicle over 10,000 pounds can be deemed an independent contractor, even though they may only do the service for one provider.

So this is good for business. It's good for Connecticut. It's good for our independent contractors, and I urge the support. Thank you.

DEPUTY SPEAKER BERGER:

Thank you, Representative Smith. Will you remark further on the bill before us? Will you remark further on the bill before us? Representative O'Dea of the 125th, sir.

REP. O'DEA (125th):

Thank you, Mr. Speaker. I also rise in support of this bill. I've been involved in litigation representing truck drivers stuck in between this issue

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and this clarifies their status and I firmly support
this bill.

Thank you, Mr. Speaker.

DEPUTY SPEAKER BERGER:

Thank you, Representative. Will you remark
further on the bill before us? Will you remark
further on the bill before us?

If not, will staff and guests please come to the
Well of the House. Will Members please take your
seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by Roll
Call. Members to the Chamber please.

The House of Representatives is voting by Roll
Call. Members to the Chamber.

DEPUTY SPEAKER BERGER:

Have all the Members voted? Have all the Members
voted? Will the Members please check the board to
determine if their vote is properly cast.

If all the Members have voted, the machine will
be locked and the Clerk will take the tally. Will the
Clerk please announce the tally.

THE CLERK:

Mr. Speaker, Substitute House Bill Number 6151.

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Total Number Voting	134
Necessary for Passage	68
Those voting Yea	134
Those voting Nay	0
Those absent and not voting	16

DEPUTY SPEAKER BERGER:

The bill passes.

Would the Clerk please call Calendar Number 490.

THE CLERK:

Mr. Speaker, on Calendar Page 24, Calendar Number 490, Favorable Report of the Joint Standing Committee on Human Services, Substitute Senate Bill Number 887

AN ACT CONCERNING THE CARE 4 KIDS PROGRAM.

DEPUTY SPEAKER BERGER:

Representative Urban.

REP. URBAN (43rd):

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

DEPUTY SPEAKER BERGER:

Motion before the Chamber is acceptance of the Joint Committee's Favorable Report and passage of the

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**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2013**

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SENATE

125
June 1, 2013

Thank you, Senator.

Will you remark further on the bill? Will you remark further on the bill?

Senator Osten.

SENATOR OSTEN:

With no objection, I would remove this to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

Mr. Clerk.

THE CLERK:

On page 19, Calendar 624, Substitute for House Bill Number 6151, AN ACT CONCERNING CERTAIN OPERATORS OF MOTOR VEHICLES AND ELIGIBILITY FOR UNEMPLOYMENT BENEFITS, Favorable Report of the Committee on Labor and Public Employees.

Senator Osten.

SENATOR OSTEN:

Thank you very much, Mr. President.

I move acceptance of the Joint Committee's Favorable Report and passage of the bill as amended by the House.

THE CHAIR:

On acceptance and passage of the bill, will you remark?

SENATOR OSTEN:

This particular situation has been -- although I haven't been here -- hanging around for a number of years. This creates an exception in the workers' compensation statutes for owner/operators of motor vehicles with a minimum gross vehicle weight, and allows them to act as -- as they are, independents.

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THE CHAIR:

Thank you, Senator.

Will you remark further?

Senator Markley.

SENATOR MARKLEY:

Thank you, Mr. President.

Again, this is a bill that we saw in the Labor Committee. It has the strong support of the trucking industry. It seems to clarify a problem that has been of a concern for some time, and there was no opposition to it. It didn't -- it ended up, perhaps, not sweeping in everybody who could have possibly have been -- every situation that could have been fixed in it, but we fixed -- everything that we fixed, I think we fixed right. So I will support this bill.

Thank you.

THE CHAIR:

Thank you, Mr. -- thank you, Senator.

Senator Kane.

SENATOR KANE:

Just a question, if I may, Mr. President, through you to the proponent.

It says in the fiscal note there's a potential significant revenue loss. So has this either gone to Finance or Appropriations, or as part of the budget?

Through you.

THE CHAIR:

Senator Osten.

SENATOR OSTEN:

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This -- excuse me -- I'm sorry -- this bill has traveled from -- hold on one minute -- I believe it did go to Finance -- unanimous passage through Finance.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Great. Thank you, Mr. President.

THE CHAIR:

Senator LeBeau.

SENATOR LEBEAU:

I'd like to thank the chairs for bringing out this bill. This is an important bill to help the -- the trucking industry in the state of Connecticut.

You -- the chair had mentioned in the past that this bill had kicked around. Well, I was doing some of the kicking in past years.

And this is going to help many of our trucking -- we just lost -- in my town, I just lost another trucking industry, a mover. We lost -- lost some very big movers in the state, Barrio, one in my town that we -- because -- and this is part -- this is part of the problem. The costs we mentioned earlier. Senator Kane was talking to me about high costs. This is one of the problems that we have. And this -- this bill is going to help the trucking industry to ensure that people who are independent contractors can act as independent contractors and -- and not -- and to clear up the confusion that has existed over the last couple years within the Labor Department.

I thank -- again, I thank the chairs for bringing this out. It's a good bill. It's going to save jobs in Connecticut.

Thank -- thank you, Mr. President.

THE CHAIR:

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Thank you.

Senator, will you remark further on the bill? Will you remark further on the bill?

Senator Osten.

SENATOR OSTEN:

With no objection, I would remove this to the Consent Calendar.

THE CHAIR:

Seeing and hearing no objection, so ordered.

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, I have another item to add to the Consent Calendar.

THE CHAIR:

Please proceed, sir.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, it's on Calendar page 26, at the bottom of that page, Calendar 680, House Bill Number 5666.

Madam -- Mr. President, move that that item be placed on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

If we might stand at ease for just a moment.

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June 1, 2013

Thank you, Madam President.

Madam President, if the Clerk would list the items on the first Consent Calendar and then if we might call for a vote on that Consent Calendar.

THE CHAIR:

Thank you.

Mr. Clerk.

It's not open, I'm not opening it. I'm waiting for you to call the (inaudible).

THE CLERK:

On Page 3, Calendar 209, Senate Bill 1033.

Page 5, Calendar 355, House Bill 6023.

Page 7, Calendar 460, House Bill 6506.

On Page 11, Calendar 505, House Bill 6406.

On Page 18, Calendar 617, House Bill 5441; Calendar 620, House Bill 6683; Calendar 623, House Bill 6365.

And on Page 19, Calendar 624, House Bill 6151.

On Page 20, Calendar 635, House Bill 5926.

Page 23, Calendar 659, House Bill 5358.

On Page 26, Calendar 680, House Bill 5666.

And on Page 29, Calendar 182, Senate Bill 1000.

Page 33, Calendar 384, Senate Bill 1067.

And on Page 36, Calendar 649, House Bill 5113.

THE CHAIR:

Thank you.

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June 1, 2013

Mr. Clerk, will you call for a roll call vote and the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Senators please return to the Chamber. Immediate roll call on Consent Calendar Number 1 has been ordered in the Senate.

THE CHAIR:

If all members have voted, if all members have voted, the machine will be closed.

Mr. Clerk, will you please call a tally.

THE CLERK:

On the first Consent Calendar of the day.

Total Number Voting	35	
Necessary for Adoption	18	
Those Voting Yea	35	
Those Voting Nay	0	
Those Absent and Not Voting		1

THE CHAIR:

Consent Calendar passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, if the Clerk would please call as the next item Calendar Page 10, Calendar 495, Senate Bill 840 from the Finance, Revenue and Bonding Committee.

THE CHAIR:

Good evening, Senator Fonfara.

SENATOR FONFARA:

**JOINT
STANDING
COMMITTEE
HEARINGS**

**LABOR AND
PUBLIC EMPLOYEES
PART 2
365 - 714**

2013

1 February 26, 2013
 tk/gbr LABOR AND PUBLIC EMPLOYEES 2:00 P.M.

CHAIRMEN: Senator Osten,
 Representative Tercyak

MEMBERS PRESENT:

SENATORS: Osten, Gerratana,
 Markley

REPRESENTATIVES: Tercyak, Smith,
 Esposito, Kinger, Miner,
 Williams

SENATOR OSTEN: Public hearing for February 26th to order. We're going to remind everybody that you don't need to read your whole testimony. We would prefer that even public officials keep it down to the three-minute timeframe. And we're going to -- I don't -- is Senator Loony here? We're going to go on to Commissioner Palmer. You're up.

SHARON PALMER: Well, good afternoon, Senator Osten, Representative Tercyak, and member of the committee, I guess. There are several bills on today's hearing agenda, which I testified in support of last week. And I just want to reiterate my support for these numbers, and these are new numbers on the bill. Our Senate 926 and 27, House 6449, 6450, 6451, and 6452.

HB 5686 HB 5701

HB 6151 HB 6432

HB 6433 HB 6434

SB 927

And let me go on to the others that are up before you today. And they're all mainly technical bills. The first one is 909, Unemployment Conformity. This is part of our legislative package, and we need to have conformity with federal law. A state's failure to implement the penalty that's in this legislation would be ground for initiating conformity proceedings to deny certifying the state for grants. So we need to be in compliance with the penalties that

are called for in federal legislation.

And since the Food Credit for Connecticut is around \$500 million, we want to -- we do not want to lose that money.

Next bill, 5686, a minimum base period for wages and eligibility for unemployment. Also in this case, the language isn't complete, so it's a little hard for us to tell what the specifics are, but again, we're not sure that this would comply with federal regulations, so that needs to be looked at carefully for compliance.

5701, monthly reductions of unemployment comp. We're here to speak on opposition to this bill. It is clearly from the language not compliant with federal regulations, and it was an agreement that we signed with the feds, and as a result Connecticut would no longer be able to participate in the Federal EUC program eliminating up to 47 weeks of federally-funded benefits for claimants, so we urge you to reject that.

House 6151, certain operators of motor vehicles ineligibility for unemployment comp. We are talking with other folks who are also interested in this bill, and my Irish friend Mr. Riley and I have decided that we're going to work this out. So hopefully that will happen, and I won't remark any further at this point. We're trying to put some specifics on this bill that would be amenable to everyone.

And 6432, employers of individuals providing homemaker services, companion services, and homemaker health aide services. This is part of our package. We want to remove the liability from the individual, who is using the using the services to the company that is

regarding concerns -- regarding homemaker services and homemaker companion agencies.

Thank you for this opportunity to provide testimony here today. I'm available to answer any questions if you have any.

SENATOR OSTEN: Thank you very much for coming and speaking out on this. We've heard a lot of similar stories and are very concerned with the relationship between places like Allied and individual recipients of their workers. Are there any questions? Thank you very much.

JOSHUA HAWKS-LADDS: Thank you.

SENATOR OSTEN: Next is going to be Representative Brian Becker and Ed Michaels.

REP. BECKER: Thank you, Chairman Osten, Chairman Tercyak, Ranking Member Smith and other members of the Labor and Public Employees Committee. Thank you for raising and taking the time to hear testimony on House Bill 6151, AN ACT CONCERNING CERTAIN OPERATORS OF MOTOR VEHICLES AND ELIGIBILITY FOR UNEMPLOYMENT BENEFITS.

I've submitted my written testimony, which lays out for you the current state of the law, the need for the change, and also mentions -- as the commissioner mentioned earlier today that we've been working with the parties who are interested in this in trying to reach an agreement on revised language.

We're continuing to do that and hope to have something shortly. And with that I would like to cede the rest of the time to my constituent, Ed Michaels, who is an owner of a trucking company and is in need of help.

ED MICHAELS: Chairman Osten, Chairman Tercyak, Ranking Member Smith, other distinguished members of the Labor and Public Employees Committee, thank you for taking the time to listen to my testimony in favor of House Bill 6151, AN ACT CONCERNING CERTAIN OPERATORS OF MOTOR VEHICLES AND ELIGIBILITY FOR UNEMPLOYMENT BENEFITS.

My name is Edward Michaels. I'm a resident of West Hartford. In addition, I'm the owner of American Transportation on logistics and (inaudible) Connecticut.

American Transportation is a truckload carrier delivering refrigerated and dry products throughout the United States. Since the regulation of the trucking industry almost 30 years ago, our competition is based throughout the United States.

Our competitors include other trucking companies, third-party logistics coordinators, brokers, and the Internet road boards. These trucking companies come from all over the U.S. and pick up freight in Connecticut.

Some of the Connecticut companies we service today include King Coil Mattress, Gold Bond Mattress, Country Pure Foods, (inaudible) Company and Celebration Foods, Carbell Ice Cream, to name a few. These customers also use trucking companies not based in Connecticut. The pricing model in the truckload industry is based on a fixed component with a variable for the changing price of fuel.

To control costs and survive in the industry, almost all of the asset-based trucking companies use a business model that includes owner operators of independent contractors,

where the trucking companies can fix their costs. There are too many variables on the road, such as weather, traffic, mechanical issues, and other delays that the use of an employee makes the company's pricing model uncompetitive and the shippers will not use our services.

Independent contractors we hire are people who want to own their own truck and do this kind of work. They have their own truck, federal tax identification number, USDOT number, truck insurance, Workman's Compensation, and pay all the applicable taxes associated with owning a business and putting property tax on equipment, tolls and fuel taxes.

They like the freedom of choosing when and where they want to go and how to get there. The issue in Connecticut is the owner/operator fails the state ABC test that determines independent contractor status, which does not exist in some of the states where my competitors are based.

A person is deemed an employee if they choose to only work for one carrier or trucking company during a calendar year. These contractors are free to work for whoever they want, but many of them stay with the same trucking company because they are provided work that they enjoy doing, and they are able to make a sufficient living.

At any time they can choose to move to another carrier that they feel they can improve their business model. If the modification ABC test along the lines in the proposed bill is not granted, I'll be forced to either close my business or move it to a state where I'm on a level playing ground with my competitors. I do not want to do that as I have a family and

I've lived in Connecticut my entire life.

Thank you for your time and I'd be happy to take any questions.

SENATOR OSTEN: Thank you very much for coming up and presenting your testimony. We really appreciate it. Anybody have any questions right now for Mr. Michaels? Thank you. Oh, wait a minute. Excuse me. Representative Smith.

REP. SMITH: Thank you, Madame Chair. Just the quick question I have is the 10,000 pounds weight, is there a rationale beside -- behind that as to why it's 10,000 versus some other number?

ED MICHAELS: Well, commercial -- to register the vehicles commercially in the State of Connecticut is in excess of 10,000.

REP. SMITH: So then this would apply to all commercial vehicles, or --

ED MICHAELS: In excess of -- yeah. We -- our equipment happens to be registered for 80,000 pounds. But 10,000 pounds would include smaller box trucks or straight trucks that people make deliveries in.

REP. SMITH: Okay. Thank you very much.

SENATOR OSTEN: Thank you. Any further questions? Seeing none, thanks so much for coming up today.

ED MICHAELS: Thank you.

SENATOR OSTEN: Next is Melodie Peters, and will be followed by Representative John Shaban. Thank you for coming today.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**LABOR AND
PUBLIC EMPLOYEES
PART 3
715 - 1077**

2013



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Testimony of Eric W. Gjede
Assistant Counsel, CBIA
Before the Committee on Labor and Public Employees
Hartford, CT
February 26, 2013

Testifying in Support of PSB-6151 An Act Concerning Certain Operators of Motor Vehicles and Eligibility For Unemployment Benefits

Good Afternoon Senator Osten, Representative Tercyak, and members of the Labor and Public Employees Committee. My name is Eric Gjede and I am assistant counsel at the Connecticut Business and Industry Association (CBIA) which represents more than 10,000 large and small companies throughout the state of Connecticut.

CBIA supports PSB-6151 because presumably it would allow certain individuals who are acting as independent contractors for the purpose of transporting property in interstate commerce to continue conducting business in this manner.

We urge the committee to support PSB-6151.



State of Connecticut
HOUSE OF REPRESENTATIVES
 STATE CAPITOL
 HARTFORD, CONNECTICUT 06106-1591

REPRESENTATIVE BRIAN BECKER
 19TH ASSEMBLY DISTRICT

LEGISLATIVE OFFICE BUILDING
 ROOM 4009
 HARTFORD, CT 06106-1591

CAPITOL 860-240-8585
 FAX 860-240-0206
 E-MAIL Bnan.Becker@cga.ct.gov

VICE CHAIR
 COMMERCE COMMITTEE

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 FINANCE, REVENUE & BONDING COMMITTEE
 PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Statement of Brian S. Becker
State Representative for the 19th Assembly District
 before the
Labor and Public Employees Committee of the Connecticut General Assembly
February 26, 2013
 in support of
HB 6151
An Act Concerning Certain Operators of Motor Vehicles
and Eligibility for Unemployment Benefits

Chairman Osten, Chairman Tercyak, Ranking Member Markley, Ranking Member Smith, and the other distinguished members of the Labor and Public Employees Committee, thank you for raising and taking the time to hear testimony on HB 6151, An Act Concerning Certain Operators of Motor Vehicles and Eligibility for Unemployment Benefits.

I have a constituent, Ed Michaels, who owns a trucking company, American Transportation and Logistics, LLC (the "American Transportation"), located in Windsor Locks, Connecticut. His company uses independent contractors who own their own trucks to haul freight both within and without the state of Connecticut. The state Department of Labor (the "DOL") has commenced an investigation to determine whether the American Transportation's drivers really are independent contractors or whether they should be classified as employees.

Currently, Connecticut state law has what is known as the "ABC Test" to determine whether an individual is an employee or an independent contractor.¹ The ABC Test is more comprehensive than the IRS test designed to make the same determination. American Transportation meets the elements of the IRS test required to establish that its drivers are independent contractors, but may not meet all of the elements of the ABC Test.

All parts of the state's ABC Test must be satisfied for an individual to be considered an independent contractor under Connecticut state law. Part C of the test requires that the individual be "customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed." The DOL has interpreted this provision as requiring that an individual work for more than one party in a given calendar year in order to meet this part of the test.²

¹ The ABC Test may be found in C.G.S. §31-222(a)(1)(B)(i)-(iii)

Many of Mr Michaels's drivers choose to work only for his company. Therefore, there is a good possibility that the DOL will determine that those drivers should be deemed employees rather than independent contractors of American Transportation. This would be a devastating result to American Transportation's business.

The trucking business is very competitive. American Transportation competes with trucking companies from around the country, many of whom are located in states that do not use the ABC Test. Mr. Michaels has told me that the only way he can compete in the trucking business is to be in a position to give a flat fee quote to his customers. This is standard industry practice. Upon winning a bid, he offers his independent contractor drivers the opportunity to haul the freight for a fixed fee. If American Transportation were to be forced to treat these drivers as employees and pay them hourly wages rather than fixed fees, American Transportation would be not be able to compete with out-of-state carriers.

If the drivers were deemed to be employees, it would put American Transportation at serious risk of losing money or losing business. The company would be at risk of losing money on any trips involving traffic jams or other delays since the amount of wages it would need to pay could be substantially higher than the wages it anticipated when bidding for the job. The company also would be potentially liable for unemployment compensation for drivers anytime the drivers chose to remain idle rather than hauling a particular load. If the company attempted to build these additional costs into its bids to customers, it would price itself right out of the market. Either way, Mr. Michaels assures me, American Transportation could not survive.

As you consider this bill and whether the exemption it seeks is appropriate, ask yourself this question: In what other business does an employee have to invest tens of thousands of dollars of his or her own money in equipment in order to be hired? The truckers who drive for American Transportation own or lease their own trucks at substantial personal cost. These drivers want to be their own bosses; they think of themselves as independent contractors, and they should be treated accordingly.

I have spoken with the DOL about this bill and worked with them and Mike Riley of the Motor Transport Association on some revised language to satisfy concerns about the breadth of the bill. We appear to be close to an agreement and will continue to work towards one.

Governor Malloy has repeatedly stated that our state is "open for business." The Governor and all of us want to help our state's companies compete in the marketplace. For a Connecticut trucking company doing business on a nationwide basis to be put at a competitive disadvantage by a more restrictive definition of "independent contractor" is just wrong. The bill before you and the revised language we plan to submit seeks to right that wrong by creating a narrow exemption to the ABC Test. Please help our state's companies preserve and create jobs. Please support HB 6151. Thank you.

**Testimony of Edward Michaels in Support of HB6151
Labor and Public Employees Committee Public Hearing
February 26, 2013**

Chairman Osten, Chairman Tercyak, Ranking Member Markley, Ranking Member Smith, and the other distinguished members of the Labor and Public Employees Committee, thank you for taking the time to listen to my testimony in favor of House Bill 6151, An Act Concerning Certain Operators of Motor Vehicles and Eligibility for Unemployment Benefits.

My name is ~~Edward Michaels~~ and I am a resident of West Hartford, CT. In addition, I am the owner of American Transportation & Logistics in Windsor Locks, CT. American Transportation is a truckload carrier delivering refrigerated and dry products throughout the United States.

Since deregulation of the trucking industry almost thirty years ago our competition is based throughout the United States. Our competitors include other trucking companies, 3rd Party Logistics Coordinators, Brokers, and the Internet load boards. These trucking companies come from all over the US and pick up freight in Connecticut.

Some of the Connecticut Companies we service today include King Koil Mattress, Gold Bond Mattress, Country Pure Foods, Garbo Lobster Co., and Celebration Foods to name a few. These customers also use trucking companies not based in CT.

The pricing model in the truckload industry is based on a fixed component with a variable for the changing price of fuel. To control costs and survive in the industry almost of the asset based trucking companies use a business model that includes owner operators or independent contractors where the trucking companies can fix their costs. There are too many variables on the road such as weather, traffic, mechanical issues, and other delays that the use of an employee makes the companies pricing model uncompetitive and the shippers will not use your services.

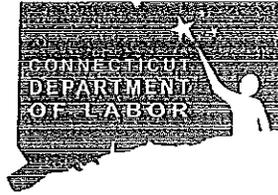
The independent contractors we hire are people who want to own their own truck and do this kind of work. They have their own truck, federal tax identification number, USDOT number, truck insurance, worker's compensation, and pay all the applicable taxes associated with owning a business including property tax on the equipment, tolls, and fuel taxes. They like the freedom of choosing when and where they want to go and how to get there.

The issue in CT is the owner operator fails the state's ABC test to determine independent contractor status (which does not exist in several of the states where my competitors are based). A person is deemed an employee if they choose to only work for one carrier or trucking company during a calendar year. These contractors are free to work for who ever they want but many of them stay with the same trucking company because they are provided work that they enjoy doing and they are able to make a sufficient living. At any time they can chose to move to another carrier if they feel they can improve their business model.

If a modification in the ABC test along the lines in the proposed bill is not granted I will be forced to either close my business or move it to a state where I am on a level playing ground with my competitors. I do not want to do that as I have a family and have lived in CT my entire life.

Thank you for your time.

Opportunity • Guidance • Support



Connecticut Department of Labor

Sharon M. Palmer, Commissioner

**Public Hearing Testimony of
Sharon M. Palmer, Commissioner
Department of Labor
Labor and Public Employees Committee
February 26, 2013**

Good Afternoon Senator Osten, Representative Tercyak, Senator Markley, Representative Smith and members of the Labor and Public Employees Committee. Thank you for the opportunity to provide you with testimony regarding *House Bill 6151, AAC Certain Operators of Motor Vehicles and Eligibility for Unemployment Compensation*. My name is Sharon Palmer and I am the Labor Commissioner.

I am here to speak about the concept underlying this bill. This bill would acknowledge that certain drivers of vehicles over 10,000 pounds, meeting certain specific requirements, would be considered independent contractors for purposes of the Unemployment Compensation Act. DOL is currently working collaboratively with interested parties to see if we may reach a consensus on language.

Thank you for the opportunity to provide this testimony.