

PA13-85

SB0879

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**JOINT
STANDING
COMMITTEE
HEARINGS**

**GENERAL
LAW
PART 4
892 - 1204**

2013

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cah/gbr GENERAL LAW COMMITTEE

March 5, 2013
6:00 P.M.

I'm more familiar with than the majesty of the Legislative Office Building so I'm actually happy to be here tonight in an auditorium.

REP. BARAM: Commissioner, could you just check to make sure that's working?

COMMISSIONER WILLIAM M. RUBENSTEIN: Hello, hello, I don't know which mic I'm supposed to talk into.

REP. BARAM: I -- I think the larger one might be the better one to speak into.

COMMISSIONER WILLIAM M. RUBENSTEIN: Does that work better?

A VOICE: Yup.

COMMISSIONER WILLIAM M. RUBENSTEIN: Okay, great.

Senator Doyle, Representative Baram, Senator Witkos, Representative Carter and distinguished members of the General Law Committee, I'm Bill Rubenstein the Commissioner of Consumer Protection. I'm here tonight to testify on four bills that are currently on your agenda.

The first three bills on which I'm going to speak are -- are bills that were introduced by my Department and I want to really thank the Committee for raising those bills for consideration be -- before the -- the Committee and providing me this opportunity to speak in support of -- of the Department of Consumer Protection proposals.

HB6406 HB6403
SB879

The fourth bill which I will testify on is one that I believe was introduced by the Attorney General and I'm pleased to support that.

So the first bill I want to speak about tonight is House Bill 6443, AN ACT CONCERNING

to assure that drug wholesalers have to register each -- each separate facility from which they dispense drugs.

I -- you know I -- you know as -- as you've read through the technical and -- and minor bill if -- if I've failed to address a particular thing, I'm sure you can ask me about it and the testimony itself -- the written form of the testimony goes into it in a little more detail.

And the final bill that I'd like to testify on is -- is AN ACT CONCERNING THE CONFIDENTIALITY OF INFORMATION OBTAINED BY THE ATTORNEY GENERAL DURING THE COURSE OF ANTITRUST INVESTIGATIONS. I've submitted written testimony on that bill. We fully support the bill.

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We think it's a -- a really good improvement that balances extremely well the investigatory needs of the Attorney General while preserving the confidentiality concerns of -- of the Attorney General -- of -- of respondents to the Attorney General's investigations.

It's an area that as the Commissioner of Consumer Protection I'm very interested in since we have overlapping authority in the antitrust area with the Attorney General and it's also because I have spent my entire career in -- enforcing or -- or responding to government investigations on the antitrust side.

I know the area very well. I spent 15 years as a government enforcers both as a -- at the federal level and the state level and I spent 15 years in private practice helping respondents respond to governmental investigations to antitrust and -- and the bill that's currently before you and proposed by the

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Attorney General is an extremely well-balanced bill that -- that accommodates both the investigatory interest and the business interest.

REP. BARAM: Thank you very much.

Are there any questions?

Senator Kissel.

SENATOR KISSEL: Thank you very much, Mr. Chairman.

Commissioner Rubenstein, it's great to see you. Thank you for taking the time out of your busy schedule to come to this hearing.

Regarding the first bill that you talked about with -- regarding the notario --

HB 6443

COMMISSIONER WILLIAM M. RUBENSTEIN: Yes.

SENATOR KISSEL: -- I know the Judiciary Committee we've grappled with that for the last couple of years and in fact I thought we got a bill out but maybe it was one of those that passed one Chamber and then just failed on the calendar of the other Chamber.

Have -- and I'm really happy that you're -- you're willing to work on that because the stories that we heard in our public hearings were heart wrenching. Not only did individuals lose tens of thousands of dollars but, as you indicated in your testimony, their status to remain in the United States is at risk.

So I mean they really have been done a great disservice by these individuals that hold themselves out and we on the -- on the Committee learned an awful lot. That in other

You know -- you know there -- there a lots of ways into this problem and I agree with you it's -- it's a real severe problem out there. We're taking a corner that -- that we think works in other consumer areas. It's helped -- contract approach has helped in heating and propane oil areas. It's -- it's helped in -- in home improvement contracting areas. We think it -- it can help here to separate out legitimate providers from fraudsters.

SENATOR KISSEL: Okay so if we move forward with something in the Judiciary Committee, we just have to make sure that it dovetails but this is just another tool in the toolbox.

I understand from your testimony you contemplated that individuals that act -- would act as private attorneys general under the Unfair Trade Practices Act. Would you -- would your Department be able to -- to bring an unfair trade practices act on behalf of the State of Connecticut against, you know --

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COMMISSIONER WILLIAM M. RUBENSTEIN: Yes we -- we could proceed because it would be a per se violation of the Connecticut Unfair Trade Practices Act. We could -- the Department can proceed administratively for cease and desist and restitution orders or we could ask the Attorney General to bring an action in -- in state court and seek not only injunctions and - and restitution but also civil penalties as a result.

SENATOR KISSEL: God bless you out there whoever sneezed.

And thank you for that. I think this -- this is really great news for those that are being abused. One last question and then back to -- to the good Co-Chairs.

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Are you ab -- assuming this bill moves forward, do you have the resources within already allocated funds or within your Department budget to make sure that you can actually fund the individuals that have to proceed regarding this initiative?

COMMISSIONER WILLIAM M. RUBENSTEIN: We are already pursuing the complaints that we get of fraud. What we don't have is -- as an effective tool to combat them. So -- so the investigatory effort is already being expended and -- and it would actually make our life easier to have a better set of -- of tools that we could use to -- to stem -- to -- to staunch the flow of this.

So -- so we think it would actually be neutral at worst and actually maybe reduce our resources we spend on it.

SENATOR KISSEL: Excellent, thank you, Commissioner.

Thank you, Chairman Baram.

REP. BARAM: Thank you.

Representative Nicastro.

REP. NICASTRO: Thank you, Mr. Chairman.

Commissioner, good evening to you.
Commissioner, just a quick question on House Bill 6406, you talk about where pharmacies -- currently the pharmacist has to report twice a month.

COMMISSIONER WILLIAM M. RUBENSTEIN: Correct.

REP. NICASTRO: The -- the prescription information. You're asking that they do it on a weekly basis.



JENNIFER HERZ
ASSISTANT COUNSEL
CONNECTICUT BUSINESS AND INDUSTRY ASSOCIATION
BEFORE THE
GENERAL LAW COMMITTEE
BLOOMFIELD SENIOR SERVICES CENTER
MARCH 5th, 2013

I am Jennifer Herz, Assistant Counsel for the Connecticut Business and Industry Association. CBIA's 10,000 member companies represent the broad diversity of Connecticut's businesses, and the vast majority of our members are small companies with fewer than 50 employees

CBIA asks that you **support SB 879** An Act Concerning The Confidentiality Of Information Obtained By The Attorney General During The Course Of Antitrust Investigations.

SB 879 amends the Connecticut Antitrust Act to allow the Attorney General (AG) to use confidential documents obtained in connection with antitrust litigation in other legal actions on a limited basis.

A more expansive measure was initially proposed by the AG's office last year. The bill was proposed in response to the Brown and Brown v. Blumenthal decision by the Supreme Court which required the AG keep all antitrust materials confidential. The AG's Office worked with the business community last session to modify their initial bill in response to the business community's concern.

SB 879 is identical to the compromised language reached last year. It seeks to protect the confidential nature of the antitrust information obtained during litigation, while also allowing the AG latitude to use the information obtained to effectively prosecute claims. CBIA believes this bill is a fair balance of the concerns of both sides and we urge you to **support SB 879**.

GEORGE C. JEPSEN
ATTORNEY GENERAL



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Office of The Attorney General
State of Connecticut

**TESTIMONY OF
ATTORNEY GENERAL GEORGE JEPSEN
BEFORE THE GENERAL LAW COMMITTEE
MARCH 5, 2013**

Good evening Senator Doyle, Representative Baram and members of the committee. I appreciate the opportunity to support SB 879, An Act Concerning the Confidentiality of Information Obtained by the Attorney General During the Course of Antitrust Investigations. I strongly support this proposal and urge the committee to report favorably upon it. This bill amends section 35-42 of the general statutes to permit my Office, under certain circumstances, to use information and materials obtained in antitrust investigations when taking the oral testimony of third-party witnesses during such investigations.

This change is necessary due to the Connecticut Supreme Court's decision in *Brown & Brown v. Blumenthal*, 297 Conn. 710 (2010). In that case, the Supreme Court held that the statutory language prohibiting "public" disclosure of such information precludes my Office from sharing such information with third party witnesses during investigatory depositions, which themselves are confidential under our antitrust laws.

This interpretation puts Connecticut law at odds with existing federal antitrust laws – the very laws upon which our own antitrust laws are based and with which the General Assembly has expressly declared our laws should be consistently interpreted. More importantly, the current prohibition limits my staff's ability to conduct a full and complete investigation, which is what the General Assembly mandates my Office to do prior to instituting a proceeding.

Antitrust investigations inherently involve the examination of complex – and often secret – business relationships and require review and analysis of tens of thousands of documents, communications and other information obtained from multiple parties with knowledge of the issues involved. Understanding the true import of critical documents and communications is the crux of reaching a reasoned determination of whether a violation has occurred. To fully grasp the context, meaning and intent of key documents and communications necessitates talking to witnesses with knowledge of the substance of that information. Under the Supreme Court's interpretation of section 35-42, however, my antitrust attorneys can only ask questions about these important documents, communications and information from the party that provided it to my office, regardless of whether a third party witness was a recipient of the document, took part in the communication or is otherwise familiar with it. To further illustrate the point, if my staff only obtained an email from the recipient of a communication but not the third party who happened to be the sender, then my staff could not confront the sender with their own email at a deposition.

In conducting antitrust investigations, my responsibility as Attorney General is to get it right when making decisions about whether to sue, settle or terminate investigations. My staff's inability to fully question certain witnesses with knowledge of the documents, communications and information has negated their ability to confront witnesses with probative evidence and, thus, interferes with a full vetting of the issues, raising the specter that these decisions may be made with less than optimal information; that is not in anyone's interest: the public or the subject of the investigation.

The amendment I propose to the Connecticut Antitrust Act reflects a compromise our Office reached last year with the CBIA and IAC, both of which continue to support the proposal. It poses no incremental burden on those parties providing such information to my office, whether compelled or obtained voluntarily. In fact, the amendment I propose is consistent with the prevailing law governing the U.S. Department of Justice's and the Federal Trade Commission's use of such information in the conduct of conspiracy and monopolization investigations.

Under this bill, the Attorney General or his designee will be permitted to use confidential information obtained during an investigation when obtaining oral testimony from a third party only if we reasonably determine that it is necessary in order to adduce evidence of a suspected antitrust violation and reasonably believe that the person providing oral testimony: (1) is an author or recipient of the confidential material, (2) has read the confidential material, or (3) is otherwise aware of the substance of the confidential material. The permissible use of confidential material in connection with the taking of oral testimony provided for under this proposal will not apply to investigations of proposed mergers or acquisitions. In addition, no copy or original of the confidential material described or shown to a person providing oral testimony may be retained by such person. Finally, while the amendment will allow my staff to disclose the confidential information to third parties if the enumerated criteria are met, the documents and information continue to retain their exemption from our Freedom of Information Act, thus ensuring that use of the material is only for their specific intended purpose: in furtherance of a lawful antitrust investigation.

Thank you once again for all of your efforts. I urge the Committee to act favorably on this bill and look forward to working with you on this important matter.

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Department of Consumer Protection



Testimony of William M. Rubenstein Commissioner of Consumer Protection

General Law Committee Public Hearing
March 5, 2013

SB 879, "An Act Concerning the Confidentiality of Information Obtained by the Attorney General During the Course of Antitrust Investigations"

Senator Doyle, Representative Baram, Senator Witkos, Representative Carter and distinguished members of the General Law Committee, I am William Rubenstein, Commissioner of Consumer Protection. Thank you for allowing me the opportunity to offer testimony in support of Senate Bill 879, "An Act Concerning the Confidentiality of Information Obtained by the Attorney General during the Course of Antitrust Investigations."

As you know, the Department of Consumer Protection (DCP) through administration of the "unfair methods of competition" portion of the Connecticut Unfair Trade Practices Act (CUTPA) has overlapping jurisdiction with the Attorney General regarding violations of the antitrust law, just as the Federal Trade Commission (FTC) has similar overlapping jurisdiction with the United States Department of Justice (USDOJ). To avoid the expenditure of duplicative resources, however, DCP often defers to the Attorney General as the primary enforcer of the state's antitrust laws. DCP, therefore, has a keen interest in assuring that the Attorney General is not unduly hampered in his ability to investigate potential antitrust violations.

Beyond my perspective as the Commissioner of Consumer Protection, I bring additional insight to this issue. Nearly half of my 30-year legal career has been spent as a governmental enforcer of federal and state antitrust laws, both as an attorney at the FTC and as a Connecticut Assistant Attorney General assigned to the Antitrust and Consumer Protection Department. The other half of my legal career was spent in the private sector, where a large part of my practice involved representing respondents in federal and state antitrust investigations. Indeed, I represented Brown & Brown, Inc. in the legal case in which the Connecticut Supreme Court determined the extent of the confidentiality provisions for information provided to the Attorney General in response to subpoenas under the state antitrust act. *Brown & Brown, Inc. v. Blumenthal*, 297 Conn. 710 (2010). So, I bring to this discussion experience in both governmental investigatory needs and the legitimate need for protection of private commercial information by businesses.

Senate Bill 879 addresses a problem in our antitrust statute that unduly hampers the Attorney General's investigatory need. When the portion of our state antitrust statute that authorizes the Attorney General to use subpoenas to investigate potential antitrust violations was passed in 1971, it was directly modeled on the federal Antitrust Civil Process Act. In 1976, however, the federal Antitrust Civil Process Act was amended to permit the USDOJ to use subpoenaed material during the course of depositions of third parties. The Connecticut Antitrust Act, however, was never similarly amended. In the *Brown & Brown v. Blumenthal* case, the Connecticut Supreme Court held that because Connecticut did not amend the Connecticut Antitrust Act as the federal Antitrust Civil Process Act had been amended, the Attorney General could not disclose subpoenaed material to third parties during the course of investigatory depositions in any circumstances.

The proposed bill addresses that federal/state anomaly. It is narrowly tailored to permit the limited use of investigatory material during the course of an investigatory deposition. It contains safeguards to limit any third party disclosures to circumstances where the disclosure would not be likely to impart confidential information not already known to that third party. Thus, the bill, as drafted, strikes a careful balance between the investigatory needs of the Attorney General and the confidentiality needs of respondents

to protect commercially sensitive information. Antitrust investigation respondents have experienced this precise balance in the course of federal antitrust investigations for almost 40 years without any meaningful diminution in the confidentiality protection of respondents. This bill will not alter any of the other strict confidentiality provisions of the Connecticut Antitrust Act as set forth in the *Brown & Brown v. Blumenthal* decision.

Because Senate Bill 879 will enhance the Attorney General's ability to detect antitrust violations without unduly diminishing the confidentiality rights of respondents, I ask for your support in advancing this important legislation.

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GENERAL ASSEMBLY
HOUSE**

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Those voting Yea	112
Those voting Nay	33
Those absent and not voting	5

DEPUTY SPEAKER BERGER:

The bill, as amended, passes.

Would the Clerk please call House Calendar Number
580.

THE CLERK:

On page 26, Mr. Speaker, House Calendar 580,
favorable report of the joint standing committee on
Judiciary, Senate Bill 879, AN ACT CONCERNING
CONFIDENTIALITY OF INFORMATION OBTAINED BY THE
ATTORNEY GENERAL DURING THE COURSE OF ANTITRUST
INVESTIGATIONS.

DEPUTY SPEAKER BERGER:

Good afternoon, Representative Baram.

REP. BARAM (15th):

Good afternoon, Mr. Speaker.

I move for acceptance of the joint committee's
favorable report and passage of the bill in
concurrence with the Senate.

DEPUTY SPEAKER BERGER:

The motion before the Chamber is acceptance of
the joint committee's favorable report and passage of

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the bill in concurrence with the Senate.

Please proceed, Representative.

REP. BARAM (15th):

Thank you, Mr. Speaker.

This bill is intended to allow the Attorney General's Office to better conduct antitrust regulation involving bid rigging, price fixing and territorial allegations and this would be consistent with the rules and regulations of the United States Justice Department.

What it does, in effect, is it allows the information given by a party to a pre-sue antitrust investigation to be used in the investigation against a third party provided that third party was either the author of the material or had read it and was familiar with its content. Again, this is a procedure that is consistent with the United States Justice Department.

This was voted unanimously by the General Law Committee. There is no fiscal impact. This is strongly supported by the Attorney General's Office, and I move passage of this bill.

DEPUTY SPEAKER BERGER:

The motion before the Chamber is passage of the bill.

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Will you comment further on the bill before us?

Representative Carter of the 2nd.

REP. CARTER (2nd):

Thank you very much, Mr. Speaker.

I rise in strong support of this bill. As our colleague said, from across the aisle, this is a very necessary thing for many of the antitrust suits going on. I think it makes sense, and I would urge its support among my colleagues. Thank you.

DEPUTY SPEAKER BERGER:

Thank you, Representative.

Will you comment further on the bill before us?

Will you comment 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 open.

THE CLERK:

The House of Representatives is voting by roll.

The House of Representatives is voting by roll.

Please return to the chamber immediately.

DEPUTY SPEAKER BERGER:

Have all the members voted? Have all the members the voted? Will the members please check the board to see if their vote has been properly cast?

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

Would the Clerk please announce the tally.

THE CLERK:

In concurrence with the Senate, Senate Bill 879.

Total Number Voting	146
Necessary for Passage	74
Those voting Yea	146
Those voting Nay	0
Those absent and not voting	4

DEPUTY SPEAKER BERGER:

The bill passes in concurrence with the Senate.

Would the Clerk please call House Calendar Number 608.

THE CLERK:

Mr. Speaker, on page 30, House Calendar 608, favorable report of the joint standing committee on Higher Education and Employment Advancement, Senate Bill 1013, AN ACT CONCERNING CLIMATE CHANGE, ADAPTATION AND DATA COLLECTION.

DEPUTY SPEAKER BERGER:

Representative Albis of the 99th.

REP. ALBIS (99th):

Thank you, Mr. Speaker, good afternoon.

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Will you remark further? Senator Chapin.

SENATOR CHAPIN:

Thank you, Madam President.

Madam President, I also rise in support of the bill. It is as the gentleman described it. It's also very similar for what we do for -- for many of the various trades we have in the State of Connecticut and I encourage my colleagues to support it.

Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark? Will you remark? Senator Meyer.

SENATOR MEYER:

Thank you, Madam President.

Yes I would ask that it be added to our Consent Calendar if there's no objection.

THE CHAIR:

Seeing no objection, so ordered, sir.

Mr. Clerk.

THE CLERK:

On Page 43, Calendar 167, Senate Bill Number 879, AN ACT CONCERNING THE CONFIDENTIALITY OF INFORMATION OBTAINED BY THE ATTORNEY GENERAL DURING THE COURSE OF ANTITRUST INVESTIGATIONS, Favorable Report of the Committee on General Law.

THE CHAIR:

Senator Doyle, good afternoon, sir.

SENATOR DOYLE:

Good afternoon, Madam President.

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

THE CHAIR:

Motion is on passage. Will you remark, sir?

SENATOR DOYLE:

Yes, thank you.

This bill was passed unanimously out of the General Law Committee this year. It deals with our current -- Connecticut's antitrust act and the powers of the Attorney General under the act. As -- as the -- the Chamber knows our Attorney General investigates certain antitrust actions and what this act simply does is it provides the ability for the Attorney General to share certain information to other parties in a pending action.

And what it is is in a case where the Attorney General is conducting discovery or investigating a particular case and he determines that -- he's -- he's contacting Company A and, in -- in terms of -- of deposing Company A, he learns -- he gets documentation in connection with Company B, under current law the Attorney General could not confront Company B in court with the information that directly relates to Company B.

This would simply permit the Attorney General to confront Company B with it and it -- it provides and it's an exemption of our privacy laws but it makes good sense. This similar power is currently auth -- utilized by our U.S. Department of Justice and I urge the Chamber to support this bill.

Thank you, Madam President.

THE CHAIR:

Will you remark? Senator Kissel, good afternoon, sir.

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SENATOR KISSEL:

Good afternoon, Madam President, great to see you as always.

THE CHAIR:

Thank you.

SENATOR KISSEL:

Some questions, through you, to the proponent of the bill.

THE CHAIR:

Please proceed, sir.

SENATOR KISSEL:

Thank you very much.

My first question is it appears that the utilization of our antitrust laws has fallen by the wayside. Could you say how many times the Attorney General has been involved in antitrust matters in the last year or so or couple of years?

Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, unfortunately I do not have the answer to that question at this time.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

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Has the law, as it currently stands, been an impediment to the Attorney General bringing antitrust matters?

Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

I apologize, could you repeat the question?

Through you, Madam President.

THE CHAIR:

Senator Kissel, would you repeat the question, sir?

SENATOR KISSEL:

Sure. Has the current status of the law been perceived as an impediment to the Attorney General bringing antitrust matters?

Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, the answer is yes it certainly has. I have specific examples of cases where they could not confront the person at trial with the own person's actions and it certainly is an impediment to the investigation.

Through you, Madam President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

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Thank you very much.

And so typically in an antitrust matter, what you're looking for is collusion by two parties to sort of maximize their advantage in the marketplace. If this bill goes forward and is signed into law, could you sort of give an example of how it could be utilized to benefit the Attorney General in an antitrust proceeding?

Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Sure, through you, Madam President, yeah a good example is a situation like you, Senator Kissel, mentioned where an investigation is underway by the Attorney General dealing with two bidders to a situation to try to determine if there was collusion and in -- in the Attorney General's discovery Company A -- in -- in its -- its discovery efforts on Company A it's determined there's an email or a fax or some sort of evidentiary act that references Company B and it is basically evidence of collusion.

So basically what this bill would -- it would -- it provides the ability to the Attorney General to actually confront Company B of the action of the -- the collusion and the problem is this -- this evidence was not turned over or admitted by Company B in its -- in a discovery of Company B. So this is certainly an important ability to confront the potential fraudulent act by the Company B.

Through you, Madam President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

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Thank you very much.

And through you, Madam President, does this anticipate that this would be going on in open court?

Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

No, not in open court, through you, Madam President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

And if the information allegedly indicating that there's a trust violation and that the two entities are working together to try to maximize their advantage in the marketplace, would Company B, in the example provided by Senator Doyle, have an ability to raise the issue of proprietary corporate information or -- or trade secret such that they could refuse to provide that information to the Attorney General?

Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, we're talking about -- to clarify I -- through -- through you, Madam President, to clarify, we're talking about the investigative stage and I think the -- the typical discovery, the rules of evidence, are broader so I -- I -- they can of course try but I think the Attorney

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General might end up in court to try to challenge it but I think it probably would not apply.

Through you, Madam President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much and even though there were -- the example I was contemplating, an investigative stage of the antitrust action, would any of this information be subject to a Freedom of Information application to try to reveal this information?

Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, the answer is no.

Through you, Madam President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Madam President. That concludes my questions on this particular bill.

THE CHAIR:

Thank you.

Will you remark further? Will you remark further?
Senator McKinney.

SENATOR MCKINNEY:

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Thank you, Madam President.

I'm a little bit confused actually based on the colloquy between Senator Kissel and Senator Doyle so if I could, through you, a couple of questions.

THE CHAIR:

Please -- please proceed, sir.

SENATOR MCKINNEY:

Thank -- thank you, Madam President.

Senator Doyle, and I apologize if I wasn't hearing what the two of you were talking about, but I thought I heard you say initially this was for use of confidential information to show towards a witness at trial but then I thought I heard Senator Kissel say this was only during an investigatory stage of an antitrust -- a potential antitrust violation.

Can I -- can I ask for clarification, through you, Madam President?

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, yes we need to -- a clarification is -- is fine and it's an investigative stage, not in court.

Through you, Madam President.

THE CHAIR:

Senator McKinney.

Thank you, Madam President.

So then would having never participated and worked in the Attorney General's office or engaged in investigation regarding one of these matters, through -- through you, is -- is this anticipated that the

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Attorney General's office would be sharing this information with a potential expert witness at trial or is this information to be shown towards one of the parties to -- who may have been part of an antitrust violation?

Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, this is -- again we're in investigative stage and we're talking about confronting the per -- the author -- the potential author of the investigation so it's not an expert at this point. At this point we're doing the investigative stage and you -- from the Company A you've learned something that implicates Company B and you're confronting Company B in the investigative stage with the alleged evidence of the collusion that's been denied.

Through you, Madam President.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

And -- and through you, Madam President, so if that information was somehow disclosed by Company A through this investigation, currently, because I believe a recent Connecticut Supreme Court ruling -- or U.S. Supreme Court, I'm not sure which, probably Connecticut Supreme Court ruling if it's Connecticut statutes, currently if the Attorney General's office, in investigating an antitrust violation, received materials I'm assuming pursuant to a subpoena or something similar from Company A that they wanted to use to confront Company B, Company A doesn't have a claim that they can't do that should this bill pass.

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But the -- but the disclosure of that information can only be to the official at Company B and, once disclosed, the official at Company B has no rights to keep a copy of that as future evidence. Is that correct?

Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, yes the answer is correct. It's presented, you know, at -- at an investigative stage at a deposition or whatever and then it's retained by the Attorney General but the Supreme Court decision prohibited the Attorney General to con -- to confront Company B with the evidence.

This -- this prop -- this -- this bill will permit the -- the Attorney General to confront the person with the evidence.

Through you, Madam President.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

And -- and through you, Madam President, should the -- should the case move beyond the investigation stage, and I'm not even aware I guess do we have a -- we have a trial on antitrust violations, is that then subject to -- if it's used as part of the evidence against Company A and B, that Company B could then get a copy of that?

Through you, Madam President.

THE CHAIR:

Senator Doyle.

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SENATOR DOYLE:

Through you, Madam President, yes I believe -- again we're talking about the investigative stage. Once you get to the trial stage and it's a normal situation, I believe the Attorney General would have to produce its evidence at trial and then the -- Company B would have the opportunity to review it, challenge it and you know the normal defense tactics.

Through you, Madam President.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you and -- and hopefully my last question. We're talking, through you, Madam President, specifically about information related to the -- the two or more companies to -- that the Attorney General's office is investigating to determine whether there is an antitrust violation, documents that would come from any one of that group. Is that cor -- not documents from other sources, is that correct?

Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Yes through you, Madam President, these are documents obtained through the investigation of the parties to the investigation.

Through you, Madam President.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

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Thank you, Madam President. I appreciate the Senator educating me a little bit more and I stand in support of the bill.

THE CHAIR:

Thank you.

Will you remark? Senator Kissel.

SENATOR KISSEL:

Thank you very much, Madam President, for the second time.

One of the Presidents that I greatly admire is Teddy Roosevelt. He's known as the great Trust Buster. I really hope that with the passage of this law Attorney General Jepsen will be able to go out there and bust some trust because I think that they do not work to the economic advantage of the consuming public and I look forward to unshackling the Attorney General's office so that they can pursue more of these matters going forward.

Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark further? Will you remark further?
Senator Doyle.

SENATOR DOYLE:

Thank you Mad -- thank you, Madam President.

If there's -- if there's no objection, I refer this bill to the Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

Senator Looney.

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**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2013**

**VOL. 56
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1827 - 2152**

The bill passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, if the Clerk might now call the items on the Consent Calendar before proceeding to a vote on that Consent Calendar.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On Page 1, Calendar 545, Senate Resolution Number 27; also on Page 1, Calendar 546, Senate Resolution Number 28. On Page 2, Number 547, Senate Resolution Number 29. On Page 2, Number 549, Senate Resolution Number 31. On Page 5, Number 184, Senate Bill 1026. On Page 7, Calendar Number 253, Senate Bill Number 763. On Page 16, Calendar Number 412, Senate Bill Number 962. On Page 17, Calendar Number 436, Senate Bill Number 673. On Page 18, Calendar Number 438, Senate Bill Number 761. Also on Page 18, Calendar Number 443, Senate Bill Number 1056. On Page 19, Calendar Number 449, Senate Bill Number 828. On Page 20, Calendar Number 461, House Bill Number 6540.

On Page 21, Number 469, House Bill Number 6574. On Page 23, Number 480, Senate Bill Number 238. On Page 25, Calendar Number 501, House Bill Number 5799. Also on Page 25, Number 507, House Bill Number 5117. On Page 26, Calendar Number 508, House Bill Number 6571. On Page 26, Calendar Number 509, House Bill Number 6348. Also on Page 26, Calendar Number 510, House Bill Number 6007 and on Page 26, Calendar Number 512, House Bill Number 6392.

On Page 40, Calendar Number 48, Senate Bill Number 519. On Page 40, Calendar Number 60, Senate Bill Number 859. Also on Page 40, Calendar Number 104, Senate Bill Number 833.

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On Page 41, Calendar Number 107, Senate Bill Number 917. On Page 42, Calendar Number 123, Senate Bill Number 434. On Page 43, Calendar Number 129, Senate Bill Number 898. Also on Page 43, Calendar Number 139, Senate Bill Number 158. On Page 43, Calendar Number 167, Senate Bill Number 879.

On Page 45, Calendar Number 195, Senate Bill Number 816. Also on Page 45, Calendar Number 204, Senate Bill 652. On Page 47, Calendar Number 241, Senate Bill 1040. On Page 48, Calendar Number 269, Senate Bill 1003. Also on Page 48, Calendar Number 270, Senate Bill Number 1007.

On Page 50, Calendar Number 304, Senate Bill 1019. Also on Page 50, Calendar Number 310, Senate Bill 903. And finally on Page 53, Calendar Number 399, Senate Bill 1069.

THE CHAIR:

Mr. Clerk, will you call for a roll call vote. The machine will be open on the Consent Calendar.

THE CLERK:

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

THE CHAIR:

If all members have voted, if all members have voted the machine will be locked. Mr. Clerk, will you please call the tally.

THE CLERK:

On Consent Calendar Number 1.

Total Number Voting	36
Necessary for Adoption	19
Those Voting Yea	36
Those Voting Nay	0
Those Absent and not Voting	0

THE CHAIR:

Consent Calendar is passed.

Are there any points of personal privilege?

Senator Doyle.

SENATOR DOYLE:

Thank you, Madam President.

Yeah for a point of information for the Chamber.

THE CHAIR:

Please proceed, sir.

SENATOR DOYLE:

Yes, thank you, Madam President.

Tomorrow the General Law Committee will be meeting at 11:15 outside the Hall of the House. The bulletin said 15 minutes before the early session so now we're making it definitive. Tomorrow at 11:15 outside the Hall of the House the General Law Committee will be considering one bill that was referred to us.

Thank you, Madam President.

THE CHAIR:

Thank you.

Senator Duff next.

SENATOR DUFF:

Thank you, Madam President.

For the point of announcement please.

THE CHAIR:

Please proceed, sir.