

To: Rep. Kevin Ryan and Sen. Edith Prague
From: John A. McCarthy, CTDOL
Re: AAC Drug Testing in the Workplace, SB# 589, LCO# 3417.

General Background

The General Assembly in 1987, as a result of reported employer abuse, instituted the Ct. drug testing statutes. These statutes, while enacted to protect employees, struck a fair balance between the rights of employees, their fellow employees and employers. They in part were intended to provide to private employees the protections that already existed for public employees pursuant to the Fourth Amendment.

The Ct. law permits the testing of all prospective employees. It provides for random testing of any employee when the employer has reasonable suspicion that the employee is under the influence of drugs or alcohol. It permits the random testing of employees who are voluntarily in employee assistance programs. It permits testing if such testing is authorized by federal law.

The law also allows random testing of employees serving in high-risk or safety-sensitive occupations.

The Labor Commissioner was designated by law to determine which occupations are high-risk or safety-sensitive. The Commissioner promulgated regulations pursuant to chapter 54 defining high-risk or safety-sensitive occupations.

A simple process was put in place by which employers may request that an occupation be designated as high-risk or safety-sensitive. We investigate requests for designations and to date have determined as high-risk or safety-sensitive fourteen pages of these occupations.

We respectfully request no action on SB#589.

The bill would, without any input from the department, the employee or the employer arbitrarily assign as high-risk or safety-sensitive certain occupations.

The bill will be subject to amendments for further weakening of employee protections.

The business community testified at the public hearing that the bill does not go far enough.

Specific Background

The CTDOL has been to Whelen Engineering a number of times. Some employees there are subject to the FAA requirements of drug testing.

We closely examined the occupations you list in LCO# 3417, none of them met the definition of high-risk or safety-sensitive.

However, as I indicated in my testimony, we have not closed our investigation at Whelen. We have been requested by legal counsel for Whelen to determine whether the position of the department should be adjusted in light of a Connecticut Supreme court decision on drug testing. We are presently in the process of responding to this request.

Thanks, John.