Transportation and Legislative Program Review and Investigations Committees: Taxicab and Livery Vehicle Regulation Bills

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Current Connecticut law essentially locks entrepreneurs out of the taxi and livery market by requiring full-blown litigation over whether a new business is in the "public convenience and necessity." The law has had predictable consequences: ownership concentrated in a few hands, outrageous financial burdens on taxi drivers, and poor customer service. Connecticut should adopt commonsense reforms that remove unnecessary barriers to small businesses and embrace the national trend of opening up taxi markets to new entrants.

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Thank you for the opportunity to comment on Raised Bills Nos. 902 and 903. The study conducted last year by the staff of the Program Review and Investigations Committee[2] revealed huge problems with the way Connecticut current regulates competition in its taxi markets—problems that impose tremendous costs on the state, on would-be entrepreneurs, and on consumers. There is no reason for this system—the Federal Trade Commission has repeatedly determined that restrictions on taxi competition like Connecticut's serve no function other than to impose greater costs on consumers.[3] These Committees can, and should, adopt commonsense reforms that remove these barriers to competition.

Under current Connecticut law (and under both of the proposed Bills), it is illegal to start a new taxi business without first obtaining a "certificate of public convenience and necessity" from the Department of Transportation. *See* Conn. Gen. Stat. § 13b-97(a). The application process for a certificate has basically two elements—one a review of the applicant's general suitability and financial wherewithal to run a taxi business, and the other a determination of whether a new business is in the public "necessity." The first element is concerned with public health and safety. The second is concerned only with protecting the profit margins of existing companies—at great cost to the state and its citizens.

The system as it exists is expensive for the state to run and imposes huge burdens on would-be entrepreneurs, as it mandates a public-hearing process focusing largely on the question

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[1] The Institute for Justice is a public interest law firm based in Arlington, Virginia that seeks to promote economic liberty, private property rights, free speech, and school choice. IJ has helped open up transportation markets in Minneapolis, Denver, Las Vegas, New York, and other cities nationwide.

[2] Copies of this report are available on the Program Review and Investigation Committee's website. IJ's open letter in response to the report (providing more detail on the burdens imposed by current law) is available at http://www.ij.org/index.php?option=com_content&task=view&id=2534&Itemid=208.

[3] *See, e.g.,* Letter to Judge G. Harris Adams, Colorado Public Utitilities Commission, *from* Maureen K. Ohlhausen, Director, F.T.C. Office of Policy Planning (et. al), dated December 15, 2008; ,on file with the Institute for Justice.

of whether the new business is "necessary." The public-hearing process is an unnecessary expense to the state and imposes unnecessary delays on new businesses (often taking more than seven months to complete).

This process has kept a number of small businesses from servicing Connecticut consumers—at no gain to the public health or safety. Since 1998, almost no one has been denied a taxi license because they were deemed unsuitable or financially unfit.[4] This bears emphasis: *almost no one* has been denied a taxi license because they would present a danger to the public's health or safety. By comparison, more than half of new taxi applications are denied (at least in part) because they could not meet the amorphous "public convenience and necessity" standard. This huge disparity is evidence of a fundamentally broken system.

Fortunately, this problem is easy to fix. Minor adjustments to Section 13-97b(a) can streamline the process and remove the unnecessary costs to consumers and would-be entrepreneurs. Bill 902 and 903 should be adjusted to:

- *Limit the factors the Department of Transportation may consider.* Section 13-97b(a) lists five factors the Department of Transportation must consider, all of which relate to the new business's potential impact on health or safety. The problem, however, is that the Department is instructed to consider these factors "at a minimum," opening the door to an amorphous inquiry into whether a new business is "needed." That inquiry is responsible for most rejected applications and it has no answer—there is no reliable way to determine if a business is "needed" without allowing consumers to make that determination the old-fashioned way: by deciding whether to patronize it. This problem can be fixed by removing the phrase "at a minimum" from Section 13-97b(a).

- *Remove the public-hearing requirement.* The public-hearing requirement is responsible for most of the delay and most of the cost in the state's regulation of taxi competition. The hearing, which amounts to full-blown litigation in which existing companies are allowed to participate, is simply unnecessary. The state permits other businesses to open their doors without giving their competitors the right to cross-examine the owner and any supporting witnesses—there is no reason for the state to impose the extra burden (and incur the extra cost) of a courtroom-style hearing before allowing a new taxi business to open.

These two changes would bring Connecticut's taxi regulations into line with a growing national movement toward greater freedom in taxi markets, and would bring Connecticut law almost precisely in line with the new law adopted by Minneapolis, Minn., in 2006, which installed a permit system that only requires applicants to show they are "fit, willing, and able."

Even if the Committee rejects the suggestions above, however, it can at least look to the example of Colorado (one of the few other states to regulate taxi markets at the state level), which amended its law in 2008 to shift the burden of proof to existing companies to prove that a

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[4] More than 80 percent of new applicants fully demonstrate financial wherewithal; more than 70 percent fully demonstrate that they are otherwise suitable. (*See* P.R.I. Report at 17.)

new taxi company would be *detrimental* to the public interest. At minimum, changing the statutory language to shift this burden would remove some of the absurdity from current Connecticut law. For example, the P.R.I. Committee's staff report makes clear that if an applicant provided evidence about the need for new taxi services "in two towns but no one testified about experiences in the third town, then the applicant could be approved to operate in the two towns but not in the third town." (P.R.I. Report at 25.) No one could reasonably disagree that if there is *no* evidence (in either direction) about whether a taxi company is "necessary," then the presumption should run in favor of—not against—the entrepreneur.

In short, the "public convenience and necessity" standard is a meaningless test applied in pursuit of a goal (preventing competition) that widespread research and the federal government have determined is actually harmful to consumers. It provides no benefits and provides them at tremendous cost (in time and in money) to entrepreneurs and consumers alike. Raised Bills Nos. 902 and 903, as written, do nothing to remove these barriers, and the Bills should be amended to reflect the commonsense suggestions contained in this testimony.

The Institute for Justice stands ready to provide further information or provide assistance in amending the statutory language. Please feel free to contact us with any questions or requests.

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