



**Public Hearing Written Testimony of
Dennis C. Murphy, Acting Commissioner**

**Labor and Public Employees Committee
February 15, 2011**

Good Afternoon Senator Prague, Representative Zalaski and members of the Labor and Public Employees Committee. Thank you for the opportunity to provide you with written testimony regarding **House Bill 5461 AAC Protection for Employees Who Breastfeed or Express Breast Milk in the Workplace**. My name is Dennis C. Murphy and I am the Acting Commissioner of the Department of Labor. Thank you for the opportunity to address certain concerns of my Agency regarding this bill.

The bill seeks to amend C.G.S. § 31-40w, which provides that an employee may express milk or breastfeed at her workplace during meal or break periods and that the employer shall make reasonable efforts to provide a room or other location for the employee. Currently, an employee who feels that her employer has failed to comply with the law can file a complaint with the Department of Labor. The bill expands upon this and would allow an employee who believes that her employer has violated the act to file a complaint with a request for inspection of the employer's premises. The employer is allowed the opportunity to demonstrate compliance within 14 days after mailing of the complaint, but if such compliance is not demonstrated, the Department of Labor shall inspect the employer's workplace. Finally, if the Department of Labor is denied admission to make inspection, the bill provides that the Department of Labor shall obtain a search warrant from Superior Court.

In order to determine whether the employer is in violation of C.G.S. § 31-40w, the Department of Labor must find that the employer has failed to make "reasonable efforts" to comply. "Reasonable efforts" is defined as "any effort that would not impose an undue hardship on the operation of the employer's business." "Undue hardship" is defined as "any action that requires significant difficulty or expense when considered in relation to factors such as the size of the business, its financial resources and the nature and structure of its operation." Determining whether an employer has made reasonable efforts or whether it is an undue hardship to comply, requires legal analysis and would require the time of an attorney. Such analysis may be complex, particularly where an analysis of an employer's financial resources and operational structure are being made. Moreover, the Raised Bill does not give the Department any discretion in determining whether it should inspect the employer's workplace or obtain a warrant; rather, the Revise Bill provides that the Department shall inspect the employer's workplace if the employer has not demonstrated compliance within 14 days after the Department mails the complaint and shall obtain a warrant if the employer refuses admission. The obligation to obtain a warrant will impose a significant burden on the Department.

The Department has received very few complaints pursuant to C.G.S. § 31-40w. However, the bill increases the Department's duties with regard to such a complaint, that it may need additional staff, which may include an attorney and an investigator.

Thank you for the opportunity to provide this testimony. Please feel free to contact me or my staff if you need additional information.