



**Written Testimony of
Glenn Marshall, Commissioner
Department of Labor
Transportation Committee
March 12, 2012**

Good Morning Senator Maynard, Representative Guerrero, Senator Boucher, Representative Scribner and members of the Transportation Committee. Thank you for the opportunity to provide you with written testimony regarding **Senate Bill #385 AAC Owner Operators in the Motor Carrier Industry**. My name is Glenn Marshall and I am the Labor Commissioner.

I am writing in opposition to this bill because it could exempt owner operators in the motor carrier industry from paying into the unemployment compensation system by treating their employees as independent contractors. Employers in the trucking industry that misclassify their drivers as non-employees gain a financial advantage over their competitors who properly follow the law. S.B.# 385 would legalize this practice and exempt those employers from the Unemployment Compensation Act, thereby subjecting its workers to the risk of unemployment without the assistance of unemployment benefits.

In the course of investigations undertaken by the Department of Labor's Unemployment Compensation Tax Division, the Agency has found that drivers are closely tied to the companies who employ their services; providing the essential labor required in order for the trucking company to survive. The Tax Division utilizes the "ABC test" per C.G.S. 31-222(a)(1)(B)(ii) to determine whether an individual is an employee or an independent contractor. This 3 prong test sets forth the criteria that an employer must satisfy to properly classify its workers as independent contractors.

Many of the motor carrier companies that have been examined by the Tax Division refer to and pay their workers as independent contractors while treating them as employees, thus avoiding the payment of unemployment contributions. S.B.# 385 would exempt the motor carrier industry from the application of the ABC test. The Unemployment Compensation Act is remedial legislation and as such, seeks to provide a safety net for individuals who are unemployed through no fault of their own. Exempting an entire industry from the Unemployment Compensation Act will mean that the employees who work for these motor carrier companies would not be eligible for unemployment compensation benefits.

Again, I urge the Committee to oppose S.B. #385 and I am available to discuss the implications of passage of this legislation further.