

**Statement of Michael J. Riley  
President**

**MICHAEL J. RILEY  
PRESIDENT**

**Motor Transport Association of Connecticut  
Before**

**The Joint Committee on Labor and Public Employees  
February 28, 2012**

**Re: Raised Bill No. 149 AN ACT CONCERNING THE  
DENIAL OF UNEMPLOYMENT COMPENSATION  
BENEFITS TO CERTAIN DRIVERS WHO ARE  
UNEMPLOYED AS A RESULT OF A DRUG OR ALCOHOL  
TEST.**

I am Michael J. Riley, President of Motor Transport Association of Connecticut (MTAC), a statewide trade association, which represents around 900 companies that operate commercial motor vehicles in and through the state of Connecticut. Our membership includes freight haulers, movers of household goods, construction companies, distributors, tank truck operators and hundreds of companies that use trucks in their business and firms that provide goods and services to truck owners.

**MTAC SUPPORTS THIS BILL**

The trucking industry has no tolerance of individuals who have drug or alcohol issues driving commercial motor vehicles. In the early 1990s, with the support of truckers, Congress adopted legislation requiring alcohol and drug testing for truck drivers before they are employed, after certain accidents and on a random basis. Additionally, Congress has taken further action to disqualify drivers of commercial motor vehicles, if they are convicted of driving under the influence of alcohol or drugs, for from one year to life. The State of Connecticut has adopted all of the statutes necessary to implement these requirements.

State and Federal law provide that the holder of a Commercial Drivers' License who is convicted of driving under the influence of drugs or alcohol must have his CDL suspended. This suspension of the CDL is required even if the DUI occurred in a passenger motor vehicle.



It is illegal for an employer to allow a driver to operate a truck when his CDL is suspended.

We do not want people who have alcohol or drug issues driving around the state in 80,000 pound vehicles, which might be full of freight that could include gasoline, acids caustics or other hazardous materials. Several years ago, MTAC supported the adoption of the language in CGS 31-236(a)(14) disqualifying persons from Unemployment Compensation benefits, who lose their CDL because of the results of a drug or alcohol test. This established a strong public policy discouraging persons with alcohol or drug issues from engaging in the highly safety sensitive responsibilities of driving a truck.

Over the past several years, some drivers have been disqualified, by law, from performing the work for which such individual was hired (driving a truck) as a result of a drug or alcohol test. Employers, in accordance with the requirement of the law, have let these drivers go. These drivers usually file for Unemployment Compensation. Many employers have objected to the granting of benefits based upon the disqualification cited in CGS 31-236(a)(14). Time and time again, benefits are awarded.

The Department of Labor regularly ignores CGS 31-236(a)(14) and adjudicates these claims under CGS 31-236(a)(2)(B) which provides in relevant part that an individual will not be eligible for unemployment benefits "if, in the opinion of the administrator, the individual has been discharged . . . for . . . willful misconduct in the course of the individual's employment . . . ", based upon the assertion that the misconduct (conviction of DUI) was not in the course of their employment.

In so doing, the Department's decisions are contrary to the deterrent intended by 31-236(a)(14), assuring truck drivers that, even if they are convicted of DUI, they can always fall back on Unemployment Compensation. Moreover, it infuriates employers who have their UC rate increased to reflect the award to an employee who has engaged in admittedly dangerous activity, possibly jeopardized the company, and whose dismissal is not discretionary, but in fact mandatory, under law. This is a self-inflicted problem created by the driver yet the employer is being penalized.

To the best of my knowledge, until now, no employer has pursued an appeal under 31-236(a)(14) through the initial hearing, to appeal of the decision, to

Superior Court, to the Appellate Court and now to the Supreme Court of the State of Connecticut.

Currently, the case of TUXIS-OHR'S FUEL, INC. V. ADMINISTRATOR, UNEMPLOYMENT COMPENSATION ACT ET AL. is pending Certification for Review from the Appellate Court, before the State Supreme Court. A.C. No. 31464.

As drafted, Raised Bill No 149 addresses an issue raised in the Appellate Court Decision which purports to make 31-236(a)(14) non applicable because of reference to a drug testing "program". In a leap which strains credulity, the Department and the court interpret the statute to require that the drug testing program, which results in the disqualification, must be an "employer" program. In the instant case, the driver was convicted after an accident. A breathalyzer test which registered a blood alcohol level of .216 was administered by law enforcement personnel as mandated by law, and a judicial determination was made that he was illegally driving under the influence. As a result, the driver lost his license to drive cars and trucks. We contend that the test which led to the conviction satisfies the requirement of 31-236(a)(14) but because the words "testing program" have been used to get around this statute, we are pleased to see that this bill deletes the words "testing program" and inserts the word "test" into the statute. This will clarify that any drug or alcohol test, mandated by and conducted in accordance with state or federal law, which results in a disqualification of a person from performing the work for which such individual was hired, will (as originally intended) result in a finding that the individual is ineligible for Unemployment Compensation benefits and that the employers experience, therefore, will be unaffected.

Thank you for your interest in this issue. If I can be of further assistance, please call me on my cell phone at 860-402-4542.