

Testimony of Eric W. Gjede  
Assistant Counsel, CBIA  
Before the Commerce Committee  
Hartford, CT  
February 27, 2014

**Testifying in Support HB 5269 AAC Parity Between Paid Sick leave Benefits And Other Employer-  
Provided Benefits**

Good morning Senator LeBeau, Representative Perone, and members of the Commerce Committee. My name is Eric Gjede and I am assistant counsel at the Connecticut Business and Industry Association (CBIA) which represents more than 10,000 large and small companies throughout the state of Connecticut.

We support the common sense changes made in HB 5269.

After passage, ambiguities in the paid sick leave law forced the labor department to spend two years touring the state to explain the law to the business community. While conducting these presentations, it became clear to both the state's labor department and business community that clarifications to the law were needed. Additionally, many indicated that the administrative burden to comply with the law could be lessened if some flexibility was added for businesses.

The changes proposed in this bill provide businesses with a little flexibility in how they administer the law. It should be noted that the proposed changes would not take away the benefit from a single person currently entitled to it under law.

Here's how this bill would help businesses:

1. It provides businesses the flexibility to administer paid sick leave on the same calendar or fiscal year that they administer other employee benefits.
2. Manufacturers were never supposed to be subject to the paid sick leave law. Removing the word "establishment" fixes a legal loophole that could result in manufacturers with more than one facility being subject to the law.
3. Allows businesses to report the number of employees using the same method as FMLA. This would prevent businesses that never had more than 49 employees at a given moment during a three month period from having to report former employees – thereby becoming subject to the mandate as a result of the natural fluctuation in the workforce.

These simple fixes to paid sick leave will resolve legal ambiguities and help make the law work better for both employees and employers.

We thank you for your effort in making these simple, common-sense corrections to the law.

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**Testifying in Support (with modifications) to HB 5274 AAC Unemployed Individuals and  
Discriminatory Hiring Practices**

Good morning Senator LeBeau, Representative Perone, and members of the Commerce Committee. My name is Eric Gjede and I am assistant counsel at the Connecticut Business and Industry Association (CBIA), which represents more than 10,000 large and small companies throughout the state of Connecticut.

CBIA supports the intent of HB 5274.

Absent a legitimate qualification reason, no employer should be posting advertisements for an employment opportunity that discriminates against an individual because they are currently unemployed. CBIA supports a ban on this type of advertisement – although we believe the posting of these types of ad are more of an urban legend than a prevalent practice. Simply put, businesses want the best candidate for their vacant employment positions regardless of the candidate's current employment status.

However, we think the committee can protect the unemployed from this type of discrimination without designating them as a protected class in the Commission on Human Rights and Opportunities (CHRO) statutes. Fining employers that post this type of discriminatory ad is acceptable, but subjecting these businesses to a full scale CHRO investigation and hearing process can result in months wasted and thousands of dollars in legal fees – even if the business is innocent.

I have attached language to this testimony that I believe will achieve your goal of protecting unemployed individuals attempting to return to the workforce from discrimination. We hope you will consider this alternative in lieu of the language currently in HB 5274.

Thank you for the opportunity to provide this testimony.

**Draft Alternative:****AN ACT CONCERNING UNEMPLOYED INDIVIDUALS AND DISCRIMINATORY  
HIRING PRACTICES.**

Section 1. (NEW) (*Effective October 1, 2014*) (a) As used in this section:

(1) "Employer" means any business owner, person, partnership, corporation, limited liability company or association of persons acting directly as, on behalf of or in the interest of an employer in relation to employees, including the state and any political subdivision thereof and shall include an employment agency or temporary help service;

(2) "Employment agency" means an employment agency as defined in section 31-129 of the general statutes and shall include any (A) agent of such employment agency, (B) person who maintains an Internet web site that publishes advertisements or announcements of job openings, and (C) temporary help service;

(3) "Status as unemployed" means an individual's period of unemployment, both past or present, regardless of duration; and

(4) "Temporary help service" means a temporary help service as defined in section 31-129 of the general statutes and shall include any agent of such temporary help service.

(b) No employer shall:

(1) Publish in print, on the Internet or in any other medium, an advertisement or announcement for any job vacancy in this state that includes any provision: (A) Stating or indicating that an individual's status as unemployed disqualifies the individual for a job, or (B) stating or indicating that an employer will not consider an individual for employment based on that individual's status as unemployed;

(c) No employment agency or temporary help service shall:

(1) Publish in print, on the Internet or in any other medium, an advertisement or announcement for any job vacancy in this state that includes any provision: (A) Stating or indicating that an individual's status as unemployed disqualifies the individual for a job, or (B) stating or indicating that an employer will not consider an individual for employment based on that individual's status as unemployed;

(d) Nothing in this section shall be construed to prohibit an employer, employment agency or temporary help service, or an agent, representative or designee of such employer, employment agency or temporary help service, from:

(1) Publishing in print or on the Internet an advertisement for a job vacancy in this state that contains any provision: (A) Setting forth qualifications for a job vacancy, including, but not limited to: (i) Holding a current and valid professional or occupational license, certificate, registration, permit or other credential, or (ii) a minimum level of education or training, or professional, occupational or field experience; or (B) stating that only individuals who are current employees of the employer will be considered for such job vacancy;

(2) Setting forth qualifications for a job vacancy, including, but not limited to: (A) Holding a current and valid professional or occupational license, certificate, registration, permit or other credential, or (B) a minimum level of education or training, or professional, occupational or field experience;

(3) Stating that only individuals who are current employees of the employer will be considered for such job vacancy;

(4) Taking into account the individual's employment history, including recent relevant experience; or

(5) Inquiring as to the reasons for an individual's status as unemployed.

(e) Any individual aggrieved by a violation of subsection (b) or (c) of this section may file a complaint with the Labor Commissioner. The Labor Commissioner may levy a civil penalty against any employer, employment agency or temporary help service that the commissioner finds to be in violation of subsection (b) or (c) of this section. Any employer, employment agency or temporary help service that violates any provision of this section may be liable to the Labor Department for a civil penalty of five hundred dollars for the first violation of subsection (b) or (c) of this section and for each subsequent violation of said subsections may be liable to the Labor Department for a civil penalty of one thousand dollars.

(f) Any party aggrieved by the decision of the commissioner may appeal the decision to the Superior Court in accordance with the provisions of chapter 54 of the general statutes.

(g) The commissioner may request the Attorney General to bring an action in the Superior Court to recover the penalties levied pursuant to subsection (e) of this section.