REP. D’AGOSTINO (91ST): All right. We’ll call the general public hearing to order, here on Tuesday, March 12 at 10:00 AM. We have a handful of Bills to review today and several very distinguished speakers to speak on them. So we will get right to our agenda, if that’s all right with everybody. And our first is Representative or -- nope. She’s not here. Okay. All right. Rudy Marconi of Ridgefield representing COST. There’s Mr. Marconi. A familiar face around these parts.

MR. MARCONI: Good Morning.

REP. D’AGOSTINO (91ST): Good morning.

MR. MARCONI: Thank you, Representative D’Agostino, members of General Law for allowing me this time to speak this morning. I’m speaking in support of Governor’s Bill H.B. 7159 AN ACT ADDRESSING OPIOID USE. I know the CHA as well as the Orthopedic Association has submitted some concerns in their testimony and I just wanted to take advantage of the time here today to talk about the opioid crisis, specifically this Bill and its guidelines for
prescription writing. But more importantly, the believe that many of us share that we need to implement the MAT model, the medically assisted treatment model in all of our rehab centers throughout Connecticut.

It has been proven to have a much greater affect to reduce the recidivism rate that we’ve seen across our state. This is an issue that we all know. Most of us, if we haven’t been affected directly, we know someone who has been impacted by this issue. And I think it’s just critically important, as does my good friend, Dr. Peter Rostenberg, who is a Suboxone certified doctor, that the MAT Model is critical to addressing this issue. So I ask that you give that some consideration. Thank you.

I also represent today not just COST, but CCM and both organizations have, in fact, submitted testimony and I’m President of COST and a member of their Board of Directors of CCM. Thank you.

REP. D’AGOSTINO (91ST): That’s what I was going to ask you. So CCM and COST are unified in this position?

MR. MARCONI: Absolutely and that’s why I’m here representing both organizations.

REP. D’AGOSTINO (91ST): Thank you. Questions from the committee? Thank you, Mr. Marconi.

MR. MARCONI: Thank you.

REP. D’AGOSTINO (91ST): Is the Commissioner here?Yep, there you are Commissioner. Good morning Commissioner.
COMMISSIONER MICHELLE SEAGULL: Good morning, Senator Witkos, Representative D’Agostino, Representative Cheeseman, other honorable members of the General Law Committee. Thank you for giving me the opportunity this morning to testify in support of several of the bills on your agenda today. You already have my written testimony so I’m not going to repeat it in its entirety here, but I do want to touch on some high points and then definitely be happy to answer any questions you may have.

So first I’d like to testify in support and we strongly support HB 7159. This is the Governor’s opioid bill. It does a number of things within DCP statute which we think are good ideas and will be helpful in addressing the opioid crisis. Among them would require pharmacists to offer counseling to patients regarding their prescriptions. Right now, this is something that’s already required for Medicaid patients and we think it’s a good idea to do for all patients and so we support that. Also, while right now pharmacists, some of them are voluntarily accessing the PNP to kind of look at the drug use by the patients they’re dispensing medication to. To make that easier for those who are choosing to do that, we want to allow an agent to the pharmacist to do that. It would require drug manufacturers and wholesalers to let DCP know when it’s terminating or declining to do business with a pharmacy, and this would allow us to catch issues earlier. That would be a good red flag for us. And it would require a diagnostic code to be used for opioid prescriptions and finally require a treatment agreement between a patient and their prescriber if there’s going to be a prescription for more than 12 weeks of opioid treatment for pain. So, those are
among the things within the Governor’s opioid bill that impact DCP statutes and we are in supportive of all of that.

We also have a number of DCP statutes so first, thank you for giving consideration to those and giving us an opportunity to have a hearing on that. We know some industries or others have flagged some issues with these various groups so there may be some substitute language to compromise on some of those. [Inaudible-00:02:14] that what we’re doing [Inaudible-00:02:10] But really quickly we have SB 1006. This is the revisions to the pharmacy and drug control statutes. Kind of three big things it’s doing is further strengthening and helping us to stay on top of sterile compounding which has a huge issue and really on the forefront of our minds since the incident happened back in 2012 where over 60 people died because of the sterile compounding pharmacy that wasn’t doing things properly in Massachusetts. It would require in state pharmacies to report if they’re subject to legal action and this is something that compounding or out of state pharmacies must do. And it would finally help us make sure that our controlled substance designations are staying in sync with federal law. SB 1007 just makes some technical changes to our statutes. Some are because of recommendations from federal law leaders to create some internal consistencies with our law and then just clarify a few areas where there either has been or we see the potential for confusion.

HB 7291 makes some changes to our enforcement statutes. Primarily it aims to give us more flexibility in how we do enforcement. Sometimes we can only revoke or suspend a license which is a
fairly harsh penalty and we want to have some flexibility to do some other things as well. So that’s the big thing it does. We do have something in here, again on mobile fueling. This is something some businesses have requested so we’re putting it out there for your consideration.

And then finally, HB 7300 creates sort of a carved out leasing agent to create a lower level license. Right now, to do leasing, you have to have the full kind of real estate license and we want to lower the requirements to people who are just doing leasing. We think it will make it easier for them to comply without really harming consumers.

So those are sort of the bills we have and I’m happy to answer any questions.

REP. D’AGOSTINO (91ST): Were there any changes to mobile refueling from this year’s proposal compared to last years.

COMMISSIONER MICHELLE SEAGULL: I don’t remember exactly, the language you had from last year. I think it’s more less the same. The thing that changed is there is now a provision in the fire code law to allow for this so we’re putting it out there to be considered again. It is something that’s happening in other states. We’ve had at least one business coming to us expressing interest in doing this in Connecticut and so we just wanted to put it out there for you all to consider.

REP. D’AGOSTINO (91ST): Questions from committee members? Representative Rutigliano?

REP. RUTIGLIANO (123RD): Thank you, Mr. Chairman. If you don’t mind, can you just go over the mobile
refueling bill? My memory isn’t, I haven’t had a chance to read the testimony just yet. Exactly who does it pertain to and what does it do?

COMMISSIONER MICHELLE SEAGULL: So, the idea for the businesses is, basically it would allow, right now the way the law is written to put fuel in your vehicle it needs to be at a fixed location, and this would allow a truck to go out there and actually refuel at different sites. Its sort of broad in terms of how it could work. So, it’s sort of broad in how it could work. You know, one thing would be if you have a business and you want to just, rather than taking all your trucks to fuel somewhere else you could have a truck come and refuel you there. It could work for consumers if it’s in locations that are appropriate where you don’t want to get to a gas station. There may be places where you can have it come to you. But kind of what our language does is creates the possibility that if it’s approved that refueling could happen outside of a fixed location.

REP. RUTILIGANO (123RD): Does the bill restrict if it’s just for businesses or say construction sites or is it wide open and it could be somebody can call up a fuel tank to come to their house?

COMMISSIONER MICHELLE SEAGULL: It doesn’t put those restrictions. It’s not in that language. It really just takes what currently is the regulation on sort of gas stations and allows for it to be a mobile rather than a fixed location.

REP. RUTIGLIANO (123RD): Okay, thank you. Thank you, Mr. Chairman.

REP. D’AGOSTINO (91ST): Representative Witkos.
SENATOR WITKOS (8TH): Thank you very much. Hi Commissioner, good morning.

COMMISSIONER MICHELLE SEAGULL: Good morning.

SENATOR WITKOS (8TH): Commissioner, you did submit testimony on this bill but I wanted to ask you since it has to do with your agency, I wanted to ask you a question about item number three which is the House Bill 7286 an act concerning home inspectors and appraisers, especially the section two on the appraisal. Have you had an opportunity to think about that or talk about that? What we’re trying to do here is, is to give your agency some teeth so they can enforce locally the provisions in the Dodd-Frank Act that appraisers are paid the usual in customary fee.

COMMISSIONER MICHELLE SEAGULL: The language there, we were still not fully, I think, clear on what ultimately that bill was doing. We’re fine with that section. My mistake.

SENATOR WITKOS (8TH): Okay the only thing was, and I think I had a discussion with Leslie about instead of doing it in regulations we might do it in statute. That way it would be more streamlined process and less work for everybody.

COMMISSIONER MICHELLE SEAGULL: We like streamlined processes and less work. [laughter]

SENATOR WITKOS (8TH): And if you or Leslie have any questions, you can ask the woman sitting to Leslie’s left because she’s going to testify later on.

COMMISSIONER MICHELLE SEAGULL: Okay, thank you.

SENATOR WITKOS (8TH): Thank you very much.
REP. D’AGOSTINO (91ST): Thank you Representative. Any other questions for the commissioner? Thank you, Commissioner. We went easy on you today.

COMMISSIONER MICHELLE SEAGULL: Okay Thank you.

REP. D’AGOSTINO (91ST): Representative Pat Miller? She’s around. She seems to be caught up right now so we’ll see if she can come down. Commissioner Mais.

COMMISSIONER MAIS: Good morning, Committee Chairs, Vice Chairs, ranking members, and members of the General Law Committee. I am Insurance Commissioner designee Andrew Mais and on behalf of the Insurance Department I do appreciate the opportunity to testify today in strong support of the Governor’s House Bill No. 7159, an act addressing opioid use. Governor Lamont’s bill would create meaningful public policies to continue to combat the opioid crisis. The insurance department has been a partner in working with all stake holders including consumer groups, legislatures, legislators such as yourselves, other executive branch agencies, the insurance carriers and others to create sound public policy to combat this opioid epidemic and we are an active member of the Alcohol and Drug Policy Council.

Now generally this bill makes changes to reduce the misuse of prescription opioids. It strengthens oversight of prescription opioids and facilitates the use of the state’s prescription drug monitoring program. It also enhances communication among healthcare practitioners and patients regarding the use of opioids. Section five of this bill would prohibit life insurance carriers from excluding coverage to individuals who have fulfilled
prescriptions for life saving opioid antagonist. Now you’ve got our written testimony and while the department supports the entire bill, I would like to provide the committee with particular insight into section five. This new section would prohibit life insurance and annuity policies from excluding coverage solely on the basis of receipt of a prescription for an opioid antagonist, such as Naloxone something they use to save people’s lives.

And when an individual applies for life insurance the carrier may undertake a formal underwriting process which could investigate the applicant and their health history and that may include filled prescriptions and medical treatment among other things and it has been found during this process, individuals have been denied coverage due to a history that included either filling or using an opioid antagonist. Governor Lamont’s bill would prohibit this practice and the department strongly supports the Governor in pursuing this important consumer protection.

In fact, this is what I heard on NPR a few months ago. It was widely reported that a nurse in Massachusetts was denied life insurance because she had previously purchased Naloxone, not for herself but this was to help others. It was a prescription she filled as a good Samaritan in case she came across anyone experiencing an overdose. It is important to protect people who have decided to carry an opioid antagonist to treat potential unexpected opioid overdoses and save a life of a friend, a family member, or perhaps somebody they don’t know. The law makes it clear that these good Samaritans should not and will not be denied coverage of a life insurance or a new policy solely
for having filled a prescription for an opioid antagonist. I ask that you take affirmative action on this important bill proposed by Governor Lamont. Thank you for the opportunity to testify on this important piece of legislation. I and my colleagues have the insurance department standing ready to assist you and to work with our fellow agencies on this important topic. I am happy to take any questions you may have.

REP. D’AGOSTINO (91ST): Thank you, Commissioner. My apologies for getting your last name wrong and good luck in the nomination. Questions for the commissioner designee. Senator.

SENATOR WITKOS (8TH): Thank you, Mr. Chairman. Good morning, Commissioner. Just a question. It’s section four of the bill. I don’t know if you have it there in front of you.

COMMISSIONER MAIS: I do not have it in front of me but if you do have a question, I can get back to you.

SENATOR WITKOS (8TH): It’s in section two and maybe it just needs clarification on my part, but it talks about a registered manufacture wholesaler of drugs that ceases or declines distribution of a scheduled drugs or controlled substance to an individual in the state of Connecticut shall report the name of the individual, etc. But I wasn’t aware that a manufacturer or wholesaler could go directly to an individual in the state. What scenario would allow that to happen if you didn’t go through a pharmacist or a doctor? Is the individual in this paragraph here really a business entity?
COMMISSIONER MAIS: Senator, I just got through my first week on the job so let me get back to you on that one in the next day or two.

SENATOR WITKOS (8TH): Just for your notes it’s lines 326 through 333 in the bill. Thank you. I appreciate it.

REP. D’AGOSTINO (91ST): Representative Rutigliano.

REP. RUTIGLIANO (123RD): Thank you, Mr. Chairman. Good Afternoon, Commissioner. I really couldn’t agree with the Governor more on that issue, but I wanted to point you to a bill on the insurance committee, 6087. We’ve already had a public hearing on it that completely addresses this issue and I would invite you to support it. It prevents people from using prior claims history for Narcan from denying them insurance or life insurance, or disability insurance or anything so I would appreciate your support considering it was my bill. [laughter] We could use it.

REP. D’AGOSTINO (91ST): Senator I just want to make sure what lines you were inquiring about.

REP. RUTIGLIANO (123RD): Yeah lines 326-333. It speaks of manufacture wholesaler that declines to distribute the scheduled drugs to the individual, but I’ve never heard where a manufacturer can go to an individual unless they went to a pharmacy or a doctor and I’m just wondering if the term individual may mean a business entity.

REP. D’AGOSTINO (91ST): That’s a good question. I think we should also just ask for the record ask DCP as well and try to get an answer to that question.
Other questions for the commissioner designee? Thank you, sir again. Good luck.

REP. RUTIGLIANO (123RD): Thank you.

REP. D’AGOSTINO (91ST): Representative Miller.

REP. MILLER (145TH): Good morning. Good morning co-chair D’Agostino, co-chair Fonfara, ranking member Witkos, ranking member Cheeseman, and members of the General Law Committee. I’m here today in support of HB 7288, an act concerning snow removal and ice control services contracts. This bill issue was brought to my attention by a business that’s in my district. At this time though I would like to yield my time to Kevin Gilbride who is executive director of the Accredited Snow Contractors Association.

KEVIN GILBRIDE: Thank you, Representative. Thank you, committee chair and committee members, for having us here today. House Bill 7288 addresses a growing snow and ice management industry issue that impacts the safety of the citizens of Connecticut. It makes it difficult for snow removal and snow and ice management companies to conduct business in the state and circumvents Connecticut’s groundbreaking legislation establishing it as a reasonable care state. Property owners and managers use indemnification and hold harmless clauses in their contracts to pass their liability under snow and ice management companies.

The clause often reads the snow and ice management company is responsible for any and all accidents, incidences, and injuries as it pertains to snow and ice on the property. The problem occurs when another section of the contract, the scope of work
details how the property is to be maintained. Often the scope of work reads, snow plowing is to commence only when two inches have accumulated, and the owner will instruct when to apply salt. If a contract containing this indemnification clause and scope of work is signed, then the snow and ice management company is liable if an individual slip and falls during one-inch accumulation conditions and the owner instructed the contractor not to salt. From public safety standpoint, people are getting hurt. When a property owner can pass their liability onto another party, they have no incentive to maintain a safe environment. A common question is why a snow and ice contractor would sign a contract containing that unfair language. Well if they don’t sign the contract, someone else will, therefore they either sign the contract or risk being run out of business. We understand the concept of freedom of contract and the state legislatures generally do not like to get involved between contracts between two individuals, however there is precedent for involvement when a contract can financially or physically harm an independent third party. That is the scenario that we have here.

From a business standpoint only a few insurance companies will cover snow and ice management companies in his state. When they do, they pay rates five to ten times more expensive than those for similar services. As the snow and ice management industry becomes uninsurable, costs will continue to rise and there will be fewer and fewer reputable contractors to perform services. For example, some Connecticut contractors are paying $60 per thousand for snow revenue versus $18 per thousand for their landscape insurance.
Very similar services with very similar equipment and people. Currently only three insurance carriers will write insurance for snow and ice management companies in the state. Connecticut was the first state to transition from a natural accumulation state to a reasonable care state. Natural accumulation laws indicate the property owners are not responsible for natural accumulations of snow and ice.

REP. D’AGOSTINO (91ST): Folks we have a small room. If we could try to keep the conversations down so we can hear the person testifying, I’d appreciate. Thank you. Please continue, sir.

KEVIN GILBRIDE: Thank you, Mr. Chairman. Natural accumulation laws indicate the property owners are not responsible for natural accumulations of snow and ice however, they are responsible once snow is moved. The reasonable care statute for acquired property maintain reasonable care of the property in a reasonable timeframe. The practice of using contractual clauses while also limiting scope and work circumvents the Connecticut law. This bill, this exact bill was passed in Illinois in 2016 and in August on Colorado of 2018. While we are waiting to see how Colorado reacts in Illinois insurance rates have come down for snow and ice management companies by 25 percent over the past two years and we have also started gathering data on behavioral changes in the decrease in slip and falls in the state of Illinois. This bill will make Connecticut safer for the citizens of Connecticut and it will make a better business environment for snow and ice management companies and close a loophole in the law. I thank you for having us here today and appreciate your time. I’m available for questions.
REP. D’AGOSTINO (91ST): I think if I’m reading this language right though, this would eviscerate any attempt to impose liability on the snow remover. Is that right?

KEVIN GILBRIDE: No, not at all. It would remove liability when the scope of work tells them not to perform services, however when they perform service --

REP. D’AGOSTINO (91ST): They’re still liable.

KEVIN GILBRIDE: Absolutely.

REP. D’AGOSTINO (91ST): And whatever indemnification and liability clauses and laws apply.

REP. RUTIGLIANO (123RD): You can’t be liable if you don’t perform the work.

REP. D’AGOSTINO (91ST): Representative Rutigliano.

REP. RUTIGLIANO (123RD): Good morning, Senator. When you said the insurance, rates went down for snow removal companies, was there a transfer for additional cost of insurance for business owners since they were bearing some of the burden at that point. No, actually the insurance rates for the business owners have remained flat over the past two years and we’re actually anticipating a similar reduction in rates to the business owners over the next couple of years due to the fact that there’s less claims.

REP. RUTIGLIANO (123RD): So, the chairman asked a pretty good question. So, you’re saying that right now in certain cases you sign contracts and you’re
responsible for slips and falls even if you haven’t come in touch with the snow.

KEVIN GILBRIDE: Correct.

REP. RUTIGLIANO (123RD): Okay. Because I mean I have a business. We own property. We tell our snow removal people we have certain times when we need them to come or they’ll come every inch and charge me $10,000. It gets crazy. So, what you’re saying is if I tell you not to come and somebody comes on my property and slips and falls it’s not your fault.

KEVIN GILBRIDE: If you’ve told us not to come, yes.

REP. RUTIGLIANO (123RD): Okay very good. Thank you, Mr. Chairman.

REP. D’AGOSTINO (91ST): Other questions from members? Senator.

SENATOR WITKOS (8TH): Thank you. I understood the original intent of the bill was as you kind of brought forward in an example. If the contract calls for plow services or snow removal at two inches and it’s less than that, they don’t come, and somebody gets hurt you identified for many liabilities because you weren’t there. But I read the bill and I’m not an attorney so I would be looking to others for response that says that neither an act of or omission thereof so doesn’t that mean that if you’re doing it or not doing it, providing that service so I’m not, again I’m not an attorney so I don’t know if I’m reading that correctly. Have you seen the actual language of the bill?

KEVIN GILBRIDE: I have.
SENATOR WITKOS: (8TH): If you could just respond to that comment. The line that you are referring to is -- well it’s in several spots but say line 19. Resulting from the acts or omissions. So, it’s like if I perform the work or I don’t perform the work, the sender and receiver is indemnified to the service provider.

KEVIN GILBRIDE: Yeah well that’s certainly not the intent of the bill if that’s the way you’re reading it I would agree that we should make sure that it reads properly. You know, the intent is if we go out and perform services of snow and ice management company and we leave a pile of snow in a handicap spot, we absolutely should be responsible. It’s completely our fault. Okay if there’s an inch and half on the ground and you’ve told us not to salt the property then you can’t hold us liable.

SENATOR WITKOS (8TH): Yeah, I agree 100 percent with what you want to accomplish. I just wasn’t sure that my reading of this gets you there.

REP. D’AGOSTINO (91ST): I think we have some work to do with the language because I think this is a blanket, the way this is drafted it just excuses you from any liability. I think we need a clause before or after to say exactly that “if you are instructed not to come out then you can’t be held liable for any acts or omissions” within that context. We just have some drafting to do with this, but you’ve communicated the intent and I think you have some positive feedback on the intent. We just need to make sure the bill is narrowly focused to that particular issue.

KEVIN GILBRIDE: Yeah, we’re not trying to pass liability on.
REP. D’AGOSTINO (91ST): Fair enough. You’re trying to avoid liability when you haven’t done any work which I think as a practical matter makes sense but I think we do have to correct the language.

Other questions from committee members? Thank you. I appreciate it Representative Miller.

REP. MILLER (145TH): Thank you.

REP. D’AGOSTINO (91st): And just a note for our drafting staff that we need to make sure the language is clear. The clause in 3b that would void those provisions only applies if the snow contractor is instructed not to perform services. Thank you. Dr. Katz, Dr. Andrews?

We’re transitioning to our public hearing since you guys were on the legislator list, but your legislator didn’t show we’ll have you guys go first and then we’ll transition to the next list.

DR. MARILYN KATZ: Distinguished members of the General Law Committee, thank you for allowing us to testify on HB 7159 an act adjusting opioid use. My name is Marilyn Katz. I am joined here today by my colleague, Rebecca Andrews. We are both primary care physicians from Yukon Health and we are here representing the opioid task force at Yukon Health for which we co-chair. The opioid task force is a multidisciplinary committee that is charged with developing policies around opioid prescriptions and opioid prescribing for Yukon Health. As clinicians, educators, and researchers who work daily with the issues of opioid prescribing, we commend the Governor and committee on its renewed commitment to reducing the impact of the opioid epidemic and would like to help HB 7159 best achieve its goals.
In that vein, we have a couple of recommendations in both sections six and seven that instead of requiring documentation on a prescription or in a medication agreement that key elements of the decisions to use opioids be documented in the patient charge and/or in the patient plan. We believe that requiring this documentation strategy will minimize additional paperwork and allow for providers to focus their time on the shared decision-making process involved with prescribing a potentially lethal medication to a patient. One of the goals of the bill is to facilitate the use of the state’s PDMP can be achieved through a single click integration of the database with electronic medical records.

The medication reconciliation and polypharmacy work crew legislatively formed under the Health Information Technology Advisory Council has identified that this is technically feasible. We would strongly encourage prioritizing and fiscally supporting the implementation of this as a state sponsored service of the emerging health information exchange. Not all prescriptions are currently reported to the PDMP for controlled substances. Currently Methadone is not reported if it isn’t prescribed for opioid abuse disorder or detoxification from opioids. Historically this was to protect patients and reduce stigma for patients with opioid use disorders. However, we have multiple options for treating opioid use disorders which are reported to the PDMP including Methadone and the PDMP should be considered for patient safety particularly in the reality that other controlled substances used for treatment are already reported. Unfortunately, one of the unintentional consequences
of the enhanced regulation in the overstate of opioids has been the attrition of providers willing to prescribe.

Chronic pain affects hundreds of thousands of patients across the country. While we all agree that the current state of affairs is truly a crisis and support the oversight of prescribing practices, caution has to be taken to not unintentionally reduce healthcare access for an already stigmatized patient cohort. Streamlining oversite mandates the focus on some really impact long-term outcomes while carefully avoiding additional administrative burden should be a primary goal of this and future legislation.

In conclusion, we applaud the Governor and committee for raising HB 7159 and for its efforts to address the opioid crisis in Connecticut. As part of the state’s only public academic medical center, we are ready and willing to discuss our working recommendations and to assist you in any way. Thank you for your consideration. We are happy to answer any questions the committee may have.

REP. D’AGOSTINO (91ST): Did I hear you say you want changes to sections six and seven. Just walk me through what you want.

DR. KATZ: We submitted this in our written testimony but it’s longer than three minutes. So, in section six, the recommendation is that there is documentation of the diagnosis on the prescription. And the justification and the summary of the bill was that patients and providers will have a more meaningful discussions with their patients about why they’re using an opioid, what it’s for but that doesn’t necessarily make sense. Prescriptions are
often written at the very end of the visit so if you really want that discussion to take place, just putting a diagnosis code on a prescription at the end is not going to get you to your goal of having that discussion with patients.

DR. ANDREWS: The language also talks about using the ICD codes that are used by physicians so other prescribers such as dental providers would be completely left out of that component. If it was in interest of having acute versus chronic pain, that would be maybe a different topic but having it in the chart which protects patient privacy as well would stimulate the conversation in the shared decision making about the risks and benefits of the medication.

DR. KATZ: And section seven talks about the use of a medication agreement and that’s something that we actually do, however we just want to point out that this is not based on evidence-based medicine. It’s in response to the opioid crisis and our literature is constantly changing so rather than enforcing medication agreement itself takes a component of medication agreement and require that to be documented directly in the patient’s chart. It would still allow you to go through that shared decision-making process with the patient.

REP. D’AGOSTINO (91ST): Not to put too much a burden on you but do you have suggested language for those sections that you could send to us?

DR. ANDREWS: Yeah, we could send it to you. Actually, the language is very impressive. It’s very accurate and meets what we do as best practices. It was just because we don’t know yet if medication agreements actually reduce overdoses, theft, and
other negative outcomes so we didn’t want to be tied to that and then have the literature suggest something different, but we can send that forward if you would like it.

REP. D’AGOSTINO (91ST): Thank you. I know you mentioned that Methadone is not reported to the PDMP.

DR. KATZ: Correct. So often times Methadone is dispensed at a free-standing Methadone clinic so there’s not a prescription that is written. They go to the Methadone clinic. They talk to their clinician who’s there and they get their dose for the day or for a couple of days or for a week depending on the schedule that they’re on. Methadone clinics don’t go through a pharmacy and they don’t report to the database. Again, there’s a lot of history behind this and trying to protect these patients who are seeking appropriate treatment, but as more and more things are noted on the database, we feel like this is kind of a big thing that’s missing.

DR. ANDREWS: The risk of respiratory depression and accidental overdose and death if someone is on Methadone and me unknowingly or another clinician prescribes is actually pretty high. Methadone when use for chronic pain is reported but just in this one area when it’s used for opioid use disorders and they’re going to the center and they’re able to get their dose it’s not reported.

REP. D’AGOSTINO (91ST): I can see the tension between what you’re suggesting now and the clinics. I wanted to make sure that the access is available. I’m wondering if you may know what the burden is on
those clinics to actually install and have a PDMP system.

DR. KATZ: I don’t know the answer to that but one of the kinds of similar situations is currently for medical marijuana. When someone registers for medical marijuana it’s not every single time, they go to the dispensary but there’s a line that says they are a holder of medical marijuana card so at least it lets me know that this is something they will also have access to. So, it doesn’t necessarily need to be every single time they get dispensed but some sort of alert so you can make the clinicians aware.

REP. D’AGOSTINO (91ST): Thank you. Questions from committee members? Representative Cheeseman.

REP. CHEESEMAN (37TH): Yes, your comments about the medication agreement entered into by patient. I am not familiar with these. How are they structured? As you say there is no real research that it shows it makes a difference. Is it a contract I hereby understand why I’m taking this and I better not misuse it, that sort of thing?

DR. KATZ: It’s actually pretty comprehensive. The idea is to reduce the risk but not deny access to patients with chronic pain who want to take a high-risk medication. It’s a reminder to the prescriber and the patient what needs to happen to do this safely so one of the first things it does is list the reason you’re taking it. So, if you’re taking it for knee osteoarthritis and you get a knee replacement and that’s better, we don’t just keep prescribing it. It goes over expected behaviors so to reduce tolerate and addiction we use additional medications in conjunction with opioids. It talks
about appropriate behaviors on both parts so there may be something that happens like maybe the patient is using an illicit street drug and that makes it unsafe to continue to prescribe, they know going into this agreement that, that would be an indication that we would stop prescribing. And then it goes into the risks and benefits including things like respiratory depression, the risks of addiction and tolerance with opioids. It talks about some of the other medical causes that are such as unable to urinate and issues you might run through and you talk through that together so at the end the patient knows fully what they’re getting into. Some patients, honestly at the end of that will make the decision not to prescribe and the other thing is to removes stigma so if you do every patient who is on chronic opioids nobody feels like they were singled out to be scrutinized or any other manner.

REP. CHEESEMAN (37TH): So, you are in favor of these being included? You’re not? Or it would be up to the doctor to make the decision because my understanding is that the legislation would mandate the use of these.

DR. KATZ: So, it’s really the mandate of the use that we have an objection to because the medical literature changes all the time and again, we’re using these in response to a crisis because everybody kind of agrees that this is a reasonable kind of step to take. It’s similar to informed consent that we use in a lot of like before you go into surgery, there’s a risks/benefits/alternatives conversation that you have with the surgeon. This is very similar to that but again we don’t have any
literature saying this is the best way. It’s recommended by the CDC guidelines, but we just don’t know for outcome.

REP. CHEESEMAN (37TH): And how would this apply where you’re prescribing for palliative care, end stage cancer where the patient’s concern is not becoming addicted nor is it the patient’s family. It’s to relieve that intractable, intolerable pain when you know the end is in sight. Would that give you then, we don’t have to have this conversation or it’s going to be a different conversation as opposed to a strict mandate. Is that the sort of relief you’re looking for?

DR. KATZ: So, at Yukon Health we actually use some of both indications because you have to walk through the unintended side affects that may occur and that’s just good care, so we use them. Again, the problem is really with the mandate so the components and language that is in the bill is excellent. It talks about all the components of the medication agreement but we may find three years down the road that there’s a better way to accomplish this that works to achieve those same goals and if it’s mandated in the legislation then we would still have to do this and that might be burdensome to physicians and patients further down the road if a better technique is discovered.

REP. CHEESEMAN (37TH): How would their enforcement in this? Would this now be in the electronic medical records that would have to take place that you had presented the medication agreement to the patient, it had been discussed, and you had to check yet another electronic box. It’s all very well mandated but how do you then track it?
DR. KATZ: I’m not sure how they’re planning on overseeing the medication agreement component of it but my understanding from sitting on the medical board is that when something happens, when there’s a complaint or when there’s an adverse outcome then someone would be going in and looking at the charts and seeing if it was documented appropriately. Were these steps taken?

REP. CHEESEMAN (37TH): Okay so in some ways from a CYA point of view it might be useful to have these. Not to be rude but if there were an adverse — I mean I suppose I’m loathed to knowing the demands on particularly primary care physicians with how you’re tasked, and you have to see a certain number of patients in a certain period of time. The extensive nature of electronics. I can understand the aversion to having another mandate. On the other hand, I can understand you’re obviously excellent clinicians and doing a good job for your patients but to ensure that those doctors who might be less scrupulous or you know more concerned that this conversation is taking place.

DR. KATZ: Unfortunately I think you’re going to see more and more people just walking away completely from prescribing and while that seems like a good thing to have fewer people prescribing to fewer patients, that’s when patients feel abandonment and that’s when they do turn to more elicit drugs and that’s why we do see this increase in Heroin use and the Fentanyl overdoses that you hear about all the time. Also is that patients are going to continue that drug seeking pattern of not getting that continuity of care that they need. Patients get the best care when they’re at one location with one person over a prolonged period of time so that we
can address, not just their pain but also their diabetes and their uncontrolled blood pressure so I think there’s a balance and I think by requiring the elements but not completing the agreement you’ll see a lot more people being able to accomplish these and continue prescribing in a safe way.

DR. ANDREWS: As primary care physicians we appreciate your concern because we do click a lot of boxes. And this is something that falls to primary care. There are only four chronic pain specialists for every 100,000 patients with chronic pain, so this is a primary care problem of immense proportions. I think Dr. Katz, what she is mentioning is a real concern. I hear all the time from patients who come to us from established care that they have left a practice that was unwilling to continue to prescribe because of the risks involved. Medication agreements are tools that provide physicians and patients the right way and to the best of our knowledge really good best practices. It’s just that mandating it might be the one thing that tips these providers from continuing to do it and provide the service to their patients.

REP. CHEESEMAN (37TH): Okay thank you. Thank you very much, Mr. Chair.

REP. D’AGOSTINO (91ST): Representative Rutigliano.

REP. RUTIGLIANO (123RD): Thank you, Mr. Chairman. I’ll be brief. This is more of a statement than a question, but I may have one question. I fully support the reporting of Methadone into the Prescription Monitoring Program. I think it’s a great idea. We’ve been talking about it for quite some time. Mr. Chairman, I have got to be honest. I’m having a hard time with six and seven. I read
them a few times. I’ve been reading legislation for a while and I kind of don’t understand. I don’t even know where they’re going. I don’t know if you and I could have a question and answer conversation to do that but as a committee member I think we’re going to have to.

REP. D’AGOSTINO (91ST): I think just to follow up. Have you expressed your concern about six and seven to the Governor’s office through the committee or individually?

DR. KATZ: I know that our written testimony was submitted directly to them, but we haven’t had a conversation.

REP. D’AGOSTINO (91ST): And you’re both from the -- I’m sorry, what’s the task force?

DR. KATZ: The Opioid Task Force.

REP. D’AGOSTINO (91ST): Could the task force, through you or through your offices, and we could help get in touch with someone at the Governor’s office with respect I think might be worth having the conversation because you’re raising a lot of issues that at least make sense to our uneducated ear, I think. And we’re not sure where this came from, from the governor’s office so it might be worth you all having that conversation with them and then reporting back to us. Representative Rutigliano.

REP. RUTIGLIANO (123RD): I appreciate that. That would be very helpful. Thank you. I won’t ask anymore questions because I would need more information on six and seven so thank you.
REP. D’AGOSTINO (91ST): Thank you, sir. Senator Altobello?

SENATOR ALTOBELLO (82ND): Along those lines, perhaps you could have a conversation with a representative from the Department of Consumer Protection as well. I think I see one in the room and when someone suggested additional conversations, I believe she was nodding in a sense so you guys could, after your testimony maybe coordinate that. Thank you.

DR. KATZ: Thank you.

REP. D’AGOSTINO (91ST): Other questions from committee members? Other questions? Thank you doctors. Thank you for your testimony.

DR. KATZ: Thank you.

REP. D’AGOSTINO (91ST): And moving on with our speaker list for the general public, Roger Nelson, Connecticut Fire Marshals.

ROGER NELSON: Good morning Representative D’Agostino, Senator Witkos, Senator Cheeseman, distinguished members of the Law Committee. My name is Roger Nelson. I’m the Fire Marshal for the Bloomfield Center Fire District and I sit on the Board of Directors on the Connecticut Fire Marshal’s Association. Connecticut Fire Marshall’s Association is in opposition of section four of House Bill 7299 and that concerning making changes to Department of Consumer Protection enforcement statutes. The Department of Consumer Protection brought this proposal forward last year and the committee decided to remove it at that time as the proposal moved forward. The CFMA testified against
the bill last year and this year we have the same safety concerns as we did last year.

Mobile fueling is quite different from delivering home heating oil or as Representative Rutigliano delivering to a construction site, diesel fuel and so forth. Gasoline is a much more hazardous and much more explosive. What we’re looking at with this bill is basically, we’re talking about going to a phone app, putting in your location, having a vehicle up to 1,200 gallons of gasoline come out to your site and fuel your vehicle up. Mobile fueling should be conducted with the approval of the authority having jurisdictions for the Fire Marshals for every single site. The proposal raises serious questions. First off, who is inspecting these vehicles under what criteria. Is it under Department of Motor Vehicles? Is it back where the fire marshals inspected fuel oil trucks? There’s no provision for any of this. Who’s enforcing the proper locations and distances that should be required when these vehicles are being fueled and where is the gasoline being dispensed. Is it on a city street?

Is it in your neighbor’s drive way a couple feet from your property? How close to the building property or line is the fuel being dispensed? Are we sure what’s actually on the other property? Does anything there have a hazardous nature that may conflict with the operations going on? Are we in congested downtown neighborhoods? Are we delivering this stuff at night with proper lighting and so forth? Getting into also what is the level of training for the operators for these vehicles going out? Is it a CDL type thing? Does it need HazMat certification? What other proper training do they
have and what types of vehicles are being used to dispense the fuel? It could be anything from a 1,200-gallon tank to several 110 separated gallon tanks to as much as 12 five-gallon tanks in the back of a truck. Safety precautions, emergency shutoffs, the vehicles have fire suppression. Anything aside from if you go to a service station, we have extinguishing systems. We have shutoffs. We have loads of safety measures that are built into whatever. What measures are built into these vehicles that are serving on site? Permitting mobile fueling is simply not a licensing concern. It’s a safety issue to both first responders and to the citizens of Connecticut. I thank you for this opportunity to address the committee on these safety concerns. We urge your rejection.


SENATOR WITKOS (8TH): Thank you. Thank you for coming up and testifying Roger. I thought last year, and we had heard over the summer that the Fire Marshal’s Association was on board with this concept because some of your concerns were met but according to your testimony that doesn’t seem to be the case.

ROGER NELSON: Absolutely not.

SENATOR WITKOS (8TH): Okay. A couple of things. I guess I think your questions are well taken and I would imagine that they would be addressed with some sort of regulation from the department. It is a highly flammable fuel. I get that. But is that any different than somebody, I know we’re talking versus somebody that can load up an unlimited amount of five gallon gasoline cans and throw them in the back of their car and transport them if they have to use
an emergency, you know a friend runs out a gas, AAA if they carry. Do you know how many gallons of gas AAA carries on the back of their cars when they’re out during the day doing calls?

ROGER NELSON: I’m not sure. It’s usually a limited amount because it’s enough usually to start the car and get it to be able to get to the service station at that point.

SENATOR WITKOS (8TH): Again, if that’s their primary job in addition to towing and jumpstarting they may have multiple containers in there, but I don’t know the answer to that.

ROGER NELSON: I can find out.

SENATOR WITKOS (8TH): And so, and how are they regulated? If the committee were to move forward with this section, where would you like to see the inspections take place? You had mentioned the Fire Marshal’s office. Are they the ones that would have the ability to do an inspection on that versus somebody from the Department of Motor Vehicles who do a full on inspection of trucks or should it be a mutual inspection where the Fire Marshals would oversee the gas portion of the tanker or the pump, the discharge, and maybe the DOT or DMV would take the rest of the safety points of the vehicle.

ROGER NELSON: If it’s for the trucks I’d like to keep it to the Department of Motor Vehicles and DOT in that aspect. They’re more familiar than what we are with those vehicles. My bet would be that we’re talking about every site that this is to be
SENATOR WITKOS (8TH): Well obviously that’s not going to happen. That’s just really unreasonable.

ROGER NELSON: By code this is what it says.

SENATOR WITKOS (8TH): Well codes can be changed so when we want to move this forward that’s obviously going to come out. We want to make sure that if it does move forward we don’t inadvertently take everything out because how could you, if a business owner starts this and somebody is broken down on the highway and the legislative office says hey if you guys want we have a fuel delivery truck coming every Friday at 11:00, line up and anybody can fill up at a reduced rate if you want. I don’t know what they would charge but I don’t think you could go and inspect every single site. But your concerns about the driver and what size, I don’t think, obviously it doesn’t state how it’s contained but I think that through motor carrier regulations it would say what kind of a vehicle it has to be transported in, especially depending on the volume of the vehicle and that gets you into yes a CDL, yes a HazMat endorsement, yes probably a tank endorsement on your license. So, I think those would be taken care of but other than the ability to under current code inspect all the locations where it’s discharged what is the primary reason why the fire marshals are taking a stance against this portion of the bill.

ROGER NELSON: Basically, a safety concern of not knowing where these vehicles are and what times and so forth, what’s going on as an operation. If I have a fire at a gasoline station, I’m prepared to know what’s there and preplanned already.
SENATOR WITKOS (8TH): Let me ask when you have 18 wheelers delivering to gas stations, you don’t know where they are all the time.

ROGER NELSON: I don’t know where they are, no.

SENATOR WITKOS (8TH): What’s the difference?

ROGER NELSON: They’re not going down little streets and they’re not going all over through the neighborhoods. They’re not going into major businesses or anything else where there’ll be several hundred cards thinking Aetna or in my town with Cigna or MetLife.

SENATOR WITKOS (8TH): Okay thank you.

REP. CHEESEMAN (37TH): Representative Altobello.

REP. ALTOBELLO (82ND): Thank you very much. Good morning, sir. Thanks for appearing. I understand the differences that there have been new regulations, national regulations about fire code and they have been adopted since the last time we took up this issue. Are you familiar with this?

ROGER NELSON: Yes, some of the stuff that I referred to with Senator Witkos would be a Fire Marshal inspecting every single site that this is to be delivered on. That’s part of it.

REP. ALTOBELLO (82ND): Let me just read an email I received in January because actually one of the persons involved who would like to provide this service in Connecticut is a resident of where I live. But let me read partially from it. He says “I have attached a newly approved fire code and regulations for gas dispensaries and FPA 30A. Please see Chapter 14 which you will see notated
with a capital N which indicates that is a new addition to a fire code.

As you read through you will notice that all the concerns that were raised last year during the public hearing are addressed in the new regulations. The company and the DCP knew these changes were coming which is why DCP asked for the revision of the licensing process last year. Unfortunately, the fire codes were not updated until October 2018, so we are going to try again this year.” And I guess they are and while it wasn’t their bill it was DCP’s bill. Are you familiar with the section, the new section?

ROGER NELSON: Yes, I am.

REP. ALTOBELLO (82ND): And you don’t believe that it’s -- well could you expound upon that?

ROGER NELSON: Yes, as far as vehicles going out and doing this, who is actually going to enforce what they are doing? Are they doing it correctly? I don’t know.

REP. ALTOBELLO (82ND): I’m talking specifically to the code changes that were made over the last year.

ROGER NELSON: Part of those code changes as I say stated of inspection of all these places have given the different aspects so if one of these vehicles goes out and is delivering it, say your neighbor’s house. Are they following the proper procedures? I don’t know.

REP. ALTOBELLO (82ND): The bill doesn’t seem to indicate that the mobile fuel dispensers would have
to abide by these new regulations. It doesn’t specifically say that. I think that the department feels that licensure would be dependent upon it, but my question is if we put some languages that said that all such dealers and employees must conform with the fire code and regulations for gas dispensary, would that feel better or worse or --

ROGER NELSON:  It wouldn’t really change my stance. We have other things that I inspect and do that. Some people follow it and some people don’t follow it.

REP. ALTOBELLO (82ND):  So, your issue would be --

ROGER NELSON:  My issue would be how do I know that they’re actually following these guidelines.

REP. ALTOBELLO (82ND):  Your issue would not be with the new section of the code which you feel is adequate, but it would be with compliance.

ROGER NELSON:  Compliance and there could be a couple of tweaks to the new section of the code if we look at it.

REP. ALTOBELLO (82ND):  And there’s a couple sections of the code you would like to see changed?

ROGER NELSON:  Yeah, I would like to overview the whole thing, yes. What works for the town of Sprague may not work for the town of Bridgeport or --

REP. ALTOBELLO (82ND):  But this is a national code, isn’t it? And we’ve adopted it?

ROGER NELSON:  We’ve adopted this section. Yes.
REP. ALTOBELLO (82ND): Okay so as far as national code goes, if they follow, and I guess that’s one of your concerns if they follow all the codes you would still maybe have some problems on compliance, who’s watching?

ROGER NELSON: Correct.

REP. ALTOBELLO (82ND): Okay thank you very much.

REP. CHEESEMAN (37TH): Thank you, Representative. Representative Rutigliano.

REP. RUTIGLIANO (123RD): Thank you. Good morning. I just have a quick question. On the surface this sounds like a reasonable thing until you started raising all the safety issues and everything and so it made me concerned also. But only because I don’t know would you have the same issues over a diesel delivery as opposed to a regular gasoline delivery?

ROGER NELSON: No. Right now, you have diesel deliveries going into construction sites and so forth with no issues.

REP. RUTIGLIANO (123RD): So that’s permitted already?

ROGER NELSON: That’s permitted already. With diesel you have a flash point of ignition between 100 and 200 degrees. With gasoline you have an ignition at minus 50.

REP. RUTIGLIANO (123RD): Do you know the ignition point for home oil delivery?

ROGER NELSON: Diesel and home heating oil are considered a combustible liquid instead of a
flammmable liquid where gasoline is a flammable liquid.

REP. RUTIGLIANO (123RD): Okay. Well thank you. Thank you for answering my question.

REP. CHEESEMAN (37TH): Any other questions from committee members? No? Thank you, sir for your testimony today.

We have next Steven Charron. Is Steven here?

STEVEN CHARRON: Chairs, Co-Chairs, ranking members, and members of the General Law Committee thank you for the opportunity to provide testimony today on the issue of on demand mobile fueling sections three and four or House Bill 7299. My name is Steven Charron. I’m an Environmental Compliance Manager with global companies and global partners. At global partners we have main offices in Waldon, Mass and Branford, Connecticut. We are a leading distributor and marketer for a variety of energy products in the northeast and mid-Atlantic including Connecticut. We are submitting testimony in opposition to the proposed changes in section three and four of House Bill 7299 regarding on demand mobile fueling of gasoline powered cars. On demand mobile refueling is a continuation of trying to reduce every activity we do to a smart phone app. The fueling is typically initiated through an app on your phone resulting in a small van or truck with gas tanks coming to where you fuel your car in open, public, and uncontrolled environment. But licensing of this activity is not an alogist to creating an app to make it more convenient to say get a pizza delivered to you at work or getting a ride to the airport. It is entrepreneurial software engineers thinking that it’s no difference between a pizza and
a hazardous liquid substance that is extremely flammable and dangerous to human health and the environment.

At each brick and mortar station that we operate, two of our priorities are ensuring the safety of our customers and environment. In addition to numerous inspections of our dispensing systems, fire employees, and the fire department periodically. Each gas station provides the following safety related measures; automated fire suppression systems for responding to life threatening situations, containment areas to prevent impact to the environment from spills, underground storage to prevent vehicular or other damage to storage containers, traffic barriers to protect fueling dispensers, video monitoring to record transfer operations, and state of the art leak protection systems.

All these safety measures are unlikely to exist in a mobile fueling scenario. Many would be difficult to replicate. What I would like to do right now is just touch on several factors that I think illustrate the uncontrolled aspects of on demand fueling versus the fueling that occurs at the established brick and mortar gas stations. One is the fire risk and protection. I think I would just describe the scenarios where you’re fueling. At a gas station you’re fueling at a location. Everybody there knows everybody is fueling gas. You’re covered with a canopy. The state has fire suppression systems that if you look up, you’ll see the nozzles sticking down so if a fire occurs the system is engaged by heat sensors and puts out the fire. The code that you reference in your questions requires that the truck have one fire extinguisher
on it. I don’t see the similarity in fire protection between those two and probably not for this committee, but I would ask why if it was allowed for mobile fueling to occur with one fire extinguisher then why are we as an industry required to put fire suppression systems at all our stations at the cost of tens of thousands of dollars.

Another thing I’d like to talk about is the environmental side which I think is missed a little bit when we just focus completely on the fire safety. Gas stations where you fuel is on a concrete that is completely flat. If you spill five gallons it spreads out typically radially and stays on a concrete mat covered by a canopy, so it’s not washed away by rain. Around the canopy and around the fueling area you’ll see these grooves in the concrete.

REP. CHEESEMAN (37TH): I’m sorry Mr. Charron we have come to the three-minute mark. Could you please summarize the rest of your testimony for us please?

STEVE CHARRON: I guess the two final points for the environmental is that parking lots are grated to drain. Anything that releases occurs is going to go into that catch basin and the code that you reference, as far as that they say that if you’re within 25 feet of a catch basin you need to put a cover over it. Who in a parking lot can find a catch basin with all the cars parked there within 25 feet? Absolutely ridiculous. And I guess for time purposes I’ll end there, and I’d be happy to answer any questions.
REP. CHEESEMAN (37TH): Thank you. Are there any questions from committee members? Seeing none thank you for your testimony today, sir.

We have next Steve Guveyan.

STEVE GUVEYEN: Good morning, members of the General Law Committee. I’m Steven Guveyan from the Connecticut Petroleum Council. We’re trade association with big oil companies, refiners, and others involved in the gasoline and the fuels business so if there’s legislation on gasoline we’re probably going to have something to say about it so thank you for taking our testimony today. The Commissioner’s Bill 7299 in sections three and four on mobile refueling. We are opposed to it as written. We are not opposed to the concept of mobile refueling. In other words, we think the bill could be better if you decide you want to move forward with it. We had this hearing a year ago and at that time the NFPA, National Fire Protection Association code was in draft form. It had not been finalized. It was finalized October 1 so by law in this state we have adopted it. So, we do have mobile fueling rules that are on the books if you know where to look. We’ve talked to a lot of people this last year who may have an interest in doing this. Nobody really knows where to look. So, if you decide as a committee you want to move forward, we would recommend inserting the NFPA 30 language right in the bill as you do with the licensing standard, so gasoline have to be licensed. If you’re going to be licensed, you have to pay a fee. We have no objections to any of that, but you should include the safety NFPA language if you decide to go forward so everybody understands that’s part of this. When we talk about mobile refueling, we’re
talking about something that we’ve not seen yet in this state. SO instead of going to the gas station to get gasoline a truck or a van loaded with gasoline is going to come out and bring fuel to you so that truck may be able to hold a few hundred gallons. It’s not the kind of truck you see going down 84 or 91. It’s not one of those 9,000- or 10,000-gallon trucks. This is a small van that would dispense fuel. So, it’s the latest innovation of the gig economy. The gig economy doesn’t have a lot of rules, so we recommend that if you decide to go forward you put some kind of rule in and then consider whether you want to have local officials have a say in this. We have a statewide code that’s adopted if you want to have local officials have a say in it. That’s where we will conclude our testimony and we thank you for taking it.

REP. CHEESEMAN (37TH): Thank you. Are there any questions from the committee members? No? Thank you for your testimony. And my apologies Representative Miller. You weren’t here when we called you before. Did you have a question? So, could you please come up. You did testify? That’s what I thought. Yeah. She’s confusing me. Making trouble. Yes. I guess, of course you did. It was on

Next, we have Nathan Tinker.

NATHAN TINKER: Good morning Chairman D’Agostino and Fonfara, Senator Witkos, Representative Cheeseman, and a special Good Morning to my own personal representative from the great town of Trumbull, Representative Rutigliano. Thank you for being here.
My name is Nathan Tinker and I’m chief executive of the Connecticut Pharmacist Association which represents over 1000 pharmacists, technicians, students, and others in every pharmacy setting across the state. I’m here to talk a bit about HB 7159. You already have my written testimony, so I just want to expand on that a little bit.

Pharmacists play an important role in helping people on their path to better health by improving access to care and lowering costs for patients. They are educated and experienced in pharmacology and drug effects, side effects, and interactions and by law they must complete many hours of continued education to maintain their licenses. And importantly pharmacists are daily on the front lines of the opioid crisis and therefore have the opportunity to do much more in this fight than just fill prescriptions. One of the pharmacists most important roles is to provide medication counseling to help patients better understand their prescription medications and to ensure that a patient’s medication regimen including the use of opioids is appropriate.

Furthering enabling pharmacy technicians to better support pharmacists by creating pathway to qualify technicians to access the Electronic Prescription Monitoring Program can help to create time and opportunity for pharmacists to commit these other engagements. The Connecticut Pharmacists Association already manages pharmacy technician training programs across Connecticut and if HB 7159 is passed we will work with relevant parties and agencies to develop and deploy an appropriate training and certification program. And finally, while we do have some concerns about the potential
impact requiring pharmacists to potentially gatekeep prescribers who forgot to note diagnoses codes on their prescriptions, we appreciate the opportunity to discuss these concerns with DCP in more detail. Perhaps including a way to educate prescribers about writing better prescriptions. HB 7159 offers a number of passed addressing the opioid problem and we believe pharmacists play an important part. We support the bill’s goals and we will work close with you and DCP to make it as successful as possible.

REP. CHEESEMAN (37TH): Thank you. Questions from committee members? Representative Rutigliano?

REP. RUTIGLIANO (123RD): Thank you. Good morning. We didn’t get a printed copy of this particular testimony so that’s what I was looking for. Are there any sections of the bill -- you’re generally supportive of the bill is what you’re saying? Are there any sections that you think where wording needs to be changed or can make maybe the pharmacists more supportive?

NATHAN TINKER: Well, we are very supportive particularly of the expanding the opportunity for our pharmacy technicians to have access to the PMP in certain cases to help support pharmacists do their job better. That I think is a really important piece that will make the entire experience of the pharmacist and the ability to track opioids in the system that much easier.

REP. RUTIGLIANO: (123RD): Is the pharmacist ultimately responsible if his assistant -- the PMP is basically the assistant. It’s still their responsibility to oversee that entire operation but you’re saying that it would be helpful if the tech
or the assistant can make the notations in the Prescription Monitoring Program.

NATHAN TINKER: Exactly. And the way it’s written it specifically notes that the pharmacist is the responsible party at the end of the day and could be held responsible including penalties for the technician’s misuse or accidents in the program.

REP. RUTIGLIANO (123RD): Okay, thank you.

REP. CHEESEMAN (37TH): Any other questions from committee members? Seeing none. All right, thank you very much for your testimony today.

REP. A’AGOSTINO (91ST): Thank you very much Representative Cheeseeman. Chris Herb, CEMA.

CHRIS HERB: Hello, my name is Chris Herb. I’m the president of the Connecticut Energy Marketer’s Association. Our members own and operate gas stations in Connecticut. We own, operate, and supply about 1,000 of them. We are here today in opposition to Section four of House Bill 7299 regarding the mobile on demand fueling. You’ve heard previous testimonies and I’ve submitted written comments, so I’ll just cut to our three major concerns on this. The first one being, the decades worth of development of consumer protection laws to be able to disclose to consumers. You’ve all been to gas stations where you’ve seen all the disclosure requirements that occur at the point of purchase.

They require us to talk about the price of the fuel, any cash discounts that might be provided, bank holder credit/debit purchases, meter inspection
dates to ensure the accuracy of the octane of the fuel and a number of other ones. We believe that this bill does not go nearly far enough to make sure the current consumer protection laws that are in place would apply to these sorts of things. And this question has been raised throughout the country. I’ve talked to counterparts from California to the east coast and in every state, there is numerous concerns about places where this is occurring where consumers have made complaints based on not having full disclosure on not understanding what’s happening. The other one is fire protection. You’ve heard from fire protection officials today who have concerns about this. NFPA does not go far enough, nearly far enough in ensuring that explosions and fires don’t occur. For instance, how does somebody who is doing mobile fueling police someone who is smoking a cigarette within 20 feet. We know what the code says but how do you stop that from occurring while fueling is going on? That’s clearly a concern not only of our members but of fire protection officials. Environmental protection is the final leg of this we have been developing.

This basically sets back the environmental protection laws to be existed. We’re going back to 1960 if this is opted. There are states who have looked at this and study groups that have been looking at it closely for years so adopting this language without having some sort of formal stakeholder group to be able to explore all those three pieces is, I think the practical first step if we want to move in this direction so all of those issues are fully addressed. I think there’s just a little bit of language on here that says you
basically can do this. I that that the responsible thing to do is to have a full look at the environmental implications, the public safety implications, and the consumer protection implications. That’s the only responsible way if you want to move forward. Just adopting this and allowing this to happen is not, at least in our opinion, is not the practical thing to do at this time.

I mean it almost looks like any millennial who can create an app can pull up in his pickup truck can fill somebody up at a daycare and I think that the chances of leaks occurring and not being remediated would be at a high level and I think that this bill doesn’t go far enough in terms of addressing at least those three major topics. All my formal written comments are written in here. There have been many public statements and I will provide them to you. I did not put them in the written comments, but I will email them to the Chairs of the Committee. Some public statements that have been made by this industry saying that we’re just trying to stop them from doing this and that they shouldn’t have to comply with all these various codes that right now traditional fuel stations have to.

REP. D’AGOSTINO (91ST): Thank you. Questions from Committee members please. Senator.

SENATOR WITKOS (8TH): Thanks. Chris you had mentioned that you had talked to your counterparts all over the country and those that are doing it and they are seeing an absence in many of those jurisdictions regarding consumer protection laws. So, I infer from that, that this type of service provider is gaining momentum across the country more
and more states are allowing this type of fuel service delivery to take place. Reading what is here in statute, I don’t have the specific regulations to overlay with this to see what there is so I’m kind of at a disadvantage to comment on some of the things about the consumer protection part of it. I do want to say that in one of the comments you said about there’s no way to police somebody smoking a cigarette 20 feet from the discharge of the fuel while it’s being filled up. Don’t you think it’s easier to control one person as an employee of the company than any Joe Smo that pulls into a gas station and just decides to fill up at a gas pump.

CHRIS HERB: Yeah, I think that’s a good point. What I was basically saying at a gas station the public already knows that you’re not supposed to smoke when someone’s fueling. That’s common knowledge. There’s clear disclosure right at the point of fueling. You wouldn’t know if someone was engaged in that if you were just Joe Smith walking through the parking lot and mobile fueling was occurring. You wouldn’t potentially know that was happening, therefore the employee that’s doing the fueling, how do you police have someone smoking within 20 feet which would be in violation of the FPA and to that person it wouldn’t be known. At a gas station, you clearly know if you light up that you are potentially, you know within 20 feet of a pump, you’re potentially putting the public in danger. So, all I’m saying is that the unknown nature of where this happening, when it’s happening, and what the public may be doing in proximity to it is a much greater risk magnitude much higher than a gas station.
SENATOR WITKOS (8TH): When the big trucks come to your service station to deposit into the underground tanks, how do we know that the same argument isn’t applied to them?

CHRIS HERB: What? The same argument about smoking?

SENATOR WITKOS (8TH): Somebody walking by.

CHRIS HERB: Well like you said, because I think 100 of your constituents 100 of them would say that they know that smoking is not permitted near a gas station where fueling is occurring so whether it’s at the point where the truck is putting it in which is proximity to where the pumps are. I mean we’re only talking about in some cases only a matter of feet from where the pumps are it’s just common general knowledge by the public that you’re not supposed to do that or have any sort of open flame. We’re talking about a flammable product. We spend tens of thousands of dollars every year maintaining our fire suppression equipment. That wouldn’t exist here. I mean you’ve seen in the rare case that it happens you’ve seen the way that the fire suppression systems will respond to any sort of open flame so we’re throwing those protections out the window with the way that this bill is currently written. I’m sorry --

SENATOR WITKOS (8TH): No, I’m trying to look online for some examples of some different things and all I found was different applications on how you can get that. Have you actually seen this delivery service? Does it look like a gas pump handle like at a conventional gas station that goes into the car’s gas tank.
CHRIS HERB: Well in preparation for today, like you said I talked to my counterparts through the country and what they were saying this is more like the wild wild west. We’re going from very unsophisticated on demand fueling people like I just described, the millennial in the back of a pick up truck where they’re literally pouring the red canister that we all traditionally know that you’d use in an emergency to a much more sophisticated operation so that’s what our concern is about is the bill is way too open at least the way that we read it allowing for the worst case scenario. You know someone spilling fuel out of a bucket as they go into a garage and vapors are being trapped into the top of the garage which could cause horrible situation for the public to very professional operation, so we just think that this -- California has been studying this for two years. Like I said it’s not like it’s catching on across the nation. It’s more of the wild wild west. Lots of things are happening where laws and regulations haven’t been developed because I think everyone is trying to get their arms around the environmental piece, the consumer protection piece, and the fire prevention piece.

SENATOR WITKOS (8TH): And for Connecticut, are you aware if we have any regulations that pertain specifically to dispensing of alcohol, dispensing of gasoline?

CHRIS HERB: I’m familiar with both. [laughter] Yes, the fire code that was recently adopted has some things we don’t think it goes nearly far enough.

SENATOR WITKOS (8TH): And just the fire code or has the PCP promulgated any regulations as far as, you know, if there is a spill you have to call DEP, you
know, along those lines? Does it address all those things?

CHRIS HERB: I don’t know about specifically for mobile fueling but for us, absolutely. Those are well developed and well evolved. Like you said, our experience at selling fuel to the public has through all three of those pieces that I’m addressing today have developed over decades. We’ve really honed in on making sure that people are protected at the pump from fraud, from environmental issues, and from safety issues so that’s what I’m trying to get to here is that regardless of whatever new regulations may have passed that I’m not aware of we feel like the leak prevention and fire prevention parts just don’t seem to come together with the way that this bill is worded.

SENATOR WITKOS (8TH): Okay thank you. Thank you, Mr. Chairman.

REP. D’AGOSTINO (91ST): Representative Cheeseman.

REP. CHEESEMAN (37TH): Thank you. Thank you, Mr. Chairman. Thank you for coming today Chris. So, I’ve just done some quick research on mobile fueling and found Yoshi which has been funded by Exxon Mobile and General Motors and is currently operating in the Bay Area, Chicago, Minneapolis, St. Paul, Tampa, St. Pete, Cleveland, St. Louis, Washington D.C. area, and Virginia and it occurs to me you could probably not find a state more concerned with the environment than California and yet they seemed to have moved ahead with this. And you know, I’m not telling you or your members how to do their
business, but I would have thought this is a great opportunity for you.

Reading the website of this piece and another one about a company called Fuel Fox. You know you have a subscription, they come to your home, they fill your car up, they will also check your tires, check your fluid levels. Seems to me a great entrepreneurial approach for people who would like not to have to worry about getting up in the morning and discovering oh my gosh I’m late for work and my car is out of gas. So, I’d just like you to comment on that. I get your point. I understand. On the other hand, we’re all in an age where if we’ve got an app on our phone, we’re for convenience. This seems to me incredibly convenient for consumers. So, if this is moving ahead in other parts of the country where as I say I don’t think in California you could get a more environmentally conscious state in terms of protecting people and the land. What is it apart from, to be honest, being a threat to your members that is really the issue here?

CHRIS HERB: I didn’t testify that we felt like this is a threat. I think that there’s a difference between getting a pizza delivery and getting gasoline delivered to your home. And I think that in California there’s the absence of a law and that’s why my counterpart in California described it as the wild wild west. He said there are lots of things happening in many different degrees of sophistication and the state has been studying to address all the issues that we brought to you. That’s what I’m asking for. I think that allowing somebody to pay a motor fuel registration fee and to start to deliver gasoline would be impossible to police at this time, especially without having
developed all of those protections that I’ve talked about in my testimony.

So, I would say that we’re not fighting convenience. We’re not fighting what consumer demand is. What we’re saying is that before you move forward, we need to make sure all those are in place like you’ve done at traditional fueling stations. When there’s an issue at a gas station, the fire department knows exactly where to go. Now we’re trying to find somebody who may walk away from a spill. Imagine mobile fueling being done in your community and the mobile fueling company were to leave after a fire or a spill were to occur. How would the fire department know to go? If it happens at a gas station, we know they’ll be there, and they’ll be there fast. They know the placarding of what fuels are on site. They know how to address those.

This legislation doesn’t conceive of any of that and that is a huge weakness. I don’t think that you would allow us to operate traditional gas stations without all those protections in place. All we’re saying is that before you move forward, we need way more and California, for two years has been studying all of those issues on how to make it work. So, I agree with you that we’re not against what the public may want some day in modernizing this, but I will say that what we are against is allowing it to move forward with all those pieces in place.

REP. CHEESEMAN (37TH): Okay thank you. I will add I’m just looking at the Fuel Fox. Their employees are certified fire fighters with hazardous materials training and certifications, so they obviously take it seriously, but I appreciate your point and thank you for your --
CHRIS HERB: If that was in the bill, I think I would have had a different testimony. If you required all of them to be certified fire professionals, sure let’s have that conversation.

REP. CHEESEMAN (37TH): It might be a good moonlighting thing for our firefighters. Anyway, thank you. Thank you, Chris. Thank you, Mr. Chairman.

SENATOR LEONE (27TH): Thank you, Mr. Chairman and I apologize for getting a bit tardy. And thanks Christopher for some of the testimony. Actually, as I was walking in and listening you were highlighting some of the concerns that I also had in this idea. And I understand the idea and the convenience but, until we actually craft exactly what it is and what it is not, this idea of gas coming to people’s homes I could understand that if you are in a rural part of the country where there’s not a lot of gas stations around but you know that’s quite the opposite here in Connecticut so I take caution and I would be slow moving from my perspective on this idea until more is pushed out. I would also be concerned on who the drivers are, the size of the trucks, how they’re transporting them, and of course all the safety precautions that you’ve mentioned. So, I just want to add my comments, so the members know where I stand on this issue. It’s something that makes me tilt my head a little bit to see what this is, but I think we’ve got a long way to go before we can move this forward from the support that I would provide. I think there’s much that needs to be flushed out because, again it’s not like I can’t find a gas station. Even if I am running late, we have so many around and it’s a matter of managing our day. I’m more concerned with having
some kind of an accident, either a spill or an explosion because someone wasn’t prepared and then if they can’t be tracked in a meaningful way that causes concerns not just for the state but for the municipality and any resident that can be affected so those are just some of my concerns and if we can answer a lot of them then maybe I’ll think differently but I appreciate the comments. Thank you, Mr. Chairman.

REP. D’AGOSTINO (91ST): Thank you, Senator. Any other questions from committee members? Thank you.

Tim Moriarity.

TIM MORIARITY: Good morning Chairman Fonfara, Chairman D’Agostino, and members of the committee. My name is Tim Moriarity. I’m president of Millwrights Local 1121 representing 900 millwrights throughout all of New England. I’m also the business representative to the Eastern Millwright Council which we cover the 13 states of the northeast. We’ll be submitting written testimony to the committee. I’m here today to support the intent of raised Bill 7299 an act making changes to the Department of Consumer Protection enforcement status. We recommend the committee make several minor clarifications to propose to ensure that the well-intended purpose is not to encroach on the jurisdiction of the millwright. First the change you recommend are underlined beginning in line 497 and section 23. Millwright work means the installation, repair, replacement, maintenance, or alteration including the inspection and testing of a. power generation machinery or b. industrial machinery including motors, pumps, and valves, including interconnection of piping and tubing used
in the manufacturing process but does include the performance of any action for which licensure is required under the chapter. Second at the end of section 24, 25, and 26 which would be line 503 to 511 we just want to add the following not including millwright work for the sections finding inspection, elevator inspection and testing. We look forward to working with the committee and acquirement of consumer protection and the proponents of the legislation sure it does not encroach on the work of the millwright.

Thank you for your time. I’m sure nobody knows what a millwright is so please give me a few minutes to fill you in on what it is. What we do is in the power generation business we install, repair, and replace turbines, generators, wind turbines, nuclear power plants, fossil fuel, hydro which we don’t have a lot big of hydros in Connecticut. There are smaller ones. We also do all your conveyor work in your UPS and Post Office services, FedEx, and airports. We install a lot of conveyors. We also do all the work in sewage treatment plants where there are new construction and actually retrofits and actually hard to find members to go to work in because there’s no work in thereafter. A lot of stuff now coming into like I said wind farms and stuff. We do all the assembly lines in car manufacturing plants and we say if it moves, spins, goes up and down, or rotates we install and repair it. We work in the clearances of one thousandth of an inch like when you get into turbines and stuff when they’re spinning at 3000 RPMs. If they’re out of balance, you’ll be shaking that building down and on the nuclear side you can have catastrophic failure and also harm to the environment. With
pumps and valves and stuff our brothers, the fitters install this stuff, but we rebuild them, replace them, and we inspect them with motors and stuff with alignments so that’s kind of a quick 25 cent information on what a millwright is. If you have any questions, feel free to ask them please.


REP. ALTOBELLO (82ND): Thank you for coming today. Good morning. You said you had not yet submitted written testimonies.

TIM MORIARITY: No, we will be.

REP. ALTOBELLO (82ND): Okay and who’s the we you’re representing.

TIM MORIARITY: Millwrights Local 1121.

REP. ALTOBELLO (82ND): Thank you very much.

REP. D’AGOSTINO (91ST): Other questions? Thank you.

Dr. Joanne Santiago.

DR. JOANNE SANTIAGO: Good morning, Mr. Chair and representatives of this committee. My name is Dr. Joanne Santiago and I am president of the Connecticut Chiropractic Association. We do commend you and Governor Lamont for remaining diligent in this time of opioids crisis and pursuing ways to reduce the use of opioids and their abuse. This bill, HB 7159 revised as the general statutes for opioid prescription and control to help combat the opioid crisis. The revision suggested should help alleviate the crisis and they are reasonable.
While we focus on alleviating the opioid crisis through pharmaceutical treatment and control of prescriptions, we must also realize that there are affective non-pharmaceutical methods of care that can alleviate the need for current opioid use and abuse, especially preventing the initiation of opioid use for those with various acute and chronic condition. We submit that it is essential this bill include the disclosure and possible use of non-pharmaceutical care for those receiving opioid prescriptions specifically as recommended by the work group of the Connecticut Alcohol and Drug Policy Council. The report to the legislation recommended that physical therapy, acupuncture, massage, and chiropractic care should be part of the response to chronic pain.

This recommendation is consistent with recommendations from many reputable government and non-profit healthcare organizations as was given in my written testimony to you. There’s substantial scientific evidence that firmly supports the use of chiropractic care on the front lines of health care for conditions that may lead to opioid use and abuse. Unfortunately, these benefits are all often suppressed due to various healthcare policies which we submit are a contributing factor to this opioid crisis. Disclosing to the patients of chiropractic and other non-pharmaceutical methods of treatment prior to prescribing this opioid medical will bring a reduced use and abuse of this prescription. In closing, I would like to say that I am second generation chiropractic physician and my daughter Joelle is now the third generation in my family as doctor. We are now six chiropractors in my family tree. My parents mastered this healing art and
brought great health and well being to their patients without the use of drugs. I’ve seen many patients achieve health excellence without the use of drugs, especially opioids in all my years of practice. One of my brothers was a chiropractic physician for the Olympics. There they triage and use natural healthcare when indicated.

My daughter will see greater and greater numbers and will have more opportunity to prevent her patients from getting started in the first place with the opioid medications, as the chiropractic profession does help alleviate this terrible crisis. Please, we are asking you as an association to amend this bill to include the experts in the natural and non-drug health base healthcare for chronic pain conditions as recommended in my report. Patients are first and foremost and must have this knowledge of the non-drug approaches to chronic care treatments when they see their physicians. Please add chiropractic to this important position for our citizens in Connecticut seeking healthcare. Thank you.


JOYCE WOJTAS: Good morning, Mr. Chairman, members of the General Law Committee. My name is Joyce Wojtas and I’m here on behalf of the Mechanical Contractors Association of Connecticut and with me is Cam Champlain who the lobbyist for the Local 777 Plumbers and Pipefitters Union. We’re here to strongly support House Bill 7299, especially section 11 which includes inspection and testing as defined in subsections 24, 25, and 26 of the Bill to various
categories of occupational licenses issued by the Department of Consumer Protection under the general statutes, section 2330. The mechanical contractors in Local 777 also support a change in subsection 5 for heating, piping, and cooling work to include onsite testing and balancing of hydraulic steam and combustion air and the definition. This language was negotiated in 2017 with all parties in agreement. The Sheet Metal Workers Union, the HVAC and MCAC Local 777. We made an attempt last year, but the bill did not make it through. I want to note for the record that because we’ve had this question before that persons employed by any federal, state, or municipal agency are exempt from the licensing requirements so this doesn’t affect any government employees and that can be found in Section 2340 of the statute.

I’d like to make an important point though and that is that last year the fiscal note on the bill was incorrect. Section 11, as amended does not create a new license or expand the scope of the license that is held by thousands of plumbers, electricians, pipefitters, HVAC licensees, elevator installers, etc. The existing four to five-year apprenticeship training program which include both classroom and, on the job, training logically include learning for number one all the component parts of a system. Number two: being able to put the system together and install it and Number three take it apart, inspect it, and test the system to ensure that it is in safe, working order. Somehow the fiscal note said that we would have every one that was licensed would need another license and it was going to bring in $9.3 million dollars in new license fees and all the people currently licensed are trained to inspect and
test and are the ones who should be doing the
testing. And that’s all I’ll say. I will let Cam
take over.

CAM CHAMPLAIN: Good morning, Representative
D’Agostino, Chairman, and ranking members Witkos and
Cheeseman, and members of this committee. My name
is Cameron Champlain and I represent Plumbers and
Pipers Local 777 which consists of about 3000
members that install heating and cooling systems
throughout the state of Connecticut. I’ve been on
the heating and cooling board for approximately 30
years. This is just a clarification that this
should be included in the licensing law which I
consider it always has been. There has never been a
time in my experience of all the time I’ve worked in
the trade that anybody tested a system unless they
had the license to install that system. It just
doesn’t make sense.

So, with that I would just like to say again, this
is a clarification which is already included in the
law but is not clarified and it does not mean it
should be another licensed category. I also want to
say on House Bill 7285 which is going to create a
task force, I am in favor of that and I know most of
the member of the boards are in favor of that
because of the decision of the North Carolina Dental
Board, there had been some of the duties that the
licensing boards had been completing that were no
longer given to them. It was done internally, and
we feel that’s unfair so I think a task force to
look into that would be greatly appreciated. Thank
you very much and if there’s any questions, I’d be
glad to answer them.

REP. D’AGOSTINO (91ST): Senator.
SENATOR WITKOS (8TH): A question. I know that this topic came up last year and maybe the year before and it came in very late, I think. I don’t recall. I’ll have to go back to my notes why we were unable to get it over the finish line because something broke at the tail end where it obviously got controversial. Could you just refresh my memory why is it non-controversial this time around? I think it’s the same thing that it was last time.

CAM CHAMPLAIN: We had talked --Representative D’Agostino will remember. We wanted to put an amendment in because the language that we first had, there was some opposition to. We got everybody on board, but it was late. It was like the last day or two of the session that we finally got all the language done that all of the trades were on board with and it was too late to put the amendment in.

REP. D’AGOSTINO (91ST): Just to follow the Senator. I appreciate that all the trades were on board. Where are the carpenters on this? They’re actually millwrights. The one that just testified, Tim Moriarity. They’re really the ones who are involved in this. The carpenters are hammering nails and so forth and putting up petitions and so forth inside a building. The millwrights are the ones that are really closely aligned with the plumbers and pipefitters. They do repair the pumps. We install a pump that is completed. We install it in a system. If that pump breaks down, they repair it.

REP. D’AGOSTINO (91ST): So, they’re okay with it.

CAM CHAMPLAIN: Yes, that what Tim Moriarity --
REP. D’AGOSTINO (91ST): Do the carpenters have any view on this at all?

CAM CHAMPLAIN: No in fact Jim Law the lobbyist of the carpenters was here, and we talked to him this morning and sent him an email that the millwrights would be here to testify to what they felt --

REP. D’AGOSTINO (91ST): That was some of the issue, that some of the non-licensed trade would get caught up --

SENATOR WITKOS (8TH): [Crosstalk] and there’s something missing.

JOYCE WOJTAS: They’re submitting language they want. There’s a definition for millwrights in the statutes so they want to add to that. And I think Mr. Moriarity said he was going to submit it in writing so --

SENATOR WITKOS (8TH): And I think if I remember correctly -- it’s starting to come back to me. Wasn’t there a part where you had to have an independent inspector and they may not necessarily be a licensed one but putting a pressure gauge on something that they would be precluded from being able to do that type of testing under this language. Vaguely I’m starting to remember some of the pushback on this.

CAM CHAMPLAIN: I honestly don’t remember. The only one I remember that had a concern about an inspector like even if he was not licensed, I believe was the elevator constructor. They had somebody that had to do the inspection. I don’t remember. It could be that I’m old and I’m forgetting some of it.
SENATOR WITKOS (8TH): I’ll have to go back.

REP. D’AGOSTINO (91ST): It was on the same thing with my question with respect to the carpenters, the folks who are not licensed who might in the course of their work. I think the carpenters would disagree that they do more than just a little bit more than hammer and nail. If they get swept up in this and they’re okay with it, we’ll just take your word but what we don’t want to have happen is the same thing last year that all of a sudden two weeks before session somebody is raising objection to the language so --

CAM CHAMPLAIN: We had the conversation this morning. Jimmy said he’s on board as far as the carpenters. They have no problem with it and the millwrights would really be the ones that would be closely aligned with that type of work and that’s why Tim Moriarity was here this morning.

JOYCE WOJTAS: Also, I’d also like to thank the Department of Consumer Protection for their help in crafting some of the language because we were struggling. The elevator people had a problem and whatnot.

SENATOR WITKOS (8TH): But the home inspectors had some concerns if they were doing the inspection and the whole signing off on something. I think that’s where if I remember correctly that you would be prohibited as a home inspector to go and sign off that this work is adequate or done because you wouldn’t be licensed in that field. I’m thinking that’s what the problem was. So, have you got a sign off from the home inspectors on this?
CAM CHAMPLAIN: I have not but I would think, and I don’t know this for sure. The home inspector would probably have the plumber, or the pipefitter do the inspection and give him something in writing to say that everything was alright because the home inspectors aren’t qualified to inspect the systems that they don’t install.

JOYCE WOJTAS: Excuse me, but inspection and testing is defined in Section 24, 25, and 26 of the bill. Inspection means examination of a system or portion of a system involving the disassembly or removal of component parts of the system so if a regular, just inspector who is just going to do a visual is going in there and taking it apart. Testing means to determine the status of the system as intended for its use with or without the removal of component parts of the system by using testing and measurement instruments which are also part of the license trade.

SENATOR WITKOS (8TH): Okay great thank you. Thank you, Mr. Chairman.

REP. D’AGOSTINO (91ST): Good questions and thank you for helping clarify that. Further questions? Representative Ackert.

REP. ACKERT (8TH): Thank you, Mr. Chairman and thank you for being here because that was my number one issue is that and maybe I’m making a mole hill into a mountain here. Maybe inspection is described and I did look up the definition of it because I know in my other job if a building inspector hired by the town or overseen by the Department of Administrative Services right goes to look at an electrical panel that a licensed individual has to
be there to remove the cover so that they can look into it so that’s the disassembly part and I’m wondering maybe because it says inspection that would be confusing unless somebody does dive down and look at Section 24 and actually read what inspection is and maybe there’s a mechanical inspection or another term or something. It just makes sense because overall, I think that your building inspectors have typically a license in a field. Maybe they’ve been a plumber. Maybe they’ve been an electrician and now they’re the regular town building inspector could have been a concrete installer and whatever they came on so they would not fit if they’re going and inspecting your work. That would not fall under that. They’d inspect it but for the codes that they’re aware of but not of disassembly, right?

CAM CHAMPLAIN: Right. They could visually inspect.

REP. ACKERT (8TH): Visually inspect. Ok. The testing I am totally on board with. Makes good sense in the inspection part. It’s just because inspection means so much different thing from a building inspector aspect to something so, very good. Thank you for being here. Thank you, Mr. Chairman.

REP. D’AGOSTINO (91ST): Further questions. Thank you both.

CAM CHAMPLAIN: Thank you.

JOYCE WOJTAS: Thank you.

REP. D’AGOSTINO (91ST): Two birds with one stone there so Don Chiapetta.
DON CHIAPETTA: Good morning, Mr. Chairman and Committee. I’m not used to doing this. I am a snow plower and own a gas station which is a little ironic today. The reason I’m here to support Bill 7288 is we’re not trying to put the burden on any property owner or anything like that. We just want to be fair in what’s happening in this industry. My father started in 1961 with his '59 Jeep pickup truck and I became his first sander probably when I was 10 years old. We used to stay in the back of the truck and throw the sand off the back whenever there was a hill. From there, we are where we are today that now I have 16 salter trucks because every pickup truck has to have a salter because everybody wants black top instantly and it’s just not feasible especially where we are down in southern Connecticut, we get a lot of ice storms. Mother nature does what mother nature wants to do and we’re very professional. We plow, we salt, we check the next day, but I just want to fill you in on what happened. Ms. Patricia Miller was at my shop getting an emissions test and I just happened to get a lawsuit and I was kind of a little upset and didn’t realize she was even there and I just kind of voiced my opinion and that’s how this ball got rolling. We get sued for things that are just totally out of my control and that’s what we’re here for. I’m not trying to not take any, whatever the word would be for my own negligence.

But here’s this story. It snowed last Sunday into Monday and we had about nine inches of snow and everything was plowed. Snow was pushed out of the handicap spaces. Parking lot was perfect. I get a call this past Friday, how ironic, that someone slipped a fell at a shopping center that I take care
of in a handicap spot right in front of the store. Part of this contract I do daily ice checks. I was there at 6:30 in the morning and didn’t see anything. I go up there and sure enough there’s ice right in the handicap space and someone had put salt down. Store owner or somebody. I’m like where could this possibly have come from? It’s a week after the snowstorm. There’s no piles of snow. I have videos I can show you. I’m looking around and I look up. It’s snow that’s starting to melt from the roof and dripping down onto the sidewalk in the shade and refroze. It’s impossible for me as a snow contractor to do anything with that and this is the types of claims I’m getting. Fortunately, I was able to go there now because they called me and took videos and pictures of where this water is coming from and it’s their roof problem causing the ice, not the snow contractor. Many many cases I don’t have this opportunity because I’m not aware of anything. No one calls me. No one says anything. I get a lawsuit like when Ms. Miller was at my shop that I’m getting sued and at that point there’s nothing I can do. I can’t go back up there. I have to do discovery but I’m going to get sued and I am going to pay a claim because they say you plowed the place and you didn’t clear the ice. That’s what we’re trying to do with this law. Now the language isn’t 100 percent correct. I’m not a lawyer either and I don’t know how to get the wording correct but that’s the other half of this. Part of it is what Kevin was telling you that they’re contracting us to do a certain job and certain inches and our hands are tied.

We don’t want to overcharge them. I can’t come to your property and salt it every single day but
that’s the problem and I don’t really know the exact issue, but I know this law will definitely help us. Back in the day property owners, especially shopping centers and office buildings used to call on the maintenance man. They would walk around, and they were on the property and they would see ice and they’d put salt down. They did away with that. Everything is outsourced so I’m the outsource guy now and I could only be there so often. Even if they wanted to pay me to maintain their property, I can’t be there 24 hours a day. Like I said this particular incident I may get sued front his now. I’ll let you know but I was there at 6:30 and there was no ice. Now the sun comes. One more story and I’ll be done --

REP. D’AGOSTINO (91ST): I think we’re interested in the narrow issue when you are told not to come out or when you are contracted to not come out, we think it makes sense that there shouldn’t be a provision in the contract that holds you liable when you’re simply being told not to do a job and that’s fine with us. Beyond that I think we might have some issues with sort of blanket exculpations of liability and I appreciate there’s probably dozens of different scenarios where you’re on the contract. You’re on the hook. Somebody slips and falls and there may be that scenario you just described obviously it sounds like obviously it’s not your negligence and unfortunately, you’re being dragged into a lawsuit.

We certainly, I think that particular issue and the fact that it’s been addressed in other states with significant snowfall is telling as well. It was useful to hear from the other gentleman who Rhett Miller brought in as well. And it’s good to hear
how this sort of develops and you know you end up affecting the changing of the law from your individual experience, but we are focused on, I think that narrow issue with the contracts. I wanted to ask you about that. It sounds like what we were hearing, it’s just it’s kind of a remarkable blanket liability provisions. Is it kind of a take it or leave it contractual provision? And as was represented to us said is it if you don’t sign it some of your competitors will and they just roll the dice, it sounds like.

JOHN CHIAPETTA: Pretty much because it’s competition or someone who doesn’t know any better and hasn’t been in the business for any length of time, they’re going to jump at an opportunity to take your customer. Now I do write some of my own contracts and in my own contracts I don’t have an issue because I write in as much as I can possibly write in, but we still get sued which that’s going to be an issue for something else later on. But the problem is with some of these bigger facilities we have to sign their contract and they dictate it to us. Like for example, this particular place one inch of snow. There’s nothing to do below one inch of snow. Then when there’s a half inch of snow they’re calling me telling me to come out and salt. Well, most of the time it’s too late and those are the issues. A lot of the time contracts state that after a snow event which is what I’m saying that’s it’s a snow event which is the start of the snow to the final cleanup. So now three days later there’s no contract for me to be on your property and yet someone falls and I’m still getting dragged in. Those are the types of things that I’m not trying to walk away from anything.
I just need to be on the same field where the property owner needs to have a maintenance man to go out and check or if they need me to come, come back and let me check your property but that was the biggest thing. What’s happening is putting me out of business. I pray sometimes when we have these ice storms that it doesn’t snow and I’m a snow contractor. You can ask anybody. I don’t even want it to snow anymore. We’ve been doing it. My son is in it and my nephew. It’s a family business. What’s happening is come now August when my policy renews, if I get a lawsuit I’m done. 61 years and I’ll be out of business just like that because no one wants to insure you and you know I’m sure you heard testimony from Chris who is an insurance agent that no one wants to insure us. Like I said when I tell you we don’t sleep, we do everything I could possibly do before a storm, looking at radars. I mean you know you’ve got up in the morning, oh it didn’t snow last night, and you go to work. I was up all night watching that it didn’t snow. The other way around. Oh, we’re going to get an inch of snow. We got eight inches of snow. I mean, there’s a lot. I’m not complaining. That’s my job. We really are on top of our game. When I tell you, our place is a black top and we’re done the snow is put into certain areas. We do our best that we can do and then yet a week later I just don’t see how it can be my responsibility on your property that I could get sued because someone fell on your property. I appreciate your time. Any questions I can answer.

REP. D’AGOSTINO (91ST): Any questions from committee.
SENATOR WITKOS (8TH): Thank you and I think you had your venting at the appropriate time with Representative Miller on the premise because she works very hard for her constituents. But if you in the scenario that you gave us where you had a contract for one inch of snow or greater you come out but in this one it was only a half inch of snow and maybe some ice and they say come out. What happens if you said well no I’m not contracted for that? Is that considered a breach of the contract or do you have a call provision within the contract generally too.

DON CHIAPETTA: We pretty much just go. I never had an issue. We just go because of liability. Imagine if I didn’t go after you told me to go. Then I’m done as far a lawsuit so I would go.

SENATOR WITKOS (8TH): And if the contract is done per even or season or does it vary?

DON CHIAPETTA: I will only do per storm per event because you get so locked into those other ones. I will walk away from those contracts.

SENATOR WITKOS (8TH): But you know thank you Representative Miller for bringing this to our attention because I certainly agree with the position you get put in and as you know you can be sued for anything but still, we should make sure we provide some relief.

DON CHIAPETTA: Can I just say one quick -- I know you’re really busy but this same shopping center and I learned this through Kevin’s association that we’re with and through videos I had in the back parking lot. I would have to go there every day. Sometimes I go at night too and check and there’s
ice behind the shopping center. I was like where did this possibly come from. It must have been a spring. This was last December. To make a long story short I’m there a few times. I’m like where is this ice coming from. I’m salting it. I’m getting it out between cars because the water is running. Finally, I’m like where is this coming from? Would you possibly guess that it was the Starbucks coffee after they wash their floors, they are throwing their water out the back door and it’s running down? That’s me. Those are the types of things that you know I just happen to catch them. I mean I know it sounds bizarre, but these are the types of things that happen. What I’m saying is I’m a snow contractor. You hire me to plow your parking lot and that’s what it used to be when we started. Now I need a second insurance company.

SENATOR WITKOS (8TH): We got you. We are going to work with our attorneys to draft that legislation.

REP. D’AGOSTINO (91ST): Senator Fonfara has a question.

SENATOR FONFARA (1ST): Thank you, Mr. Chairman. I agree with Senator Witkos. You have a very able and fierce advocate on your side in Representative Miller. But I’m listening to your testimony and it just strikes me that you’ve experienced a number of nuances. Why would you not write your contract to address those situations as you’ve described them to cover yourself up front as opposed to you’re talking to people, we’re listening, but at the same time it would seem a lot easier if you wrote your contract to cover yourself up front before you were liable for something or subject to a lawsuit.
DON CHIAPETTA: Very good. I could answer that. My own personal contracts are great, and I can’t repeat what the last lawyer just said the way he said it but how great my contract was, but it still keeps you sued. We’re talking about right now about contracts I have no choice about and that’s probably only about 10 to 15 percent of my properties that I have to sign. You’re not going to tell a large corporation that you’re going to sign my contract. It just doesn’t work that way. We sign their contracts and their contracts are written with all these clauses in it. A lot of those national contracts I won’t sign but like this one shopping center, my father started plowing in 1961 and we still do it. So, I’m not going to walk away from this. I’m signing their contract and their language is in there. One of the lawsuits I had, and I asked the lawyer, how could this possibly be? Read my contract. It says I don’t shovel in between cars but yet he fell in between a car and I’m getting sued. How could that be? He said to me have to change it by law not by contract. I said well what do you mean? He’s like you have to get law because law overrides whatever you put on paper and he goes that’s the only way you’re every going to change this and that’s why I’m actually here today. I don’t know what else to do. I just don’t want to be out of business. I’m getting older. I’m 55. I don’t know how many years I’m going to be doing it but my son is with me and my nephew and there’s a lot of young kids plus you’re going to wake up one day going to a Starbucks and nobody’s going to plow the parking lot and it’s getting that bad, it’s just that way. But like you said I do my contracts are pretty solid but that’s another issue with the insurance companies.
They just drag us in, and they settle out of court. They will not go to trial because it’s too expensive and they still put the burden on me so when you look at my record, when you do a loss run I’ll have two or three lawsuits over a course of five years and boom no one will insure me so I don’t know what else to do. I mean if you have an answer, I mean whatever I don’t know. I’m just here because I don’t know who else to vent to and I’m going to be out of business one day and then there’s nothing I can do.

SENATOR FONFARA (1ST): I’m not certain anything we do here is going to address your problem broadly because we are in a litigious society today and anybody can sue for any reason whether the statutes says you can’t or that you’re protected, nothing stops someone from filing a lawsuit. It may not go anywhere but I’m not confident that what we do necessarily protects you either.

DON CHIPAETTA: But what it would do is just make an even playing field. Now I have two people I have to worry about. I have to worry about the property owner coming after me and the person who fell. At least the property owner and I should be on the same page. We should work together and not against each other and that’s what this bill would definitely help. It would put us both on the same playing field.

SENATOR FONFARA (1ST): But you describe examples where you had a leaky roof? I don’t know what legislation we have that’s going to --

DON CHIPAETTA: Well the landlord should be responsible. I believe there is already a law. Didn’t Kevin state that, that there’s already an act
that’s in Connecticut that the property owner has to be responsible for his own property?

SENATOR FONFARA (1ST): My point is you’re raising these examples in terms of how you’re affected by things and if you don’t go out there and do something then you’re facing a lawsuit. Even if it says it’s somebody’s responsibility doesn’t mean that they can’t drag you into it.

DON CHIAPETTA: Correct but once they do some discovery you would see that it’s not my fault and I would be dropped from the lawsuit. That’s what I’m asking for. Without the law changed then there’s nothing that will protect me. I mean we’re being asked to go out like he said sometimes the contracts tell you don’t come so now we don’t go and the next morning there’s an inch of ice because the forecast didn’t get to 50 degrees so now, we didn’t plow your parking lot, and someone fell. I’m still going to get sued. That’s not fair. You can’t have something in a contract and tell me something different, you know.

SENATOR FONFARA (1ST): Thank you, Mr. Chairman.

REP. D’AGOSTINO (91ST): Thank you. Senator Leone.

SENATOR LEONE (27TH): Thank you, Mr. Chairman. Good Afternoon, Mr. Chiapetta. Good to see you. And good to have Representative Miller in your corner. As everyone attests, my comments to that as well. So, it sounds like as we’re trying to find out what should be covered and should not be covered because these contracts you do not have control over are written in a way that there’s all these gaps
that even though it’s not your control, they’re using you as a reason for the lawsuit.

DON CHIAPPETTA: As the insurer.

SENATOR LEONE (27TH): Right. And then because of that no other insurer will insure you because of that ambiguity and the high potential for consistent liability. So, it sounds like from what this other attorney said that only, it can be changed by legislation the idea may seem to be that we have to standardize some of these larger contracts as to what actually you are responsible for and maybe list what you are not responsible for. It seems like what you’re not responsible for is what’s not in the contract and then when something happens, they use that against you.

DON CHIAPPETTA: Exactly.

SENATOR LEONE (27TH): So maybe, Mr. Chairman as we try to work on this language we try to see if there’s a way to standardize some of these larger contracts to the extent that we can and maybe there’s a solution there so I’d be happy to work with the Chairs and Representative Miller on seeing how far we can get on that.

DON CHIAPPETTA: I really appreciate it.

SENATOR LEONE (27TH): Thank you, Mr. Chairman.

REP. D’AGOSTINO (91ST): Thank you and again we did have some samples that the representative from the national group I think was focused on narrow issue so we can sort of pinpoint it down from there. Any
other questions from committee members. Thank you very much. Appreciate your testimony.

Chris Tollcouch.

CHRIS TOLLCOUCH: I just want to start off by saying that I did provide some written testimony. I kind of gave you a panoramic view of the world from an insurance perspective. We’re probably the third most hated after doctors and lawyers in this business. I happen to be involved with AFSCA as best practices. We follow all the best practices. I gave you a little bit of federal history. I gave you the national statistics. I gave you how many slips and falls, etc. I won’t bore you with all that. I think Kevin did a good job. You can go to the website and you’re pretty intelligent people. Most of you are attorneys and I am not.

I’ve been in this business since 1980. We specialize at my agency in hard to place businesses. We also do this whole thing with the federal law hasn’t changed. There’s this window for anybody to sue for 20-21 days. They’ve got some safe harbor and how does that affect us. Well the big box stores. I’m just going to go into the big box stores when there’s a slip and fall and they’re from another state, that’s where they sue federally. If they’re not a big box store but they’re here, they sue under the statute under regular law. There is no, our biggest frustration is I sit on several safety committees. I gave you some areas of what states are trying to do, since we can’t get it done federally, we’re trying to do it in Connecticut. Insurance contracts are contracts of adhesion. Statutory law always supersedes an insurance contract and Connecticut does have a reasonable care
law that Donnie was trying to say. What’s happening is the building owner of these big box stores are taking all the liability and putting their premises policy, so they take over everything. Noncontributory, primary, we have to defend everybody. We have to do the discovery, etc, etc. Most of the carriers now are not doing that. They have gotten out of that business. The loss ratio was beyond control. Since these are all broad versus intermediate hold harmless agreements that the insurance contracts can’t even mirror anymore, we are in the excess lines not admitted companies in the state of Connecticut, high premiums, $10,000 minimum premiums. $10,000 deductibles and I’m talking about high foot traffic stores, not your landscaping residential driveway etc. so we are now carrying primarily the premises operations, ongoing operations, products completed operations.

We have to do all the discovery for the building owner and what’s happening is it’s identified prolonging some of the irregularities or defects of the property. What happens most of the time we find all the snow goes to the middle or to the rain catch basin of the property. All [Inaudible-02:08:41] you have modules every year. You have to map where you’re going to put the snow. You’re trying to do the best public policy possible. We’re having a hard time because nobody wants to do all the discovery. We get a claim in. Someone slipped and fell, and we find out that it was on the third floor or some university during the snow storm, so they’ve got the slip and fall during the snow event. They got hurt but were not in the parking lot. $10,000 of discovery. $10,000 of reserve and this is what’s
feeding this beast right now. There is no basis of claim. There is no prudent person. There is no competent person on the properties and what’s happening is there’s no capital investment going back into the property because of all this risk transfer. Why do we have to do that? Well if they had some skin in the game meaning the building owner or the management company, I think we could stop these claims. We could stop people from getting hurt. I got claims from people taking snow off their cars and then they slip and fall on video. We still wind up having to do discovery, etc.

REP. D’AGOSTINO (91ST): So, the building owner obviously has a CGL policy.

CHRIS TOLLCOUCH: Pardon me.

REP. D’AGOSTINO (91ST): The property owner obviously has a General Liability Policy.

CHRIS TOLLCOUCH: What happens is the risk transfer comes to us.

REP. D’AGOSTINO (91ST): So, their insurer says there’s a contract --

CHRIS TOLLCOUCH: The insurance company, it’s a contract of adhesion. We’ve got to go back to the contract. If it says we have to be primary non-contributory in defend that, we do. That’s the way the contract is right now.

REP. D’AGOSTINO (91ST): The contract between the building owner and the snow contractor.

CHRIS TOLLCOUCH: Right. What we’re trying to do is get it back get it without even providing services so we’re trying to get it back to intermediary hold
harmless agreement where he’s capable for his services and if we don’t perform services --

REP. D’AGOSTINO (91ST): Well that’s what we were talking about so obviously if you don’t perform services or you’re directed not to perform services the transfer of liability would be superseded by the statute for contracts dealing with commercial properties where somebody could limit it even further.

CHRIS TOLLCOUCH: We’re getting these from other states, and we’ve got risk managers -

REP. D’AGOSTINO (91ST): But presumably like in a situation where you described though where somebody slips and falls in the building. There’s got to be --

CHRIS TOLLCOUCH: The claim comes into my office. It has to go to the insurance company and then we have to do the discovery right now based on, they don’t have to provide a basis of claim is one of the biggest problems.

REP. D’AGOSTINO (91ST): Well we can’t solve necessarily solve that.

CHRIS TOLLCOUCH: You can’t solve that. What we want to do is not be primary --

REP. D’AGOSTINO (91ST): For work you are not directed to do you’re not contracted to do.

CHRIS TOLLCOUCH: Right. We want the building owner to work and share in the liability here instead of us having strict liability if that makes some sense to you.
REP. D’AGOSTINO (91ST): Could we see -- could somebody send us a sample of one of those contracts between the building owner and the --

CHRIS TOLLCOUCH: Yeah, we can send you both a big box store one and we will send you one of the big large real estate property owners. Also, they have a lot of concerns, most of the carriers are excluding this on your admitted insurance paper and also there are certain ones you’re almost prohibited to plow unless you’re an ASCA member and you do all your --

REP. D’AGOSTINO (91ST): ASCA is what?

CHRIS TOLLCOUCH: ASCA is the Accredited Snow Contractors Association. You have to take this ten-module course to show that you’re doing all the due diligence. Where are you going to pile the snow in each location? You show them you’re watching what snow event is coming. Pre-salting, pre-calcium, post-calcium, and snow removal.

REP. D’AGOSTINO (91ST): Have you talked to -- who’s writing the paper? I’m just curious.

CHRIS TOLLCOUCH: Right now, it’s selective insurance companies’ surplus lines which is you know is not an admitting carrier but they’re on the Connecticut white list.

REP. D’AGOSTINO (91ST): Questions from committee members.

CHRIS TOLLCOUCH: What would happen is if we did have a defect I just want to make sure it will accelerate the capital improvements that the property owner is going to do on their premises and at some point, this is going to get just like, I hate to say it but
just like we limited to superfunds in the state of Connecticut where we had to do something to extend the period by you had to get your [Inaudible-02:13:26] out of the ground. The insurance company just put a moratorium on writing it. I think that’s what’s going to happen here. We’re not going to have any coverage.


REP. ALTOBELLO (82ND): Thank you for your testimony. That was very very helpful. It was just kind of ironic that today marks the start of the anniversary of the blizzard of 1888 which as you probably know dumped nearing 50 inches of snow across Connecticut and drifts far exceeding 30 feet in New Haven and Cheshire for instance, so it was a nice day for you to come and testify. Good scheduling. [laughter]

CHRIS TOLCOUCH: Thank you.

REP. D’AGOSTINO (91ST): Thank you very much. If you can send us a sample that’d be great. Jed Walker.

JED WALKER: Committee Chairman, members of the committee it’s a pleasure. I’m here to discuss Bill 7286 for home inspectors being able to inspect for pyrrhotite in crumbling foundations that are around the state and I’m here also representing the Coastal Chapter of the American Society of Home Inspectors which I am a member of. And I presented you with the written document, but I can just sort of summarize it just to keep things going along here. We’re in favor of including the possibility to test for that but really thing that a proper procedure
has to be developed so we know exactly how to do it. We do visual inspections so we’re out there on one particular day on the conditions of the home in the rain or whatever the weather might be and we’re going through and if we come across a foundation that looks different that obviously has problems. I don’t know if you’ve seen the pictures of the crumbling foundations but something like that would definitely be a red flag and you would say somebody more professional needs to come in here and evaluate this further and decide exactly what needs to be done but if we as inspectors could say okay it needs to be more evaluated and then we got certified by Consumer Protection or somebody else and we could go out and then do the test to offer that information to an engineer or whatever we think that’d be a good thing to do. Good service to offer to the consumers. But at the same time, we have the reservation that if that is something under our license, are we responsible for identifying it without doing the test. And we can’t be responsible for that. You know it is our responsibility to look at a foundation and say you know something is wrong here. It needs further evaluation but if somebody moves into a house and later on discovers that it’s there, we can’t be held responsible for not identifying because very often from what I’ve read it doesn’t surface for quite some time.

But if there are conditions that are conducive for the material to break down then it’s our responsibility to identify and bring this to the home owner’s or buyer’s attention that those conditions exist and if we see deterioration is our responsibility to make them aware of it and suggest further testing. But we would like to work with the
state to come up with a comprehensive plan and hopefully give buyers more help because that’s what we’re here for. We’re consumer oriented. We want you to know what you are buying, the conditions of it so that you’re informed.

REP. D’AGOSTINO (91ST): Is there a visual standard now that you follow or that home inspectors follow when looking for this sort of thing or is it still kind of in flux in terms of actually what you can see.

JED WALKER: Well let’s say a concrete foundation vertical cracks in a foundation are acceptable. Horizontal cracks aren’t because that’s indication of pressure against it. If you come up to a foundation and there’s cracking on it, I guess they call it mapping, cracking and stuff like that then that raises a red flag and you have to say that further evaluation has to be done.

REP. D’AGOSTINO (91ST): That’s currently what you home inspector do.

JED WALKER: As a home inspector that’s your standard. The state developed a whole set of standards. We’ve worked hard to get licensing so that the industry would have a standard. The consumer would know what to expect from home inspectors. And we want to continue to offer that service to the buyer.

REP. D’AGOSTINO (91ST): So right now, there’s no chemical testing that home inspectors do.

JED WALKER: No, you don’t do any of that stuff and you can’t see it.
REP. D’AGOSTINO (91ST): Questions from committee members? Senator.

SENATOR LEONE (27TH): Thank you, Mr. Chairman. Good Afternoon. So, you don’t mind taking on the responsibility from your testimony that I’m hearing. If there is a test that you can be trained on and certified for to protect you from liability, right?

JED WALKER: Well it’s not really that. We would be glad to offer that service under our license as an extra, not as part of a home inspection but if Consumer Protection is looking for people to do these tests we would be glad to work with Consumer Protection and get certified by them as a separate entity off of our license and offer those tests or the inspectors --

SENATOR LEONE (27TH): Right so to say that if you’re not doing that full test you can’t be held responsible for identifying it if it’s there. So that last statement is the crutch of this whole testimony, right? It’s if you are giving a test that has been sanctioned by the state, you or your organization is willing to provide it upon the training so that it’s not something ambiguous with just a visual because a visual can be in the eyes of the beholder. Right and then you end up in crazy lawsuits. So, if the test is developed you are willing to participate with Consumer Protection to develop whatever test that may be. Once it’s sanctioned and offered you and your organization then are happy to undertake that additional responsibility as an extra offering for your customers.
JED WALKER: Yes, as long as it’s not included in our standards that we are responsible for identifying pyrrhotite.

SENATOR LEONE (27TH): If you have gotten the training and there’s a test for it and you would then be responsible if you did the test.

JED WALKER: If you did the test and came with that then yes but a normal home inspector would not be required to identify that. And we basically would like to work with the state to try and help the consumer.

REP. D’AGOSTINO (91ST): Representative Ackert.

REP. ACKERT (8TH): Thank you, Mr. Chairman and thank you for being here. What area do you work in now?

JED WALKER: I would say mostly in the southern part of the state so I’m not really that exposed to it but the American Society of Home Inspectors has a lot of inspectors in the state and the group that I represent, the southern group they said yes we should, you know, try and help out as an organization and see if we can’t do something good.

REP. ACKERT (8TH): Absolutely. I totally agree. I’m in the epicenter of that. So, I can pretty much walk up to a foundation now that is the affect of pyrrhotite disintegration and see it. But I can’t look at a home that’s five years old that was poured by this company and be able to say that, you know what there could be pyrrhotite in there and put that in documentation. The policy of a home inspector primarily is if you went up and saw an old boiler
and you say in your report you would say needs attention type of thing. There’s a bunch of checks. I look at probably 20 different home inspectors and they’re all different. Their forms are a little bit different and that’s something you could fix by the way. They got a standardized form and pretty much it says contact a licensed plumbing contractor, heating contractor to assess that kind of a standard that you’d normally do. Something you say if it needs further attention or needs repair --

JED WALKER: No, I’d say really if you look at the standards it pretty much says that you’re supposed to identify the condition that would warrant further evaluation so I can’t go in and look at an old boiler and say have it investigated by a heating specialist. I can go in there and say the barometric draft control isn’t working. The pressure is incorrect. There’s evidence of past leaks on this. Based on that information you need to have it further evaluated. But it should be that you identify an issue and with that information you say that further evaluation is necessary. You can’t just look at an old boiler and say hmm okay. Let somebody else look at it.

REP. ACKERT (8TH): Yeah might need it. I’ve seen it because we get it in my trade, and it says in my trade service entrance cable deteriorated. Please have an electrical contractor make necessary repairs. Panel is older and dated and needs to be removed. Is it the practice now if somebody in our area looked at it what would they mention to a home owner now in their home inspector’s report if they went and saw a highly cracked foundation? Do you know what they would put on the report?
JED WALKER: Well now because of the awareness you would first include in your report the website to go to, to see about it. And also a lot of it comes from oxidation which is a result of moisture infiltration which causes the reaction to speed up so if you’re looking at crumbling foundation and it has poor grading on the outside so there’s obviously water passing through the foundation that’s exasperating the condition and you would say it has to be further evaluated and there is the possibility that this is the cause of it.

REP. ACKERT (8TH): You’ve got a good grasp of it by the way so very well. Right now, there is a discussion throughout those that are involved with this in our area that we’re still being sold on the testing process yet. We have one testing process coming out of Trinity testing that’s a magnetic testing. We’re not sure if that’s okay. We’re waiting on the Army Corp of Engineers to come up with standards for testing. We don’t know if we do core samples how much pyrrhotite is sufficient so we have a lot going in testing right now so me personally I would not dump that on to our home inspector and say you know I will report a further dialog than this and thank you for that. And thank you Mr. Chairman for bringing this to our attention.

JED WALKER: No, we basically would just like to say that we would like to help.

REP. D’AGOSTINO (91ST): Thank you, Representative Ackert for the perspective on the testing. We were wondering about that on the range that’s available so until that’s solved, I think we agree that we wouldn’t want to impose a burden on home inspectors
until we figure out what the testing process is. Thank you very much.

JED WALKER: Thank you.

REP. D’AGOSTINO (91ST): Chris Diaferio?

CHRIS DIAFERIO: Good Afternoon. I am here for the snow plowing bill as well. I’m a small business owner in Stanford. I’ve only been in business only a handful of years, not as long as some of my competitors or colleagues but we also provide snow plowing services and fortunately we have not been sued for anything, but we do attend properties more often than we are contracted to or are asked to, to avoid being sued. And when we get complaints about the number of visits or being billed because they’ve asked me not to come but come anyways I remove it from the bill so it actually costs me to make sure I don’t get sued and because there is so much competition in Fairfield county from basically Grinage to Fairfield there’s a lot of guys with just a truck who don’t have the overhead that we all have and they can just, hey I’ll plow your driveway for $40 bucks. It's you know my competition and if I want to stay in business, I have to sign these contracts and put myself at risk. And snow plowing is a bad four-letter word for us. We don’t like it. We do it for customer retention. That is the only reason because we don’t want somebody else coming in and taking our property. Oh, by the way I can do everything during the seasons too. I can mow your lawn. I can take care of your shrubs, your planters, all of that kind of stuff so we just thought maybe you would want to hear it from somebody who is on the other end of it who’s not being sued but it’s costing me money to plow, not to
mention, just the hours just that we’re out all night long and it is dangerous and there are times where I am calling Donnie that we blew a tire in a driveway and I have two tons of salt on the truck. What do I do, you know?

So, it is a difficult business and if you’re not doing it with all due respect people, they don’t have an idea. It’s a tough business. I don’t know what the answer is, but something’s got to give because I don’t have, you know decades behind me. I don’t want to go out of business. I’ve worked really hard to be able to have my own business and you know I’m still kind of just starting. It’s only like six- or seven-years in. I want to to say I’ve been in business for 50 years if I live that long, God willing.

REP. D’AGOSTINO (91ST): So if we did something like what we were talking about earlier with the rules we set for those kinds of commercial contracts where if you’re not required to be out or you’re not instructed to come out, that would at least alleviate that liability piece and that burden on you to say well now I know I’m not liable for that work. I don’t have to send my people out or worry about that liability. Then if I’m required to go out though, by contract or by instruction I go out, I do my job, etc.

CHRIS DIAFERIO: Yes and to go along with what everybody has said, no one is looking to take away our liability in the service we’re providing but it is the northeast and people have to expect that we do have snowstorms and ice and all sorts of stuff like that here but it is a sue happy world so I get it, hence why I’m going out when I’m going out when
I’m instructed not to because I’m careful. If I were to get sued, I’d lose my business.

REP. D’AGOSTINO (91ST): Questions from committee members? Senator.

SENATOR LEONE (27TH): Thank you, Mr. Chairman. Thanks for your testimony. I just wanted say thanks for coming up from Stamford and everyone else who has. I know it’s a long drive but when it’s an important issue and your livelihood and that’s what we’re here to hear so I appreciate that. I will work with Representative Miller to see what we can do as best we can on the committee. I just wanted to say thanks for coming up because that what matters is having personal stories to address in a situation. Thank you, Mr. Chairman.

REP. D’AGOSTINO (91ST): Thank you Senator. Other questions. Thank you very much for coming out. I appreciate it. Linda Tabor.

LINDA TABOR: Good morning, Mr. Chairman and members of the committee. My name is Linda Tabor and I’m representing myself as an independent residential appraiser in Connecticut. I am in favor of Section two of Bill number 7286. I’m here to talk about customary and reasonable rates as established by Dodd Frank in the Truth in Lending Act. Several months ago, I spoke to the real estate commissioner at the Department of Consumer Protection about protecting appraisers. I was shocked to find out that there was no law to permit the DCP to monitor appraisal management companies for the payment of customary and reasonable rates in Connecticut. Due to the lack of this transparency there’s no way for an appraiser to know what portion of pay is being paid to them.
I’m here to attest to the new practice of AMC’s sending appraisal assignments out for bid. I assume this is to award the work to the lowest bidder. I am currently paid a reasonable rate by one AMC. My primary client is Provident Funding and when I was speaking with them last week, they were shocked to hear that Connecticut didn’t have a law requiring customary and reasonable rates. Provident is the only lender that pays upon the complexity of the appraisal. Most other companies, they don’t care if you’re appraising a 1200 square foot ranch or a 6,000 square foot mansion. They don’t care if it’s waterfront, what other issues are involved in the appraisal you get the same rate. There is no addition for any additional forms. It’s all one rate. Over the past five years I’ve lost tons of clients to this practice and it’s very difficult to become a member of a panel that assigns work.

Everybody is sending things out for bid now so the lowest bidder gets it and when I started thirty years ago, the fee for a single residential appraisal was $350 dollars. I am now bidding $300 thirty years later for work that I’m not getting so these AMC’s are paying less than that. I have submitted an independent study for customary and reasonable rates in Connecticut as well as a guidance document from the North Carolina Appraisal Board and rates paid by the VA which North Carolina which is the last state that has developed regulations uses as a guideline in monitoring these AMC’s for customary and reasonable rates. So pretty much they’re putting appraisers out of business.

REP. D’AGOSTINO (91ST): Other appraisers are putting appraisers out of business.
LINDA TABOR: Exactly. We’re cutting each other’s throats. If you want to work the price just keeps getting lower and lower and lower so either you don’t work at all or you work for half of the fee and that’s the position, we’re in right now. $350 30 years ago. Borrowers are paying five and six hundred dollars for appraisals, but that fee does not go to the appraiser and there is no monitoring of the appraisal management company from taking 90 percent of our fee. They could take 80 percent of our fee.

REP. D’AGOSTINO (91ST): So, an appraisal company charges -- walk me through all the parties who are involved here. I’m missing this. So, I buy a house. I want to buy a house.

LINDA TABOR: You want to buy a house and you apply for a loan with a lender. They hire -- most of them have AMC’s now with Dodd Frank. They can’t just independently hire people. We can’t talk to the bank. We can only talk to the person who hires us about the value. Even though the borrower -- you are paying for the appraisal of your house. We can’t discuss that with you. It has to go through the lender and there’s middle men involved now. So okay so they say you’re buying this house. We’re going to charge you $600 for the appraisal. They send it out to an independent appraiser, most of them for bid. They’re still being paid $600 but the appraiser that charges the least amount of money, that’s the appraisal so therefore the AMC who is just the middle man who takes it from the lender that they work for and assigns it to the appraiser takes 50 percent of the fee.
REP. D’AGOSTINO (91ST): And in other states, how is this regulated?

LINDA TABOR: Well some states use the VA’s schedule of fees to monitor the AMC’s. In Connecticut we don’t have a law at all so that when I spoke to Linda Robatow, she said that they can take as much as they want because there’s no law on the books regulating them. Now this has been since like 2010 and nothing has ever been developed.

REP. D’AGOSTINO (91ST): So, this would -- I guess the concern would be if we said that 90 percent of the appraisal fee has to go to the appraiser, the AMC is just going to jack up the price on the appraiser on me.

LINDA TABOR: Right.  

REP. D’AGOSTINO (91ST): Right so how do we deal with that?

LINDA TABOR: I don’t care. [laughter] I mean you have to feel my pain. Thirty years ago, the fee was $350. I have an accountant that I’ve been working with for years. Do you think 30 years ago when they charged me $200 to do my taxes, they now charge me $150. Now they charge me $500.

REP. D’AGOSTINO (91ST): Who are the appraisers doing the work at this cut rate?

LINDA TABOR: I have no idea, but I don’t have no idea because there is no transparency, so we don’t know how much the AMC is taking.

REP. D’AGOSTINO (91ST): You have to be a Connecticut licensed appraiser to do the work though?
LINDA TABOR: Yes. Well a certified. You can’t just be licensed. Most of the AMC’s require a certification. You can’t be a provisional appraiser or a trainee.

REP. D’AGOSTINO (91ST): Certified appraiser.

Questions from committee members? Senator.

SENATOR WITKOS (8TH): Thanks. Just to follow up on Chairman D’Agostino’s question -- if somebody had a complaint or they disagreed with that appraisal that they paid for maybe lowballed or maybe the person -- where would they file that? With what agency?

LINDA TABOR: I guess Department of Consumer Protection.

SENATOR WITKOS (8TH): Nothing against you but say if you were doing some research and you say well how come I’m always getting undercut and my rates have been dropped so you go on to look to see well who’s getting -- I mean is there a number of complaints filed with this particular group or appraiser and is there a mechanism for that certification to be taken away?

LINDA TABOR: There is no way for us to know what’s going on at all. I have to attend continuing ed every two years. Appraisers are required to do 28 hours of continuing ed every two years. At the beginning of all the sections, the instructor will get up there and say we are not going to discuss rates. We’re not discussing fees today. That’s the way they preface their class because all of -- I mean I don’t know why no one has complained about this in the past but I was shocked to find that we don’t have any law and so according to Provident Funding that they probably work with, I don’t know
say 20 out of the 50 states and Connecticut is one of the only ones that does not monitor customary and reasonable rates.

SENATOR WITKOS (8TH): They must like that from their perspective then don’t they.

LINDA TABOR: No, they pay us a customary reasonable rate. They’re the only ones. And within the appraisal we disclose how much the fee that’s being charged to the borrower, how much of it they get and how much we get and that is the only lender that I know that does that. Everything else is a big secret. We have no idea how much they’re charging, and I can only assume I’m not getting work because I’m being underbid constantly.

SENATOR WITKOS (8TH): Let me ask you this. In your comment to Chairman D’Agostino, why do you care if the amount goes back to him to be jacked up? Why should they care how much you’re paid? Why should you care?

LINDA TABOR: The Department of Consumer Protection? Because there’s laws. I mean Dodd Frank established in the Truth in Lending Act that there should be a customary and reasonable rate paid to the appraiser. If you look at your papers there, it’s supposed to be based on the type of property, the scope of work, the time in which appraisal services are required to be performed, fee appraiser qualifications. I’ve been doing it for 30 years.

SENATOR WITKOS (8TH): I’ll read all that, but I guess I’ll check with the DCP if there’s been any complaints about people complaining about maybe an excessive charge that they’re getting charged for appraisals or it sounds like --
LINDA TABOR:  Excessive charge?  The rate hasn’t gone up in 30 years.

SENATOR WITKOS (8TH):  Well then maybe that’s why nobody is complaining.

LINDA TABOR:  Well that’s fabulous.  Really.  And you think because of these laws that are on the books that Connecticut shouldn’t comply?

SENATOR WITKOS (8TH):  That’s what we’re talking about today.

REP. D’AGOSTINO (91ST):  I think we’re trying to figure out what laws we’re talking about here.

LINDA TABOR:  Truth in Lending.

REP. D’AGOSTINO (91ST):  Representative Altobello.

REP. ALTOBELLO (82ND):  Thank you very much.  Thank you for coming to testify today.  The issue I believe is that it’s indeed a Dodd Frank bill.  There’s the federal government that says that appraisers should be paid usual and customary fees for that part of the country.  Appraisal management companies are in some cases in Connecticut are not doing that.  So, when Ms. Tabor called DCP, DCP they really have a one person show in the appraisal department.  She’s very nice.  I’ve spoken to her as well.  She said I know what’s going on out there.  I know not everybody is in compliance but we have nothing on the Connecticut books that would allow me to even talk to anybody about it, not to mention again I’m a one person shop here just to try to get a little plug in there but the Department of Consumer Protection does license these companies and so they do have jurisdiction on whether or not they
can do business in Connecticut and if they’re in violation of federal law I think that probably should be corrected before their licenses are renewed and that’s what I’m trying to get at here.

There is a huge difference between what some companies are paying to the appraiser that does the work and what they’re keeping for themselves in many cases more than half. Instead of just reviewing appraisers from a Connecticut certified appraiser, for a reasonable fee they’re taking 50 to 60 percent of the fee and most of these companies are from out of state quite frankly. So other states have enacted laws and regulations. Ms. Tabor has given us the North Carolina take on it and also other things in the packet. It has the VA schedule for the northeast and trust me what she told me on the phone, what she’s offered on some of the appraisals is probably 30 percent of what the VA authorizes. May I ask how much do some of the companies offer you versus the VA? What’s a VA?

LINDA TABOR: VA is $450.

REP. ALTOBELLO (82ND): And what are some of the companies offering you?

LINDA TABOR: $275.

REP. ALTOBELLO (82ND): All of them or some less?

LINDA TABOR: I have no idea. I have no way of knowing because I only place a bid and so I have to assume that if I placed that bid, I’m not getting it because I’m being underbid.

REP. ALTOBELLO (82ND): Okay, thanks.
LINDA TABOR: And I’ve bid before, say you know a month goes by. Okay, I know that I can get a single-family appraisal from these people for $300. I’ll get them for a month until somebody catches on and they do it for $285 they’re going to get the job. All of a sudden, I don’t get anymore $300 appraisals. I have to bid lower.

REP. ALTOBELLO (82ND): Okay. So, at any rate, Connecticut has Department of Consumer Protection there is no way to enforce Dodd Frank via Connecticut law. The reason this portion was put in was post the housing bubble and there were appraisers out there doing things nationwide that didn’t pan out in the long run. They were given pretty much bad information and quite frankly many sources were not using certified appraisers or if they were, they were high balling and low balling depending on what -- and we ended up selling each other a whole bunch of bad mortgages and caused the collapse. So, I think that having reasonable appraisers’ fees across Connecticut would give us a better product in the long term and would help to avoid another housing bubble crash like we had.

REP. D’AGOSTINO: Thank you. I guess this isn’t a committee meeting, but I’m somewhat confused as to why DCP is saying they don’t have the mechanism to enforce it if they license these appraisal management companies and part of the licensing oversight process would seem to me to encompass an ability to ask questions about whether they’re compliant with federal law. Nevertheless the North Carolina law that has been provided to us -- looks to me I just pulled up the federal law. It looks to simply parrot the federal law that AMC shall compensate appraisers in compliance with the Federal
Truth in Lending Act and their board and our case DCP shall adopt regs necessary to enforce the subject. So really what you’re asking for is for DCP to be able to -

LINDA TABOR: Inquire.

REP. D’AGOSTINO (91ST): -- review and see that these ANC’s are indeed compliant with Federal law.

LINDA TABOR: And they can do part of their job, AMC’s have to be in compliance with, oh there’s like three or four regulations so if they’re the only ones they can oversee. They can’t go further into seeing if they pay customary and reasonable rates.

REP. D’AGOSTINO (91ST): That’s what they’re telling you anyway. I think I get the issue now. It’s a pretty narrow one. Other questions. Representative Cheeseman, please.

REP. CHEESEMAN (37TH): Thank you. Thank you for your testimony. So, the federal law treats AMC’s and appraisers differently?

LINDA TABOR: Yes.

REP. CHEESEMAN (37TH): Okay.

LINDA TABOR: Yes, the AMC, Appraisal Management Company is the middle man between the lender and the appraiser.

REP. CHEESEMAN (37TH): And if I’m a borrower being charged for an appraisal, I have no idea. I just see a set fee. I don’t know they’re getting 50 percent and you’re getting 50 or less.
LINDA TABOR: And the borrower doesn’t necessarily know what the breakdown is and I’m sure they don’t care.

REP. CHEESEMAN (37TH): All you see if the bottom line.

LINDA TABOR: Yes.

REP. CHEESEMAN (37TH): So, it’s, you know the 7000 things you have to pay for when you buy a house.

LINDA TABOR: When you’re closing right. The HUD form that you – yes.

REP. CHEESEMAN (37TH): And would you be happy with the VA schedule for Connecticut?

LINDA TABOR: Absolutely.

REP. CHEESEMAN (37TH): I mean $450 is obviously better than $285. [laughter] So, you presented the North Carolina law. How long has that been in effect? Do you know?

LINDA TABOR: I think it says on there, I believe it was 2017 or 2018 that they enacted that, but other states have gone before them. I didn’t do a lot of research because I work full time. [laughter] And so anyway what I could find online from last week to today was Georgia and I have another -- but this was so thick I didn’t want to make 30 copies but Virginia, Georgia, Minnesota. There are several states.

REP. CHEESEMAN (37TH): So as the chairman said you’re just looking for mechanism to make the
appraisal management companies actually abide by federal statute.

LINDA TABOR: Correct.

REP. CHEESEMAN (37TH): Alright thank you.

LINDA TABOR: Thank you.

REP. CHEESEMAN (37TH): Thank you, Mr. Chairman.

REP. D’AGOSTINO (91ST): Any other questions from committee members? Joseph Vollano.

JOSEPH VOLLANO: Good afternoon. My name is Joseph Vollano and I’m CEO of [Inaudible-02:50:52] here in Connecticut. I come in support of House Bill 7299. Over the last year it’s been a very good collaboration between my company and our industry, Department of Consumer Protection, the state fire marshal’s office, and for the DEP. So, we basically believe that this is pretty much a housekeeping issue. What we do is mobile refueling. So, we work off based off an app. You download the app, you order fuel, and we deliver it to your car.

REP. D’AGOSTINO (91ST): Let me just stop you right there. So, you’re doing this now in Connecticut?

JOSEPH VOLLANO: No, I will break it down on what we’re allowed to do now and on what the current law states what we can do now and what we can’t do now and the reasons why we can’t do it, and which is why we believe it’s just a housekeeping issue. Currently as the law is stated now, we cannot fill anything that drives on the public highways, on the public roadways. So, that’s via cars, your fleets, but what we can do is construction equipment for our off-road diesel. Boats we could do. Now here’s the
kicker and this is why again the way the current law is set we technically now since 2018 of October -- I don’t know if any of you are familiar, we have an FPA which is a fire code.

Well they passed last October, came into effect was an FPA 30A Chapter 14 which is the on demand fueling which is in effect here in Connecticut, technically. Now the only issue we’re having is we can’t obtain a retail license just due to the fact that in the retail application it states that we have to have a physical gas station address which we do not because we are mobile. We store our trucks, per Connecticut state law so ours are out in Meriden so we follow all the laws as to where our trucks are stored but since we don’t actually service a gas station on that premise, we’re not allowed to get a retail license. Now 18 other states are currently doing this now. I don’t know if you guys caught it maybe a month ago Channel 30 did a story on a company in Washington D.C. had just launched that does the same thing that we do so the laws are already in place. We just need now to catch up with them on the Department of Consumer Protection side which they’re all for. We’ve met with them multiple times over the year. We’ve also met with the office of the state Fire Marshal who is also Mr. Abbott is also for this change. Local Fire Marshals, not all of them, but I know the Connecticut Fire Marshal’s Association was here that was against it. They were asked to come to the table from the State Fire Marshal’s office. They did not. They chose not to. We were more than willing to work with anybody. We actually met with the Connecticut Fire Chief’s Association. We’ve met with the DEP to make sure that everybody was comfortable with what we were
doing. And as they all said the laws and current regulations are already in effect. So, it’s simply just doing a housekeeping of updating how we get a retail license here in Connecticut. So, I was in Kentucky a couple of weeks ago when we had the fire on that 8,000-gallon truck on 91.

Just think about, you had 8,000 gallons when you can have 1,200 because the state, the new regulations for the fire code will regulate us to a maximum of 1200 gallons for a truck. So, for us currently we would only be using a 400 gallon because we would be using a pickup truck. It’s just not economical for us to get a 1,200. But when that law was made with that FPA it was a company out in California that helped draft it which uses a 1,200. But like I said it’s done in 18 states now. No major issues so all we’re looking at doing now to bring the residents and really it benefits the businesses and the disabled here in the state of Connecticut and I’ll explain why. So, for businesses like a Frontier Communications they own 500 or 600 trucks in the state of Connecticut. They pay dipping gas prices depending on where their truck is located at that time. Well if we can get a retail license we can now fuel them at a savings because now we could give them a solid price statewide so it doesn’t affect the state as far as revenue, as far as taxes but it does help the companies who some of them are struggling here in the state of Connecticut trying to stabilize the fuel costs. Now we talked about the disabled and people with disabilities who have a hard time getting gas at a local gas station. This alleviates that problem. It’s a simple touch of an app and we could deliver it straight to them.
REP. D’AGOSTINO (91ST): You may have said it, but I just missed it. You get your gas at wholesale prices?

JOSEPH VOLLANO: Yes, we get our gas directly the same way any other gas station where we get it right from the terminal down in New Haven, higher for Rocky Hill.

REP. D’AGOSTINO (91ST): And it lets you compete on a retail price.

JOSEPH VOLLANO: Correct. Our prices are actually at the same or not lower than what you would get at a normal gas station.

REP. D’AGOSTINO (91ST): Questions from committee. Representative Cheeseman?

REP. CHEESEMAN (37TH): Yes, you mentioned you’d been in conversations with the Department of Energy and Environmental Protection and they were satisfied that the manner in which you were going to be carrying out your business with environmentally safe. We heard a number of objections on the basis of that environmental danger so I’d like you to, if you can explain the extent of your conversations with them.

JOSEPH VOLLANO: Sure. Well, we operate same as a gas station would. If you look at the regulations on Chapter 14 which is the on demand fueling of 30A of an FBA. We fought same thing as every other gas station. The rules are about the same. The only difference is that we have to have some extra security and skill prevention on our trucks which we do. All of our drivers are HazMat certified which I think is a lot better than having someone who is
non-certified pumping gas. Every one of our employees is a HazMat certified. As far as you’re talking about environmentally friendly, fill her up is much more environmentally friendly because number one you don’t have to drive to the gas station.

You’re not doing wear and tear. You’re not doing emissions and again if God forbid, we have another incident like we had on 91 a couple of weeks ago you’re not talking about 8000 gallons, you’re talking for us 400 gallons max per law and per regulation is 1,200. You don’t have that kind of issue if, God forbid you have a spill. Our tanks on our trucks are 2,800 gallons which we use for home heating oil. They’re compartmented so if you have a leak on one, you’re only losing maybe 5 or 600 gallons instead of 4,000 that you would have on an 8,000-gallon tank so we’re much more environmentally than your local gas stations.

REP. CHEESEMAN (37TH): Thank you and I must admit you made a point that I hadn’t considered before, but I think is a very relevant and valuable one. Given the paucity of full-service gas stations in this state. If you are indeed handicap, it is a huge issue. Now, that’s one of the reasons my father has given up driving for which the gods be praised because he will be 93 this summer but before he became less able it was increasingly an issue for him. And it’s one of the reasons I loved driving through New Jersey because they’ll pump my gas, but I think we have to bear that in mind. You do want people to be able to remain active and to use technology to help them remain so, so thank you for raising that point.
JOSEPH VOLLANO: The world is changing, the way people communicate, the way people order things between Amazon you can order alcohol now online. You can do everything online. [laughter] Like I said we’re just catching up with the times and like I said when we met with the state departments, we were more than happy and we’re still willing to talk to anyone who has concerns.

REP. D’AGOSTINO (91ST): I think Representative Ackert had a question.

REP. CHEESEMAN (37TH): Okay. Thank you very much for testimony. Thank you, Mr. Chairman.

REP. ACKERT (8TH): Alcohol day. was the other day. Don’t bring that up. [laughter] First of all, you’re scaring the living heck out of me. I’m just comprehending so what regulations are there? I acknowledge as a person who has service vehicles, I’m like hey instead of my guys going and standing at the gas station by the hour, being paid by the hour I’m going to have a vehicle come fill my trucks up. What are the regulations, you know I go to my mobile app and I said hey I need fuel? I ran out of gas because you’re available and I didn’t feel like going to the gas station and I’m on I-91.

JOSEPH VALLANO: Yeah that’s a little different. AAA, you know they do five-gallon containers or ten-gallon containers to get you off and on your way. That’s not a part of our business.

REP. ACKERT (8TH): So that’s what I’m wondering. But is this maybe not your business but we go to this type of model that says you know, we’re going
around and you guys are running around and people are, we don’t want people running out of gas but they know the service is there and would it be somebody’s and pay a -- not just a gas rate but a -- while you’re at it a gas service rate so hey, sorry this is it. Could that be a model unless we were regulating it?

JOSEPH VOLLANO: Well that could be an issue now. Anything under 119 gallons you don’t have to have a HazMat permit for. You don’t have to have the license for it. So, if you’re doing five or ten gallons on the side of the road, I mean anyone could come and technically fill you to get you on your way. Like I said that’s not part of our business. Anyone could do that now.

REP. ACKERT (8TH): So that’s under our law now.

JOSEPH VOLLANO: Yeah anyone could do that now. They’re not regulated. No one does. I don’t think anyone is going to do the business to do five-gallon jugs.

REP. ACKERT (8TH): I would if I got a $100 fee to come out and do that, hypothetically.

JOSEPH VOLLANO: That’s not our business. Our business is you’re on our app, you schedule it which is usually next day. If you need same day you have to call us.

REP. ACKERT (8TH): And this is diesel and --

JOSEPH VOLLANO: This would be diesel, gas, and home heating oil.
REP. ACKERT (8TH): Yeah, the diesel I know because I know a lot of construction folks and a lot of them don’t have their own trucks, so they have a service come out and do it for their excavator and everything else.

JOSEPH VOLLANO: That’s on site which you’re currently allowed to do right now. The only thing we’re looking to do is get the retail license just so we can do vehicles that drive on the public roads. That’s what our whole back is from going full force here in Connecticut. We spend over $400,000 over the last year just getting our onsite side and our boating side in place. As far as we’re about to spend another $2 million if we get our retail side. Just think again what that does for the state of Connecticut and Mr. Altobello for our Meriden. I’m from Meriden. All our trucks are stationed in Meriden. The average property adds new property taxes to the state and at over $300,000 a truck. So, we’re 2, 2.2 million we’re raised to invest into the state to get that going. So, it brings a lot.

So, if we look at the boating side and I could sit there and say you’re going to lose money because technically a boat does not drive on the public highway. Most people don’t know that when you go to a fuel pump on the water you could actually file a form to get the gas tax money back. You get a portion of it back. You get charged the 6.35 sales tax but technically we don’t charge the gas tax. The only thing we need to do is the 6.35 percent because they don’t drive on the public highway, so we’re not set to doing the federal and state gas tax, so the state is going to lose money they share
without this bill and without the changes being passed.

REP. ACKERT (8TH): Yeah, no I wasn’t against the [Inaudible-03:04:03]. I’m just thinking about regulatory and not your business it doesn’t sound like. That’s what I wanted when I was listening you going and filling up and you know somebody ran out of gas and now, we got a fuel vehicle filling up a truck I just think of the hazards of that. That’s all I was thinking of that.

JOSEPH VOLLANO: Oh absolutely. That would be --

REP. ACKERT (8TH): You’re going and filling up frontier vehicles or Charter Communications vehicles at night or whenever the workers don’t have to go there and do it. More professional and more savings and things like that make sense. The broken-down person on 91 scares the heck out of me.

JOSEPH VOLLANO: Yeah that is the place and that is not our business. And we don’t ever plan to get into that kind of business.

REP. D’AGOSTINO (91ST): Thank you. Senator.

SENATOR LEONE (27TH): Thank you, Mr. Chairman. Good afternoon. So, I’m trying to understand some of the testimony in this concept to which I’m not a big fan of. So, you said you’re going to be traveling around in trucks with 400 gallons of gasoline, is that right?

JOSEPH VOLLANO: So, our pickup trucks, they are F-250s and they have state of the art pumping systems on them made for recovery. Everything that would be regulatory and needed to supply fuel and it would be a lot safer than anything else you have out on the
market today and environmentally friendly because you don’t have underground tanks.

SENATOR LEONE (27TH): Well you’re transporting gasoline from places that are to a location that is not potentially in someone’s driveway, that is not properly grounded, that is not a safe location. It’s a non-regulated location unlike gas stations or places that do have tanks. So, you know the whole regulatory scheme would have to be vetted and I think we have a long way to go other than just passing legislation saying that now you can drive trucks with 400 gallons worth of tank of gas all throughout the state of Connecticut.

JOSEPH VALLANO: Under current law now I could technically take a 1,200-gallon tank to someone’s house and fill up a container that’s not going into their car.

SENATOR LEONE (27TH): So why aren’t you doing that?

JOSEPH VALLANO: Because we don’t believe that’s the way to go. Listen, we could have done that. Sure. But, like we stated even the first time we met with the Department of Consumer Protection, we are not here to fight against the state. We are here to work with the state to do it in a safe, productive way that everybody’s happy with. That’s why we agreed to meet with the office of the state Fire Marshal and when we met with Mr. Abbott and his team, they suggested that we reach out to the State Fire Marshal’s Association, State Fire Chief’s Association. We did that also. The Chief Fire Association we met with. The Marshal Association decided not to meet with us and that’s their prerogative. I know today that they were here today to testify against it. Now if some Fire Marshals
are anxious to have it in their city, the regulations as they are currently written now, they can prohibit it and we would be fine with that. So, but for the cities and towns that do want it and there are several they’re adding a benefit to their taxpayers and to the people that they represent. It’s a safe way of doing business. Like I said it’s in 18 states now with no major issues. Not one major incident.

SENATOR LEONE (27TH): Well we’ll look into what the other states are doing but I still have some concerns on the safety and the protocols because just doing it because it’s a business opportunity in my mind or for the convenience factor still just does not outweigh some of the risks that are yet to be addressed.

JOSEPH VALLANO: I know you mentioned the grounding of the truck. Our grounding of the truck works the same way as your 8,000-gallon trucks when they come pull up to a gas station. And again, we are doing it on a much smaller scale. You’re talking 15 gallons max per car is nothing. You can’t even get enough friction there to light. To light gas fumes you need 94 percent pure oxygen. It’s not going to happen. That’s why they don’t explode. If you’re real concerned when we talk about fueling would be propane tanks that are under pressure and we allow them into our neighborhoods every single day. If a propane tank was to explode, it’s like natural gas. Look what happens when that happens.

SENATOR LEONE (27TH): So, wait a minute. Are you saying you can light a cigarette in your gas tank and not have it explode? Is that what you’re saying?
JOSEPH VALLANO: It won’t explode. It will catch fire because it’s flammable. That’s why we have vapor recovery systems on our trucks is to alleviate any vapors getting into the atmosphere.

SENATOR LEONE (27TH): Thank you. Thank you, Mr. Chairman.

REP. D’AGOSTINO (91ST): Any other questions from committee members. Thank you very much. Appreciate it. Glad we got to hear from you on that. That’s the remainder of our list of people that’s signed up. If there’s anybody else that could testify please come up. State your name and let us know what you’re testifying about.

MR. TRUMAN: I am Mr. Truman and I’ve testified here many times on the opioid. You’re talking about federal law about vaping and everything else which is a narcotic and under DEA law that we are not enforcing you combine do opioid is Pot. You have more regulations on gasoline than you do on opioids. See on the racketeering laws --

REP. D’AGOSTINO (91ST): I’m sorry. Which bill are --MR. TRUMAN: The opioids.

REP. D’AGOSTINO (91ST): The Governor’s bill?

MR. TRUMAN: Yes, the Governor’s bill. When you run for state office you take an oath to protect the public from itself. When you’re opening up a drug war just like the cartel in New York went to jail for federal felony which our state is now liable for because under the Rico Act, under Public Safety Act. I’ve done a lot of hearings on federal law and under Federal Banking Commission law you cannot transmit an opioid because its gang activity because the
state cannot regulate and open up a drug fest because that’s why you got elected because of the drugs. You didn’t get re-elected under your personal attitude you got elected under the Drug Enforcement Act because you want to legalize Pot. Then you have legalizing opioids. Opioids is liquor, tobacco is an opioid. But we have an opioid addiction in tobacco and alcohol which causes liver and cancer, but we do not want to go back to prohibition, but you have more regulations on gas than you do on basically them. You’re opening up a drug fest because you have children and you have schools that are going to be exposed to opioids. They already are. You go down to St. Patty’s Day and they were smoking Pot on the side of the road. They had an open beer. So, what happens is 1920 the prohibition laws they said we want to save our youth from the exposure, so they enforced the Prohibition Act which New York and Rhode Island still have because they were tired of all the arrests and having all these people laying all over the street. And so, you’re having your anti-police because the police are trying to bust everybody and put them in prison and -- It’s under the Rico Act.

REP. D’AGOSTINO (91ST): Thank you. I think we got what you’re saying.

MR. TRUMAN: Basically, when you get voted in, you’re supposed to protect the public and that little child going to school but you don’t because instead of drug enforcing the police bust so then the state says --

REP. D’AGOSTINO (91ST): Thank you. It thinks we got it.
MR. TRUMAN: Yeah that’s why 22 Republicans got voted out - because of the Rico Act.

REP. D’AGOSTINO (91ST): I think we got it. Thank you very much. I appreciate your testimony. Is there anybody else that would like to testify about the matters before us today? All right, that will finish the public hearing. Thank you.