March 5, 2019
LABOR AND PUBLIC EMPLOYEES 1:30 p.m.
COMMITTEE PUBLIC HEARING

CHAIRPERSON: Representative Robyn Porter

SENATORS: Kushner, Osten, Lesser, Miner

REPRESENTATIVES: Porter, Hall, Winkler, Vargas, Polletta, Smith, Wilson-Pheanious, Fishbein, Luxenberg

REP. FISHBEIN (90TH): The doors through which you enter the room are emergency exits and are marked with exit signs. In the event of an emergency please walk quickly to the nearest exit. After exiting the room, go to your right and proceed to the main stairs or follow the exit signs to one of the fire stairs. Please quickly exit the building follow any instructions from the capital police. Do not delay and do not return unless and until you are advised it is safe to do so. In the event of a lockdown announcement, please remain in the hearing room. Stay away from the exit doors until an all-clear announcement is heard. Thank you.

REP. PORTER (94TH): Thank you Representative Fishbein, and with that being said, we will go ahead and get started. We will start with our elected and first on the list is Representative Liz Linehan. Is she here? I don't see her. So, Chairman Stephen Morelli. Good afternoon Chairman.

CHAIRMAN MORELLI: Good afternoon. Senator Kushner, Representative Porter, Senator Miner, Representative Polletta, and I suppose member of the public
employees committee. My name is Stephen Morelli and I'm the chairman of the Worker's Compensation Commission. I want to thank you for the opportunity to offer his testimony in support of House Bill 7241, AN ACT CONCERNING MINOR AND TECHNICAL CHANGES TO THE WORKER'S COMPENSATION ACT.

The Commission greatly appreciate you raising this legislation and believes the proposed changes will codify current administrative practices and remove outdated statutory language. In summary of the changes, section 1 would change the title of Worker's Compensation Commissioner to administer of law judge. This would more accurately reflect the adjudicative functions of our present Worker's Compensation Commissioners. On a daily basis, Worker's Compensation Commissioners interpret the Worker's Compensation act and hear and adjudicate legal disputes between claimants and respondents in accordance with Connecticut law. These are the cases that are not resolved through the routine claim process and follow a process very similar to the one followed by our superior court judges. However, the title of Commissioner is a misnomer as it is often associated with administrative and policy-oriented responsibilities, such as those of Commissioners of executive branch agencies. This can be an area of confusion for the general public. Individuals are often under the misapprehension that a Commissioner's final ruling can be altered through an administrative process, but in reality, they must be taken to a legal appeal.

This title change will provide individuals with a better understanding that a decision of a Worker's Compensation Commissioner is adjudicative and
derived from the fair and impartial application of our laws after the evidentiary child based upon the merits. This title change would also ensure that all parties better understand the nature of the process upon the request of a workers compensation hearing. It should also be noted that the majority of states already embrace using the title of judge or administrative law judge. Simply put, the title of administrative law judge far better reflects the actual role of our Connecticut Worker's Compensation Commissioners given their adjudicative role in the dispute resolution process.

Section 2 would reduce the number of times the advisory board of the Worker's Compensation Commission is required to meet in each calendar year. On November 19, 2018, the Worker's Compensation Advisory Board voted unanimously to direct the Commission to seek a statutory change to reduce the advisory board meeting to at least once in each calendar quarter rather than at least twice. The board members believe that meeting at least once in each calendar quarter will be sufficient to fulfill the advisory board statutory duties. Furthermore, nothing in this proposed change would impair the ability of the advisory board to meet at such other times as the advisory board chairman for the chairman of the Worker's Compensation Commission deem necessary.

Section 3 will remove having a statistical director of the Worker's Compensation Commission in place the statistical division within the Commissions management information systems division. This will codify the current administrative practice of the Worker's Compensation Commission which for some time
has not employed a director for the statistical division. In fact, I can't find anyone across the street in my office who can remember when such a position was filled. This provision was enacted prior to the technological advancements of today's information systems. The statistical divisions of the Commission are currently located within the Management Information Systems Division, which is directed by DAS Services IT manager. The division efficiently inappropriately maintains and report statistics under its current structure, and therefore the Commission does not believe that it is necessary or sensible to hire director.

Section 4 would remove outdated statutory language to more accurately reflect the role of the second injury fund as it exists today. This is a Connecticut Bar Association proposal that was recommended by its Worker's Compensation Legislative Initiative Committee.

Sections 5 and six will remove statutory references to the sections removed under section 4 of this legislation.

Section 7 would repeal Section 31-276a of the Connecticut General statutes, which puts the Worker's Compensation Commission and Worker's Compensation Commissioners within the Department of Labor for administrative purposes only. This will codify and reflect the current organization and administration of the Worker's Compensation Commission.

The Commission does not have a dependent administrative relationship with the Department of Labor. This change would implement a recommendation
in the state auditor's report on the Commission for fiscal years ending June 30, 2014 and June 30, 2015. The Commission was originally assigned within the DOL for administer purposes under Public act 77-614, which created an executive branch structure in which almost every independent state agency was attached in some way, to one of 22 major departments. In 1991, Public Act 91-339 was passed, centralizing administrative functions and powers of the Commission and the person and office of the chairman of the Worker's Compensation Commission. This incorporated 23 specific duties of the chairman including budgetary development and implementation. It also provided that the chairman direct and supervise all administrative affairs of the Commission. These duties conflict with the administrative functions statutorily defined under the administrative purposes only.

Section 7 would also remove outdated statutory language that creates a medical panel for use in occupational disease cases and allow a Superior Court judge to order the destruction of 10-year-old workers compensation agreements filed in the Superior Court. The repeal of the statutory language is a recommendation by the Worker's Compensation legislative initiative committee of CBA. The Commission currently adjudicates occupational disease cases through monthly dockets dedicated to asbestos and the destruction of agreements filed in the Superior Court has been outdated since the Compensation Review Division, now known as the Compensation Review Board, was established to review appeals in 1980.
In conclusion, the Commission believes House Bill 7241 will allow a statutory language with modern administrative practices and promote a framework that more accurately reflects current law. I thank for providing me with the opportunity to testify in support of House Bill 7241, and I'll be happy to answer any questions that you may have.

REP. PORTER (94TH): Thank you. Any questions? Yes, Representative Fishbein.

REP. FISHBEIN (90TH): Thank you Madam chair. Good afternoon sir.

REP. PORTER (94TH): Good afternoon.

REP. FISHBEIN (90TH): In regard to section 1, am I to understand that the reason for the change in title is matter of respect, that some people don't give credence to a ruling of somebody with the title of Commissioner? Is that the reason for the change?

CHAIRMAN MORELLI: I would say it is less to do with respect to give credence as to understanding that that ruling has the same banality as the ruling of a judge, meaning that, for say for instance, an unrepresented party, when you initiate the claims process, and remember we see just a small portion of the Worker's Compensation world, we see contested claims, so when they initiate the claims process within our Commission, it's a contested claim, and I think the title change would allow them to better understand that they are in a legal process whereby they are going to attempt to resolve their disputed claim via the informal, pre-formal, and then formal, formal being akin to a civil trial process and that ultimately a Commissioners decision after an evidentiary hearing is going to be final and can
only be changed subject to appeal to CRB, then they 
appealate court, then the Supreme Court. Often 
times, they don't understand that, and, for 
instance, might not think they need a lawyer when in 
fact the case may be so complicated that they do. I 
assure you, the other side always has a lawyer.

REP. FISHBEIN (90TH): No, I'm certainly sympathetic 
to the situation. I would just think it would be 
more effective to have something that says, the 
decision of this is final, subject to ap 
---you know, I deal 
with a lot of pro se parties and there are ways to 
convey that to the process, so that's the intent 
which I get from your remarks, you know, a notice to 
that fact, or--there's a lot of alternative dispute 
that happens before you get there in discussions and 
that kind of stuff. I just don't know that changing 
somebody's title will actually convey that message 
to particularly a pro se party that the decision 
here is serious and final.

CHAIRMAN MORELLI: Well, that's not the only reason. 
I can tell you that there are 16 Commissioners on 
the Worker's Compensation Commission, that in and of 
itself is confusing to a lot of people, simply 
because if you look at other state agencies there's 
a Commissioner and then there's a Deputy 
Commissioner and then there are people who are 
various roles. It's--currently Connecticut, Alaska, 
and Ohio are the only three states that don't 
embrace the use of judge or administrative judge in 
the process. So, I'll give you another example of 
how it can be--make the process difficult, make it 
more time-consuming, often times, particularly in 
the asbestos docket, a Commissioner has to reach out
to insurers and other states, and they don't necessarily pay heed to a message from a Commissioner because they don't recognize that it's not a call from a judge because in their state they have judges.

I think it's sort of second nature to people who understand how American jurisprudence works, that you have a judge, the judge presides over the hearing process, the judge makes evidentiary rulings, the judge renders a decision. It's not second nature to people that that role is done by Commissioner.

REP. FISHBEIN (90TH): And that call being taken by someone out of state who doesn't recognize once again that respect I was speaking up before, but you know there are other boards that we have. I mean, I sat on the Board of Firearms for years, there's nine people on the Board of Firearms, they make very serious decisions. Those decisions are appealable under 4-183, that board is allowed to, under the statute, make declaratory rulings. I guess if we were to apply that same analysis that you're giving to this, we would change all of the members of the Board of Firearms to be judges as well.

CHAIRMAN MORELLI: And I don't know the answer to this, but are the members of that committee all lawyers, minimum of five years of practice who have to go through judiciary before they're--

REP. FISHBEIN (90TH): There's a requirement under the statute that at least the Chair be a lawyer. I know when I sat on, there were three lawyers. There are different appointees from different groups. So, you know, when I chair the meetings, I would make
the rulings and things like that, but I'm just taking what you're saying, and applying it to other places and it would appear that you do the same thing there.

CHAIRMAN MORELLI: Representative Fishbein, what I can say to you is that I'm sure that you're familiar with the fact that lawyers aren't necessarily always agreeable. I have 16 Commissioners, that includes me, and every single one of them embraces this title change as being helpful to the process, as being valuable to the process, as enhancing the process, making it more effective for the litigants, making the general public were cognizant of what it is that they are about to--what processes that they're about to go through, and it's not the easiest thing to get 16 lawyers to ever agree about one thing. I'm sure you probably understand that. In addition, the Connecticut Bar Association has also endorsed this title change, and they've done so not because there are a bunch of Commissioners out there saying, we'd like to be called judges, they've done so because they too believe that this is going to be beneficial to the processing of workers comp contested claims in that anytime people understand the process better, it's going to result in a more efficient, more effective, and a fairer process for everybody involved.

REP. FISHBEIN (90TH): I thank you for that. As far as changing the title to a judge, certainly judges of the Superior Court, appellate court, and the Supreme Court, they have a level of compensation, are you aware of any portion of the statutes that would be implicated by this change in title that would change compensation for Commissioners?
CHAIRMAN MORELLI: No. The Workers' Comp Act, it would merely swap out administrative law judge for where it currently says Commissioners. The act specifically spells out our compensation, and it is in fact based upon the salary of judges, so that—I believe you start out at $5000 less the highest death of Superior Court Judge, and then for your first four years you increase $1000 until you're $1000 below that highest step. It won't impact that in any way shape or form. It really won't impact anything other than to costs in terms of letterhead, etc. It doesn't change the statute, it doesn't change the process, what we're hoping is that it makes the process better.

REP. FISHBEIN (90TH): I appreciate that. With regards to section 7, the change to have the Worker's Compensation process fall under the umbrella of the Department of Labor, under what umbrella does a fall now, or is it just by itself?

CHAIRMAN MORELLI: It is currently under—statutory language, which is archaic, has is currently under the Department of Labor. So, I became chairman and may and they were just finishing up a two-year audit, and I think the only knock on the audit was, where's the paper trail between the Worker's Compensation Commission and the Department of Labor. There was no paper trail because since 1991 we have in fact administered it ourselves. We are not at all in any way, shape, or form administered by the Department of Labor. The statute says that, it is not accurate, and we're looking for a corrective measure.

As are the bulk of these—all of these, other than the ALJ change, all the other changes are
corrective, meaning that the statutory language currently does not reflect how things are actually being done.

REP. FISHBEIN (90TH): Okay, I got it. So, physically right now it is under the Department of Labor, but the statute does not say that, so you're just looking to comport. So, is the statute silent presently?

CHAIRMAN MORELLI: No, the statute says that we are under the Department of Labor for administrative purposes only, but we are not.

REP. FISHBEIN (90TH): [Crosstalk] supervisory, and that's the intent?

CHAIRMAN MORELLI: Right.

REP. FISHBEIN (90TH): Thank you. Thank you for the exchange. Thank you, Madam Chair.

REP. PORTER (94TH): Your welcome Representative. Any further comments or questions? Seeing none. We thank you for your testimony.

CHAIRMAN MORELLI: thank you. You all have a good day.


TANYA HUGHES: Good afternoon. Senator Kushner, Representative Porter, Senator Miner, Representative Polletta, and members of the labor committee, I am Tanya Hughes, accompanying me is Cheryl Sharp, Deputy Director of the Commission on Human Rights and Opportunities, we are here to testify on a few
bills. I will succinctly summarize them in the interest of time.

With respect to House Bill 7237, AN ACT CONCERNING A DISPARITY STUDY. The CHRO enforces the state antidiscrimination laws and contract compliance laws, which include the set-aside plan compliance under Connecticut General Statute 4a-60 and 4a-60g. The set-aside program guarantees that competitive bidding will give qualified yet underutilized small businesses within opportunities within the state to get state contracts. The program, in turn, contributes to the state economic development by allowing dollars to be turned over within our state and the state set-asides must be grounded in specific evidence that shows past or present discrimination against each of the protected classes in the set-aside program. The state last conducted a disparity study 30 years ago in 1992, and a new study is desperately needed to reflect the change in diversity in our state and our economy over the last 30 years.

The disparity study would provide an accurate picture of the availability pool and it will also ensure equity inequality in state contracting by affirmatively addressing underutilization, as broken down by women owned businesses, minority owned businesses, and businesses run by persons who are disabled. To administer the program effectively in a sure opportunity in contracting, and to support the efforts of small business and minority owned businesses to utilize state-funded contracting to help them grow, we strongly support House Bill 7237.

With respect to House Bill 7044, AN ACT CONCERNING SEXUAL HARASSMENT IN THE WORKPLACE. The #MeToo and
#TimesUp movements have rightly called attention to the problem of sexual harassment, which is a daily occurrence in our workplace and daily lives. House Bill 7044 understands that our entire approach to combating sexual harassment has been a little flawed. Current sexual harassment law is focused basically on prevention and it requires employers to adopt a policy prohibiting sexual harassment and to investigate any complaints they receive. If harassment stops, the employees don't have any remedy, even though they may have been subjected to some of the most vile and disgusting experiences known to man.

Clearly, an approach focused only on prevention has not worked. Under the Connecticut Supreme Court decision in Brittell versus the Department of Corrections, it is rare for employers to be held liable for sexual harassment even in extreme cases. Section 2 of this bill would remedy this problem by precluding employers from asserting certain defenses to sexual harassment complaints. We at the CHRO believes the bill strikes a reasonable balance between the rights of employees and the rights of employers, because the employer could still use this evidence on the question of damages.

The CHRO wants to point out that eliminating these defenses will increase the number of complaints reaching the public hearing stage at our agency, and cases that public hearing are generally presented that our staff attorneys who are extremely experienced and qualified, however very limited the number. So, we support the provisions of section 2 and section 3 to further protect the victims of sexual harassment, and we wholly support House Bill
7044, and a plot the intent behind this legislation, and we thank you for the opportunity to testify on these bills and were here to answer any questions you may have.

REP. PORTER (94TH): Actually, I have testimony of Senate Bill 64, did you want to speak to that as well?

TANYA HUGHES: Just that we support that bill with respect to religious discrimination. We believe that person should not be held as captive audiences by their employers where the employer would espouse their religious beliefs and opinions, and so in that respect we support that bill. Thank you.

REP. PORTER (94TH): Thank you for that. Any comments or questions from the Committee? Yes, Representative Smith.

REP. SMITH (108TH): Thank you Madam Chair and thank you for coming to testify in support of the sexual discrimination bill. You know, I remember having this conversation last year when this bill was before us, and basically your position is, as I hear it, that regardless of whatever the employer may have done, or regardless of whether the employer even knew there was discrimination, sexual discrimination happening in his or her office, that person would be held liable, and just, the only question is, how much are the damages? That's what I'm hearing with your testimony, did I mis-hear that?

CHERYL SHARPE: In sexual harassment cases that have been brought before our agency, there's a range of activity that has occurred to a range of people from different age groups, so sometimes complaints are
filed by parents on behalf of their minor children who are working in an establishment. Those individuals are sometimes subjected to illegal discriminatory sexual harassment, including unwanted advances in touching, and activities that would amount to a criminal violation of the law. In those instances where there would be no remedy because the respondent could say, as soon as we found out about it we put something in place, and we took immediate corrective action to prevent alike occurrence, so therefore we should not have any liability, those are the cases that were talking about because on too many cases we have seen children who are between the ages of 16 and 18 years old, who are old enough to work that still are very vulnerable in an employment setting be subjected to sexual harassment, including but not limited to being touched and fondled and having adults rub their private parts on them, and what we're saying is in those instances, whether it is a child or an adult, that those individuals should have some remedy available to them, the employer should not be allowed to say, well we didn't know about it, so now we stopped it, and so therefore we shouldn't--there should be no harm that befalls us, because there has been a victim in that instance, and that victim can be a child. I have litigated personally a case such as that--

REP. SMITH (108TH): The bill before us doesn't speak of age differences, right? There's no age at all mentioned in this bill. So, I understand your example in that example, you know, they should be prosecuted and thrown in jail. I mean, that would be my opinion. So, if that were to happen and they could be proven in the court of law that they in fact did that, then put them in jail, I mean that's
where they should be. If they're fondling kids or doing things inappropriately to kids, then let the law come down on them, I've no problem with that.

I'm talking about a situation where you have two employees engaged in some type of contact that the employer has no knowledge of, and it could start out as a friendly, promiscuous comment, and then it turned into something much more than either one of them--or much more than one of them actually wanted, and it becomes sexual harassment, but the employer never had an inkling of knowledge that this was going on until a complaint was filed. Meanwhile, the employer has a policy in place that prohibits the conduct from going on, but despite all that, under the language I read in this bill, that employer would still be liable, and the only question is how much? I just don't find that to be a matter of fairness and something that would be considered due process under a court of law.

CHERYL SHARPE: So, with the complainant--when you look at their due process rights because if there is a finding that the discrimination occurred, that the individual was sexually harassed, irrespective of their age, whether you're talking about an adult or you're talking about a child, they have been subjected to some harm. The current state of the law is that there would be no remedy for them. Sexual harassment is defined as repeated unwanted conduct of a sexual nature, and if it occurs in an employment setting, that individual who has been subjected to the illegal discrimination with the current state of the law will not have a remedy, and I'm just trying to understand--
REP. SMITH (108TH): Well, the remedy would be against the person who sexually harassed him or her, that's the remedy.

CHERYL SHARPE: There's no individual liability under the discrimination law. So, there's only individual liability for retaliation or aiding and abetting in a discriminatory act, and there are cases that say the individual liability will not attach, and so in this case--

REP. SMITH (108TH): So, I'm just--can I just-- I'm sorry to interrupt you, I just want to make sure I understand what you're saying, so you're telling the committee that if two co-employees, if one employee sexually harasses another employee, the employee who was sexually harassed has no remedy at law--step aside from your particular agency, but no remedy at law in Superior Court or any other court to be awarded damages?

CHERYL SHARPE: I'm specifically talking about our law--

REP. SMITH (108TH): Your agency.

CHERYL SHARPE: Our agency and our jurisdiction--

REP. SMITH (108TH): Right, but there is a remedy in the court of law, in the Superior Court, correct?

CHERYL SHARPE: with the discrimination suit being filed, you have to exhaust your administrative remedies, which means you would have to file with our Commission, and I'm saying if the complaint of this nature is filed with our Commission, the individual liability doesn't attach. It's only available for aiding and abetting and in retaliation. In terms of sexual harassment law and
looking at employer, it would be the employer that would be responsible, so here what I think you're saying is that it would be unfair for an employer who did not have the direct knowledge or personal knowledge of the sexual harassment to have to pay any damages, but what we're saying is that you also—you have two sides, you also have an individual who potentially is a victim of illegal discrimination, and if they are adjudged to have been illegally sexually harassed and discriminated against, then there needs to be some remedy is what our testimony is, and that remedy will come from the employer.

The employer's defense could be that, you know, look, we took immediate corrective action to prevent a like occurrence, which would then form the damages that the individual could get. So those damages wouldn't--

REP. SMITH (108TH): It's a strict liability damage award, so--

REP. PORTER (94TH): Excuse me one second representative Smith, I'm just going to jump in. As were going back and forth, I just need for whoever is speaking to be allowed to complete their thought.

REP. SMITH (108TH): I apologize.

REP. PORTER (94TH): Thank you.

CHERYL SHARPE: So, in this instance, because there are two sides you have the employer, and I understand your position that you're making, that the employer did not have the personal knowledge, but the employer who is doing business in Connecticut is responsible for, and there are some agency with the employees that are in their employ,
and because the definition of sexual harassment is repeated conduct that's intimidating and of the sexual nature, if the hearing reveals that the sexual harassment actually occurred, then you do have a victim. You also, from what I'm hearing from you, are saying on the other side you have an employer who had no knowledge, and so how do you strike a balance, and our position is the way that you strike that balance is that there has to be some recovery for the victim of the illegal discrimination. However, the respondent can also, when it comes to damages, the amount that has to be paid, the type of training that has to be conducted, the remedies available, they will be informed by the actions that were taken by the respondent. So, for our Commission, based on the state of the law, that balance has been struck here.

REP. SMITH (108TH): Thank you for your testimony, and I would submit to you that holding an employer strictly liable because a complaint is made in found to be true despite their knowledge I think is unfair, and I think the remedy, if there is no remedy available through your agency, would be a finding by your agency that sexual harassment in fact was found and then for that person to be able to go to Superior Court and be awarded damages because that's the against the employee that actually committed the sexual harassment. I think that's where the remedy should lie. I don't think it should be on the employer if that employer has no knowledge.

Now, I understand what you're saying that, well if it's repeated, the employer should have knowledge, that may or may not be true, and if they did or
should have known about it and you can make that finding, then perhaps there should be remedy, but if things go on behind closed doors that the employer is not aware of, I find it troubling then the employer would just be held to a strict liability statute with no potential defense other than, we didn't know about it, we had a policy in place, we've taken corrective measures, but regardless, despite all that, we are still going to sensibility against you for damages and award that to--does the word go to the victim under this bill does it go to whom?

CHERYL SHARPE: Yes, it will go to the complaining party, whoever files.

REP. SMITH (108TH): Alright, so despite all the best intentions of the employer, complying with the statute, and doing everything that he or she should have done, and without knowledge, they're still held strictly liable. That's the problem I have with the bill last year, that's a problem I have with this clause this year. It's an unfair process. I completely understand what you're saying, well there is a victim here, there is a victim there, let him or her recover their damages in the court of law, and I would recommend to you that the recovery would be much larger in the court of law in front of a jury who would hear that evidence. So, I think that's where it should lie.

CHERYL SHARPE: So, can I just--I understand your position, the Commission is a law enforcement agency, and our public hearing process there is an administrative law judge that presides over the public hearing process. The majority of cases are not ones where the employer, from the evidence that
we gathered in those cases, had no knowledge. That would be an outlier case that you're describing from the experience that I've had as a trial attorney prosecuting these types of cases. So, that would be a rare circumstance, and so I just wanted to bring that to your attention as well. I definitely understand your concerns and your position. Thank you.

REP. SMITH (108TH): I appreciate your comment. So I think if it is a rare circumstances then there should be some provision here that would at least allow for your agency to award no damages and submitted to the Superior Court because the employer, in those rare instances, did not know about it and did everything that the employer should have done under the statute, and I would also say in all fairness, and no disrespect meant, that the hearings in front of your agency are much different than the hearings in front of a judge in Superior Court. Thank you, Madam chair.

REP. PORTER (94TH): You're welcome Representative. Any further comments or questions? Representative Fishbein.

REP. FISHBEIN (90TH): Thank you, Madam Chair. You know, one of the reasons why the proceedings—and thank you for coming this afternoon and your testimony, you know, are different before your proceeding as opposed to Superior Court is in an administrative proceeding the rules of evidence are lax. So, you know, hearsay comes in an administrative hearing all the time, you know, and for whatever weight the determiner of the facts takes them in, you know, that doesn't happen in Superior Court. Presently my understanding is that
there's the cats-paw argument where the onus is on the complainant to prove that the employer did have a level of knowledge, and I think the underlying theory behind that is that they are in a dominant position, able to stop it, or perhaps make it get worse. So, that catspaw theory exists in your agency and in your adjudicative process, correct?

CHERYL SHARPE: Yes.

REP. FISHBEIN (90TH): So, the effect of this would be to take that condition precedent away from the system, to say to the complaining party, you don't have to prove that anymore, it's just automatically presumed that there was knowledge here, is that correct or am I reading too far into this?

CHERYL SHARPE: I don't know the intent of the drafters, but that was not our reading. We are willing to work with the committee on--if there needs to be some adjustments to the language, certainly taking into account everyone's concerns as raised, our mission is to eliminate discrimination, so our position certainly will always be to make sure the individuals are not subjected to illegal discrimination. However, where definitely open to working with the committee in balancing all of the concerns that have been raised by the stakeholders who we have to assist in the state of Connecticut with the needs of the labor committee.

REP. FISHBEIN (90TH): Would you agree with me that if the present situation is you have to show knowledge of the employer if you're taking that away, you're loosening up the system in effect, and you're automatically presuming that the employer had that knowledge.
CHERYL SHARPE: That's a very loaded question to me. It's difficult to answer because we have different stages in our process. So, there has to be a determination that there some, you know, credibility on the part of the complainant who is raising the allegation that they were subjected to illegal discrimination.

REP. FISHBEIN (90TH): Sure, cat's paw get's to the light at the end because you have sort of a probable cause standard. You know, is there really some glimmer here of legitimacy, and that sort of opens up the gate to the rest of the process through your agency, and then through that, you know, because sometimes the claims are made against the individual as well as against the employer, sometimes they're separate, but the catspaw sort of comes in when you're at the liability stage. Really towards the end of your process, the way I understand it, is that fair to say?

CHERYL SHARPE: I would like to have the opportunity to look at the language because I don't have it in front of me right now. As I said, I just have the testimony that we provided to you, and we can get back to you with the response of that's okay.

REP. FISHBEIN (90TH): Sure, I enjoyed the discussion. Thank you, thank you Madam chair.

REP. PORTER (94TH): Thank you Representative. Any further comments or questions? Representative Miner.

SENATOR MINER (30TH): Thank you Madam Chairman. So, earlier today the labor committee voted to draft a bill that was intending to cease discrimination based on a person's criminal history. So as I'm listening to this conversation I'm thinking to
myself, all right so here we go, where I have a law that says it would be a discriminatory practice determines someone's eligibility for employment based on criminal history, and at the same time develop a cause of action against the employer that was forbidden to discriminate against an employee that may have had a criminal history or some sexual crime in the past, and then wonder why we have a problem.

So, I don't know who, I guess, I don't know what an individual would do in that case other than just pay. So, can you help me understand how someone would work their way through the system knowing that's where we are before this very same committee today?

CHERYL SHARPE: Senator Miner, as you are aware, we already have a statute 46a-80, which is the state law and it applies to state employees who have a criminal conviction, and there is a balancing test once again. You look at how—what type of rehabilitation the person received, the type of job that they're actually seeking, how long ago did they commit the crime that they were convicted of, to determine whether or not that criminal conviction, or criminal record or history, can be used when that individual goes for a state licensee or state job. So, we already have that law in place as it relates to employment with the state of Connecticut.

As I understand, some of the proposed bills related to criminal history is really addressing the inability of individuals with the criminal record to be able to reintegrate into our society. So our position is that the same type of balancing test that the state legislator put into place decades ago
that applies to employment within the state of Connecticut, should be used as a relates to employment in the private sector, because it's a very informed way of looking at an individual's criminal past or criminal history to make a determination as to whether or not it will affect their current right or seeking of employment now.

SENATOR MINER (30TH): And so, in a case of where an employer has chosen to pass on the employment of an individual that may have been incarcerated for a crime that someone might point to in the future and say, look this guy actually knew but didn't take any action not to hire, and I have to go to work with him. So, they actually put me in the same office with this guy. How is it that this doesn't ultimately become a significant problem for the employer who had no choice. I guess the choice was that you could've turned the person down for the job and paid in that situation for the discriminatory action, and that would've saved them on the other end and also would've protected the other employee. Is that kind of where you're at?

CHERYL SHARPE: I'm just looking at the current state of the law, so right now the current state of the law, under 46a-80 is that if an individual has a criminal record or has a criminal conviction, they can seek and get a job with the state of Connecticut. It has not turned into this conundrum within the state of Connecticut where you have individuals who were formerly incarcerated unable to work for the state. We have many state employees who have criminal records or who have been convicted of a crime because the balancing test was used. So, employers have that available to them if that law
that you're referring to--the proposed bill you're referring to is crafted in a similar way. That way, like I indicated earlier, which I'm sure everyone here is aware of because of legislature—you know, it's a statute, says that you have to look at the amount of rehabilitation, how long ago did they commit the crime, the type of job that there now looking for, is it related to the type of job that they're seeking, so if someone has committed fraudulent acts and then they're looking to be a bank teller, then you could consider the fact that they were convicted of fraud because that's kind of related to do the job that they're seeking. If that type of balancing test, which is what the purpose of law is to find some balance, and what those individuals are looking for is to be reintegrated into society and not be throwaways. We can't have throwaway people in our society because then the society will follow not be able to function.

So, I think that 46a-80 did an excellent job in striking the balance between reintegrating individuals into society who have a criminal record while protecting the right of the state of Connecticut to determine what jobs an individual who has a criminal record can perform for the state of Connecticut so that we can all function in the society. I'm saying I don't have the bill, once again to--the criminal conviction bill, the reentry bill that you're referring to in front of me, but if the intent of that bill is to reintegrate individuals with the criminal record into our society, that is a laudable goal, and I think one that would benefit all of us if it is done in a balanced approach, and looking at what the crime was, what type of rehabilitation was received, and
how long ago it was, because you had individuals who had been convicted of a crime 20 or 30 years ago who were unable to get housing and unable to be employed in the crime that they commit it was in no way related to the job that they were seeking.

REP. PORTER (94TH): I'm just gonna jump in real quick Senator Miner because that bill is yet to be drafted, it is not on this agenda, and that is not the purpose of your testimony today, so we can continue that as a sidebar conversation if you don't mind Senator Miner, and the one thing that I will state, that crux of the bill is based on discrimination solely based on a criminal record, so let's take that into consideration as well, but as I said that's not what your testifying on today, and we've taken up too much time on something that's not on the agenda.

SENATOR MINER (30TH): Thank you Madam Chairman.

REP. PORTER (94TH): You're welcome.

SENATOR MINER (30TH): So, when Representative Smith was asking questions with regard to liability and risk, and the process by which someone might have to defend themselves, within a claim being made to CHRO with that--do you see that kind of conundrum on employment as being a defense in a case like this?

CHERYLE SHARPE: I don't think I understand your question.

SENATOR MINER (30TH): So, if we bar XYZ company from asking information or using information in terms of employment, could that be used as a defense should an employee bring a claim of sexual harassment?
CHERYLE SHARPE: I don't know what the language of the bill is that you're referring to, but it really—we can—it depends on what the law says. The current state of the law is that an individual who has alleged to have been subjected to a legal sexual harassment can file a claim of discrimination with us and then we would make a determination whether there is reasonable cause to believe it occurred or not, and then it can be certified to public hearing or end up a public hearing and then an administrative law judge would determine whether or not the sexual harassment occurred, and then there would be damages apportioned based on what happened, and based on the claims of discrimination, so that's the current state of the law.

The issue with the current state of the law is that unlike in other places when an individual is a victim, they can't get damages, and this is seeking to change that.

SENATOR MINER (30TH): I don't want to run afoul of the direction that the chair gave me. The other bill that I wanted to ask you about was 7237, and I don't have a problem with—I think that's the other bill you testified on, I don't personally have a problem with you folks undertaking such a study. The concern I have is about available appropriations. This year, last year, the year before the stories that we hear about how important it would be for CHRO to become more involved in some of the things that we hear, if we were to provide a pathway, a clear legal pathway for you folks to become administratively involved, what I would want to have happen is—that action creates a fiscal note and this one doesn't.
So, in the case of providing clear language that would allow CHRO to work with domestic workers, if that doesn't stay within available appropriations, and that in fact imagines that were going to have two or three employees yet this does, we end up in the same situation where we really don't have the statutory authority to control how you folks manage the folks that you manage. You get to call the shots on what they get to work on, and so I would rather see the language, with regard to the study, make clear what personnel you think you might need to use for the purposes of that study, even though they are currently in our employ, so we understand the magnitude of that versus the magnitude of everything else that we're going to undertake this year.

TANYA HUGHES: Okay, that would be conducted by outside people. It would have to be professionals to withstand the constitutional challenge, it has to be a very specific type of study.

SENATOR MINER (30TH): So, it's not an in-house study?

TANYA HUGHES: It's not an in-house study.

SENATOR MINER (30TH): Okay, thank you.

CHERYL SHARPE: The only in-house portion of it would be the staff that has to work on collecting some of the data sets that they need for data that needs to be collected by the external body that's going to do the actual research and study itself, and you're talking about economists, and analysts, and--so--that were already in talks with individuals who have expertise in this area.
SENATOR MINER (30TH): And you have money within your current budget to pay for that?

CHERYL SHARPE: No, we do not.

SENATOR MINER (30TH): So, without touching the appropriations nerve, maybe we can have an off-line conversation about where those dollars will come from, how about that?

CHERYL SHARPE: That would be great. Thank you.

REP. PORTER (94TH): Any further comments or questions? Seeing none. I thank you both for your testimony this afternoon. Representative Liz Linehan. Good afternoon Representative.

REP. LINEHAN (103RD): Good afternoon Chairwoman Porter, Chairwoman Kushner. Thank you very much for the indulgence. I too was stuck in a public hearing and couldn't leave because I was chairing that as well, but I am here today to testify in strong support of 7044, AN ACT CONCERNING SEXUAL HARASSMENT IN THE WORKPLACE. My testimony today will be mostly about the bill language found starting at line 52.

This legislation will remove one of the biggest roadblocks for victims of harassment to come forward and stop their abuse. Current law requires that an employer make an immediate corrective action when a complaint of harassment is made. This means that an employer must do something immediately to start to remedy the situation and begin to improve the hostile environment. While this is undoubtedly a good intention, it has had unintended consequences. Far too often, immediate corrective action means taking the victim out of the workplace, changing their work hours, location, or otherwise changing
their employment so that they are no longer in a hostile environment. This can lead to a host of concerns such as less wages in the service job like waiting tables if forced to change to a less desirable shift, or the ability to secure childcare with different work hours, longer and more expensive commute, loss of support system, or simply starting over in a new place with new people if their work location changes, and more. Why should a victim of harassment be made to change the aspects of their employment while their harasser is allowed to remain on the job? Knowing this happens is the main reason why victims don't come forward, and I'll take the opportunity to say that I know this because I lived it.

About 20 years ago I was sexually assaulted in the workplace, and when I went to my bosses to tell them, I was immediately sent home for a period of four months. While I was sent home with pay, the man who abused me actually got to continue his work every day making more money, and he even got a race during that time. The reasoning behind that I was told subsequently down the line was that they simply didn't know what to do with me. So, this law would actually make it so that they need to address the problem without taking the victim out of the workplace.

When I started to write this legislation last year, I had an intern come and sit with me so they could see the process, and as we started to talk about immediate corrective action, she pulled me aside when we walked out and said that this exact same thing was happening to her. As a waitress, she was afraid to complain about a man who was
inappropriately talking to her because she was afraid that should be taken off of that shift where she made the most money. So, this is a real-life problem that's happening not just 20 years ago, but it continues to happen today, and if we can make sure that when immediate corrective action is taken that if the employee is asked to change their work hours or any substantive change to their employment, that they agree to it and they sign off.

Additionally, the legislation makes an important distinction that if an employer has created and perpetuated an environment of harassment, that is not a claim of defense that they investigated and made an immediate corrective action. If the fact still remains that the employer supported or perpetrated the abusive of climate, they must answer to that claim. I thank you for your consideration. I urge you to support this legislation, and I'm available to answer any questions that you may have.

REP. PORTER (94TH): Thank you for your testimony, and I'm sorry that you were subjected to that. Any comments or questions from the committee? Representative Smith.

REP. SMITH (108TH): Thank you Madam Chair and thank you representative for sharing your passion on this bill, I know you testified before on this last year in the house chambers. Let's start with line 52 to 58, which seems to be the gist of your testimony today anyway. So, I just want to make sure I understand it because the language reads that there's no corrective action really unless the employee signs off, and then there's the second sentence which talks about the varieties of corrective action that can be taken, but I just want
to make sure that I understand—I'm understanding the intent of the bill, and I think I do, which is that whatever corrective action may be taken, it really cannot happen unless the employer signs off on it, is that—

REP. LINEHAN (103RD): The employee.

REP. SMITH (108TH): The employee—right, that's what I meant to say. The employee signs off on that.

REP. LINEHAN (103RD): Right, right, well no—any corrective action that changes the outline of their duties, where they work, when they work, how they work. So, if you see—if you look at line 54 starting on the end of 53, shall not modify the terms and conditions of employment without the complainant's express written agreement. So that means that if I come to my employer and say that someone has harassed or assaulted me that they can't just automatically, like in what happened to me, take them off the job, change where they work, how they work, or the timing of when they were—when they work without my approval, but the immediate corrective action can even go and talk to the employees who has been accused and maybe move them separately. So, it needs to be with the input of the victim, and that is where this language is important.

REP. SMITH (108TH): So, if the person who is accused is removed from, let's talk about a shift, remove from that shift and put on a different shift, and the person who was harassed is kept on the ship that he or she had, with that scenario would require a sign off by the employee?
REP. LINEHAN (103RD): If they are removing the victim-- I just want to make sure I understand your question, you're not talking about the victim but against the person who is accused?

REP. SMITH (108TH): Correct.

REP. LINEHAN (103RD): No, that would not need to be signed off.

REP. SMITH (108TH): So, the employer could make corrective action as long as it doesn't substantially affect the work conditions of the employee?

REP. LINEHAN (103RD): IT could potentially affect the work conditions of the employee. The employee would need to agree to that, or they could come to some agreement, but they just can't arbitrarily pull them out of the situation.

REP. SMITH (108TH): I'm just a little concerned about the language, and I'm happy to work with you on it, because it talks about corrective action may include but need not be limited to, so I think we'd like to give our employees and employers the most knowledge that we can so they can comply, but when we put language in "but need not be limited to" and I understand we can put every scenario in statute because, you know, it just can't be done, but I think--I'd hate to open up doors where there's a situation where, I don't know, the employer made a corrective action and--thinking that the employer was doing the right thing and somehow came afoul of the law because they did not get the employee to sign off on it. I don't want to create a cause of action against the employer if they're trying to
actually improve it. I understand where you're coming from—

REP. LINEHAN (103RD): But I don't want to keep the victims from coming forward because they're afraid that their work situation will substantially change. So, we need to—-I'm happy to work on that language, but I really believe that all too often it comes back to, well is this going to be difficult for the employer. I come from the side of the victim, and I can tell you how difficult it is from the side of the victim. So, I ask that when we work together with that language, keep that in mind, because I think that for far too long this has been happening where someone makes a complaint, and then they can't get their shift the next day because the immediate corrective action has been one that is punitive against the person making the complaint. So, I'm more than happy to work on language, I just ask that you think of both sides.

REP. SMITH (108TH): No, and I think that's fair and I think I always try to be fair and look at both sides. I mean having been up here, this is my ninth year, I pride myself on being fair in making sure that all parties are treated fairly, so that's where I'm coming from. So, I'm happy to actually try to do that with you.

REP. LINEHAN (103RD): I look forward to that, thank you.

REP. SMITH (108TH): The language that-- you may have been here, you may not of been here, I didn't see when you came in, I had a back-and-forth discussion with the folks from CHRO about the strict liability provisions of the statute, that despite an
employer not knowing that the sexual harassment was going on, the employer will still be held, under the language that's proposed, liable.

REP. LINEHAN (103RD): So, I-- and I did hear that back-and-forth, and while this language did come from CHRO, I read it differently then they testify to. So, there might be some disconnect, but the way I read that language is actually that if an employer creates an environment where things like that are okay, that's how they should be held liable, right. So, let me give you another real-life example, so when I would come into work every day sometimes I would--in this may sound humorous, but I assure you sure it is not, I would walk into an inflatable sex doll sitting in my seat, and if I complained about that it's, ha, ha, ha this is funny, good times, but no one actually ever did anything about that, and then when I was assaulted at work and then I go to make that complaint, and they took immediate corrective action, and said well, you know, no problem, there's our defense. We found out about the complaint and took immediate corrective action. The truth of the matter is that the environment that the employer allowed to have in their place of business prior to my assault was something that actually lead up to why that gentleman but that that assault would be okay. So, do you see my point on that? So, I read it a little differently.

REP. SMITH (108TH): No, I can see your point, and I would agree with you. I mean if the employer knew about it and allowed it to continue--

REP. LINEHAN (103RD): But not the assault.
REP. SMITH (108TH): Not the assault but the environment, like there's a sex toy in your chair--

REP. LINEHAN (103RD): So, while my environment might've been considered really egregious it over the top and there's no way that you can question that, but there are also little things that happened day-to-day, micro-aggressions against someone that would create in a hostile work environment, and if, you know, a fish rots from the head down, so if they didn't know it was happening in the workplace, is it really because no one told them or is it because they weren't paying attention and they weren't making the appropriate workplace climate.

REP. SMITH (108TH): Yeah, I think that could be on a case-by-case basis. I think that's based on the evidence that's presented to the hearing officer because reasonably people-reasonable people can conclude that the employer could have or should have known about what was going on by, you know, locking him or herself in office and disregarding what's happening in the environment within his or her own workplace, you know, well then that's their tough luck and they should've known.

On the other hand, there are situations that I can imagine the long behind closed doors and between two adults that may at one time may have been consenting in turn to not consenting in the next thing you know you have a sexual harassment complaint and may be rightfully so, but maybe the employer had no knowledge of it. So I'm just try to strike a fair balance between the two and make sure that--let the facts come out, and if it's proven that there was sexual harassment then let the chips fall where they may against the employer, he or she deserves it, but
if there comes out that there was no knowledge and there's no way they could have known of what was going on based on the circumstances, then maybe they shouldn't be held liable.

REP. LINEHAN (103RD): And so, if you can help find language that hits on that point that you just said, that there's no way they could have known, I think that's where the key is right. There's no way they could have known. So, if that's behind closed doors, I get that, there's no way they could have known, but when I read it, I saw it as overall climate in the workplace. So perhaps there would be within the leadership of the committee a better way to state that but still allow it not, you know, allow them to get off the hook just because they did immediate corrective action. I think there might be ways—there might be some middle ground there, and I have great faith with the chairs of this committee that they help to find that language.

REP. SMITH (108TH): Well I look forward

REP. PORTER (94TH): Thank you. Any further comments or questions? Seeing none. Thank you very much Representative. Up next we have Representative Jillian Gilchrest. Good afternoon.

REP. GILCHREST (18TH): Good afternoon

Representative Porter and members of the labor committee. My name is Jillian Gilchrest and I'm here to ask that you amend House Bill 7239, to include the licensing of nail technicians, eyelash technicians, and aestheticians in Connecticut. We are eager to have this discussion and you'll hear from many in the profession today.
I came to the issue of licensing these professions because of my work as chair of Connecticut's Trafficking in Persons Council. In 2016, the Department of Labor conducted a one-day inspection of 25 nail salons and found wage and hour violations in all but two. That same year, I analyze Connecticut tax and unemployment data and found that a large number of nail salons of Connecticut misclassified their employees or subcontractors and avoid paying workers compensation and unemployment insurance.

Since beginning this journey, my interest in understanding has continued to grow. I've met women who been on this journey for much longer than I have. Women who have been injured, and women who have been financially impacted by Connecticut's lack of licensing. I think that we must license this profession to improve public health, prevent human trafficking, and legitimize an industry that has the potential to thrive. Since introducing legislation, with Representative Camillo, I've heard from a lot of people, the overwhelming majority of whom are women, that they have been injured or gotten infections from a Connecticut salon. The stories are horrifying, and women are angry to learn that in Connecticut we don't require any licensing or training, putting them and others at risk.

Also, while not all nail salons have human trafficking, there is trafficking taking place at some salons in Connecticut, and I detailed that in my testimony. As it stands today, anyone in Connecticut to work as a nail technician, eyelash technician or aesthetician and open a business, no training needed, no oversight. The local Department
of Public Health might go in but only to ensure that the facility is up to health code. Besides public health and human trafficking, licensing is a way to support what is largely a women owned business in Connecticut.

I've had the pleasure of meeting and speaking with many of these women who are trying to build their business in Connecticut but are struggling because they don't require licensing. Nails, skin, waxing and eyelash treatment are a multi-billion-dollar industry for our country. Connecticut is currently losing out because of her inability to take action to license this profession. This impacts our economy, and this impacts the women who own these business in our state.

One woman, Temeka Jackson, who has submitted written testimony, faced many setbacks what you try to expand her knowledge and clientele. She was unable to attend trade shows because she wasn't license. And when she won a spot on the show Nailed It on the Oxygen Network she almost got eliminated from the contest due to the lack of licensing. Tamika ended up leaving Connecticut in order to pursue her career and passion elsewhere.

Another woman, Julia, who you will hear from today, is trying to build her aesthetics business but is also considering leaving Connecticut. She is struggling to build the business she envisions because she must spend her time training new hires instead of investing in the future of her business. Connecticut's lack of licensing is holding her back in many like her.
This committee and this legislature has an opportunity to support the small business owners to improve public health and prevent human trafficking. Since 2001, this body has introduced legislation to license nail technicians eight times. We are the only state in the country that does not license this profession, and I believe we must take action. I have engaged those in ministry, connected with the Department of Public Health, and have research what's being done in all other 49 states, in particular New York, Massachusetts, and New Jersey. I'm happy to continue the conversation. Thank you for the opportunity to testify, but what I won't stand for his continued inaction. So, thank you again for allowing me to have this time today. I'm happy to submit language to this committee and answer any questions. Thank you.

REP. PORTER (94TH): Thank you representative, and just for clarity, did you say Connecticut is the only state who does not license this profession?

REP. GILCHREST (18TH): Yes.

REP. PORTER (94TH): Thank you. Any comments or questions? Representative Fishbein.

REP. FISHBEIN (90TH): Thank you Madam Chair. Good afternoon Senator. Looking at 7239, I didn't see any portion of this that would have to--where this licensing would be inserted, is there a particular portion or--I'm just trying to drive what you were talking about which I will address separately, but is there a particular portion that goes to licensing that you would have us modify?

REP. GILCHREST (18TH): Just asking that you amend that legislation. We saw that as a link because of
unemployment. So, as I stated—cited in the research done back in 2016, what we're fighting is that with the illegitimate nail salons in the state of Connecticut they're filing their paperwork improperly and so were not getting their unemployment insurance. This bill, this proposal could come up in either the public health committee or the labor committee because it touches both areas, and so were just looking to have our opportunities speak about this issue, and so—as to amend that bill.

REP. FISHBEIN (90TH): So, you're in favor of this bill presently as it is before us, but you would have us add—with all due respect, a different concept—

REP. GILCHREST (18TH): No, I would ask for strike all and add this amendment.

REP. FISHBEIN (90TH): Okay, which, I mean I would think that that would go through General Law actually, which has cognizance over the Department Of Consumer Protection, but you know—I'll tell you this, I, about five years ago, had a facial and evidently they stripped my face and it burnt, and I didn't know how thin my dermis had become, and I got a very bad sunburn about eight months after. I was in Florida, and they had to emergency fly me back to Connecticut. I had actually gotten a staph infection all over my face, my upper chest. The three doctors at the hospital said they had never seen a staph infection that bad before. I have photographs in my phone still. You know, so I'm certainly sympathetic to the situation. I had a constituent come to me a few years ago to talk about it—aestheticians and being license, so I'm certainly sympathetic. I just
don't know that it fits in this bill quite frankly you know, because being the labor committee, I think it will go through General Law, but I'm there with you on the concept.

REP. GILCHREST (18TH): I'm sorry that happened. I appreciate you sharing that story, and since introducing this legislation I've heard countless stories like yours. I was told this either could go through General Law, public health, or labor, and so that's why we did come before you today. I just feel like we do need to take some action.

REP. FISHBEIN (90TH): I would encourage you to try to do the same thing through General Law because I would think that anything that we insert here is going to get kicked there anyway like that, so, you know, expedite the process, but anyway thank you for your testimony. Thank you, Madam chair.

REP. PORTER (94TH): Thank you Representative. Any further comments or questions for the representative? Seeing none. Thank you for your testimony Jillian. Up next we will have from our public list Mr. Sal Luciano. Good afternoon Mr. Luciano.

SAL LUCIANO: Good afternoon Representative Porter, Senator Kushner, and members of the Labor and Public employees committee. My name is Sal Luciano and I'm proud to serve as the president of the Connecticut AFL-CIO, a federation of hundreds of local unions representing more than 220,000 members in the private sector, public sector, and building trade. We strongly support Senate Bill 64, AN ACT CONCERNING CAPTIVE AUDIENCE MEETINGS. I would like to thank Senator Looney for introducing this
legislation as a proposed Bill, and I think the committee for raising it.

Seventy percent of people say that they would join a union if they could, and yet the numbers aren't anywhere close to that, and the reason for it is because of captive audience meetings. Unions help bring workers into the middle class. On average, workers who joined together to bargain wages, hours, and working conditions are higher wages, utilize fewer safety net services, have greater productivity in experience less turnover than nonunion workers. Yet when workers try to form unions, employers routinely respond with campaigns of threats, coercion and misinformation. In theory, federal law protects workers freedom to form a union, but in reality, workers struggle to maintain this basic right free from employer harassment and intimidation.

Senate Bill 64 protects workers fundamental right of freedom of thought and gets to employers who misused their authority by requiring employees to listen to speech concerning core matters of individual conscience unrelated to their jobs. The bill simply creates a clear and narrow prohibition barring employers from requiring employees to attend meetings or listen to speech concerning political and religious matters unrelated to their job performance.

An economic policy Institute study found that 63 percent of employers interrogate workers in one-on-one captive audience meetings, and 54 percent of employers threaten workers in such meetings. It also found that the average employer holds more than 10
captive audience meetings during an organizational drive.

I have just a few examples of where they've been held recently in Connecticut. In short, an employer may hold any meeting they want, they can say whatever they want. Senate Bill 64 in no way prevents employers or anyone else from discussing religion, politics, or any other subject. The only thing the bill prohibits is firing or otherwise disciplining employees who leave the meeting because they do not wish to listen to the discussion of such topics. We employ the committee to allow the workers the freedom to make their own decisions about forming a union, free from employer harassment and intimidation.

Oregon has passed similar legislation, other states including New Mexico, Michigan, New Jersey, Washington, Wisconsin, and West Virginia has proposed comparable worker protections. We urge the committee to act favorably on Senate Bill 64. We also support AN ACT CONCERNING THE UNEMPLOYMENT INSURANCE FUND, and I'll stop there.

REP. HALL (59TH): Thank you Mr. Luciano for your testimony this afternoon. Are there any questions? Representative Fishbein.

REP. FISHBEIN (90TH): Thank you Mister Chair. Good afternoon Mr. Luciano. So, my understanding is that in 2008 the Supreme Court struck down the captive audience, set. How does this bill jive with that precedent?

SAL LUCIANO: The Supreme Court has never struck that down. The United States Supreme Court has recognized the NLRA contains no expressed preemption
provision, that's the Building and Construction Trades Council versus Associated Builders and Contractors of Massachusetts, Rhode Island, that's 507 U.S. 218, 224, and 1993.

REP. FISHBEIN (90TH): Okay, so what about the case of the Chamber of Commerce of the United States of America versus Brown, which happens to be the governor of the state of California, isn't it--it has to do with captive audience. It had to do with--the state of California passed a law that said that any business that received at least $10,000 in state assistance was restricted in this captive audience activities, and the U.S. Supreme Court said, no you are preempted by federal law.

SAL LUCIANO: I'm not familiar with that at all. I know that the former Attorney General ignored the United States Supreme Court admonition to not declare "preempted all local regulations that touches her concerns in any way the complex interrelationships between employees, employers, and unions" and that was Metropolitan Life Insurance Company versus Massachusetts, 471 USA 724, 757, and 1985.

REP. FISHBEIN (90TH): Okay. You said he ignored--so the former Attorney General, I believe the forming Attorney General on two occasions opined that should this legislator pass a law that barred the concept of captive audience that that would be not constitutional.

SAL LUCIANO: I apologize Representative Fishbein, I wasn't clear. The former Attorney General, George Jefferson, did rule that it would be a case of preemption, but the former, former Attorney General,
who would be Blumenthal, made no such claim, in fact, he felt it was legal. Our AFL-CIO attorneys also think it's legal as well as many other--

REP. FISHBEIN (90TH): No, I've read Senator Blumenthal's opinion on that, and I don't recall where he said he thought it was legal. I thought he couched it and what he said was that because--that the automatic presumption is that a bill passed by the legislator, it's automatically presumed to be constitutional, and he in his role as Attorney General would have a duty to defend that. That's, I believe, what the decision said. He never said it was constitutional.

SAL LUCIANO: No, but I believe he said he felt that it was legal.

REP. FISHBEIN (90TH): I differ, but--whatever. So, I guess, you know, should this legislation pass and end up in court, I just don't want to create a lot of expense for the state, and I'm just trying to get these two things together as far as how the precedent, you know, the NLRB has opined on this. You know certainly--and I don't want anybody being coerced. I don't want anybody being threatened, those are all actionable presently. I just don't want to unnecessarily create litigation. So, I think you for your testimony. I'm going to go read Senator Blumenthal's letter again to make sure that I'm--I just read it two days ago, so, but thank you. Thank you, Mister Chair.


SENATOR KUSHNER (24TH): Good afternoon. How are you today? I understand from your testimony that this happens frequently and in fact it has happened here
in Connecticut that people have been coerced into sitting through meetings were sometimes frequently and repeatedly over a short period of time. Have you had any experience of folks after those meetings. You know, what kind of an atmosphere does that create? [background noise] Your microphone is not on.

SAL LUCIANO: It's one of fear and intimidation. There's going to be a vote tomorrow for South Windsor for the Amalgamated transit workers. Some schoolbus drivers have been trying to unionize, and they been subjected to this and they've been told that the union will retaliate against them if they try to get out and no put liens on their homes, and these outrageous claims. I was just at a meeting Saturday with them and it was mostly--it's like where you get this crazy stuff, and it was from these captive audience meetings.

SENATOR KUSHNER (24TH): I know I've been involved in situations where workers have had repeated meetings, as I said, over and over again haranguing them about the adverse impact of the union, and this has been my experience, I wonder if you've heard this as well, where's worker sometimes come out of those meetings and they haven't been convinced that what they heard was true or factual, but the atmosphere itself create such a feeling that this is a bad environment, you know, it creates a really negative hostile environment and somehow that becomes associated with the union and they do often raise concerns that if we unionize, does this mean it will stay like this, it will be hostile, you know, for the rest of our work lives. I think that's been my experience, that it's more about the
atmosphere this created than the veracity of the assertions that are being made by the employers, has that been your experience?

SAL LUCIANO: Yes, we did have a victory at the Stanford Hilton Hotel. Many of the cleaning people are female immigrants and they were told, just about point-blank, that if you unionize ICE is going to come and somehow deport you. So, it's truly one of fear in a hostile environment.

SENATOR KUSHNER (24TH): I also know that there are sometimes concerns that, you know, people ask, why can't you just get up and walk out if you are uncomfortable with the meeting, and I have been aware that sometimes people are retaliate against by the employer, required to sit there and hear that information. Has that been your experience as well?

SAL LUCIANO: Yes, in fact that's why we're asking for this because in fact they can be disciplined if they walk out and they know that, and so they sit there whether it's for religion or pushing them not to forming union, it's coercive and there's nothing that they can do about it.

SENATOR KUSHNER (24TH): Have you ever heard of instances where an employer in a workplace that has different hours of work, in other words a 24/7 operation, like a hospital perhaps, where people have days off in the middle of the week, have you ever heard of a situation where people were required to come in on their day off, albeit with pay, but required to come in on a day off to attend a captive audience meeting?

SAL LUCIANO: Yes, and in addition, I mean, it's not un-routine in these captive audience meetings to
identify union supporters and union leaders and to fire them, even though it's a legal, simply as a regular cost of doing business to try to ensure that the workers do not unionize.

SENATOR KUSHNER (24TH): So, in that case that you just mentioned, you mentioned that sometimes they do it even where it's obviously a legal and therefore still rehire the employee with some back pay sometimes, and you mention that the cost of doing business, has been your experience in those instances that it's worthwhile to the employer, at least a judge it to be worthwhile, because years later when it comes to past that they have to make that payment the union has already been defeated?

SAL LUCIANO: Absolutely and there's not--even though it's a legal, there's no stronger message than we just fired the union ringleader.

SENATOR KUSHNER (24TH): Yeah, I have seen that as well. I also am aware that it would--it is considered legal by the National Labor Relations Board that you can conduct a captive audience meeting and require that only certain workers attend, so there has been instances in my experience where workers who were union leaders, and known to be union leaders at the time, were prohibited from coming to captive audience meetings to perhaps ask questions, because they were afraid they would ask questions or make statements that would point out inconsistencies in what was being said by the employer. Has that happened in your experience?

SAL LUCIANO: Absolutely. They invite whoever they want to invite, and they're not about to invite somebody who could say, what you just said is
misleading or what you just said is more than misleading, it's a lie.

SENATOR KUSHNER (24TH): I guess my last comment, as much as this question is that, you know, I know that there's been a lot of concern about protecting the secrecy of the ballot in a union election in a workplace and really respecting the secrecy of a ballot, which I think most people in our country due respect secret ballot elections and hold them dear in many cases, but I think it's really interesting that employers can talk about a union election in those kinds of terms but would never think that it would be okay to talk about a political election, and I think that we've drawn a distinction too often between what is sacred in this country when it comes to our democracy, who we elect, and how we vote in elections for public office, but have it respected workers' rights in the same way. So that's more of a comment than a question, but I know that's how I feel about it.

SAL LUCIANO: Thank you Senator.

REP. HALL (59TH): Are there any other questions or comments from the committee? Thank you, Mr. Luciano.

SAL LUCIANO: Thank you.

REP. HALL (59TH): Next, we have Representative Robin Comey.

REP. COMEY (102ND): Thank you very much. Thank you, Chairs Porter, Kushner, Vice-Chairs, ranking members, and esteemed colleagues, it's good to be here. I'm happy to be able to submit testimony today in support of House Bill 7239, which is AN ACT CONCERNING THE UNEMPLOYMENT INSURANCE FUND, but I'm
also in support of amending the bill to include the following, which is "to require the licensure of estheticians, eyelash technicians and knelt in the technicians and that any business offering aesthetic or nail services be under the management of a licensed esthetician or nail technician."

I'm really proud of the proactive work that our local health department, the East Shore District Health Department, has done in this area serving, of course, not only Branford but surrounding communities. Several years ago, they saw an opportunity to develop the relationship with the nail salons to improve the health and well-being of the customers that the salon serves. So, they work with these businesses hand-to-hand and provided training on the importance of sanitation and other best practices.

This pilot program has been offered to the dozens of salons, and we have more than a dozen, throughout our town, and has been allotted by salon owners as beneficial training that was important to creating safe environments for their customers. Further, the current health department budgets being what they are, they're being asked to take a 20 percent budget restriction according to my reduction, according to my director of health. I am confident that they would welcome any additional income in revenue with associated registration fees that would help them carry out the licensing duties.

Additionally, I have been speaking with the local business owner from the Branford Academy of hair and cosmetology who I only this past weekend had the honor of presenting an award to from the shoreline Chamber of Commerce, and the Branford Academy also
holds an extensive amount of a licensee and accreditations from a wide variety of professional certifications, and they provide the necessary training for future manicurist and aesthetics and owners as well, and they told me they support this bill and that they would, you know, have some negotiations that we would like us to make with it, but as we discussed of the hours of certification that would be required for them, they were confident, and I'm confident as well, that we can come to an agreement that would protect our consumers and the business owners.

Lastly, I would just like to mention that the media report that sometimes these businesses can be used in human trafficking instances, and sadly I am aware that Branford we have made arrest more than once and some of our illicit are still acting in this realm. The businesses are still in operation. I believe that legislation can provide an important role for the health and safety of consumers and the women and men who work in this field. I thank you for the hard work you do and the consideration in support of these bills.

REP. HALL (59TH): Thank you Representative Comey. Are there any questions for Representative Comey? Thank you for your testimony this afternoon.

REP. COMEY (102ND): Thank you. This is my first time coming out here as a legislator.

REP. HALL (59TH): You did a great job. Next, we have Eric Gjede.

ERIC GJEDE: I've been testifying appear for I think six years, and I think that's the first time someone said my last name right, so thank you very much for
that. My name is Eric Gjede, and I'm here today on behalf of CBIA testifying in opposition of two bills, Senate Bill 64 on captive audiences and house Bill 7044 CONCERNING SEXUAL HARASSMENT IN THE WORKPLACE.

Senate Bill 64, the captive audience bill, is nearly identical to house Bill 5473 from the 2018 legislative session. Both attempted to regulate an employer's ability to discuss political matters with employees in the workplace, and the problem is that political matters, as defined in the bill, can be anything from legislation to regulations impacting the business, or whether to support particular community or civic organizations, and even with the carveouts in subsection F, there's a limitation in subsection F, it does not change the fact that the states are preempted by the national Labor Relations act from regulating the speech or conduct described in Senate Bill 64.

Our former Attorney General submitted a very thorough legal opinion to this effect to Senator Fasano less than a year ago, but aside from the legal arguments, I think that legislation like this hurts our potential for economic growth. Business owners work alongside their employees every day, and they need to have the ability to have honest open conversations with those employees. In fact, part of the policy that the courts of use is that this state preemption ensures that the employees get to hear both sides of an issue. So were not going to be able to convince--I guess I concern is that were not to be able to convince businesses to come to the state if there's a fear that every time they attempt to have a conversation with their employees, some will
subjectively decide that the speeches to political and be able to walk out of the room.

On the sexual harassment prevention bill, obviously sexual harassment is a very serious issue in the workplace, and my testimony in opposition of this Bill no way makes light of the issue or denies that such conduct exists. In fact, I submitted testimony in a previous public hearing on Bill 5271 that businesses are willing to help this committee cracked policies so that even more businesses have to provide sexual harassment prevention training, because we want to make sure that workplaces are safe, but doing away with the affirmative defenses is the exactly wrong type of policy to pursue because as the United States Supreme Court has noted, these defenses are powerful tools that incentivizes employers to be proactive in their response to incidents of harassment in the workplace, and if enacted, even businesses that have done all the right things including providing the training, properly investigated incidents, took corrective action, and proven-then prevented retaliation could be held to be civilly liable for an incident that they did everything that they could to prevent.

Further, the restrictions on the ability to make corrective actions that modify employment Commissions without the complainant's written permission are potentially problematic. I can just see situations where, you know, employers want to do the best thing possible for both the employee while still affording the person being accused of their due process rights, and you want to make sure that that person who is a victim here is out of danger as
quick as possible while the investigation goes on, and if we don't provide that due process, if we don't protect that individual from further issues, we are potentially liable anyway. So we do ask that you take another look at this bill and see that, you know, we certainly are trying to do the right thing by employees here, and we think the policies on the books when properly enforced and with properly implemented by employers are an effective tool, and the fact that we are seeing more complaints regarding sexual harassment in the workplace I think is a good sign, not in the sense that bad things are happening to people, but people are finally starting to realize that this is a problem and are starting to come forward with complaints and use the law that are on the books. So, with that, I'm happy to take any questions.

REP. HALL (59TH): Are there any questions from the committee? Representative Polletta.

REP. POLLETTA (68TH): Good afternoon Eric. I forgot how to say your last name [laughter]. So, I just want to talk briefly about Senate Bill 64 concerning the captive audience meetings. The national Labor Relations act, which we heard so much about, and it was before I got here when the opinion was rendered, I think Jeppson [phonetic] had two opinions correct? One was in 2011 and one was in 2018, is that my understanding?

ERIC GJEDE: That is correct. So, it was not a formal opinion back in 2011. I was actually the LCO for this committee back at that point in time, and I remember the bill being debated for 11 hours on House floor, it was one of the longest debates of any bill I believe to come forward and that or any
of the prior years, and after that debate I remember that the Attorney General did submit a letter to the labor committee, I remember looking at that letter, that the bill in his opinion was likely preempted by federal law, but then, yes—to answer your question, last year, I believe April 26 was the date, he submitted a formal opinion to Senator Fasano affirming his belief that it was preempted, and I believe that there was a question asked of another person testifying that, you know, why had in the previous Attorney General you differently, and the answer to that is it may be the fact that Attorney General did not have the benefit of the case the US chamber versus Brown that was decided in 2008, which cited in Attorney General Jefferson's testimony and the prior Attorney General submitted his letter, I guess, in 2007. So, he didn't have the benefit of seeing that additional case.

REP. POLLETTA (68TH): So, that leads me into my next question, I wonder whether or not an Attorney General can resend his predecessors opinion. I find that somewhat troubling that we within go and change the opinion of an individual that was here less than a year ago, but I guess he has the right to do that, correct? He can render his own opinion, the new Attorney General?

ERIC GJEDE: I mean-- I don't know that he is planning to do that, but potentially he could put out I guess his own. I would argue that in reading the Attorney General's formal opinion issue last year, it's a pretty thorough piece, so.

REP. POLLETTA (68TH): Okay-- and I guess my last point, and I'll be brief here because I know we have a number of individuals coming up, is the
possibility that if we move forward with this Bill that we could end up in court, which was then open a lawsuit and then potentially cost the state a lot of money, similar to the instance in California, and again I guess because we are challenging Federal Law here. I mean, the National Federal Relations Act kind of stated what it stated, and now we're trying to roll this back. So, I guess my concern more than anything, not really a question, is whether or not were going to end up incurring legal fees and costs to fight this, and I think the past legislature, I was here last year but I wasn't here in 2011, realize that and that's why the bill died in the past, and now it seems like it's back. So, I certainly have concerns going forward. Thank you. Thank you, Senator.


SENATOR KUSHNER (24TH): Hello, how are you this afternoon?

ERIC GJEDE: I'm well thank you.

SENATOR KUSHNER (24TH): So just addressing your last comment from the good representative, is that how you say it? [Laughter] I never know that stuff. My question is that you did mention that you were the LCO to the labor committee in the past, and hasn't been your experience that in watching bills that come through committees and through legislative sessions, do they often come back the following year, the following where, and the following year, and different sessions take different actions on them?
ERIC GJEDE: Do—you're asking—do they keep coming back and then are different outcomes, is that what you're asking?

SENATOR KUSHNER (24TH): Yeah, and maybe there modified from time to time, tweaked, to maybe get at some of the testimony that have been provided are some of the objections that have been provided in the previous session.

ERIC GJEDE: Yeah, I mean, it certainly is my experience as a lobbyist involved with this committee that things come back every single year with little twists, but--so yes, yes.

SENATOR KUSHNER (24TH): And sometimes those get passed into law and their good law.

ERIC GJEDE: Yeah, absolutely.

SENATOR KUSHNER (24TH): I guess I have a question about—you mentioned I think that a previous hearing that in your position, is it executive director of CPIA?

ERIC GJEDE: No, just vice president of governed affairs.

SENATOR KUSHNER (24TH): Sorry for promoting you there.

ERIC GJEDE: I would take it if I could get it [laughter].

SENATOR KUSHNER (24TH): And probably someone else would not want to give you that because they're in that job, but I was interested in knowing how many employers does your organization represented in the state of Connecticut?
ERIC GJEDE: Thousands of employers with many hundreds of thousands of employees throughout the state.

SENATOR KUSHNER (24TH): And how long have you been there?

ERIC GJEDE: Six years.

SENATOR KUSHNER (24TH): And in those six years have you known any of your member organizations to have conducted captive audience meetings?

ERIC GJEDE: I'm not aware of that. I'm not testifying to the fact that it hasn't happened. I don't honestly know.

SENATOR KUSHNER (24TH): This is a question that has come up where you have actually polled members of your organization on this question?

ERIC GJEDE: We have not.

SENATOR KUSHNER (24TH): Okay, and have you in your experience ever attended a captive audience meeting?

ERIC GJEDE: No.

SENATOR KUSHNER (24TH): So, you don't really have knowledge of what a captive audience meeting is like from your own experience?

ERIC GJEDE: From personal experience, no, I don't.

SENATOR KUSHNER (24TH): And in the workplace--earlier and questioning the president of AFL-CIO I more said--made a comment on my perspective, but in your view, do you think that if workers were called into a room and told they had to sit through a meeting, a political speech meeting, about who they should vote for in the upcoming governmental
election regarding the President of the United States, which you think that would be a good idea, something that workers should have to do?

ERIC GJEDE: I mean I don't--do I think it's a good idea? No, I don't necessarily think it's a great idea to go in, but I do think there is a benefit to hearing multiple sides of any issue. You know, I have a lot of conversation in this building, I don't agree with all of them, but I sit through many of them, I sit through many meetings where I don't agree with everything, but I feel that it is informative, you know, so yeah, I--does that answer your question?

SENATOR KUSHNER (24TH): Well, I guess the difference is when you're referencing that you sit through those meetings, you sit through them voluntarily, is that correct?

ERIC GJEDE: Yeah, I guess so, and my particular circumstances but at the same time, I mean, I'm being paid to sit there and do it, so--

SENATOR KUSHNER (24TH): And your employer is paying you to sit there and listen politely, and here all points of view, but if you chose--if it became a situation where you believe that the meeting had turned and was coercive, which you have the ability to get up and walk out?

ERIC GJEDE: I don't know that I've been in that experience, but I think a lot of that is subjective, and I think that's one of the biggest problems with this bill is that it relies so heavily on what the individual employee thinks is political, and what the employee thinks may be threatening or corrosive. I guess that's a real problem with the legislation
is that it's not--there's no clarity here, I mean, so how do you as an employer how do you hold a meeting where at any point in time anyone could decide anything it's too political, and that's really that's the issue here. At what point does a become such a problem that you can't have any conversation.

SENATOR KUSHNER (24TH): I don't think we're talking about any conversation, I think we're talking about very specific about conversations--for instance I know of an instance where a woman was brought into a captive audience meeting in May to sit there and listen to her employer, she asked a question and then was harangued and started crying essentially in front of the employer, very intimidated, very much coerced, and was visibly shook and crying, and yet that worker could not get up and walk out of the room to even collect herself because she might be subjected to retaliation or punishment for having done so, and I think that's a very common experience of workers in a setting where they are attempting to exert their rights under the national Labor Relations act to unionize, and unfortunately it happens far too often. I know you have not had that experience, but I would venture to say if that was happening to you and you were so upset about something that was being said in your presence at a meeting, you would have the ability and would take advantage of the ability to get up and leave the room, as I have done what I have felt a situation had turned abusive.

So, I think it's really a question of protecting the rights the workers as much is anything, and I know that you're coming from the perspective where you
want to protect the rights of an employer to resist unionization and it's your job I understand that's why you're here, but I think that this bill is really intended to provide an atmosphere in the workplace where workers get to make those decisions free from interference, free from intimidations, free from coercion, and really to make those decisions about their own organization and self-organization in the workplace without interference by the employer, and that's the intent of this bill, I know that, you know, I understand that you're here to oppose it, but I think that you're missing that point.

ERIC GJEDE: And if I may just respond to that. I think the problem is that the bill goes far beyond what you just described. You know, you're attributing my opposition based on the fact that we don't want unionization, which was not what I testified to. What I was saying is that this is far broader than that. This prevents conversations about more than just who is the president of the United States, this prevents conversations about legislation, regulations, whether or not to get involved with the United Way campaign, I mean all of that could reasonably be inferred by the language that you have put out here and I think that's the problem. It prevents far more than the conversations that you just described.

SENATOR KUSHNER (24TH): The interesting thing though is I've been involved with labor relations for 42 years and in my experience, I've never had an employer hold a captive audience meeting and tell workers they had to sit and listen to a presentation on United Way, it just never happens. I think there
are a lot of presentations on United Way, and in fact many, many workers I think they're the backbone of United Way campaigns in the state, and to their credit they donate very generously to those efforts, but the difference is they are not made and forced to sit in a room and listen to it time and after time, day after day, until they finally make a contribution, that just doesn't happen.

So you know I think we're trying to deal with the reality of experience of workers in our state in a way that's fair to everyone, and I know that's the intention of myself and my cochair in addressing this issue in addressing this bill, and I hope that we will all keep in mind that we are really trying to maintain a state where workers are allowed to operate and make their own decisions about self-determination without interference and without intimidations. I mean, I think that's a fair place to be.

ERIC GJEDE: Absolutely, and I don't know that the legal opinion or at least--I think it contemplates that, you know, when there are threats and coercion in that type of thing going on, that may not be protected speech, so--and again, I understand what you're trying to do, I'm just suggesting to you that the language here goes considerably farther than what you're trying to do, and so I would hope that the committee will consider narrowing it so that it does read and does intend to do what it is you would like it to do.

SENATOR KUSHNER (24TH): And I think that we will take everything into consideration that has been said here today on these subjects, but also we will be very mindful to craft a bill that we believe will
not be in preempted, and that is something that we are aware of and that were going to be mindful of I'm sure in the drafting of this bill.

REP. HALL (59TH): Representative Fishbein.

REP. FISHBEIN (90TH): Thank you Mr. Chair. You know I was--I wasn't going to say anything, but you know, the United Way I used to work with Bradleys [phonetic] years ago, and, you know, that whole thing that we're describing about captive audience happen to me with regard to the United Way. I was made to go to a presentation, you know the good things that United Way did in the neighborhoods, the community, that kind of stuff, and then there was a goal set by corporate that everybody in the store had to contribute a portion of their check, you know, you didn't do that you were ostracized. So, you know, the representation that we don't see that stuff with United Way--I don't know what happens today, but you know that's one of my concerns is how far-reaching, not only unconstitutional, but how far-reaching this language is. So, thank you, and thank you Mr. Chair.


ERIC GJEDE: May I respond?

SENATOR KUSHNER (24TH): I was just going to say through you Mr. Chairman, if in fact United Way or an employer, not United Way, let's not impugn United Way with that action at that employer, but if in fact the employer was conducting captive audience meetings to force employees to make contributions United Way, I would think that we would want this bill to protect those employees so they wouldn't have to suffer through that. So, I actually feel
like-- I'm happy you raise that point Representative Fishbein.

REP. HALL (59TH): Are there any questions or comments from the committee? Thank you. Senator Looney? Senator Looney is not here. Next, we have from the public list Francis Drapeau.

FRANCIS DRAPEAU: Senator Kushner, Representative Porter, and members of the committee, my name is Francis Drapeau, I am the current chair of the Worker's Compensation section of the Connecticut Bar Association, and I am here today to testify in that capacity in support of House Bill 7241, which addresses minor technical changes to the Worker's Compensation act.

We fully support all sections of that bill. Our sections contribution to the bill can be found in sections 4 through seven, which propose the repeal of three obsolete statutes that have not had the effect of law for many, many years. Section 31-304 was in acted in 1955 to deal with the destruction of 10-year-old documents, Worker's Comp documents, filed in the Superior Court. This harkens back to a time when Worker's Comp appeals were taken de novo to the Superior Court, this is not been the case since 1980 since the institution of the Compensation Review Board.

Section 31-98a was created in 1981. It created a medical panel in occupational disease cases, and the idea was to have 8 to 10 pulmonologist address medical issues that will come up these occupational disease cases. This panel failed at least 25 years ago as a--first of all they can get enough doctors to participate, second of all the doctors could not
incenses on important questions, such as how asbestos impacts lung cancer, and thirdly the doctors who were willing to purchase a paid were drawn from such a small pool that they were frequently conflicted out as the treating physician or as an expert witness in the case, so the statute has been obsolete for many, many years.

The third statute is 31-349 subsections b through f, and this deals with kind of an antiquated concept where previously an employer--if an employee had a pre-existing condition and the work injury combined with that pre-existing condition to make the condition materially worse, the employer could transfer liability after making two years of the payments. This has been--was essentially obsolete for all injuries occurring after July 1 of 1995 and have been completely obsolete since 1999. So, our section is simply asking that these dead statutes be removed from the act. We also course fully support the proposal set forth by the Commission, the ALG proposal which would change the nomenclature of Commissioner to administrative law judge. As practitioners, a very common question if not the most common question we get from injured workers is, what is a Commissioner, and the answer is there like judges. By naming them administer of law judges, I think the title would more closely approximate the function and would help define the role for the public of the person who is adjudicating their case and presiding over their case. The other proposals by the Commission simply conform the statute to what the current practice and the long-standing administrative practice has been. I'll be happy to answer any of your questions.
REP. HALL (59TH): Thank you. Are there any questions or comments from the committee? Thank you for your testimony. Next, we have Tattira Lorenzo.

TATTIRA LORENZO: Hello. Thank you for allowing me the opportunity to give my testimony today. I'm basically with the Connecticut Coalition of Esthetics and with Jillian Gilchrest who spoke earlier as well as Comey.

I'm a business owner in Branford Connecticut. I have a nail salon, and I was certified as a nail tech 15 years ago in Puerto Rico, and it's just--I'm definitely hoping to continue the conversation as far as licensing for nail tech and lash specialist. Not only has a nail tech, myself, but also as a business owner, it's very difficult to have a thriving business with the profession that is in regulated. I've had to train every employee I've had and myself from scratch, which of course takes time and sometimes builds my own competition. So, this is just the help, you know, start the conversation not only for the safety but for the employers as well.

REP. HALL (59TH): Thank you for your testimony. Quick question, so you said you were certified in Puerto Rico, and so there's no certification here in Connecticut?

TATTIRA LORENZO: None.

REP. HALL (59TH): And so, if this were to pass, we would have to create the infrastructure for certification process, meaning that we would have to open up presumably schools and other entities to do that?
TATTIRA LORENZO: A lot of schools already exist as far as for hair, cosmetologists, and other professions and barbers and stuff, so they would just be adding or implementing that into their curriculum. The hyper- every other state besides Connecticut already has implementation of certification in licensing for nail techs, so there's-- it already exists as far as the tests, the curriculums, that something that would already be available, it would just be a matter of implementing it.

REP. HALL (59TH): Okay, thank you. Representative Fishbein.

REP. FISHBEIN (90TH): Thank you Mr. Chairman. So, I just--and I know you're probably new to this process, and I'm not looking to take advantage of you being new to this process, but I just want to understand, you're here testifying on a bill having to do with unemployment insurance?

TATTIRA LORENZO: Right. So, this is--we were hoping to open the conversation, not only--you know, as a business owner I do pay for unemployment benefits. I have a lot of things that I have to take care as a business owner, but then I'm hurt as well by not having licensing for myself or for my staff, so it's--

REP. FISHBEIN (90TH): And I totally got that. The problem for me at this point though is like when you go to the Energy And Technology Committee and you want to have something done about the environment, some sort of license, the Commissioner of DEP has an opportunity to testify. You know, support or again--these are the pros, these are the cons, you know, a
bill like this which would be the licensure, if it's going to happen, would be dictated by the Department of consumer protection, so I have to ask you, did you bring your desires to the attention of the Department of consumer protection so that we could possibly hear from them as to whether or not this is manageable, whether there is an infrastructure in place, otherwise I am all for the discussion, I just see it hit in a big old wall because the procedures aren't being followed here. So, have you gone to the Department of consumer protection and said this is what we intend to do, this is what we want to have happen, we are going to go before labor, what do you think? Have you done that?

TATTIRA LORENZO: I haven't personally. I'm not sure as far as the state rep that's backing the bill or the lobbyists in this case, but I have not personally, no. Is that something that you would suggest?

REP. FISHBEIN (90TH): Absolutely.

TATTIRA LORENZO: We've tried every--you know, we tried a lot throughout the years, you know, there have been people before me as well who have tried to get something started. So, any sort of--

REP. FISHBEIN (90TH): Because this is sort of like an airplane falling out of the sky, and nobody knows about it, and I'm sympathetic to your situation, but were just having a discussion. So, I would want to hear from the Department of consumer protection as to their position on this because, as I stated, this bill that were here talking about really has nothing to do with an estheticians, licensing of individuals, that kind of stuff. So, I want to see
it succeed. You know, if you want to talk off-line about, you know, the procedure, I'm certainly willing to help you, but I just want to know if DCP knew about this. So, I thank you for your testimony and your answers.

TATTIRA LORENZO: And I appreciate that, that's definitely something I would love to explore as well.

REP. HALL (59TH): Thank you. Are there any other questions? Yes, Representative.

REP. WILSON-PHEANIOUS (53RD): Yes, thank you. I would just like to jump over the procedural issues that Mr. Fishbein race for a minute while I got you here, ask you the question. What you see are the clear advantages of licensure as being?

TATTIRA LORENZO: I think not only for the consumer, you know, the consumer knowing that when they walk into a salon that there nail tech is aware of proper sanitation and, you know, how to properly take care of them. I'm sure that you know of many people have that had issues at salons. It is also, for me as a business owner, knowing that the nail tech that I'm hiring already has the basics, that they have gone through proper training. It would definitely expedite, you know, my growth as a business and a business owner because I'm not taking six months to train them from scratch, because that's something that isn't found. So as much as I would like to thrive as a business owner, it stunts my growth.

REP. WILSON-PHEANIOUS (53RD): So, it sounds like this would be an opportunity for your business to save money in the long run as well as to protect the consumer?
TATTIRA LORENZO: It's not necessarily about saving money, it's about when I open the salon, I'm not getting compensated for training these girls, right? And at the same time, I'm also training competition because then after they get their training they leave, and so that is hurt my business in the end.

REP. WILSON-PHEANIOUS (53RD): Okay. Well thank you so much for being here.

TATTIRA LORENZO: Thank you so much for hearing my testimony.

REP. HALL (59TH): Any other questions or comments? Thank you so much for coming out this afternoon. Next, we have Julia Trigila.

JULIA TRIGILA: Hi, how are you?

REP. HALL (59TH): Good, and yourself?

JULIA TRIGILA: Thank you for having me today. I'm sure you're probably already tired of hearing about this, but I'm also with the Connecticut Coalition of Esthetics. Basically, you're probably going to hear the same thing for me that you've Artie heard, and we do have quite a few people that come here today that were kind of given the idea that this current bill may have an opportunity for us to tack on licensure within this industry, and I understand that this might be a difficult bill to do so. However, if you guys have any feedback work you found an opportunity to our licensure within this department, it would be very helpful for the coalition to understand that that was an opportunity.

I could read my testimony verbatim that I sent in today, or I can just pretty much discuss what we've
been talking about, how it's hurting the businesses. What would be better for you?

REP. HALL (59TH): Well, we have-- we actually have a copy of your testimony, so we have that information.

JULIA TRIGILA: So, I can go ahead and read that. Would you like to go ahead and read what I sent in today?

REP. HALL (59TH): We have a copy of that, so if you want to talk a little bit about how it's impacting your business. I know we have several other folks from your coalition, and I was just chatting off-line with Senator Kushner, and I'm sure my colleagues would agree, I mean we are actually surprised that this does not exist, and where the only state. So we're actually going to try to figure out how we can best support your efforts in this area.

JULIA TRIGILA: So, again given that the Department of Health is something that has been regulating this across the US, I think it's the only department that regulates every state in this areas, again, were just looking for an opportunity to see if there's any area within this bill, and the reason being, I'm just gonna stick to the business end of things, so many people here who are in this industry are affected and their businesses are not growing, mine especially. I knew when I moved back to the state of Connecticut starting a business, we realize that the hiring process was a lot harder compared to other states because we do not have enough people who are applying to our businesses that have an education, who have had any training whatsoever, so their
spending a lot of time training people that may not even work out in the end. There's a lot of competition because there's no licensure. There are so many people who are practicing in their homes, under the table, and they are getting away with it. I mean we know so many people who are doing out of their homes or renting rooms, and they are not being employed by anybody so it's easy for them to have a very lucrative business, and then you have people who are trying to grow their business who may need to hire employees and they can't. They just fine kind of like a stone wall, there's nobody with the training. There are too many people who are able to do it and they just kind of find that they are not able to grow. So, that is just kind of where we follow on the business front, and if you have any other questions.

REP. HALL (59TH): Representative.

REP. WILSON-PHEANIOUS (53RD): My question was really along the lines of I understand that there have been attempts over the years over the last several years to get something through. Has this issue gone to Public Health and to--

JULIA TRIGILA: There has not been a hearing given--

REP. WILSON-PHEANIOUS (53RD): So, it hasn't gotten raised out of committee?

JULIA TRIGILA: No.

REP. WILSON-PHEANIOUS (53RD): So, you're stuck in effect. You've attempted to go on the right direction but if not been able to make it through.

JULIA TRIGILA: That's why we were suggested to possibly try DOL.
REP. WILSON-PHEANIOUS (53RD): All right, thank you. I just want to clarify that.


SENATOR KUSHNER (24TH): I think you've done a great job today of bringing something important to our attention that we have perhaps not been aware of previously. I know it's somewhat challenging to figure out how it connects to this bill, and that's what you're faced with here, but I do believe that the issue you're raising is something that should be a concern to us because—and were also debating because we know it's not—it's a hard word to say, esthetician?

JULIA TRIGILA: Esthetician, aesthetics.

SENATOR KUSHNER (24TH): Yes, we didn't want to massacre it [laughter], but it's kind of a hardware for us, but I do think that the idea that consumers need to be protected—I see your connection to training, want to have training, wanting to have licensure and make sure consumers are protected but also that workers are protected and business owners are protected, so there is a remote connection there that were all aware of. One, I encourage you to pursue this, and will also talked amongst ourselves I think about maybe giving you some guidance on how to do that.

JULIA TRIGILA: That'd be great. Thank you so much.

REP. HALL (59TH): Senator Miner.

SENATOR MINER (30TH): Thank you Mr. Chairman. I think I'm aligning myself with other committee members that believe you folks are raising the issue, a matter, that should be dealt with in some
way. As I hear the testimony look at the bill that the testimony is being delivered on, I can't make the connection. The concern I have is that we go through great lengths here not to disenfranchise anyone from the process. So, I have no idea if there's another story out there that isn't here telling it, whether there is some reason why we don't take this action or haven't taken this action, whatever it might be, and then further, Mr. Chairman, the net effect of this would be that we pass the statute the reality and then from there we would develop regulations, and as a compounding of law, I don't know if it becomes somewhat challenge of all. I wonder if it wouldn't be good advice to have you communicate with the General Law committee sooner rather than later to find out if they actually have a bill where you can offer testimony that is not such a stretch, because the last thing I would like to have happen is have us kind of go down this path and then have people run from it at some point in the future because it just wasn't done the right way.

I think the things we are hearing is that there--they are very legitimate reasons to consider some licensure and education process. So, I don't know to what degree anyone would take that it buys, but I do think it is somewhat problematic as we go forth, but thank you for being here, and thank you Mr. Chairman for allowing me to make that comment. Go ahead.

JULIA TRIGILA: I was just gonna say I appreciate it thank you.

REP. HALL (59TH): Okay. Any other questions or comments? Thank you so much for your testimony this
afternoon. Next, we have--excuse me. Next, we have Senator Looney.

SENATOR LOONEY (11TH): Good afternoon Senator Kushner and Representative Hall, members of the Labor and Public employees committee. I'm here to testify in support of Senate Bill 64, AN ACT CONCERNING CAPTIVE AUDIENCE MEETINGS. I Martin Looney Senator from the 11th district representing parts of New Haven, Hamden, and North Haven. Excuse my boys, I'm kind of coming down with a cold, I'm losing my voice here.

This bill, Senate Bill 64 would prevent employers from firing or otherwise disciplining employees who would prefer not to be compelled to listen to employer speeches about religion or political matters including labor organizing. The First Amendment of the Constitution guarantees the rights to freedom of speech and assembly. These freedoms include the right not to assemble on the right not to listen to coercive speeches.

We all know that all constitutional rights, and we talk about them being sacred, but they are all subject to reasonable regulation. As Justice Oliver Wendell Holmes famously said, the right to First Amendment, the right to freedom of speech, does not include the right to yell fire in a crowded theater. There are lots of instances throughout our statutes, both state and federal, about reasonable date regulations of the exercise of certain rights held to have been appropriate for public health, public safety regulations, or, in terms of applying and a balancing test between one assertion of right and another.
This legislation would have protected employees from economic sanction if the employee chooses not to listen to an employer's political or religious views. Political views are defined to include views about the decision to join a political, social, or community group or activity, including the exercise of the rights to join or not join the labor union. For example, the legislation will protect an employee who declines to participate in a meeting called by an employer to express antiunion views. Physical restraint-restraint is of course actionable under current state law, you are a threat to fire an employee if he or she does not attend a course of meeting is not actionable, and there's no good reason for this distinction. Coercion is coercion whether it is physical or economic and it is wrong especially today when there are so many more needs—means of communication that are not coercive or intrusive. For instance, an employer could place a document at the employee's worksite, that might be appropriate. The employer could call the employee on his landline if he still has one or his cell phone to discuss the issue. He could email him, he could send a text to him, there are a whole lot of other ways. He could try to visit him at his home. There are all kinds of ways that this communication could be accomplished without the coercion of requiring someone to attend the meeting against his or her will.

It should be the policy of our state as expressed in legislation to prevent employer coercion as to political matters, and we need to include speech about joining a union as well, because unionization is a political topic. It concerns a distinct approach to governing the economy. It is based on
the view that there is a conflict of interest between employers and workers in the society, and that workers are better protected by acting collectively and individually, and those are political views. Therefore, we should not discriminate against labor by leaving the statute silent on this point. We need to stand up against the coercion of employees into listening to speeches about matters other than about managing their jobs, as to whether the employee should join a particular church, union, or political party.

Our best constitutional tradition underscores this principle. I also believe that there should be an exemption for certain types of entities, and I'm pleased that this bill includes such exemptions. An organization devoted to religion should be able to require employees to adhere to the same fate as the organization espouses and to observe its tenets and practices. Of organization performed for the sole and dominant purpose of political action should be able to require its employees to adhere to a work in support of the organizations political task and programs, and then educational institution should be able to require students instructors to attend lectures on political or religious matters, which is part of regular coursework of which all students are responsible [coughing]---these exemptions would appear reasonable.

I've always believed that assertions of this type of legislation would be preempted by the national Labor Relations act where mistaken. States may place conditions on entities that receive state money in order to support or encourage compliance with state
public policy. Section 8c of the NLRA provides that it is not an unfair labor practice for an employer to express a view about unionization, which could include giving a speech in opposition to unionization. It does not however grant employers the right to require that employees be gathered against their will to listen to such views.

Nothing in the proposed legislation limits what employers can say or where an employer can say it, rather the legislation would make it unlawful for an employer to force an employee through the threat of physical or economic restraint to listen to employer views on the subject of unionization or other political issues. Estate is not preempted from providing protection to employees who choose not to be compelled to attend meetings where they may sip-where they may be subjected to an employer's propaganda or political topics. Protection from such abuse is certainly essential where there is a substantive financial relationship between the state and the employer. Clearly, where the employee believes of the communication concerns and issues such as health, safety, or economic interest, there would be nothing in the bill to impede meetings or any other form of communication. Neither Congress nor the courts have ever determined that captive audience speeches are to be encouraged.

The Connecticut General assembly in the courts have a long tradition of support for the use of police power to protect employees from coercion in the workplace and to protect privacy interest as well. This bill stands and that proud tradition. A worker does not relinquish all of his or her First Amendment rights merely because he or she is in the
workplace. Certainly, the state can and should offer these protections to employees of state-supported entities. Thank you for hearing this important bill this year, and thanks the committee for all of the good work that he has done over the years, and it was my great honor to support—to serve on the committee many years ago when I was a member of the house.

REP. HALL (59TH): Thank you Senator Looney for your testimony. Any questions or comments from the committee? Senator Kushner.

SENATOR KUSHNER (24TH): Senator Looney, I don't have a question, but I do have a comment because I've—we've had other folks testify on this today, but I've also heard testimony in the past many times, and I think that your comments just now were just so well put in very eloquent on the rights of workers, and so I appreciate that and I appreciate your testimony here today. Thank you.

SENATOR LOONEY (11TH): Thank you Madam Chair.

REP. HALL (59TH): Any other questions or comments from the committee? Thank you, Senator Looney.

SENATOR LOONEY (11TH): Thank you very much Representatives and to the members of this committee for all the good work that you do year after year.

REP. HALL (59TH): Next we have Melissa Bivelacque.

MELISSA BIVELACQUE: Hi there. Thank you for having us today, and I'm—like Julia said, I'm sure you do not want to listen to everything I have to say right now since it is not really what you want to hear, but I figured this is a time to be able to be heard, so I'm going to speak anyways. So, like they were
saying as far as--my name is Melissa Bivelacque, and I am a small business owner here in Connecticut. I've been a business owner since 2007, so I have trained many employees over my years. The reason being for what we do, which is skin care services, nail care services, the training in Connecticut goes anywhere from zero training, some of the schools for a skin care program is as low as hundred and 50 hours up to 650 hours, so depending on where these employees go to school, really depends on what they are coming into the small business with, and that's really where I think the lack of education comes into play.

There is luckily a new school, which I believe the owner is here today, for nails coming into Connecticut, which is an amazing program, so I was very happy to hear about that. So far, as far as how difficult it is to be a business owner to be able to train the employees is that, you know, using the labor Commission, we have to pay them to give them our education whereas really it should be the opposite where they should be paying to have an education, which, again, I don't mind training them. I like to be able to do that, and they are moldable to how you want them, just like any brand-new employee would be, but there are schools that are now thousands of dollars, up to $10,000 for skin care program, and then they're coming to us with zero to very little education, and not to mention a lot of the salons in Connecticut are having employees from outside of the state being bused in. So, somebody may live in New York and have zero education in nails or skin care, and there being transported into Connecticut to work in the small businesses, and to me that is a very big concern.
So, that's all I really have to say and thank you for having me.

REP. HALL (59TH): No, thank you for your testimony, that was real important information you just provided. Are there any questions or comments from the committee? Thank you so much for coming out this afternoon. Next, we have Tina Gilbert.

TINA GILBERT: Good afternoon. My name is Tina Gilbert. I'm with the coalition, and I would just give you a good background, I'm a call owner of the cosmetics import company based in Deep River Connecticut, and we sell primarily to the salon industry. In addition to selling cosmetics, we offer product training and advanced education to nail technicians and aestheticians around the country.

Pursuant to section 20-250 subsection 4 of the Connecticut General statute, there is no licensure or certification offered or required for nail technicians or aestheticians in Connecticut, we've made that clear. Now I understand your argument that this proposal may have a better fit under another committee, and after sitting in this hearing for quite some time, I would agree, but I can tell you this affects many areas of our state including labor.

I can confidently say this issue affects your constituents. Our coalitions voices are getting louder, and we are making the health and safety concerns known to the general public. So, at the very least our testimony prepares you for future conversations with constituents.

Occupational licensing of nail technicians and aesthetician plays an important role in protecting
consumers and themselves and ensuring quality safe services. This is particularly true when you're dealing with low-quality, unlicensed, and uneducated practitioners who can potentially afflict serious harm. The lack of licensing also impacts workers' wages and the ability to compete. Low-cost out-of-state and often undocumented in traffic workers are bused into the state. They work long hours at very low wages and often under the table.

The state loses out on wage taxes, and valid businesses lose out on the opportunity to earn a fair living. From the labors percent perspective, the lack of licensing restricts the mobility of professionals to move across state lines. Many state Board of cosmetology have reciprocity. Because Connecticut does not have licensing, there is no reciprocity. This is particularly damaging to those workers who have invested in their training into our military spouses who get licensed in other states and who can easily find in the salon industry work no matter where they are transferred.

Now the rest of my testimony that I had written, I will reserve for another hearing, but I want to make it clear that this is an issue that necessitates broad discussion amongst legislators. So, while we are occupying time at this hearing, I don't at all find it a waste. As you now have been made aware of our unique position in the union as the only state lacking licensing for nail technicians and aestheticians and others within the industry. So, I thank you for your time.

REP. HALL (59TH): Thank you for your testimony. Are there any questions or comments? Senator Kushner.
SENATOR KUSHNER (24TH): Just a quick comment. I think it would be helpful if, and I'm sure you have access to this, but if you could give us examples of some of the bills that you think are best in this area from other states, and you get them to us, it would be good for us to have that to reference.

TINA GILBERT: We actually have someone within the industry who has gone to similar legislative processes and has been successful in the state of California, Texas, and Ohio. So, we can present those, and I think we will forward those to Representative Gilchrest.

SENATOR KUSHNER (24TH): And I would say that, as someone who is known to get a manicure two--

TINA GILBERT: You're putting yourself at risk.

SENATOR KUSHNER (24TH): Well, and I understand that, and I also, you know, I have built strong bonds with the people who have performed that service in the past, and I recognize that I also would not want to place a very expensive training program on them. I think we ought to look at that as well because I wouldn't want to have something that precluded--made it harder for workers to engage in the service, and I think--you know, I'm not saying that it can't be done, I'm sure that there are states that have done it well.

TINA GILBERT: And may I respond to that. I think that's a valid concern, however, I can tell you that I have traveled all around this country, and I've spoken with professionals who have spent hours sitting in classrooms, taking exams, and past, and they are validated as professionals, and they would do that all over again and they would pay that money
all over again, they are validated as professionals, and that is why it's so important for them to have in this state it be recognized. It is actually an embarrassment for me to speak to other professionals in the industry across the country and say our state lacks licensing. They can't believe it. They would pay for that training, and people do want that training, and it's important to have that training, it's important to the workers themselves, and it's important to the constituents for their health and safety, and it's a simple thing. I mean there are regulations, and yes, we have to build schools, and yes there would be regulations around that, but also in the state of Connecticut—or state of California where they did implement, they actually have gone so much farther in the regulations and their binds. They are the leaders in this country with regulations, and the fortunate benefit for the state of California is that through these find not only are they bringing in money into the state, but they are securing the health and safety of the people who attend. Not only those who attend or go to salons and receive services, but the for the workers themselves, and in this state, I don't have to mention the local news or the latest news about Florida, right, we in the beauty industry, where very familiar with what's going on in regards to human trafficking, that's another aspect of it.

When you put licensing into place and education, you make people aware, but you also hold them accountable. You also then have the opportunity to potentially—not eliminate, but to address such a situation. You can stand outside any so line-along the shoreline in the morning or in the evening, and you will see a van pulled up from York or New
Jersey, and I've done this, and workers, women, will get out of the bands, walk straight into the salon, and they are there, and they don't leave until that bank comes back. Sometimes they don't leave at all, and that's the reality. So, there's a lot of good that could come out of such legislation and it's not to be feared, and certainly I can guarantee that a lot of people would agree with me, who have taken the time and spent the time—the money to license that they would do it all over again.

SENATOR KUSHNER (24TH): Yeah, I don't think any of my comments were meant to say that I thought there was something wrong with this. I think you've gotten the attention of the committee pretty effectively today, and I think that people are very interested in what you're promoting here as something that would be beneficial to the state. I don't think that you've been received with any kind of hostility or animosity towards the idea, and I absolutely agree that, you know, workers benefit when there are training programs in place that really professionalize their industry. So, my comments were not meant to undermine or belittle the in any way, in fact, I think it's really important. I just want to be mindful that, you know, I've been in—I've advocated for workers in the industry that are very low paid that were required to have training, and I advocated that those workers that are already conducting that work should be given an opportunity to get the training in a way that's effective but that they can afford so they can stay in their industry and be better and be more professionalize. So, I think it's very interesting what you brought to our attention, and I think from the reaction that
I've seen on the committee, you've made your point very well.

REP. HALL (59TH): Thank you. Any other questions or comments? Thank you so much for coming out this afternoon. John Webb.

JOHN WEBB: Good afternoon. First of all, my name is John Webb I'm with the Direct Selling Association, and I want to thank this committee and members of this committee for hearing this issue. I'm here to speak on Senate Bill 955, which was raised by the committee, and we very much appreciate you giving us opportunity to talk about this important proposal.

First real quick I'm going to mention that under the unemployment comp law there are already 16, will this be the 15--this would be the 16th, specific definitions to define people as independent contractors for unemployment comp purposes. I just want to point out real quick that no state in the United States routinely classifies direct sellers as employees for unemployment comp purposes, and if this stands, as far as of the Supreme Court decision will talk about momentarily, Connecticut would be the only state that would find direct sellers as employees for unemployment comp purpose, but I will get into that in just a second. I know I have a relatively small amount of time.

Direct Selling Association here we represent companies like Avon, Mary Kay, and the pampered chef, about 130+ companies that do direct selling. Just to give you a snapshot of who direct sellers are, 80 percent of direct sellers or women, most of them--some of them are stay-at-home moms, working
moms, they make modest amounts of money, they do it part-time, they work from their home, some of them to sign up to be discount buyers, so it's a fairly innocuous activity, but for the people who make a few hundred bucks for Christmas presents, it's important. I can tell you that near universally direct sellers are considered to be independent contractors for all purposes. They do not currently pay into the system, the unemployment comp system, and they do not withdraw money from the unemployment comp system.

Typically, direct sellers sign up online to buy a startup kit, and that's how you become a direct seller, it's that easy. You could probably go online and in five minutes sign up as a direct seller. They are neither hired or fired in any traditional sense of the word. In fact, it is a benefit to the company to have as many direct sellers out there selling their products as possible. They are almost never terminated except for cause. Whether it be the ABC test, which is what Connecticut has or common-law test or most commonly a specific definition like were proposing in Connecticut, they are found to be independent contractors for all purposes.

Last year, as you may be where, Connecticut Supreme Court had a case [inaduble 02:34:14] ABC test in which they found against the direct seller. We did get some good language though out of the court, which they did call and say, it may well be that exempting direct sellers from the act, regardless of whether they are actually engaged in an independent established business or occupation let's say, is the better public policy, and we certainly agree with the court that it is the better public policy. There
are already 38 states that specifically have definitions, including the United States which has a section in the tax code, section 3508, which the proposed while references, and some of those states are the new England states such as Rhode Island, Delaware, Maine, Vermont, New Hampshire, and Pennsylvania. In fact, years ago, probably about 12 years ago, when I worked in Vermont, actually the Vermont Department of Labor actually supported this language because they liked it as a clear-cut test. Just real quick, what is that clear-cut test, it basically says that if you sign an agreement saying that you are an independent contractor and that you will be treated as an independent contractor for tax purposes, you are selling away from retail locations, that you're selling in the home, which is what direct sellers typically do, and that basically all renumeration are substantially from Commissions, boom, your direct seller and an independent contractor for unemployment comp purposes.

So, all were really asking Connecticut to do is be consistent with the 50 other states in specifically defining direct sellers as independent contractors for unemployment comp purposes. In this case being the 39th state to have a specific definition, either by incorporation by reference of 3508, which is the proposal here, or simply cutting and pasting 3508 and putting into the current statue. So that's it in a nutshell. I could go into more detail believe other folks that want to testify, and I will be happy to answer any questions that I can.

REP. HALL (59TH): Thank you. Are there any questions or comments from the committee?
Representative Porter.
REP. PORTER (94TH): Thank you Mr. Chair. Just quickly, I was trying to jot down the states that you mentioned, Rhode Island, Delaware, Maine?

JOHN WEBB: Yes ma'am, Vermont, and I can get you a list. In fact, I even have a map that I can show you real quick that shows you all the ones in orange are the ones that have it. So, there's a handful, there's certainly a handful of states, but if you look at Maine, Vermont, New Hampshire, Rhode Island, New Jersey, Pennsylvania, and Delaware, I mean it's the majority law certainly. It is way majority law, about 75 percent of the states if you look at it that way, and the reason that we do this, and obviously the reason that Connecticut was because of the Supreme Court decision, but were also in Indiana this year, not because we had an issue in Indiana, because we just want to go through all the states and have the specific exemption. I will rewrite that as in Connecticut, almost every state has a laundry list of 18 or 20 specific things, insurance, broker, insurance agents, real estate agents, so this is not something new. Most states have a laundry list, y'all have 15. We will be number 16 that just says, if you make this test, you're an independent contractor for unemployment comp purposes and you're not part of the system, and that's really fair because if you know how the direct sellers work--I've never had a legislator tell me after understanding how direct sellers work that, oh, these people should be employees of Mary Kay, that just makes no sense whatsoever and our humble opinion.

REP. PORTER (94TH): Thank you. Thank you, Mr. Chair.
REP. HALL (59TH): Any other questions or comments from committee? Thank you so much for coming out this afternoon. Bryan Harrison.

BRYAN HARRISON: Good afternoon chairs and members of the committee. Thank you for the opportunity to speak in favor of this legislation. Again, I'm Bryan Harrison, I represent Amway of Michigan. We have direct sellers in all 50 states, about 3000 here in Connecticut. Again, these are independent contractors, the smallest of small businesses. In their part-time and spare time, they market products to their friends and family. This is part of what we will call a gig economy, where people do this in order to supplement their income. I was joined by one of our local salespeople, unfortunately due to the lateness of the hour she had to leave, but she was here to tell you that as a Connecticut resident the importance to her and her family, and some of what she has been able to bill it as far as her business, but we are here to support this legislation, and again we would as for your support as well.


JOSEPHINE MILLS: Good afternoon chairs, vice chairs, and members of the Labor and Public employees committee. Thank you for allowing me to speak in support of Senate Bill 955. My name is Josephine Mills and I'm an independent direct seller. I'm a lifelong Connecticut resident, and I've been involved in direct selling for more than 30 years, first as a corporate executive for Avon
products Inc., and most recently as an Avon independent sales representative.

I believe I'm very knowledgeable regarding the topic addressed by Senate Bill 955, and I'm here today on my behalf as an independent sales representative to the clarity to this issue. In earlier years the status of independent contractors was limited to certain industries, such as real estate and direct selling industries. In recent years, the use of independent contractors by other industries has grown. As more and more industries claim to have work done by independent contractors, the topic of employee versus them independent coworkers has warranted increased scrutiny. I always believe this issue was very clear as it related to direct sellers, but the recent Connecticut Supreme Court decision makes me think otherwise. It is for this reason, I would like to see Senate Bill 955 past, to add clarity and certainty to this issue, not for the large corporations, before the individual independent direct sellers like me.

As a direct seller, I purchased products at wholesale and sell the same products at retail, usually to family and friends and others whom I meet along the way. I conduct this activity primarily away from a fixed location, away from my home, on my own schedule, creating the work hours workplace of my choosing. I'm free to sell as much or as little as I choose, and I am also free to determine the retail price of the products I sell. The amount of effort I put into this business determines my financial outcome, how much or how little I profit.
The company that manufactures the product has no control over my efforts. I think that was the bell that I ran out of time. If you would allow me another second, what I really want to say is that if companies were deemed to have employees rather than independent contractors, this opportunity would cease to exist and that is a real concern to direct sellers in the state of Connecticut.

REP. HALL (59TH): Thank you so much Ms. Mills for coming out to testify this afternoon. Any questions from the committee? Representative Fishbein.

REP. FISHBEIN (90TH): Thank you Mr. Chairman. Good afternoon Ms. Mills. Can you just educate me a little bit on this, because, you know, I've been sitting here going to this language, and quite frankly I don't understand all of it. So, can you tell me what did the Supreme Court case say?

JOSEPHINE MILLS: I'm not an expert on the case, and I think that if we would do for that question to John Webb, he would be able to better answer questions about the particular case.

REP. FISHBEIN (90TH): With the Chairman's indulgence, I don't know if you would find that to be appropriate, but I certainly would like to get the answer.

REP. HALL (59TH): What was the name again?

JOSEPHINE MILLS: John Webb, he testified a moment ago.

REP. HALL (59TH): I mean--sure that's fine. He can come back up and clarify something for Representative Fishbein.
REP. FISHBEIN (90TH): Thank you.

JOHN WEBB: Yeah, just real quick, what the Supreme Court did in Connecticut, which is not uncommon, is what is called an ABC test which is multi-factor, and what they keyed on actually and what's kind of relevant to the quote that I gave recently or when I testify before, on the same part of the test basically as an independently established business, and they determined that it wasn't.

What's interesting about that, not to get too much into the weeds, this almost identical language has been—often found people to be independent contractors in other jurisdictions. In fact, the Georgia Supreme Court in the case called Sarah Coventry [phonetic] so one of the problems that we have is the ABC test is applied to direct sellers, it has always kind of been, we will win some, will lose one, and that's why—and the same thing for the common law.

We think we are quintessential independent contractors, we think there really should be no question, but we think the ABC test is applied to direct sellers seesaw your result, sometimes you win, sometimes you lose. We lost in Connecticut and that's why we actually have made the effort to go to every state, and we will eventually go to every state and asked to raise specific direct seller exemption.

REP. FISHBEIN (90TH): So, what is the effect, you know, because when I think of independent contractor as opposed to not being an independent contractor, I'm thinking in the context of do I give this individual a W-2 or 1099, and that doesn't appear in
my mind to apply here. So, what is the effect of being determined of the Supreme Court determination?

JOHN WEBB: Yes sir, good question. This is specifically for unemployment comp. All of these folks are already 1099, so that would not change, but what it does say is that right now for instance our companies, they are not paying into the unemployment comp system, they are not drying out of the system. They are not part of the system because they are independent contractors, and as I mentioned earlier, direct sellers are really not hired and fired in the traditional sense. They sign up online, it is a very innocuous way of people doing it, and it's just unfair to ask companies to have the burden of paying into the system when they're probably the people are never going to pull out in the first place, and then some company say, you know, we don't do business in states where were going to be found to be independent contractors. So, were concerned that companies will pull out of Connecticut which would be I think detrimental to the economy if direct sellers were not able to operate in Connecticut, I can't talk for specific companies. This is really consistent with all the other states, and really all were asking for his consistency for Connecticut to find direct sellers and independent contractors for unemployment comp purposes.

REP. FISHBEIN (90TH): So, just to whittle this down so I can understand real basic, once the person goes online and signs up and says, I want to sell Avon products, as a result of the Supreme Court decision, it was determined that Avon, on behalf of the person who just signed up, has to pay into the system?
JOHN WEBB: Not yet, but what the court--basic what the decision says--today, if the Department of Labor went to any of our companies and said, why aren't you paying in the system? We fear that--all our companies under that test would lose, and they would say, okay you got to pay, you got to start paying. The Supreme Court decision was only relevant, in a sense, to that one case, the Kirby Company, but under this analysis every company is at jeopardy.

In fact, we would fail those tests. So right now, were not paying in, what were really trying to do is to make sure going forward that will not change, because there's nothing to stop the Department of Labor tomorrow to go ahead and say, why aren't you paying into the system, under this test you lose.

JOSEPHINE MILLS: I'd like to answer part of that as well coming from the other side as a direct seller that right now we are known to be direct sellers, but is, based on the Supreme Court decision, somebody said Avon independent direct sellers are in fact employees, the company within probably be forced to change business model. Right now, they don't give us any quotas, they don't give us any territories in which to sell, they don't tell us how to sell, they don't tell us where to sell, and they don't give us the--they give us the suggested retail price, but we don't need to follow it. If it were deemed that we were employees, the company would likely say as employees, you have territories, you have sales quotas, so this opportunity for small businesses would definitely cease to exist, and it would change the ability for, I'm retiring, it would change the abilities for retirees to find
supplemental income. It would change the ability for stay-at-home moms to stay at home with their children and earn some supplemental income and be able to stay at home with their families, and so this is something that has been enjoyed by independent direct sellers for years and years and years. In fact, Avon has been in existence since 1886, and this is the model that they've used because they always been independent contractor direct sellers, and so this would all go away in this would change. This is very concerning, certainly to the company's, but is more concerning to the individual direct sellers that are out there doing this for supplemental income.

REP. FISHBEIN (90TH): I'm glad I got a little bit educated on this. You had a chance to look at this language, and you're comfortable with the description that brings you into this net?

JOHN WEBB: Yes sir. Well what we did is we offered, and obviously was up to the committee, we offered to alternatives. One is simply to cut-and-paste the three-part test. What the bill does, which is fine because some states do this, it simply incorporates by reference 26USC section 3508, which is the IRS code. That has actually been in law since 1982, and basically it says that all direct sellers are statutory nonemployees for federal tax purposes.

So basically, takes that language and says if your direct seller under that statute under federal code, you are an independent contractor for unemployment comp services in the state of Connecticut.

REP. FISHBEIN (90TH): Okay thank you very much and thank you Mr. Chairman for your indulgence.
REP. HALL (59TH): Thank you. Any other questions or comments? Thank you so much—I'm sorry. Representative Porter.

REP. PORTER (94TH): Just been listening to the testimony and how you present in support of this. I'm just playing devil's advocate, what happens if we don't do anything? What happens in the state of Connecticut as it relates to direct sales? And I'm asking because I've done this work, Avon and Tracy Linn, so I understand the importance and how it does supplement income--

JOSEPHINE MILLS: I think right now there's a lack of clarity because the Supreme Court ruling came down and said that Kirby salespeople were employees and not independent contractors. So I sit here and I can tell you that I'm independent contractor and I feel strongly that I am, but I don't know how you feel about it, and I don't know how this is going to affect me, and as I build the business, I don't know if it will suddenly go away because somebody may come back and say, look at the Kirby case, no Avon representatives are not independent contractors, they are in fact employees, and this would hurt me. So, I'm here trying to build a business and continue to build the business, but I don't know if tomorrow somebody would just kind of sweep it out from under me, and that's what concerns me. The lack of clarity and the lack of, you know, consistency going forward, I don't know what that means.

REP. PORTER (94TH): Thank you for that. Thank you, Mr. Chair.

REP. HALL (59TH): Thank you Representative Porter, and actually have a question. So, if the Supreme
Court ruled that Kirby independent sellers, or direct sellers, were in fact employees, are we trying to override a Supreme Court decision or preempt a Supreme Court decision about other direct sellers? I'm trying to understand, or maybe Mr. Webb is better equipped to answer that question. So please come back up, thank you.

JOHN WEBB: That's a good question. I'm not expert on Connecticut law, I'm not the Connecticut attorney, I'm a DC-based attorney, but our focus really is not--my understanding is that when that case was settled that that was only relevant to that company. Now if this were to become law, I'm not sure how it would affect Kirby going forward. I know they had to pay back unemployment into the system, but presumably it would cover any company going forward, and justify may to the question that representative Porter I think had earlier, the concern is that now all of our companies are jeopardy.

The Department of Labor tomorrow to go to any of our companies and say, we think you should be paying into the system and they would be in jeopardy, and that's the real concern, not necessarily for Kirby's sake because they've Artie been found that way, but any of our companies are in jeopardy because the way that the Supreme Court had the decision, where all in jeopardy and that's the real concern. Were all in jeopardy tomorrow the next day a week from now a month now two years now, somebody could say you should be paying into the system, and you got to either change the way you operate, or you have to pull out of the state, and that's a concern.
REP. HALL (59TH): But does this law or proposed legislation prevent that from happening?

JOHN WEBB: Yes sir, because what it does is it use the test that we've used for 30 or 40 years across the United States that is a very simple test. All of our companies believe they can easily pass, it is basically you sign a contract that says you're the independent contractor, that you'll be treated as an independent contractor for all state and federal tax purposes, and then the third part is simply that your remuneration for your pay is substantially off of Commissions. So that's how we define a direct seller, those three's parts test. So, any of our companies, whether it be Avon, Mary Kay, or Amway, or whoever would pass that test, and that's why it's--like I said, 38 states have that and the US code has that as well.

REP. HALL (59TH): Okay thank you. Any other questions or comments? Okay, thank you so much for your testimony. We will have Dave Merriman.

DAVE MERRIMAN: Thank you members of the labor committee for allowing us to testify today. My name is Dave Merriman, I'm with a company called ACN. We're also a direct seller. We market services across the country as well as in 25 different countries, so we market services such as Internet services, wireless services, satellite TV, home security, and energy services. Our independent contractors, we have about 800 independent contractors in the state of Connecticut. They sell those services part-time usually, they're doing it just to earn some additional income. They can choose when they want to work, where they want to work, whether it's in their state or outside their state, they can acquire
customers on their services at any location where we operate, and at times to many of them are business owners.

So, we see, for lack for example, one of the exemptions in here are real estate people. Many real estate people are part of our distributorship base because they are involved in real estate, they talk to people that are moving into new properties, they may want to offer the services that we offer to them so they can get Commissions on those services, or there in the property management business where they have tenants that are legalizing those services to, but we also have many people that do this on a part-time basis, may have a business, may have-be people who just work from home, and they do may choose not to work at certain times to. So, it's important that they have this flexibility. To address some of the questions that were raised earlier, they are all 1099 employees, so for federal tax purposes, they are considered 1099 employees, their independent contractors. So, the confusion that this causes is there independent contractors for the federal standpoint, and then in this case, in the state standpoint, they would be considered employees, it just causes confusions and for anybody looking to move into the state of Connecticut to open up a direct selling business, they may hesitate because of this confusion as well.

So, it may limit the impact that this has—could have on the state. So, echo the support of this bill from Mr. Webb, Mr. Harrison, and Ms. Mills, and I appreciate the time they have today in expressing our support for Senate Bill 955.
REP. HALL (59TH): Thank you so much for your testimony Mr. Merriman. Any questions or comments from the committee? Thank you for coming out this afternoon. Next, we have Jennifer Little-Greer. Lisa is not here. Good afternoon.

JENNIFER LITTLE-GREER: Good afternoon Chairman Hall. Good afternoon Co-Chair Kushner and Co-Chair Porter, and to the Labor and Public employee committee. Thank you for allowing me to submit this testimony for House Bill 7237, AN ACT CONCERNING A DISPARITY STUDY.

My name is Jennifer Little-Greer, I am the Executive Director for the Minority Construction Council. The Minority Construction Council is a nonprofit organization that was created to advocate, support, and offer development opportunities for ethnic minority contractors throughout the state of Connecticut. The Minority Construction Council is in favor of House Bill 7237 because the disparity study would determine the number of qualified contractors that are being underutilized. As a director of the Minority Construction Council, I have heard the concerns of the ethnic contractors. They are not getting the work because the definition of a minority business enterprise mumps ethnic minorities, which consist of African-American, Hispanic American, Asian-American, Native American and, and Iberian Peninsula, so that is the ethnic minority, along with women business enterprises and disabled business enterprises.

These three categories are fighting for the same 6.25 percent on set-aside work. Having a disparity study would give each group their share of the pies. The group I represent is looking for equity and
equality. For the reasons that I stated, the Minority Construction Council is in favor of the study because this would help us determine what would need to happen with the set-aside project. Thank you so much for the opportunity to present why it is important to us.

REP. HALL (59TH): Thank you so much Ms. Little-Greer. Are there any questions or comments from the committee? Representative Porter.

REP. PORTER (94TH): Thank you so much for your testimony and from hailing all the way from Hampton. Question about the importance of this bill as relates to breaking out women, minority, disabled, right, can you just speak to that, why that is so critical?

JENNIFER LITTLE-GREER: If it is broken up--if you were to look at the Department of administrative services this is as to the number of businesses that are certified as minority businesses or ethnic minorities, there are larger amount of contractors that are or businesses that are certified in that category compared to women, compared to disabled, so if we were to split it out--say for instance, if there is 80 minorities or 800 or whatever we have of the minority businesses that are contracted, split it out based on the percentage, because it has been a long time since the set-aside goals have been set, once it's evaluated they can determine if it needs to be raised higher or how it would affect the contractors.

REP. PORTER (94TH): So, with that being said, I'm hiring, and I do have to meet this quota, do I have--just one would suffice I guess is my question if I
wanted to—if I hired a woman as a minority, would I be required to still hire a minority business?

JENNIFER LITTLE-GREER: No because women as well—women qualify for that minority business. So if we broke it out, we say this piece is for, let's say we have 6.25 for women, we have 6.25 for ethnic minorities, we have a percentage designated for disabled, if we break it up based on the number certified that would be better because just having one, you can pick one category and fulfill the goal, and that's what's happening.

REP. PORTER (94TH): And think that that could be, or I should say is misleading when it comes to the representation looking at numbers on paper, right? We can't determine whether we are truly hitting the mark for the set-aside for minority businesses as an inclusive. Okay, thank you.

JENNIFER LITTLE-GREER: And that's what we're hearing, it's not hitting because the contractors are—my ethnic minority contractors are really hurting because they are not getting that minority set-aside piece.

REP. PORTER (94TH): Thank you for that.

JENNIFER LITTLE-GREER: Thank you so much.

REP. PORTER (94TH): Your welcome.

REP. HALL (59TH): Are there any questions or comments from the committee? I guess not. Thank you so much for coming out this afternoon. Next, we have Andrew Debeathal.

ANDREW DEBEATHAL: Good afternoon. My name is Winston Andrew Debeathal. I started my business, and
I'm here in support of Bill 7237. In 1998 I started my business as a contractor, and in 2003 I was certified as a minority business contractor. From my understanding the last time the study was done was a 1992. I think due to the fact that it has been over 27 years, there is a demand for review in a study of this bill. This is over 27 years ago, and since then the minority field has grown tremendously. As Ms. Greer has pointed out, it has increased not just for minorities but for business, veteran, and so on to satisfy the minority status.

I'm here in full support of this bill just due to the fact that it has been 27 years and over this time there has been huge increases in these fields, and that's it.

REP. HALL (59TH): Thank you for your testimony this afternoon. Do we have any questions or comments from the committee? Representative Porter.

REP. PORTER (94TH): Can you just speak to the impact that this has had on your business as a minority business?

ANDREW DEBEATHAL: Well, it's had a tremendous impact because the minority set-aside program has a certain percentage on federal and state contracts, that can be satisfied through many of the minority fields, which is women, veteran, and so on. It would be beneficial if it was broken out to specific fields, the percentage would be broken out to specific entities.

REP. PORTER (94TH): Okay, and can you just be more specific on how it has impacted you as a minority business owner out trying to acquire set-aside? How has it impacted your bottom line, the way that
you're able to operate, your operating cost, can you speak to that?

ANDREW DEBEATHAL: Sure, as I said from 2003 the minority field has grown so it has affected what is black-owned, women-owned, or veteran owned businesses. The minority qualification can be satisfied can be satisfied with just one of these entities.

REP. PORTER (94TH): Okay, thank you and thank you Mr. Chair.

REP. HALL (59TH): Are there any other questions or comments from the committee?

REP. WILSON-PHEANIOUS (53RD): So, I'm just a little unclear. So, sir are you saying that you know of specific instances where you may have applied for something and you later found out that it wasn't a, I don't know a person of color, a minority, but rather a woman or veteran or somebody else that we see something?

ANDREW DEBEATHAL: Absolutely.

REP. WILSON-PHEANIOUS (53RD): Can you tell me a little bit about that experience?

ANDREW DEBEATHAL: Well, one of my biggest competitors happens to be a minority women owned business. Without being specific she is backed by one of the largest contractors in the state of Connecticut who basically, that's their minority company. It's a woman owned business to match their minority company [phone ringing] has, like I said, taken away--we started a business pretty much the same time and they have grown leaps and bounds over the years. I'm physically in the field working
hands-on, and for my experience these women owned business tend to be not as hands-on in the business. They are involved, however, there involved as the head without the technical knowledge or the hands-on experience in the field.

REP. WILSON-PHEANIOUS (53RD): Thank you.

ANDREW DEBEATHAL: Are there any questions or comments from the committee? Senator Miner.

SENATOR MINER (30TH): Thank you Mr. Chairman. So, as I listen to you, and I think to myself, so what is it that keeps the constriction on work opportunities? It would seem to me that once you're in the field, others would see your work whether you're a minority or not a minority, they would think, hey if I hire this guy he's going to be on time, it's going to be on budget, I'm not going to have any subcontractor issues, have you gotten any benefit out of this at all or has it all been kind of, if I use the word suppression it's only because I can't think of another one. It sounds like your competition actually has been able to expand in your expansion has not been to the same degree as a male minority business.

ANDREW DEBEATHAL: I'm not sure of your question sir.

SENATOR MINER (30TH): So my question is--it sounds by your testimony that a woman owned business has had some growth, you haven't had the same benefit even though you started at the same time, and so I would have thought with improvements in the economy, there would've been growth in both, but that doesn't seem to be the testimony that you're submitting.
REP. HALL (59TH): Mr. Debeathal, can you turn your mic back on please? Thank you.

ANDREW DEBEATHAL: When you can satisfy the requirement with a woman owned business with stronger backing than a male owned minority business, the contractor tends to go with that woman owned business with the backing. Now there is legitimate women owned business, so I'm not trying to take away from that. My field is a little bit unique because of who is involved, but there is a need for women owned business, there is a need for veteran owned business, there's also a need for minority--black on business. My argument here would be to break out the package so that each of these entities get a fair share of the pie.

SENATOR MINER (30TH): Got it. Thank you. Thank you, Mr. Chairman.

REP. HALL (59TH): Are there any other questions or comments from the committee? Thank you, Mr. Debeathal, for coming out this afternoon. Leon Samuel? Wayne Purville.

WAYNE PURVILLE: Hello everyone, nice to be here. My name is Wayne Purville, I'm the President of Beacon Light and Supply, we are an electrical and lighting distributorship in Hartford and in Manchester, and I am in support of the bill 7237 because I feel that there needs to be an accounting, I'll say of the breakdown of the work that is being distributed and the opportunities.

Like the gentleman before me have said, any minority can meet the requirement of a minority project, which, I mean, you can be totally out of the field but as long as your certified by the state as a
minority business, you can participate in a contract, and that shouldn't be. You should be able to perform a commercial useful function so that you add value to the project that you are bidding on, and consequently what I've seen as the owner of Beacon Light is we've lost contracts to companies that quite frankly shouldn't even be allowed to bid against us because they do not serve the same function, and, you know I could go a little bit farther, but I'll just stop there. So, I'm definitely in support of the bill that is proposed.

REP. HALL (59TH): Thank you Mr. Purville, and as an owner of the business in my district, I appreciate all the hard work that you do. Are there any questions or comments from the committee? Thank you so much for coming out this afternoon--I'm sorry, I'm sorry. Representative Porter.

REP. PORTER (94TH): I would just ask you to expound because I think my concern is actually, you know, expanding and getting some things on the record as far as it relates to the importance of this bill and how it impacts your business in your bottom line and why we need to take a look at this.

WAYNE PURVILLE: Well, I'll give you an example. We bid on a very large state project, a multimillion-dollar project, and we lost the bid to a woman owned firm with three people, no credit, no experience of that size of a project, but we lost. We had 22 employees, dedicated project managers, millions of dollars in inventory. We pay into the system because we have 22 or 23 employees. We've been in the business for over 80 years and yet we lost to a farm because they were minority, they were certified minority, and the contractor involved, I don't want
to use the word manipulate, but it was easier, I'll use the word easier, for them to use such a firm versus a firm is hours.

So that hits our bottom line because—granted you build—you bid for these projects and I'm not trying to be a sore loser, but I want to lose to someone that the playing field is leveled, and because the program is as it is anyone that is certified as a minority could come in and get that contract to be manipulated.

REP. PORTER (94TH): Okay, and I'm definitely in support of this bill. I do believe that since it's been decades we need a more recent look, a deeper dive at a disparity study, but I guess I would propose this question to you, what would be the solution as far as you see or can tell, by your experience as a minority business owner, to deter that kind of, you didn't want to say manipulation and I can't remember you said, but how do you deter that from happening? What are the checks and balances that could be put in place to ensure that you are on a level playing field?

WAYNE PURVILLE: I don't believe that there is any oversight here in Connecticut as far as these projects because a project of—you know, you're talking a few million dollars is awarded, it should be immediately looked at as to the qualification of the person receiving the contract, are they financially sound, do they have any experience, those things ought to be looked at because if that, in that particular instance, if that was what that, you know, will have in the hell did they ever get a chance to even bid on then this project, are you kidding me. It's ridiculous.
So as a business person you see this and, you know, you're scratching your head and you're looking around, and you're saying will who are the higher-ups, who is in charge, what's going on here, because—we operate in Massachusetts, we also operate in New York, and there's no way that you would get away with anything even as close to what I've seen happen in Connecticut. It's mind blowing it really is.

REP. PORTER (94TH): So, what's the difference between Connecticut and let's say New York, because you're not getting away with this in New York is what you're saying.

WAYNE PURVILLE: No, in New York there's more oversight. You know, you get awarded a contract of that size, you're going to get a visit from somebody, you're going to get checked out to see that you're not somebody's friend or somebody rigged up something and brought UN because they know the system here in Connecticut. There's nobody looking over your shoulders, and that's essentially what's going on here. So consequently, you need the pieces broken out because it's not fair, there's a lot of people that work hard, and they have their dreams and goals and ambitions, and they're being snatched away because the system is unjust, it's unfair. It's almost a joke to be honest with you.

REP. PORTER (94TH): Thank you, and I would have to tend to agree based on what you've described is—described today, so thank you for putting that on the record. Thank you, Mister chair.

REP. HALL (59TH): Thank you for coming out. Sorry, Senator Kushner.
SENATOR KUSHNER (24TH): I'm sorry you just, that was a teaser you have to tell me what have been. If the person completes the contract—or were they able to because I would imagine based on what you said they might not have been able to--

WAYNE PURVILLE: Well, from what I understand, I mean the people are in--they're in trouble because, you can imagine if your small organization and you got awarded the contract for over $2 million, consequently you cannot manage it yourself. So, you have the contractor on one side, and you have another company on the other side, they're really controlling the money. So you don't have any control over the project, you're just a pass-through, you're the patsy, and then in the end you're the one who's going to get hurt, because these guys, they're not in this to lose money, that's why they don't use firms like ours because they just can't get away with what they'll get away with the next guy. We'll say hey, hey wait, it can't go like that, you know, there's some checks and balances in there. The other way around, it just hurts everyone all the way around.

SENATOR KUSHNER (24TH): I'm sorry but it did bring to mind when you are--your story reminded me of the contractor who got the deal in Puerto Rico for reconstruction of the hurricane and then so much money was lost, and so many people were hurt because of that, and it made that association in my mind as soon as you started talking about somebody who was inadequate to do that size of contract. Thank you.

REP. HALL (59TH): Senator Miner.
SENATOR MINER (30TH): Thank you Mr. Chairman. So, as I'm listening to you, I'm thinking to myself, this qualification which theoretically the other company had, is that done through DAS, do you know?

WAYNE PURVILLE: Yes, it's done through DAS.

SENATOR MINER (30TH): So, Mr. Chairman and Co-Chairs, you know, maybe as this moves forward, we might be able to have one of those in her office meetings with DAS to just try to find out if there's a piece of that that might be missing here as well. I think it's unfortunate after all this work, we find ourselves here. I'm not saying that that should be done instead of this. This bill will move forward, I don't--I mean I haven't heard anything here today that makes me think we should be supporting this bill, but while this bill is moving forward we have months left to go, if there is some other tweaks that we can make with in DAS so that if they are enabled in some way to disenfranchise one population over another, it may very well be that we can include that as well to get you farther down the road from where I think you're trying to go. You're not looking for an opportunity to be put ahead of somebody other than on your qualifications.

WAYNE PURVILLE: That's correct.

SENATOR MINER (30TH): Exactly, and so what I'm hearing in your voices almost pain that you've gone through all this effort since the 1990s to build a business only to have the rug pulled out from underneath you when you demonstrated the ability to have insurance, to understand the process, to understand the bidding process, to follow the laws, and then somehow it's becoming uneven again.
WAYNE PURVILLE: That's right, that's right. You know, there's always the angle, there's always that 10 percent that binds the angle and they go with the angle and they tend to get over.

SENATOR MINER (30TH): And maybe there's a way for us to try to reduce the angle.

REP. HALL (59TH): Thank you Mr. Purville for coming out this afternoon. I appreciate your testimony today, and it's really important information for us to consider. Thank you. Our last person to testify this afternoon will be Gisele Tyler.

GISELE TYLER: Hello, good afternoon members of the committee. Thank you for allowing me to speak in for my voice to be heard. I'm sort of piggybacking off of what you all of heard presented to you today before from the coalition. This dynamic group of women over here who are fired up and energized and ready to move their concerns for, and I'm hoping somehow that this form will be the impetus to allow that to happen.

I'm coming to you today because I feel that it is important for the committee to understand the nature of what I do. I am a licensed cosmetologist, and I have been in the field for the past 10 years as an eyelash extension us, which is a service that has hit the shores of the United States about 10 years ago and it is a hot service, it is a growing service, and I have some concerns about how that service in the state of Connecticut is being treated as profession, and I also wanted to share with you my experience as a business owner and as an eyelash extension us in the field and to point out to you why I feel that licensure, again were talking about
licensure here, is crucial to the viability and sustainability of the service as a profession.

I know you guys have my testimony in my statement up there, I know it is probably been a long day. So, I can either read it off if you like or I can answer any questions that you guys might have about why am sitting here and why am talking to you today.

REP. HALL (59TH): So yes, we actually have your testimony, and so what was your area again?

GISELE TYLER: Eyelash extensions.

REP. HALL (59TH): Eyelash extensions.

GISELE TYLER: Yes, and eyelash extensions--yes, it is a thing, and as-and it's a hot thing, and as a woman, I'm sure you guys up there know all about it. When you say it to a guy, their eyes roll, but it's a wonderful service, and unfortunately the state of Connecticut is the only state that does not require licensure for this service.

REP. HALL (59TH): So, what beauty services do they require licensure for?

GISELE TYLER: What do you mean?

REP. HALL (59TH): So, hair--

GISELE TYLER: So, hair, barbering and massage therapist in terms of that arc of beauty services and wellness services. Those are really the 3.

REP. HALL (59TH): And so, everything else is a free for all?

GISELE TYLER: Nothing else falls under that arc of licensure in the state of Connecticut. I--when I started this back in 2013, I did contact the
Department of Health and expressed my concerns, and they kicked me that to my then representative, and I got no traction for that. I just kind of feel like, you know, it's a beauty service that affects women and sometimes not I feel taken as seriously, but eyelash extensions, by its very nature, is a very intricate and delicate procedure, and I've been doing this--I've done thousands of eyelashes, and I have seen the effect of people who have gone to unlicensed, unqualified, ill-trained people and had catastrophic side effects.

I've talked to ophthalmologist, they are seeing an uptick in corneal abrasions due to eyelash extensions that are put on poorly by unlicensed technicians. So, you know, it is my proposal that service should fall under the arc of licensure through the state of Connecticut through the Department of Health. I agree with Senator Kushner who's in my district--hi Danbury, there are a few states out there who provide for specialty licensing, that's, you know, a totally different dynamic, but it's definitely something that we need to take seriously and we need to fold under Connecticut licensure of eyelash extensions because people are setting up shop, going on YouTube, you know, taking courses from their neighbor or what have you, and performing the service, and it's a very profitable service for service providers. People think that it's easy to do, but it's not, it's not an easy service, but it's very easy to harm someone.

I also feel more importantly, besides the business aspect of it, it is a public safety concern, because
I really have seen a lot of harm done by unlicensed technicians.

REP. HALL (59TH): Thank you so much for your testimony. Questions from the committee? Senator Kushner.

SENATOR KUSHNER (24TH): Yeah, I just wanted to say, we were sort of chuckling up here because we understood what you're talking about and the men on the committee didn't necessarily [laughter], but I wanted to say that I really appreciated. I think the seriousness—I didn't want you to misunderstand our chuckling because I think it is a really serious issues and I think you framed it very well, and I am very happy that you're from my district, and so don't leave without me getting to say hello.

GISELE TYLER: Absolutely, absolutely, thank you.

REP. HALL (59TH): Senator Miner.

SENATOR MINER (30TH): Thank you Mr. Chairman, and again I'm not sure this is the right venue to have this conversation yet, but I'm curious, to what degree do you think there should be a process to grandmother certain people that might actually be able to demonstrate, they've been in the business for a while. Do some states offer a—kind of a weekend or some four hour opportunity to show proficiency and—

GISELE TYLER: For people who are already doing the procedure in the state and who—well, not that I'm aware of because, again, this service has been performed for a number of years now, and most states jumped on top of it and required people to become licensed. I do know that states like Texas, they
have specialty licensing programs, which are separate and apart from the traditional 1500 hours for cosmetologist or 600 or 700 hours for estheticians, I do know that's the one state that does have it, but I am not aware of any program or provision that a state would allow for someone who is already performing the service to somehow fall under, you know, become licensed.

I would say though, you know, if the state of Connecticut does decide or should decide to license the service, I think really the only way that would happen is if someone would fall under a comprehensive training program and possibly--you know, a test, but I don't know of any other state who has that type of model already in place to answer your question Senator Miner.

SENATOR MINER (30TH): Thank you so theoretically then the only plausible way someone who might be currently in business or performing the service could continue, should we say you've got to have a license, in the short term you'd have to show that you had a license from someone?

GISELE TYLER: Right.

SENATOR MINER (30TH): Okay, thank you.

REP. HALL (59TH): Thank you so much Ms. Tyler for coming out. Are there any other questions or comments from the committee? Thank you so much for coming in this afternoon. What's the name?

[Unidentified speaker]: Jo Benoit.

JO BENOIT: Hello. Thank you very much for indulging us and I--
REP. HALL (59TH): Could you speak closer to the microphone please?

JO BENOIT: I'm sorry. My name is Jo Benoit, and I'm an esthetician, and I've been an educator for about 30 years in the profession. I own a business. What I want to address and probably help connect the dots as far as where I think it does apply to unemployment, is that we actually get lower wages because Connecticut doesn't have a law, and I think it is affecting kind of our way of life. I've worked in several other states. I've worked in Florida, I've worked in New York, I have a New York license. We're not allowed to do certain things because they're covered with other licenses.

For instances, there are a lot of states that do something called micro needling, we're not allowed to because it covered under the medical spa. So, there are a lot of things that we could be doing and probably should with proper training. I train advance aesthetics, so I don't train beginners, but there's a lot of reasons why don't make more money training people is because they're not even allowed to do it in Connecticut. So, I can train people from other states, but I can't train people in Connecticut. So, I think it's hurt the profession of aesthetics. I think that we should probably look into other states and how they do it. I don't think there should be more than 600 hours, I think it should be probably 300 get started. I wrote, hopefully you got my testimony, so all of this is in there, but mostly I felt that there should be a connection of the dots and the fact that it does in fact unemployment because we're not making the money that we should, and there's a lot of people that are
working under the table or they have their own businesses because they can't work with somebody else because they won't make any money doing it.

REP. HALL (59TH): Thank you for your testimony. Are there any questions or comments from the committee? Thank you so much for coming out this afternoon we appreciate it.

JO BENOIT: No problem. Thank you.

REP. HALL (59TH): Is there anyone else in the room who would like to testify? Anyone else? So, on behalf of the Labor and Public employees committee, I want to thank everyone for coming out and sharing their testimony with us this afternoon, and the meeting is adjourned. Thank you.