March 2, 2020

Co-Chair Gary A. Winfield
Co-Chair Steven J. Stafstrom
Senator John A. Kissel
Representative Rosa C. Rebimbas

Judiciary Committee:

We are submitting testimony in on SB 16, AN ACT CONCERNING THE ADULT USE OF CANNABIS.

The Connecticut Energy Marketers Association (CEMA) represents 576 energy marketers in Connecticut who sell approximately 400 million gallons of home heating oil/Bioheat® and 1.6 billion gallons of gasoline. CEMA members employ over 13,000 people in our state.

Our members are concerned that if this bill passes into law it will reduce the number of eligible commercial driver licensed (CDL) individuals that deliver home heating oil/Bioheat®, propane, gasoline and other goods that we sell.

Truck drivers that work in the energy industry provide nearly half the homes in our state with heating fuels that are need to ensure the health and safety of the occupants. Our industry also delivers gasoline and diesel fuel to the nearly 1,200 service stations who serve virtually every person who lives in our state.

The DOT has made its stance on the issue known multiple times, beginning when Washington and Colorado legalized recreational marijuana in 2012. "We want to make it perfectly clear that the state initiatives will have no bearing on the Department of Transportation’s regulated drug testing program. The Department of Transportation’s Drug and Alcohol Testing Regulation – 49 CFR Part 40 – does not authorize the use of Schedule I drugs, including marijuana, for any reason," the DOT said in a statement.

Federal law under 49 CFR Part 40 (§ 382.213 Controlled substance use) states –

(a) No driver shall report for duty or remain on duty requiring the performance of safety sensitive functions when the driver uses any drug or substance identified in 21 CFR 1308.11 Schedule I.
(b) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR part 1308 except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in § 382.107, who is familiar with the driver’s medical history and has advised the driver that the substance will not adversely affect the driver’s ability to safely operate a commercial motor vehicle.
(c) No employer having actual knowledge that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety-sensitive function.

The list of drugs can be found here https://www.law.cornell.edu/cfr/text/21/1308.11.
This rule makes perfect sense when alcohol and other substances that have impaired a driver are discovered during a drug test. But marijuana is different – several sources expert on this issue say that THC can remain in a person’s system for as long as 30 days. Our drivers are subject to random drug tests to protect the public, but if this bill passes and a driver legally consumers marijuana 2 weeks prior to a random drug test, in many cases they will lose their livelihood.

We all want drivers who are sober and free of substances that can impair their ability to drive safe, but marijuana is different from alcohol and other drugs that would show up on a drug test.

If Connecticut legalize marijuana it will cause confusion between the federal prohibition and state law. This may

The driver shortage is a national problem and without an impairment test we will likely see a number of drivers

Connecticut law needs to include an impairment test or other method that does not disqualify drivers who consume marijuana, but are not impaired at the time of a drug test.

CEMA asks that the Judiciary Committee take into consideration the impact that federal law will have if marijuana is legalized will have on our pool of qualified CDL truck drivers who we depend on to transport fuel. Please do not move forward with SB 16 until testing is developed to protect drivers and businesses from the harm that will occur if drivers who are not impaired, but test positive for THC.

Respectfully,

Christian A. Herb
President

Fuel Deliveries and Payment
Funding for CEAP starts with a release of dollars from the federal Department of Health and Human Service (HHS) to the State of Connecticut, where DSS then allocates the funds to the Community Action Agencies (CAA) to pay fuel deliveries on behalf of their clients.

Fuel vendors that participate in the program sign an “agreement” that stipulates a number of requirements that a vendor must comply with including the terms of payment.

Before a CEAP delivery is made to a customer, the vendor must receive an authorization from the CAA or the delivery will not be paid for. The agreement with DSS states that vendors will be paid within thirty days after a delivery ticket is submitted to the CAA confirming delivery.

In practice, the CAA’s attempt to make payments to vendors within two weeks because of the financial demands that vendors face with their suppliers. Fuel suppliers typically place vendors on ten-day payment terms or are cash on delivery (COD).

Vendors who have ten-day terms are given a credit line that is capped at a maximum dollar amount that they cannot exceed. DSS and CAFCA have worked diligently with CEMA over the years to strive for efficient payments in recognition of the cash flow issues that vendors encounter because of the differences in payment terms under the program in comparison to the terms that they have with their suppliers.

These cash flow issues are exacerbated when the program first opens in November when virtually every CEAP customer needs a delivery. Vendors report that the first couple of weeks of the program are the most demanding and place the most stress on their lines of credit.

CAA’s also have to execute a contract with DSS to administer the CEAP and to receive funding to pay vendors for fuel deliveries. Our understanding is that these contracts typically have a term of three years.

The issue that we are seeking to fix in HB 7337 is to ensure that the contract that allows funding to be forwarded from DSS to the CAA’s is in place before deliveries are made, so that they can pay fuel vendors for the deliveries that they were told to make.