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Representative Michael
D'Agostino

SENATORS: Kissel, Osten, Winfield, Witkos

REPRESENTATIVES: Ackert, Allie-Brennan, Arconti,
Candelaria, Cheeseman,
D'Agostino, D'Amelio, Gibson,
Hayes, Luxenberg, Riley,
Rutigliano, Winkler

REP. D'AGOSTINO (91ST): Our Committee Members are here. Rich, you'll have to help me out with any sort of procedural issues with respect to the -- in the Zoom era here but obviously we're doing this via a webinar and our Clerk Sam Clark and Assistant Clerk Gaia McDermott will be running the meeting in terms of the speaker list. They will unmute you and allow you in as a presenter, if you will, when it's your time to speak and you're called upon. We are going to hew to the three-minute rule as best we can, as we always do if this was a live testimony as well.

For Committee Members, you are all, I believe, set as presenters and can speak accordingly so feel free to do so when we ask for questions, as you would in a live testimony hearing. If there's other issues, feel free to raise your hand as well or text Committee Leadership. But I believe, Sam, am I not mistaken, that all Committee Members are active as it were and can speak when they want to ask questions? Is that correct?

SAM CLARK: Yes.

REP. D'AGOSTINO (91ST): Okay, terrific. So our role today, Senator Maroney, myself, Representative Rutigliano as the Ranking Member in the House and Senator Witkos, the Ranking Member in Senate will bounce around in terms of chairing the meeting today and calling on folks. We've got a very good agenda

today with Bills that were voted out to raise concepts, and we will get going as soon as I ask my Ranking Members and Co-Chair if they've got any comments. Senator Maroney.

SENATOR MARONEY (14TH): No comments, Co-Chair D'Agostino. I'm looking forward to the public hearing. Thank you.

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

REP. RUTIGLIANO (123RD): This is a housekeeping note, Representative. Usually, if a Member wants to speak, they'll notify me or they'll tap me on the shoulder and ask. Do you want them to just do the raise your hand feature or just to chime in?

REP. D'AGOSTINO (91ST): I think they can just, why don't we try chiming in, and if it gets too unwieldy, we'll raise hand. I'm sure folks are going to want to speak, so I'll keep a note of what hands are raised and Sam will as well, and I'll ask Sam to let us know or if we're chairing, let us know who is in the queue to speak. But in typical fashion, I think we'll start off questions to our Committee Leadership, Senator Maroney, you and Senator Witkos, and then I'd ask other Committee Members to get in the queue by raising their hand and we'll call on you as you go.

REP. RUTIGLIANO (123RD): Thank you.

REP. D'AGOSTINO (91ST): Senator Witkos.

SENATOR WITKOS (8TH): This is my first public hearing on Zoom, so I'm looking forward to it. Let's get going.

REP. D'AGOSTINO (91ST): All right, great. And we'll start in the traditional fashion with elected Representatives and Senators, and also administration officials. I know the Attorney General will be joining us today, but he was a

little delayed. So is Senator Formica available, Sam? There he is.

SAM CLARK: Yes, he is. He should be up.

REP. D'AGOSTINO (91ST): Senator.

SENATOR FORMICA (20TH): Good morning, how are you? Thank you very much. Good morning Chairman Maroney and D'Agostino, and Ranking Members Witkos and Rutigliano. I'm speaking to you this morning in support of House Bill 5311 and Senate Bill 263. Both of these Bills are necessary and I am grateful for the Committee to bring them forward.

5311 will address an issue that Cross Sound Ferry finds itself in as a result of the unintended consequences of the passage of Public Act 19-24. This solution allows for -- okay, I'm sorry, I'm hearing some feedback, that's why I stopped.

I strongly urge this Committee to support --

REP. RUTIGLIANO (123RD): I think we inadvertently muted the good Senator.

REP. D'AGOSTINO (91ST): Sam, if you could make sure that the Senator is unmuted?

SAM CLARK: I believe he can unmute himself.

REP. D'AGOSTINO (91ST): Sam, can we unmute him? Go ahead, Senator, we can hear you now.

SENATOR FORMICA (20TH): Okay, thank you. Was that something that I did? I apologize if so. Anyway, I strongly urge the Committee to support the change to 5311, and appreciate the hard work in crafting this solution for one of Connecticut's longest-serving customer service enterprises in our state.

Senate Bill 263, the measure addresses issues also caused by the passage of 19-24, when the overhaul

for the liquor process was done. We appreciate all of that hard work.

Many of us have heard the issues that were raised for these small private clubs, and this Bill, Section 1 contemplates reducing the proposed increase for these permits for the clubs to \$815 annually. I appreciate the difference from \$2,000, but I offer that this is still a significant increase for many of these clubs, and respectfully suggest that the Committee consider a smaller increase.

Second, the part of the Bill that promotes the refund if anyone has paid the higher costs, I think is an important part of the legislation. Again, I know how much hard work went into these two Bills to try to make the correction and the speed with which you brought it up for discussion and I thank you very much for all of that, and appreciate the time this morning.

REP. D'AGOSTINO (91ST): Senator, thank you for weighing in on those issues. For the Committee's benefit, just to review the two Bills that the Senator spoke about; one, you're obviously familiar with, we've talked about the permit fee fix. Just to review, it does take all those prior holders of nonprofit permits and club permits, and freeze them at \$815. The nonprofit club holders were previously paying \$815, the club holders for some reason were paying \$300. And in the historical research that I did, it did look like they were supposed to go up to \$815 as well, but it just never happened because they're all nonprofits, so that was the rationale for putting everybody at \$815.

It also, quite frankly, reduces the fiscal note associated with this. I will tell you, I am happy if the Committee would like to debate that amount as the Senator suggested, but currently that's what the Bill does and why it is at \$815. And of course, as the Senator mentioned, it does allow for a refund to

anyone who has already paid those amounts or will pay those amounts.

Separately, I would note that with the extension of the Governor's authority, we do expect the Executive Order that froze these fees to be continued to April. That doesn't obviate the urgency for us to fix the issue. It does slightly give us a little bit more breathing room to the extent that that Executive Order was going to expire in February. Now it still may, I don't know what the Governor is going to do. The assumption is he will extend it along with his other Executive Orders, but that's why we're acting quickly. We'll be prepared to vote on this as soon as we can.

Separately, I wanted to just, for the Committee's benefit, note the other Bill that the Senator mentioned on the Cross Sound Ferry, this is a related issue. Frankly, it's one that I'd like us to look at as a Committee on a more writ large basis. But this solves a particular issue where the Cross Sound Ferry does have bars on its ferries, but it has to pay a permit for each one of those ferries rather than a single license as an operator. And this fix, if you will, does make it a single permit fee as an operator.

That does make sense to me, and I'd love for the Committee to talk about this further in terms of should we look at that on a larger basis where the idea is to regulate an operator, not necessarily each location; you're going to hold the operator responsible whether there's a violation at one location or another. So that's what the Cross Sound Ferry issue does, and it highlights a larger issue that we can discuss going forward. So with that, let me open up to questions from the floor. Senator Maroney.

SENATOR MARONEY (14TH): I don't have any questions at this time, Representative D'Agostino. Thank you.

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

REP. RUTIGLIANO (123RD): Just a quick comment that I do know that the Committee and the leadership of the Committee has been committed to fixing the nonprofit issue that was passed in the Liquor Bill. It probably would've been done last year if not for the virus.

Also, I think with the ferry situation, Mr. Chairman, if we could just, I think the common sense on that one is that only one ferry is operating at a time. If somebody has multiple locations that are all serving liquor simultaneously, we probably wouldn't want to include them, but it is logical that they don't need a myriad of permits if only one ferry is going back and forth. So I would certainly be committed to fixing that issue.

REP. D'AGOSTINO (91ST): Excellent point. Thank you. Senator Witkos.

SENATOR WITKOS (8TH): Thank you, Mr. Chairman. Just one question, if I may. For the Cross Sound Ferry, do we know if that is the same permittee license that is taken out for all of the vessels or are there different permittees on each vessel?

SENATOR FORMICA (20TH): No, it's one business, one permittee, and these are not bars that are on the ferries. These are simply snack bars that may have cans of beer and maybe glasses of wine, along with sugary snacks and sodas and all the other stuff. You know, they could be five or six feet wide so it's a bit different. But my understanding, it's one permit. Cross Sound, I understand, has provided some testimony that might provide this Committee with more clarification to your question, Senator. But this solves the problem of one person and then the boats, the many different boats who serve many people from in and out of state. So thank you for that question.

SENATOR WITKOS (8TH): Thank you, Senator Formica, and thank you, Mr. Chairman. I'm in support of the concept, and I think it makes sense for us to move in that direction. Thank you.

REP. D'AGOSTINO (91ST): Thank you. Other questions from Committee Members? I don't see any hands raised in the room or online, so with that, Senator Formica, thank you very much. Appreciate you coming and joining us this morning.

SENATOR FORMICA (20TH): Well, thank you very much for the opportunity and we seem to have survived the first Zoom public hearing comments relatively intact. So, good luck.

REP. D'AGOSTINO (91ST): Great. Moving on, I do see our esteemed Attorney General has joined us and I know he's got a couple of Bills that his department has proposed that he'd like to speak about. So with that, why don't we hear from our Attorney General William Tong.

AG WILLIAM TONG: Mr. Chairman, thank you, and thank you, Chairman D'Agostino, Ranking Member Rutigliano, Chairman Maroney, and Ranking Member Witkos, and all of my friends and former colleagues on the General Law Committee, although I see Senator Kissel, so I'd be remiss if I didn't recognize the former Ranking Member of Co-Chair of the Judiciary Committee. It's great to be back with all of you. I wish we could do this in person. This will have to suffice for an hour or we can meet outside in the freezing cold, but this is okay.

And thank you for welcoming me back to talk about two really important Bills, House Bill 5307 and House Bill 5310. Let me talk about 5307, AN ACT CONCERNING PRICE GOUGING. And I don't have to tell State Senators and State Representatives how difficult it has been for your constituents, particularly at the beginning of the pandemic, to acquire hand sanitizer, masks, toilet paper, and to

make sure that people had access, including our frontline health care workers and first responders, to personal protective equipment.

And I know that all of you heard early on back last February that you were seeing reports, text messages, pictures on social media of what appeared to be price gouging; people being charged \$40 for two bottles of hand sanitizer at a local store. Or online, we saw a report of 40 N95 masks for \$500, and abuses of that nature.

We also saw, beyond that, that people were getting charged much higher than normal prices for eggs, for example. And when we looked into that, we discovered that maybe the retailer was charging a certain price for a dozen eggs, but they were being charged an even higher price than normal by their wholesaler or distributor.

We also got reports from hospitals in the Connecticut Hospital Association. I want to thank them for their support of this Bill. Of hospitals receiving solicitations to sell them masks and gowns and face shields for prices that were two, four, five, ten times more than they would normally pay; millions of dollars more than they would normally have to pay for personal protective equipment to keep people safe during the pandemic.

And what we discovered was that the retailer or the broker or the middleman that was trying to sell the PPE to the hospital or hospital system, they were charging one price, but really the increase in that price was driven by their wholesaler or distributor and somebody further up the chain.

So, what's really important about this Bill is that we discovered that Connecticut is limited in its ability to go after price gouging, and to hold all wrongdoers accountable. We have more than 750 complaints of price gouging, we investigate every single one. And in many instances, we found that we

would go to a retailer and they would say, no, no, the price went up because I'm being charged a much higher price for my wholesaler or distributor. And so we would say, well, show us the invoice. And they would show us the invoice, and they would show that they were being charged a much higher price.

But under our current law, we don't have the ability to go up the chain of distribution and hold a wholesaler or distributor or a manufacturer or somebody further up the line responsible for their misconduct, and trying to gouge people during an emergency. So this expands our ability under Connecticut Law to go after people further up the chain.

It also better defines what price gouging is, and under this proposal, price gouging would be defined as an unconscionably high price for a particular good, and an unconscionably excessive price that represents a gross disparity from the price that is normally charged.

This is language that's borrowed from another part of our statutes relating to price gouging for gasoline and energy. So this is language that we already use in other parts of our law, and we would use it here. And also, we would make sure that price gouging laws in this state apply to rentals and leases, which is not clear at the moment.

Let me say a couple of quick words about House Bill 5310, AN ACT CONCERNING DATA PRIVACY BREACHES. In 2005, Connecticut was one of the first states in the country protecting consumers from online data breaches when we passed our data privacy law. The Office of the Attorney General, under General Jepsen was one of the first, if not the first, Offices of Attorney General to establish a dedicated unit to protect consumers from data breaches, and we formed one of the very first privacy departments here in the Office of the Attorney General.

That's why, still today, I lead many of the enforcement actions and prosecutions against people for data breaches. We lead the way on Equifax for example, Home Depot, we're deep in it on Facebook and the data breaches there. So Connecticut, for a long time has led in this space among the states, and it's time that we updated our own data privacy law.

A number of other states, in 2019, for example, nine states passed new laws expanding data breach protection, and we think it's really important for Connecticut to catch up.

Very quickly, what this proposal does, this statute would broaden the definition of personal information. Right now, it is a little too narrow under our statute and does not capture the full spectrum of information.

The new proposal would capture, for example, your passport number, your individual tax identification number, and health-related information and personal biometric information. So you might be surprised that that's not already covered by our data breach and privacy law here in Connecticut, it's not. And I think all of us, and most consumers and our citizens, would expect that it is.

The proposal also shortens time periods for notification from on the outside 90 days to 60 days. We think it's too long, frankly, three months to wait before a company or an institution or organization that has personal and private information in their custody. Once it's breached, we can't wait three months for them to take action. They've got to take action quicker and as soon as reasonably possible.

I want to also note that with me today, I have Nicole Lake who's my Chief Counsel, and I think many of you have worked with Nicole. I have Michael Wertheimer, who is the Head of my Consumer

Protection Department and also Michele Lucan, who is the Head of our Privacy Department. And we're happy to answer any questions you may have.

REP. D'AGOSTINO (91ST): Thank you, Mr. Attorney General. We've got a couple of questions in the queue for you, and I don't think our Leadership does, so I'm going to go right to Representative Cheeseman, who has a question for you.

REP. CHEESEMAN (37TH): Thank you, Mr. Chairman. It's good to see you, Attorney.

AG WILLIAM TONG: Good to see you.

REP. CHEESEMAN (37TH): So first of all, I want to thank you for your work on the data privacy breaches. I do think this is such an important issue when we realize how much of our life we live electronically now, and how distressing it is when, you know, we all have the experience of having been notified, hey, your data, your personal identifiers have been exposed. So thank you for your work on that. I do have some questions about the Price Gouging Bill, if you will indulge me, please.

AG WILLIAM TONG: Sure.

REP. CHEESEMAN (37TH): You state that we now have a definition of uncomfortably excessive price. Specifically, is this 100% increase, 200% increase? Unconscionably excessive is descriptive but not really detailed. So I'd like some more information about that please.

AG WILLIAM TONG: So it's flexible and facts specific. But to the lawyers on the call, I think we -- unconscionability is a commonly used standard in the law. And you see it in a lot of different places, not just in the price gouging context, but also in contracts, for example. You know, when people enter into arrangements or contracts with each other and the terms are unconscionable, that is

something that judges and lawyers work with often and know what it means. And there's a whole body of case law about what unconscionability means, which is why we used this language. Because it's a legal term of art, that isn't specific in the way that a specific number or percentage is specific, but it's legally specific in that it is a term that is often used, and there is a lot of case law and commentary that informs what we mean by unconscionable.

There was a choice, Representative Cheeseman, to go in the direction of saying 10% or 15%, and putting that in statute. Some other states do that. I think that is too restrictive and could trigger investigations or violations of the law where there isn't price gouging and where there is an unconscionable action or the price is an unconscionable on its face. And frankly, wouldn't give us the flexibility that we need to analyze in a particular situation whether somebody is acting wrongfully or unconscionably.

And so we think that this standard, because it's so well established in the law and in our law, right? We use this language with respect to gasoline and energy that it makes sense to port it over to this part of our statutes.

REP. CHEESEMAN (37TH): Right. And you mentioned we've drawn this from our energy --

AG WILLIAM TONG: Right.

REP. CHEESEMAN (37TH): So, how many times have you prosecuted, let's say energy suppliers, for unconscionable price gouging?

AG WILLIAM TONG: So I don't have statistics on how often we've done it. I know that over the course of time, since the Legislature set forth that authority for the Attorney General, I remember working on this with Attorney General Blumenthal when he was in office and I just came to the Legislature. So I

don't have any stats right at hand as to how often we've done it. Suffice it to say that this is something that we regularly do in our office, and is a statute, especially the energy side, that we're very familiar with.

REP. CHEESEMAN (37TH): Okay. So looking at how this works, so no person -- "No seller shall suddenly increase the price during any major disaster or emergency declared to be at an end." So this is only comes into effect during an emergency disaster declaration meant to that time period.

AG WILLIAM TONG: That's correct. Our price gouging laws, in general, kick in when the Governor declares an emergency, and so that's a condition precedent that has to happen first before our enforcement power under these statutes kick in.

REP. CHEESEMAN (37TH): Okay. And I see deleted "Nothing in this section shall prohibit the fluctuation in the price of items sold at retail, which occurs during the normal course of business." Why was this deleted?

AG WILLIAM TONG: That is what we are replacing with unconscionably excessive price. That standard, frankly, it's hard to work with that language. Fluctuations from the price in the normal course of business, A, it's different than the unconscionability standard that we use with respect to gasoline and energy in the other part of our law. But it's just not the kind of language that lawyers and judges and courts have worked with a lot to really develop so that we understand how to apply it. Whereas unconscionability is a much more recognizable legal standard for us to work with.

And frankly, I find it tough to parse what that means. And so we think it's cleaner and more straightforward to go to the recognized unconscionability standard.

REP. CHEESEMAN (37TH): So this is catering to lawyers rather than economists.

AG WILLIAM TONG: Catering, you know, I don't know if there's -- maybe Representative Rutigliano can help us with the catering part of it. But what I would say is that it is a language that makes it easier for not just lawyers, but lay people and consumers and business people to understand what we mean by price gouging.

REP. CHEESEMAN (37TH): And I certainly, you know, the merits of this are certainly warranted and well-meaning but looking at, we talked about the toilet paper. I mean, you had a situation where manufacturers shutdown for months. There was a genuine shortage of supply. To a certain extent, this seems to me we are trying to rewrite the laws of economics and supply and demand, where there just may not be enough of this around.

So I will be interested to see, and yes, you go in and all of a sudden the hand sanitizer costs \$50 a bottle. Yeah, that's pretty unconscionable to me. But how this is going to play out in the real world where we are dealing with, as I said, the laws of supply and demand.

AG WILLIAM TONG: Well, I appreciate that comment. I would say notwithstanding the laws of supply and demand, I don't think any of us is saying that it's okay to take advantage of people during a crisis. And I think you as Legislators and we, working together to protect the people of this state, I think all of us understand that all sectors of our business community are under pressure. And toilet paper manufacturers as well, and distributors and wholesalers, and that economic conditions can and do affect price.

But I don't think that anybody on this call would stand for somebody forcing people in our state to pay \$50 bucks for a roll of toilet paper or \$100

bucks for six rolls of toilet paper. We have an obligation, I think, to protect the people of our state and say, that's not okay.

And so how do we police that? How do we determine what's not okay and what are price increases or changes driven by economic conditions, and what's that balance? Well, that balance is struck in this statute, and it's struck by the Office of the Attorney General, in our courts, and the unconscionability standard.

And I know it's not mathematical or numerical. Things rarely are in our statutes, because they have to be flexible and they have to address different circumstances and different facts at different times. But I think there is a point at which the laws of economics in supply and demand yield to consumer protection and good public policy and protecting the people of our state.

REP. CHEESEMAN (37TH): Well, I think that's right, and I think the importance of legislation like this, as we look at it, is that we strike the appropriate balance.

AG WILLIAM TONG: Right.

REP. CHEESEMAN (37TH): And I think economic realities as well as our duty to protect our constituents.

So final question, so toilet paper. We go after Kimberly-Clark, because they've driven up the price that started it. How is this going to play out in real life, Attorney General?

AG WILLIAM TONG: Well, I think we're assuming, but just this is obviously a hypothetical, so if there is anybody from Kimberly-Clark here, we're just --

REP. CHEESEMAN (37TH): Sorry, apologies, yeah.

AG WILLIAM TONG: But let's just say there was a large manufacturer of paper products and toilet paper and we got information, let's just say we saw a huge spike, ten times the price in the middle of an emergency, and we didn't see a good market reason for it. There wasn't a shortage, for example, of paper pulp to make the toilet paper or there wasn't a restriction in the logistics in getting the raw materials to make toilet paper.

And so we had a suspicion that something more than just market conditions was driving the price, the wholesale price coming from this manufacturer of the toilet paper. So we would send an inquiry, probably what we call it CID or a Civil Investigative Demand. We send them all the time in a variety of contexts, something that people understand that Attorneys General and the Department of Justice do and send out in the context of an investigation, we might casually call it a subpoena. And so we send that out, we get information. And oftentimes, there is a good explanation, right?

So in the context, by the way, of the local store that was selling hand sanitizer for two bottles for \$40, we would send, and we did send, an investigator from the State of Connecticut and the Office of the Attorney General down to the store, and we say, hey, what's up? Why do you have two bottles for \$40 bucks? And they would explain. And very often we get a good explanation. And we work it out with the retailer and there'd be -- they would do the best they could for their customers.

So with respect to a large manufacturer, we would essentially go through the same process. We would send a Civil Investigative Demand, we'd say, what's up? Why are your prices going up and give them a reasonable amount of time to get back to us. But if their answers were not complete, what would generally happen is we would ask more questions. And if we found that there was evidence of wrongdoing and that their answers and explanations

were not sufficient, we would take action. And that could include a lawsuit.

With a company that big, by the way, Representative, it wouldn't just affect Connecticut. It would likely affect Massachusetts and New York and New Jersey, and maybe even as far as California and Washington State. And that's when I pick up the phone and I call my AG colleagues across the country and we band together in a multi-state coalition, which we do over and over and over again. And then we would take on a large company like that in a coordinated way.

And what would probably happen is, short of a lawsuit, I would expect that if you've got a bunch of states on your tail, that they would make changes to their pricing structure and that we could reduce prices for consumers here in Connecticut.

REP. CHEESEMAN (37TH): All right. Thank you so much for your answer. And I see other people have questions so I will cease my questioning of the Attorney General now. And again, thank you so much.

AG WILLIAM TONG: Thank you.

REP. D'AGOSTINO (91ST): Thank you, Representative Cheeseman. Senator Kissel, followed by Representative Ackert.

SENATOR KISSEL (7TH): Good morning, Attorney General Tong.

AG WILLIAM TONG: Good morning.

SENATOR KISSEL (7TH): Great to see you. Thank you for the kind words. I still happily remember that luncheon that we had winter, now apparently years ago, but it seems like yesterday. I just have a couple of very quick questions.

AG WILLIAM TONG: Sure.

SENATOR KISSEL (7TH): You said that on the price gouging, you'd reach out to other states. Are there jurisdictional barriers or when you have a matter like this and the company is located, let's say the company is just based in Massachusetts. How do you go about that? Are you restricted or would you have to reach out to the Massachusetts AG and coordinate?

AG WILLIAM TONG: Generally, we're not restricted. And if a company is doing business in Connecticut and they're engaged in wrongdoing in Connecticut, we can take action against them wherever they are. And as you know, long arm jurisdiction and the long arm of the law, so to speak, give us the opportunity to pursue wrongdoers anywhere they are. It gets more difficult when they're not in Connecticut, no doubt.

And sometimes we engage, for example, in your example, with the Attorney General of Massachusetts, who is a very good friend not just to me, but to the State of Connecticut, and we work in partnership to pursue a wrongdoer. Sometimes -- and we do have a Federal State Task Force on price gouging and to protect people here in Connecticut and across the country. So we will talk with our federal partners and the Department of Justice, as you know, has other tools in its toolbox, including criminal sanctions that I don't have.

I have very limited criminal authority in the Office of Attorney General here in Connecticut. Other AGs, by the way, have a mix of civil and criminal authorities like they do in Massachusetts. And there are a number of multi-states out there that if we have this, when I say multi-states, I mean multi-state coalitions, that if we have the ability to go beyond the immediate retailer and go up the chain of distribution. That would enhance our ability to link arms with other states.

So there are a lot of ways to get at people who are not here in Connecticut. It is no doubt harder, but

we do it all the time. And let me say, Senator Kissel, I think we are still overdue for Rinaldi's in Enfield, right, if I'm not mistaken?

SENATOR KISSEL (7TH): Well, sadly, my son no longer works at Rinaldi's because they have new owners that refuse to wear masks and he just didn't want to work there anymore.

AG WILLIAM TONG: We'll have to find somewhere else then.

SENATOR KISSEL (7TH): Yeah, exactly. And one other question, and by the way, thank you for the kind words. And this is very personal to me. Does the Office of the Attorney General have any ability to help someone, this is in relation to the second Bill, the data breach, but someone that's the victim of potential identity theft and abuse of their credit cards? And by the way, that person is me.

AG WILLIAM TONG: We can definitely help depending on the facts and circumstances of what happened. We don't represent individual consumers as your counsel. But let me say a couple things.

One is if it's happening to you and it's happening on a much -- and we see that it might be happening on a larger scale to a lot of people, we can definitely take action there. I don't have to tell you, oftentimes if something has happened to you and it can be fixed by either a business or private or public institution that may have had access to your information, then a phone call from the Office of the Attorney General and some action on our part can help move the needle.

If you're not getting information that you need or the help that you need, and then we can point you in the right direction in terms of resources where if somebody has stolen information from you and taken money from you, for example, or bought something that you didn't want to buy, we can put you in touch

with the right resources to help you personally. And also, of course, there are our criminal law authorities who might also be able to help.

SENATOR KISSEL (7TH): Okay, so I may reach out, you may get a letter for me. I mean, it got to be so crazy, Mr. Attorney General, that I was calling up the number, getting these things erased, they would send me a new credit card, and there were charges on it before I even activated the new credit card. So something was going on. They were happening in other countries, and it just, at some point I just threw up my hands and said, I don't know how to handle this. This is out of control. And it also got so bad it was affecting my debit card and my bank account, so.

AG WILLIAM TONG: Yeah and you know, in those situations, if it is an institutional and systemic problem with a particular credit card provider, let's say right? Let's just say it's a big bank, big national bank, that isn't being responsive and maybe by the design of their system, they're hoping that you'll just give up and go away. We'll take action on behalf of the State of Connecticut because we have an interest in making sure that our consumers are protected, and say, hey, what's up? We have this complaint where our consumers are calling you over and over and again and they're not getting any action by you, and you're not protecting our consumers. And then we can take it from there.

Which is why it's so important that we have as strong a data privacy law as possible so that we have the full toolkit to take action on behalf of the people of our state.

SENATOR KISSEL (7TH): Well, thank you, Attorney General Tong. It is always a pleasure working with you. I'm sure you'll appear before the Judiciary Committee at some point this year as well, and I have no problem being very supportive of both of these proposals.

AG WILLIAM TONG: Well, thank you, Senator Kissel, and I look forward to coming home to Judiciary soon.

SENATOR KISSEL (7TH): You bet. Thank you, Mr. Chairman.

AG WILLIAM TONG: Thank you.

REP. D'AGOSTINO (91ST): Thank you, Senator. Representative Ackert, followed by Senator Witkos.

REP. ACKERT (8TH): Thank you, Mr. Chairman and Attorney General Tong, good to see you.

AG WILLIAM TONG: Nice to see you.

REP. ACKERT (8TH): Thanks for your work on behalf of the Consumers of Connecticut and your staff also. I just was, first of all, thank you for how you went through and covered the process with Representative Cheeseman. I just want to close that loop a little bit if we could.

So if you go and sue a small business, anything that you may bring to them, what could be some of the -- because I look at the dollar amount that is actually charged on that and it says, fined not more than \$99. Obviously, one of the main things that would happen is they would reduce their prices to a reasonable rate. But is there any other action taken to that corporation or business that would come from your office?

AG WILLIAM TONG: Yes. So it could be that their actions in price gouging constitute unfair and deceptive practices under our state law which is, for many of you familiar with it, it's called CUTPA, Connecticut Unfair Trade Practices Act. And so every state has something like CUTPA, and that's what we call it here in Connecticut.

And so if it does constitute an unfair or deceptive act or practice that exposes them to damages, punitive damages, and disgorgement, and it also exposes them to what we call injunctive relief, which are orders that the court would give to force them to act and do things in a particular way to make it right.

REP. ACKERT (8TH): I knew there had to be more than the \$99 there if you're going to spend that effort and the authorities to do that. So thank you, sir. Thank you for that answer.

AG WILLIAM TONG: Thank you.

REP. D'AGOSTINO (91ST): Thank you, Representative. Senator Witkos.

SENATOR WITKOS (8TH): Thank you, Mr. Chairman. Good morning, Mr. Attorney General. Just a quick question for you, a couple of questions, actually. When we spoke about the unconscionable act and dealing with price gouging, would it also entail how a product is sold to a consumer? And I'm looking at, for example, maybe you were able to buy something in a singular unit and the practice has changed now requiring a full case purchase where the price may be not affordable to individuals, just because they're able to? The wholesaler or wherever up the chain says, if I can sell a full case of something, I'd rather do that then sell off individually?

AG WILLIAM TONG: I guess the best answer I can give is that it could, depending on the facts and circumstances of how that's done. And again, there is always in the background CUTPA, and there is always the possibility that what they're doing, if it does not violate the letter of the law under our price gouging statutes, that that retailer may be engaged in an unfair or deceptive act or practice, or fraud or some other civil or criminal violation that would be enforced by the criminal law authorities.

SENATOR WITKOS (8TH): Okay. And you said that the price gouging statutes would not become into effect until an emergency was declared. And because of COVID now, I think this is the first time that we've experienced a public health emergency, which is different than a civil emergency. So my question would be, does the language speak to, is it silent on the type of emergency that is declared or would it be either/or?

AG WILLIAM TONG: I believe that it applies under either circumstance.

SENATOR WITKOS (8TH): Good. I think that's important to have that. Is there a difference between a business or an individual for price gouging? Because I think we -- you offered the example of going into a retail outlet and having them show the reason why there was a spike in their price because they got passed on costs. But what about the individual who tried to show some sense of entrepreneurship and went out there and bought in bulk and then turned around and was selling it electronically on the internet?

AG WILLIAM TONG: Yeah. The statute applies to any person. No person shall engage in that kind of conduct. I'll ask Mike Wertheimer, who's my department head. Mike, I'll give you a second to unmute if you have any more thoughts about that.

MICHAEL WERTHEIMER: Yeah. The statute defines a seller as a person, firm or corporation, including manufacturers, suppliers, wholesalers. So it is broad enough to cover all of those. So it'd be the actor there, Senator. If it's an individual, they would still be covered here.

SENATOR WITKOS (8TH): And if I could just follow up a quick question to Mike. What happens if the person realizes that we have these statutes in Connecticut? So they go online anyways and they say,

not available for sale in Connecticut. Is there anything that we can do at that point or not?

MICHAEL WERTHEIMER: This statute applies to sales in Connecticut during a Governor-declared emergency. So if they were selling it to other states, we would alert the other states. Most states have versions of price gouging laws. We work closely with our colleagues elsewhere and cooperate in that way. This statute, under that limb, that circumstance, may not apply, this statute. But as the Attorney General said, there is CUTPA, which is much broader in application and there is our work with other states where that is very cooperative to reach that sort of conduct.

SENATOR WITKOS (8TH): Okay. Thank you. Mr. Attorney General, is there in the New England region, are there other states that have on the books or are contemplating what we're discussing today?

AG WILLIAM TONG: I think they all do, and I will say that at least New York has the unconscionability standard. It's a commonly used standard in this space.

MICHAEL WERTHEIMER: If I could add there, Senator. We are by, with this proposal, we are just trying to catch up to some of our neighboring states who have better price gouging laws than frankly we do right now. Attorney General's the right, New York, also Massachusetts and others.

SENATOR WITKOS (8TH): And so I just want to throw something out there and anybody can respond. And I do not recall whether it was an EpiPen or the Narcan medication that we discussed in this Committee a couple years ago. And there was a huge spike, and it really was, I think, the manufacturer that was just price gouging because they could on that product.

And what would happen in that case, if it happened again? Would we have to wait until, would CUTPA come in place immediately, that you could begin an investigation? Or we would try to file something as soon as we had some emergency happen in our state, and then somebody could say, well now we can investigate it under this statute, because an emergency has been declared?

AG WILLIAM TONG: So let me answer that and then I'm going to kick it over to Mike. But we do that all the time with respect to occurrences in the marketplace that prejudice consumers, right? So it's not just the EpiPen, its price fixing in the generic drug market, which many of you know, I'm leading on behalf of a 49-state coalition.

And so on a national and multi-state basis, we dealt with that EpiPen situation, for example. And there was an investigation there and there is continuing inquiry into that situation. However, that didn't occur necessarily in the context of an emergency, okay? And so that -- those investigations and those inquiries are undertaken either in the context of CUTPA or some other legal theory, or in coordination with our federal partners. And they have their own powers and we do it together, or there is some antitrust angle or consumer finance angle in which states are specifically empowered to act.

And so those are a little bit different, but yeah, there is certainly, you can conceive of a situation where we've declared an emergency and then they do something really abusive with respect to medical supplies or medicine. That might give us the ability to take action against them, which is why it's so important to be able to move up the chain. Right now, we would be able to go after the pharmacy, but not necessarily anybody further up the chain.

Right now, I'm engaged in pursuing the nation's three largest drug distributors, AmerisourceBergen,

Cardinal and McKesson, to hold them responsible for their role in the opioid crisis. But if they were responsible for price gouging or we had evidence of that, it's not clear that I could go after them. Mike, do you have anything to add?

MICHAEL WERTHEIMER: You're exactly right, Attorney General. The CUTPA laws or the antitrust laws, those apply all the time. So if this behavior happened, we would have that reach. The price gouging law only applies during a Governor-declared emergency, gives us additional tools to use during that time to protect vulnerable consumers from profit tearing behavior during that crisis.

SENATOR WITKOS (8TH): What's the typical time that a respondent would have to provide evidence of either -- they're going to claim that they're not price gouging. So we have a public health emergency, your office gets word of potential price gouging, you send an investigator out there. Can just be dragged out, or when can people expect some type of a resolution?

AG WILLIAM TONG: I think it is a continuum, and that depends, right? I think most lawyers would expect to see 30 days in the normal course, but if you are holding on to, if you're hoarding medicine that people need to live, antibiotics let's say, right, or if you're hoarding masks or hoarding water or something, and you're not giving people access to it and we need emergency relief, our state and our office goes into court right away to get that emergency relief.

SENATOR WITKOS (8TH): Very good. Thank you. Thank you both for your answers. Thank you, Mr. Chairman.

AG WILLIAM TONG: Thank you.

REP. D'AGOSTINO (91ST): Senator Kissel, did you have a follow up? No. Any other questions for the Attorney General or his team? I see none. Thank

you, Mr. Attorney General, for your comments today, and we look forward to advancing these Bills in partnership with you.

AG WILLIAM TONG: Thank you everybody. Thank you, Mr. Chairman.

REP. D'AGOSTINO (91ST): All right. I think, Sam and Gaia, those were the last of our elected officials and department heads and administration officials, am I right?

GAIA MCDERMOTT: I believe so, and then I have next on the list for Tracy Wodatch.

REP. D'AGOSTINO (91ST): Okay. Tracy Wodatch will be next, and after Tracy, can we just, why don't we get the queue going? Who's after Tracy?

SAMUEL CLARK: Next is Michele Lucan.

REP. D'AGOSTINO (91ST): Okay. So, Ms. Wodatch, you are up.

TRACY WODATCH: Thank you. Can everybody hear me okay?

REP. D'AGOSTINO (91ST): Yes.

TRACY WODATCH: Great. Senator Maroney, Representative D'Agostino, Members of the General Law Committee. My name is Tracy Wodatch, President and CEO of the Connecticut Association for Healthcare At Home. Our Association is the united voice for Connecticut's Home Health and Hospice Agency Providers, who are licensed by DPH and certified by Medicare. Our membership also supports several non-medical homecare agencies, known as homemaker companion agencies, who provide supportive personal care services in the home.

We strongly support HB 5307, AN ACT CONCERNING PRICE GOUGING, as the changes proposed are timely and

necessary, especially given the COVID-19 pandemic. Please note that our association has also signed on to the joint testimony submitted by the Connecticut Hospital Association. However, I wanted to share our story in homecare to give you an additional perspective.

Since the beginning of the pandemic, our members were hugely challenged in securing adequate personal protective equipment, PPE. We were not part of the initial statewide PPE distribution and were left to find our own resources. PPE was scarce and prices were double and triple pre-COVID pricing. Many of our members could not access the appropriate masks, especially N95s, proper-sized gloves or gowns. And as you may recall, the CDC guidance was very fluid. So providers needed to have excess supplies to respond to the ever-changing recommendations. We were desperate and had to resort to desperate alternatives.

A glaring example was when no gowns were available. Providers hired seamstresses to make washable tieback gowns and many were forced to use garbage bags and disposable rain ponchos, all things that required DPH approval.

As the first surge of COVID began to decrease, our providers were finally included in the statewide PPE distribution, simultaneously as PPE pricing began to relax. Stockpiling became the focus to prepare for a second wave. Unfortunately, now we are once again seeing pricing out of control, now two to four times pre-COVID pricing, and suppliers are rationing what we're able to order.

The reality is that our providers are struggling to stay in business due to the lack of supplies and the exorbitant pricing of what's available. We go into people's homes and environment wrought with the unknown. Not only do our providers assume that every patient has COVID, but they also have to

assume that every family and visitor in the homes have COVID.

We cannot restrict visitors as an institution. Each visit needs full PPE to protect the patient, the family and the caregiver.

We urge you to pass HB 5307, knowing full well that price gouging related to PPE threatens the health and safety of our providers, our patients, and their families. Thank you for the opportunity to testify today, and I'm available for any questions.

REP. D'AGOSTINO (91ST): Thank you Ms. Wodatch. Questions from Committee Members? I don't believe I see any, so we will thank you for your testimony, which was important and timely. Thank you.

TRACY WODATCH: Thank you.

REP. D'AGOSTINO (91ST): Sam, next?

SAMUEL CLARK: Next is Michele Lucan.

SENATOR MARONEY (14TH): I believe she's with the Attorney General's Office, so I'm not sure.

REP. D'AGOSTINO (91ST): Oh, I'm sorry. Yes.

SENATOR MARONEY (14TH): If she is all set, so.

SAMUEL CLARK: Next is Matthew Sando.

GAIA MCDERMOTT: I just recently let in Pat Shea Remes, because the others I hadn't seen in the attendee list. I think they might not be connected just yet.

SAMUEL CLARK: Okay, so we'll just keep going down the list.

PAT SHEA REMES: I am here.

REP. D'AGOSTINO (91ST): Okay, there we go.

PAT SHEA REMES: Okay. Good morning, Representatives and Members of the General Law Committee. I'm here in support of the Section 13 language contained in SB 266. David Wilson, former President of our Association, and Holly Borgmann from ADT, have submitted testimony. I would like to thank you for considering this again in this year's docket, and this would eliminate or exonerate fully licensed electrical, low voltage contractors to install electronic locks without obtaining a locksmith license. Do you have any questions for me?

REP. D'AGOSTINO (91ST): Questions from Committee Members? I do not see any. Again, this was a change that had bipartisan support last year out of Committee, so we're just revisiting it this year.

SENATOR WITKOS (8TH): Mr. Chairman?

REP. D'AGOSTINO (91ST): I see that, Senator Witkos, please.

SENATOR WITKOS (8TH): Yeah, thank you. Sorry about the late raising of the hand. Pat, could you just explain to me, refresh my memory why this Bill is before us? Did something change out there in the industry that you're asking for this or how does this coming before us?

PAT SHEA REMES: Well, with the technology, electronic or low voltage electronic licensed people can now do sophisticated systems, which include what we're asking for is for electronic locks. As the former wording in the state statute said that you'd have to have a locksmith come out and install a preprogrammed electronic lock for a security system. And, you know, it is part of a whole system. We do not carry tools for locksmiths. I'm not talking about anything, except for part of the system that they're installing for security.

SENATOR WITKOS (8TH): So if somebody wanted to -- if somebody was going to -- I'm in my residence and I say I want a new gadget, so I'm hiring somebody to come and install an electronic lock that I either can use off of my phone or it's a digitized keypad, and there's no power to my door, I guess. Is that the reason why they're saying a locksmith has to do it, because they have to bring power to the unit, or? Help me walk through that.

PAT SHEA REMES: Okay. It would be an electronic lock that was a part of the whole entire security system, and you know, its preset. It would go into your door and be part of the system that's installed for security, etc.

SENATOR WITKOS (8TH): And is that incorporated in alarm installers? I think we did something with alarm installations a few years ago. Is it the ability to install those with that license or not?

PAT SHEA REMES: To install electronic locks, well, right now, it's part of the system, but they're asking that the alarm installer would have to stop and come and have an electrician -- I mean, sorry, a locksmith actually install the unit, and then it would give it back to the alarm dealer or the licensed technician to continue with the system. It's very costly for the resident owner, because you're going to have to have two different tradespeople come in and put the system in, which can fully be handled by the licensed contractor.

SENATOR WITKOS (8TH): Sure. So I am assuming that the individual or the company that's installing the alarm systems have the training and the knowledge and the skills to put in a door lock?

PAT SHEA REMES: Yes.

SENATOR WITKOS (8TH): Okay. Thank you. Thank you Ms. Remes.

PAT SHEA REMES: I'd like to refer you, you could refer to the testimony given last year by Mr. Wilson, and also the testimony submitted by the Association.

SENATOR WITKOS (8TH): If they didn't submit anything this year, I would urge them to do that, because --

PAT SHEA JAMES: They have.

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

REP. D'AGOSTINO (91ST): Thank you, Senator. Thank you for your testimony. Any other questions from Committee Members? All right, seeing none, I'll thank you and we'll move on to the next person, Sam.

SAMUEL CLARK: All right. Next is Jim Perras. He should be in now.

JIM PERRAS: Hello, can everybody hear me?

REP. D'AGOSTINO (91ST): Yes, Jim.

JIM PERRAS: Great. Good morning Chairman Maroney and D'Agostino, Ranking Members Witkos and Rutigliano, and esteemed Members of the General Law Committee. My name is Jim Perras, and I'm the CEO of the Home Builders & Remodelers Association of Connecticut. We're a statewide trade association representing roughly 900 business members in residential construction and those businesses that facilitate our industry.

Thank you for the opportunity to testify on Senate Bill No. 266, AN ACT CONCERNING CONTRACTORS AND HOME IMPROVEMENT CONTRACTORS. You have my written testimony, so I'll just hit the highlights.

There are a number of provisions in this Bill that we support wholeheartedly, the facilitation of

online registration being chief among them. We're certainly supportive of the provisions regarding the enforceability of contracts; however, I have heard from members regarding the specific provisions that require end dates be included in contracts as being concerning.

As you know, there are definitely many instances in which construction may not be completed on schedule, many of which are out of the control of the contractor such as supply chain disruptions, permitting delays, workforce issues, etc. And we just ask that the Committee to take into consideration these concerns as the Bill progresses.

We also welcome the use of binding arbitration as a trigger to access the guaranteed funds, but we suggest that instead of increasing the contract or contributions to the fund, as found in this Bill, that instead, we suggest capping or removing the caps from the fund, I should say, and maybe eliminating the provisions in the statutes that allow for the sweep of the funds into the general fund. So, if that could be repealed in lieu of increasing those contributions to the fund, I think we would be certainly supportive of that.

We also support the intent of the provision that requires a contractor to show proof of liability or general liability insurance. We, as an association, certainly believe that its good practice to maintain adequate levels of insurance of all type, as it protects the contractor and the consumer.

We believe that contractors should maintain adequate liability insurance that is commensurate with the risk while engaging in any construction activities. However, requiring proof of insurance at the time of registration might not be entirely practical. There are instances where a new home contractor may not be under contract at the time of registration or, for example, when a home improvement contractor from a bordering state would like to maintain his or her

registration because they market in Connecticut but aren't currently working in Connecticut.

Since the insurance is meant to protect against exposure to risk, it would be, as we see it, inherently unfair to require an individual to purchase insurance he or she does not need at the time.

So, a thought is that maybe it would be more appropriate to require in the statute that a contractor be required to demonstrate that he or she has a working relationship with an agent that can secure insurance when it's needed.

Senate Bill 266 also allows the Commissioner to place conditions on a certification of a new home and home improvement contractor. HBRA certainly understands the importance of strong and efficient oversight and appreciates the intent of these provisions, but we have concerns with the ambiguous nature of the language and we'd like to understand what types of conditions could be employed and we'd suggest that these conditions be itemized in the Bill and properly considered by the Committee.

We've also heard from a number of our members that own showrooms that have expressed that the umbrella salesperson registration provision would be financially and administratively burdensome for smaller and mid-sized companies. Specifically, we're told that there is typically a high turnover in these positions and that in any given year, because of that turnover, this would result in more payments and registrations than there are actually salespersons in the business by the end of the year.

Lastly, we have no objection to the increase in the maximum amount of small claims awards being increased from \$5,000 to \$15,000 for claims related to new home construction contract or a home improvement contract. However, we would just ask that the Bill be made clear that instances where the

contractor is the claimant, that he or she can also take advantage of the higher threshold.

So that's all I have. Thank you for the opportunity to testify. Certainly, if there are any other questions, I'd be happy to facilitate those questions.

REP. D'AGOSTINO (91ST): Senator Witkos, do you have any? Thank you.

SENATOR WITKOS (8TH): Thank you, Mr. Chairman. Jim, good morning.

JIM PERRAS: Good morning.

SENATOR WITKOS (8TH): Just a few quick few questions, and thanks for your input. I've jotted down some notes. One of the, I think the importance of having an end date is to enable a consumer some form of availability to say, you're basically 90% done or 95% done, how do I get you back to finish the remaining list or to do the punch list? And that seems to be, from what I've heard, the biggest concern from folks, so I'd be willing to entertain some language to address that.

Because usually, the contract has been paid almost 100% by the end and they've moved on to other jobs. Not the reputable ones, but the ones that are harmful to the consumers, and that's kind of what I want the protections, for them.

The insurance portion, would you -- what are your thoughts if there was language in there that says, basically using what you have, but if there was ever an investigation and the business did not have the insurance as required by the statute, that their license to operate in Connecticut would be pulled, because we need to have something strong.

As long as it's a reputable business, if they want to have that relationship with an agent, when

they're doing a job, they go secure whatever level of insurance that they need to do. But if they choose to not to have that insurance, even though it would be required under the statute, then there needs to be some type of remedy to address that.

JIM PERRAS: I personally don't see any problems with that. Certainly, members of my association are required to adhere to our ethics requirements, and part of those ethics requirements require that they have suitable insurance. And certainly, as I mentioned in my testimony, it is only right and appropriate, and it makes perfect business sense that adequate insurance is had at the time of construction. And I think I'd be happy to work with you on a language that strengthens that goal.

SENATOR WITKOS (8TH): Sure. And the last one, I was kind of surprised, honestly, at your testimony about the umbrella salesmen policy. When we were told, from the department, it's very cumbersome to have folks that for turnover rates, etc., to have a license per individual in a store versus if you know you have ten salespersons, you get the umbrella which covers ten, so it's covers positions, not names.

And so, you know, you may have somebody that is on a lunch break so you have somebody else covering it for that one hour, then technically they have to have a license, but this way under the umbrella policy, the number of positions that you have the policy for cover those number of folks. I kind of thought this was going to be a business-friendly section of the Bill, so I'm curious just to hear a little bit more as to why you don't think that way.

JIM PERRAS: So, Senator, it may be my fault, and I'll certainly go back and read the Bill a little more carefully. But I was under the impression that the provision in the Bill requires that names be listed under the umbrella registration. And if that's not the case and it's specific simply to the

number of salespersons, I guess the issue would be instances in where, if there is increased turnover, and if there's a way in which there is a prorated, a prorating or what have you, that's something that I'm sure my members would be happy to consider.

I can tell you this, that certainly there is a bit of push and pull with regard to the registration of salespersons. In my association, there are those independent home improvement contractors that feel that what's good for the goose is good for the gander, and that the folks working in showrooms should certainly be registered.

And then there are those in my company or in my association that are businesses with showrooms and right now, because of the economic climate and the precarious nature of our industry, and while we're seeing a bit of a boom, that boom sits on a bit of a precarious perch. There is concern to require those sort of registrations just is economically burdensome to them.

I know that there has been some testimony submitted by those businesses, and I would direct you to that testimony. But certainly, I'm happy to work with you to find some language that might be suitable for everybody, and happy to do so in any way.

SENATOR WITKOS (8TH): Sure. And I'll go back to re-read the Bill, but I think that's kind of the direction we wanted to take. Because if you look at the definition of the salesperson, you could have somebody in your showroom that, like I give the example, goes on lunch and somebody answers the phone and somebody has a couple questions of it. And if they're not registered salesperson, they're not even supposed to have those conversations. So it's just a mechanism trying to be business friendly, but protecting the consumer. And that was the thought behind it, but I'd be happy to work on it with you. Thank you, Mr. Chairman.

REP. D'AGOSTINO (91ST): Thank you, Senator. Thank you, Senator, in particular, for your efforts on this Bill. We'd like to certainly get this across the finish line for you this year. I know you put a lot of work into it. And Jim, we appreciate your association working with the Senator and the Committee to get a Bill across the finish line. We do think this is good for consumers at the end of the day. Other questions for Mr. Perras? All right, seeing none, Sam we'll move -- thank you, Jim. We'll move to the next participant.

SAMUEL CLARK: Okay. Next is Stanley Mickus.

STANLEY MICKUS: Morning. Can everyone hear me?

REP. D'AGOSTINO (91ST): You're good.

STANLEY MICKUS: Great. Thank you. Good morning, Senator Maroney, Representative D'Agostino, Ranking Members Representative Rutigliano and Senator Witkos, other Members of the General Law Committee, Representative Cheeseman, thank you for your assistance in this issue. You've been hearing from us for the better part of a year now. I'm Stan Mickus with Cross Sound Ferry and Cross Sound Deli Services here in New London, Connecticut. We're here to support Raised House Bill 5311.

The owner of Cross Sound Deli Services, Susan Wronowski, has also submitted written testimony, which you may have in front of you or have seen already. I want to thank you for your time today. I know you've all been listening to our concerns on this issue for the better part of a year now.

Just to clarify, Cross Sound Deli is the liquor permit holder. Susan Wronowski and Cross Sound Deli hold the permits on the ferries that are owned by Cross Sound Ferry that travel between New London and Long Island, and New London and Block Island. The Wronowskis have owned the ferry services and the deli services now for the better part of half a

century. It's a fourth-generation family business whose members all reside in Connecticut and have so their entire lives. I've worked for the family for almost 30 years now.

The Ferry Service employs around 500 people year round -- I'm sorry, 500 people during the peak season and about 225 year-round full-time employees. In addition, the deli service employs about 120 in peak season and around 60 full-time year round, so obviously we have a great number of employees and generating in the workforce here in Connecticut.

The food and beverage service that Cross Sound Deli provides is -- it's looked upon as a much needed and a welcomed amenity to our customers, many of whom are travelling long distances from neighboring states to use our ferries to Long Island and Block Island.

In fact, many of the customers that we serve have become accustomed to making their plans around eating or drinking onboard the ferries after a long travel to New London. And while Cross Sound Deli does pay Connecticut sales taxes, the deli service is not really relied upon as a major profit center in contrast to the ferry service, and we view it as just another high quality amenity that we provide.

As you all can imagine that the pandemic has been devastating for both the ferry service and for Cross Sound Deli. Travel, as we all know, has been down across many industries, air, rail, so on and the ferry services are no different. Both Cross Sound Ferry and Cross Sound Deli have seen revenue decline of 48% and 64% respectively in 2020, probably the worst year we've ever had.

Under the legislation that was passed in 2019, Cross Sound Deli's liquor permit fees rise by 300%. If not for the Governor's Executive Order that granted extensions, we would have had to pay these fees, so we appreciate that support there. And obviously

that's an onerous increase even under normal conditions.

One other thing to point out is that the ferries are unique. I think this was brought up earlier and I think Representative D'Agostino brought this up. We don't operate as a normal restaurant or bar. We're not open all the time. In fact, none of the vessels operate year round. All of them come in and out of service for their annual maintenance cycles, painting, interior work, and so on. They also only operate as seasonal demand warrants, so there are some vessels in our fleet that only operate three to four months a year.

Hence these boats are out of service more than they're even in service during the course of the year. So the revenues realized by Cross Sound Deli are not as a typical restaurant and bar, and they're realized under completely different conditions.

So in closing, I really appreciate the Committee hearing our concerns in bringing this Bill up before us. It's been a long road. We truly appreciate your assistance. We do support the concept of the unified permit for the entire fleet. I think administratively for everyone it makes it so much easier. And as I mentioned earlier, we do fully support Raised House Bill 5311 and we thank you for your time and consideration today.

REP. D'AGOSTINO (91ST): Thank you, Stanley. Questions? Thank you very much. We appreciate it. Sam, let's move on to the next participant.

SAMUEL CLARK: Okay. Next is Anna Doroghazi.

ANNA DOROGHAZI: Hello, can you hear me?

REP. D'AGOSTINO (91ST): We can hear you.

ANNA DOROGHAZI: All right, wonderful. Good morning, Senator Maroney, Representative D'Agostino,

and Members of the General Law Committee. My name is Anna Doroghazi, and I'm one of the Policy Directors at AARP Connecticut.

On behalf of older adults and the nearly 600,000 AARP members here in Connecticut, I'd like to thank you for the opportunity to testify before you today in support of SB 269, AN ACT CONCERNING THE AVAILABILITY OF GENERIC PHARMACEUTICALS.

AARP is interested in this Bill because of its potential to make vital prescription medication more affordable. US residents pay some of the highest prices in the world for their prescription drugs, and the prices of brand name prescription drugs increase year after year, often at really exorbitant rates.

In 2018, for example, retail prices for 267 widely used brand name prescription drugs increased by 5.8%, which in that year was more than twice the rate of inflation. These constant price increases disproportionately harm older adults because older adults typically take more prescription drugs than any other age group, and because many of them live on fixed or lower incomes. 89% of Americans over age 65 and 75% of Americans between the ages of 50 and 64 take prescription medication, and older adults on average take around 4.5 prescription medications on a chronic basis each month.

SB 269 addresses an anticompetitive practice that sometimes is referred to as a pay for delay agreement. These are agreements between a brand name drug manufacturer and a competing generic drug manufacturer in which the generic drug manufacturer agrees to delay entry into the market of its generic drug in exchange for something of value from the brand name drug manufacturer, such as money or a promise of limited legal action.

SB 269 creates a presumption that patent infringement settlements involving payments and

delayed entry of generic drugs into the marketplace are anticompetitive, and it would allow the state to seek penalties for any of these sorts of violations.

According to the Federal Trade Commission, these pay for delay agreements have significantly postponed substantial consumer savings from lowered generic drug prices, costing consumers an estimated of \$3.5 billion in higher costs each year. The price of generic drugs can be as much as 90% lower than the price of their brand name counterparts, and getting these drugs into the hands of consumers would save money, improve drug adherence, and for people of all ages, but especially older adults could ultimately save lives.

SB 269 is almost identical to AB 824, which passed with bipartisan support in California in the fall of 2019. When the California Legislature was having discussions around this Bill and talking about pay for delay agreements, they noted that pay for delay agreements hurt consumers twice. Once by delaying the introduction of an equivalent generic drug that is almost always cheaper than the brand name, and second by stifling additional competition; because when multiple manufacturers of generic drugs compete with each other, prices can be significantly up to 90% lower than what the brand name drug cost originally.

So to summarize, pay for delay agreements delay the entry of generic drugs to the market, they increase costs, and they ultimately force consumers to pay more for the medication that they need to stay alive and healthy. SB 269 would make it more difficult for pharmaceutical companies to engage in this damaging practice. And for all of those reasons, AARP supports its passage. Thanks, and happy to take any questions.

REP. D'AGOSTINO (91ST): Thank you for that.
Representative Cheeseman.

REP. CHEESEMAN (37TH): Thank you, Mr. Chairman. Thank you so much for coming here today, Anna. You cite the FTC study of \$3.5 billion in increased costs. I understand that dates from 2010. Do you have up-to-date study? And excuse me while I let the dogs out, guys.

ANNA DOROGHAZI: No problem. I have not seen up-to-date numbers from the FTC around that. I can only assume that it's more money than it was in 2010. But no, in my digging, I haven't found an equivalent number from the FTC.

REP. CHEESEMAN (37TH): Okay. And I know you cited the California Assembly Bill 824. That's currently being contested by the Association for Accessible Medicines on the grounds that it violates, in fact, they were warned that it violated the dormant commerce clause. Given that this is, one, there is only one other state that's done it and it's already subject to litigation, how would you address that?

ANNA DOROGHAZI: I think ultimately I can't imagine anything that touches prescription medication prices not being litigated in some fashion. And I think there were multiple challenges to the California Bill. I know the 9th Circuit just found in favor of the state. In terms of legislation, I think that was the case related to standing.

But ultimately, I think the pharmaceutical industry has a vested interest in maintaining high prices, so I would expect to see a challenge of some sort or another to anything that would touch drug prices.

REP. CHEESEMAN (37TH): And this would apply to any drug manufacturer, whether or not they had a location in Connecticut? So would nationwide?

ANNA DOROGHAZI: That I am not sure of. I'd be happy to get back to you on the answer to that.

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

REP. D'AGOSTINO (91ST): Thank you, Representative.
Other questions? All right. Seeing none, I'll thank
you for your testimony and we'll move on to the next
presenter, Sam.

SAMUEL CLARK: Next is Steven Ricard.

REP. D'AGOSTINO (91ST): I can see you, but I can't
hear you.

STEVEN RICARD: Yeah, I'm still muted. Thank you.

REP. D'AGOSTINO (91ST): There you go.

STEVEN RICARD: Good morning. How are you doing
everybody? Just quickly, my name is Steve Ricard.
I'm from the United States Submarine Veterans
Incorporated, based in Groton, Connecticut. And I'm
here today to talk about just briefly on the club
permit and national, the nonprofit club permits that
we have up for vote.

As I said, we're a nonprofit organization in Groton,
Connecticut; serves solely for submarine veterans.
And we currently pay around \$300 for our annual
liquor license. We are currently looking at an
increase to \$2,000 based on the 2019 Legislature
that we're up discussing today.

Since March of last year, all veterans'
organizations and bars have been closed, so it's
very difficult for us to present such a drastic
increase to our club members for the liquor permit.
And so what we're basically asking is that we can go
back to the current status of \$300 annually for
veterans and organizations of similar existence.

So that's basically all I have today. I thank you
for your time. We appreciate everything that you do

for veterans in the State of Connecticut. Thank you. I'll take any questions.

REP. D'AGOSTINO (91ST): All right. Senator Osten.

SENATOR OSTEN (19TH): Thank you very much, Mr. Chair, and thank you for coming, Mr. Ricard to talk today. I'm from Eastern Connecticut. I'm from the Norwich area, just a little bit down from Groton. I'm also the post commander for an American Legion post that does not have an actual location, we're very tiny.

I'm just curious, because all of us have been working on this Bill. Actually, we started last year. If we hadn't had COVID, we would have been able to address this issue. Did you make a payment last year too?

STEVEN RICARD: For the increased amount?

SENATOR OSTEN (19TH): Yes.

STEVEN RICARD: We did not. We held off until we saw the repeat of the payment due coming up in February or March, whichever the increase was going to take effect.

We brought it to the attention of the Assembly last year, saying that No. 1, we're closed. But No. 2, it's going to be quite a drastic change. And we are, like other veterans organizations, we are limited to our membership. You have to meet certain criteria, so.

SENATOR OSTEN (19TH): Correct. And did you make a payment this year yet?

STEVEN RICARD: We're getting ready to make that payment. We'd like not to make that payment.

SENATOR OSTEN (19TH): We'd like you to hold off making that payment, quite frankly, because we may

put in the Bill, should we get it out, that there be a refund to people that made the payment. Are you still closed currently?

STEVEN RICARD: Currently, we are. We're doing major renovations at our place on School Street in Groton, and we were open briefly in October for about ten days, and due to the uptick in the pandemic, we closed back down again.

SENATOR OSTEN (19TH): So I think that I would like to see us consider no payment for those people who have been closed, because there is no real money for them to make these payments and so it's something that I think we'll contemplate, I'm not guaranteeing anything at all. I can't ever guarantee anything until we actually see it in writing. But thank you very much for coming up. I just had those questions. Thank you, Mr. Chair.

STEVEN RICARD: Thank you, Senator.

REP. D'AGOSTINO (91ST): Thank you, Senator. Other -- Senator Witkos.

SENATOR WITKOS (8TH): Thank you, Mr. Chairman. Good morning, Steve. Just a question for you. You said that you're limited in your clientele by membership, but is there a mechanism that nonmembers can visit your establishment, and what is that?

STEVEN RICARD: Okay, so there is a mechanism, but they have to still go through and meet certain criteria that are in the bylaws from national. They can become an associate member, but they still have to become a member of the organization. You just can't walk in off the street, plunk yourself down and say, I'm here to have a hamburger and a bowl of chili and a beer. So it's pretty much limited to US Submarine Veterans and associate members.

SENATOR WITKOS (8TH): How do you balance out, because we've heard from the public sector that

says, you know, we're paying local property taxes, we're paying \$2,000 for our license, when the nonprofits, they don't pay any property taxes, they've got a reduced licensure, at times. Right now it's going to be, the Bill says \$815 or \$850, somewhere right around there. It's not fair for us to compete in a free market when they claim that it's a membership only, but yet there is a book that you just need to sign your name and you're an associate member, and you can go and enjoy the fare from them, when that decreases the availability that we have at our establishment right down the street, and we're already paying a lot more just for infrastructure. Could you just speak to that?

STEVEN RICARD: Yeah, I can briefly talk to certain elements of that. I'm not the treasurer for the corporation. But as I said before, we're limited in the people that we allow into the establishment. So in other words, if you are not a United States Submarine Veteran, and you do not pay National or Groton base dues, then you cannot just walk in off the street, unless you are brought in by a member. Then you have to sign in according to state law in that record book that you talked about, and then you only get three more times being invited into the club with that member. So it has to be a member that brings you in, and then at that point you have to become a member. So you need to pay dues to National and you need to pay dues to Groton base.

SENATOR WITKOS (8TH): And is that -- that's particular to your club, but do you know, is that the standard for VFWs or Elks or any of the other nonprofits that you're aware of?

STEVEN RICARD: As far as I know, that is pretty much the written rule. I mean, if you have an American Legion or a VFW or an Elks, you have to be a member of those organizations in order to bring in a guest.

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

REP. D'AGOSTINO (91ST): Thank you. Representative Rutigliano.

REP. RUTIGLIANO (123RD): Thank you, Mr. Chairman. I just have one quick question. Did you pay your liquor license fee for 2020, last year?

STEVEN RICARD: I believe we paid the -- and like I said, I'm not the treasurer, so I --

REP. RUTIGLIANO (123RD): My question would be, were you able to use your permit at all last year? Did you close on your own accord or did you close because of Executive Orders or government intervention?

STEVEN RICARD: Can I say D, all the above?

REP. RUTIGLIANO (123RD): You can say whatever you like. I guess it's a question of fundamental fairness. I understand that you're here arguing that you, a nonprofit should have a different fee than everybody else. I'm just sort of making the argument that it's possible that you paid for a license you weren't even able to use last year, through no fault of your own, and where is the fairness in that?

So as part of that, this Bill, I was hoping that that could be part of the conversation also. People who did pay for a license they weren't able to use or were not able to use fully. So that was the reason for my question.

STEVEN RICARD: Right, I understand now. All right, so we closed, I believe, March 13th of last year. We remained closed due to Executive Order. Plus, you got to remember, a lot of our club members are 65 and older so they're not going to come to the club, all right? Because we are a Submarine Veterans

Organization, restrictions are placed on the submarine sailors five miles down the road from us, which prohibited them from visiting us. Even though we have the ability to serve food, we could not stay open due to lack of customers.

REP. RUTIGLIANO (123RD): So regardless of what your license fee is, would you say it's fair to say that you paid for something that you weren't able to use last year?

STEVEN RICARD: Correct.

REP. RUTIGLIANO (123RD): Thank you. That's all I have, Mr. Chairman.

REP. D'AGOSTINO (91ST): Thank you. I would note that the refund language is in here too, if people pay the \$2,000 that Senator Osten had requested, if -- Representative Rutigliano, if you want to open up the door to refunding everybody's permit who didn't get to use it, I think that's beyond this Committee, and you're going to have --

REP. RUTIGLIANO (123RD): Mr. Chairman, I just thought it was a worthy conversation.

REP. D'AGOSTINO (91ST): It certainly is. One that I'm sure OPM would have an interest in if we were to go down that path. But it's a broader conversation than this.

But with respect to this fix, I'd note obviously we've got a lot of bipartisan support here for moving forward. I appreciate the request for sticking at \$300. I do support the \$815 for a lot of the reasons that Senator Witkos articulated his questions and also again the fact that we had this -
-

The nonprofits, to my view, again based on my research, should have been paying the \$815 and a lot of them, for some reason, were just paying the \$300

and we never increased that either. So there is sort of a history there as well. But we will make sure anybody who paid the \$2,000 is refunded that difference and that is in the Bill. I want to make sure people are aware of that.

Other questions? All right, thank you very much. I appreciate you coming on. Sam?

STEVEN RICARD: Thank you for giving me the time.

SAMUEL CLARK: Okay, so next is Jordan Stillman [sic].

STILLMAN JORDAN: Hi everybody, can you hear me?

REP. D'AGOSTINO (91ST): You're on. Thank you.

STILLMAN JORDAN: All right. Thank you. Just a real quick thank you to the esteemed Members of this General Law Committee. Thank you for giving me a few minutes to talk. My name is Stillman Jordan. I run a heating, air conditioning contractor here in Stratford, Connecticut. And this is my first public hearing. So I'm all nervous. So if I screw something up, you guys, just tell me. I guess there's a mute button for things like that.

I'm here today to ask for help, help from all of you at the Law Committee. We're trying to help create more jobs here in Connecticut. Almost every elected official I hear talk, talks about trying to create jobs, and I'm really excited that there is something in one of these Senate Bills that is designed to try to help that.

In particular, I'm talking about Senate Bill 266, and really specifically, Section 12 of Senate Bill 266. And really, this is my first time, but I've heard this is an issue that's come up many times with the skilled trades and the allowable ratio between apprentices and licensed technicians.

Right now, unfortunately, our state laws and statutes are set up to heavily restrict the number of apprentices that businesses like mine are able to hire and put to work. We acknowledge -- the state acknowledges that it's good to have one licensed technician with one apprentice on a jobsite, and we all agree that that's a good practice; one apprentice, one guy learned the trade and one guy actually who's licensed.

But for some reason, our state laws are set up to where I can only hire one apprentice for every three licensed people. So just to be clear, we're only allowed to hire one apprentice for three licensed people.

REP. D'AGOSTINO (91ST): Can I just interrupt you for a second, Mr. Jordan? I don't believe we have a Bill today on the Agenda that addresses this, and the Committee has actually not yet decided whether to address this issue. So are you are directing your comments to a particular Bill, or?

STILLMAN JORDAN: Yeah, absolutely. I guess I was saying that Section 12 of Senate Bill 266 kind of nibbles at helping resolve this issue a little bit, and I just wanted to provide a little context of the larger issue. And Section 12 just addresses a little piece of this larger issue.

And really what Section 12 talks about is how right now, when a licensed holder wants to upgrade their license, when they want to progress their career, they want to go from a limited license to an unlimited license, they are forced to occupy one of those very limited apprenticeship slots.

So, we were only allowed to have one for three, and now when someone who is experienced and licensed wants to upgrade their license to the next tier, they're forced to occupy one of those. So we're stuck trying to decide between letting some employees upgrade their license and progress their

career, versus hire new employees, hire new apprentices and that's a decision we have to make all the time. And this particular section addresses freeing up when people are advancing their careers. Does that help answer your question, Representative? I just want to make sure I connected the dots there.

REP. D'AGOSTINO (91ST): I think I'm going to kick it to Senator Witkos who may help clarify this point.

SENATOR WITKOS (8TH): Thank you, Stillman, and thank you, Mr. Chairman. The purpose and intent behind that Section 12 was to provide that if somebody has a license, no matter where they are in their category, whether they're a journeyman, apprentice or certified, if they're going to get an additional license, then they don't -- their license, the level that they're at maintains, they don't have to drop back to be recognized as an apprentice only. They still can operate under the license that they already hold, so it's not --

I know where you want to go, and I know that was in the Governor's Bill last year to address apprenticeship ratios and things. And as the Chairman said, we're still deliberating on whether we're going to move something like that forward, I think, speaking with the Governor's folks.

But to clarify for Members of this Committee, that's not what Section 12 does. Section 12 says is that if you have a certain license classification and you're going for different one, we still recognize the one that you already have. It doesn't change that. Just for clarification for everybody. Thank you, Mr. Chairman.

REP. D'AGOSTINO (91ST): Thank you, Senator. Other questions? Representative Ackert.

REP. ACKERT (8TH): I want to thank the gentleman for taking the time to bring his concerns out on an

issue that is highly of concern of mine, as you all know that. I would hope that we can get to the broader issue of this Bill and resolve it finally. But thank you, Mr. Chairman. Thank you, good gentleman, for bringing that issue to our concern in support of Section 12, and maybe even a broader issue. So thank you.

REP. D'AGOSTINO (91ST): Thank you. And again for Committee Members, we're still waiting -- the Leadership of the Committee is still waiting for the Governor, if they're going to be resubmitting the Bill from last year, which at least last year's Bill had a section that addressed this broader issue. So we're waiting to see what we get from them, and we'll obviously keep you informed on that issue. Any other questions?

STILLMAN JORDAN: Yeah, I just want to say, Section 12 does help move a little bit. It helps us move the ball a little bit to the broader issue.

I would just say just in closing, please help us create more jobs here in Connecticut, help us hire more people, help us fill that gap we have of tradesmen that we need in support this Section 12 of Senate Bill 266. We really appreciate it. Thank you.

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

REP. RUTIGLIANO (123RD): Just real quick, thank you Mr. Jordan. I just have a quick question. How many apprentices do you have now that work for your company?

STILLMAN JORDAN: We probably have, I think somewhere in the range of 30.

REP. RUTIGLIANO (123RD): So you have 30 total that work for your company? And through that --

STILLMAN JORDAN: I can follow up with the numbers here, I'd have to pull a report.

REP. RUTIGLIANO (123RD): It's okay. And what's the rate, the percentage, do you know offhand, of how many complete the program and become a fully licensed tradesman?

STILLMAN JORDAN: I'd say that the vast majority of them do. I think that it's a challenge in our industry. We often have employees or people bouncing from one company to another, right? So if you were to say in the industry as a whole of the Connecticut Heating Air Conditioning Cooling Association, very high completion rate through that apprenticeship program.

REP. RUTIGLIANO (123RD): And if you had to say, if you said, say there was no cap on the amount of apprentices, how many people do you think are waiting or have you turned down that are looking to be a tradesman that you are not able to put into the program?

STILLMAN JORDAN: Sure, I'd say at any given time, somewhere between probably five and ten people who we would hire tomorrow if we were able to get this - - get this freed up. I would say Jen Jennings of the Connecticut Heating and Cooling Contractors Association has put together some surveys of us and our competitors and, I mean, it's a very large number. I mean, I think it's hundreds of people who we could get working very quickly.

REP. RUTIGLIANO (123RD): So in closing, if you had any hard numbers or numbers that you want to forward to the Committee about start rates and completion rates and how successful the apprenticeship program is, I would certainly be happy to look at it. And I thank you for your time, Mr. Chairman. Thank you, sir.

REP. D'AGOSTINO (91ST): Thank you very much. All right, thank you very much for the testimony and we'll move on to the next person. Sam?

SAMUEL CLARK: The next person is Charles Murray.

REP. D'AGOSTINO (91ST): Looking, do we have him in the room?

SAMUEL CLARK: He should be on right now. I see him.

CHARLES MURRY: Can you hear me now?

REP. D'AGOSTINO (91ST): I can hear you, yes. Go ahead.

CHARLES MURRY: Okay, so I'm the treasurer of -- first of all, thank you for letting us speak today. I'm the Treasurer for Sub Vets in Groton. You've already heard most of our testimony from Steve Ricard just a few minutes ago. I'd be glad to answer any other questions, but I will say this, start off with this.

When we say we're a nonprofit, we make no profit from our sales of meals or liquor at our club. Our club basically exists because of donations by its members. So we're clearly different than a public restaurant or another type of club. The purpose our club is purely for submarine veterans and their families to meet.

We were only open nine days so far since the COVID-19 started. We were open one day at Thanksgiving, we fed just under 400 sailors from sub school and provided any other food that we had leftover to three of the community food banks, so we perform services to the community as well.

The fee that we were being charged before we easily can pay without a problem. It sounds like \$2,000 is off the table, but we would prefer to go back to the

\$300 or \$400 that we were paying previously, and we're more than willing to pay that. So if there's any questions about our organization or about how we handle our funds or members, I'd be glad to answer those.

REP. D'AGOSTINO (91ST): Thank you very much. Questions from Committee Members? I see none. Your chapter president gave a great presentation, so thank you for following up.

CHARLES MURRAY: Thank you for letting us to participate.

REP. D'AGOSTINO (91ST): Thank you. Sam?

SAMUEL CLARK: The next person is Harry Hansen.

REP. D'AGOSTINO (91ST): I see Mr. Hansen down there.

HARRY HANSEN: Good morning.

REP. D'AGOSTINO (91ST): Good morning, you're on.

HARRY HANSEN: Chairman Maroney, Chairman D'Agostino, Ranking Members Witkos and Rutigliano, and Members of the General Law Committee. As you know, in 2019, the Legislature amended the state liquor law to require nonprofit entities that serve alcohol such as American Legion posts to change from a private club license to a cafe license, thus increasing the annual fee from as little as \$300 to \$2,000 annually. While we understand the Legislature's intentions, we don't believe that they fully understood the financial impact it would have on veteran service organizations such as ourselves.

Throughout the State of Connecticut, the American Legion has 143 posts, 34 of which have a canteen with a liquor permit. These Legion posts not only serve veterans throughout the state, but are important to their local communities as well. They

provide programs in their communities that are designated to teach our kids about America, patriotism, sportsmanship, and the importance of being a good citizen. To lose these institutions over something that can be easily remedied would be a travesty. Unfortunately, the increase in the liquor permit fee to \$2,000 may just do that.

Because our posts operate under a private club license, and while they can sign in nonmembers, most of their income comes from post members. Legion posts do not operate canteens for a profit. In fact, most of the 34 posts we have that have canteens, breakeven or show little profit. Rather, they operate canteens so that their members have a place to go to socialize with fellow veterans, share stories, and talk about veterans issues in environment they feel comfortable in.

Of the 34 posts who have canteens, 18 of those have been able to reopen with a limited capacity since July of 2020. For all these 34 canteens, but especially those that have been unable to reopen, the \$2,000 renewal fee will be a difficult hardship.

Almost all of our posts operate on a very tight budget and have little savings as they are required to give back to the local communities through programs and donations. We have already had one post forced to sell their post home because they weren't able to reopen, and we have another one in the process of selling their post home.

No one can foresee what the future holds for the remainder of our posts, but this should not be one of the contributing factors.

On behalf of the 20,000 plus members of the American Legion and the Department of Connecticut, we fully support Senate Bill 263, AN ACT CONCERNING CLUB PERMIT AND NONPROFIT CLUB PERMIT FEES. At this time, I'll answer any questions you may have.

REP. D'AGOSTINO (91ST): Thank you. Questions from Members? We certainly appreciate all that you do and your service, and seeing none, I will thank you for your testimony.

HARRY HANDSEN: Thank you.

REP. D'AGOSTINO (91ST): Sam?

SAMUEL CLARK: Next is Andrew Kingman.

ANDREW KINGMAN: Hi, good morning everybody. Can folks hear me okay?

REP. D'AGOSTINO (91ST): We can hear you, good.

ANDREW KINGMAN: All right, thanks. My name is Andrew Kingman. I represent the State Privacy and Security Coalition. We are a coalition of 29 companies in the telecom, tech, media, automobile, payment card and retail spaces, and we also have eight trade associations as our members. I'm also a Senior Managing Attorney at DLA Piper's Data Privacy and Cyber Security Practice Group.

I just wanted to speak in favor of the Data Breach Bill and the amendments that have been offered by the Attorney General's Office today. I wanted to particularly take a few moments here and just express our gratitude and thanks to that staff. I regularly work with Attorneys General Offices throughout the country and the staff in Connecticut is by far the best in terms of being willing to hear concerns, being able to clearly express where they want to go with legislation, and then being flexible to make sure that we're all able to get there.

I think the amendments for the Bill represent a sensible upgrade in protections for Connecticut consumers. And there also have been some very problematic compliance issues in the letter of the statute that have been eliminated. And just wanted

to say thank you again to the staff there and express our support for the Bill as amended here.

REP. D'AGOSTINO (91ST): That's great to hear. Thank you. I'd appreciate those comments.

REP. RUTIGLIANO (123RD): Excuse me, Mr. Chairman. Did you submit testimony, Mr. Kingman? I'm having a little trouble locating it.

ANDREW KINGMAN: Yeah, I haven't submitted written testimony. I'd be happy to submit a letter to that effect but I didn't submit written testimony.

REP. RUTIGLIANO (123RD): Happy to have, if you want to send something along, happy to do --

ANDREW KINGMAN: All right. We'll send something along in the next day.

REP. D'AGOSTINO (91ST): Representative Cheeseman?

REP. CHEESEMAN (37TH): I hit the wrong button, yeah. So I want to thank you, Mr. Chairman. I want to thank you, Mr. Kingman, for coming here and for your comments. I think this is a wonderful demonstration of how government and private industry working together can make legislation better, and that you've taken the time to tell us that and worked with the Attorney General's Office. I just want to commend you and the Office of the Attorney General for making this happen.

Because this is what we want. To recognize an issue, to address it, but to do it with all parties at the table. So thank you, and again thanks to the Office of the Attorney General, because this is how it should work. Thank you, Mr. Chairman.

ANDREW KINGMAN: Yeah. Thank you, Representative, and I hope that we can take this sort of model of working and use it for other processes going forward as well.

REP. D'AGOSTINO (91ST): Thank you. Further questions or comments from Committee Members? Thank you, Attorney Kingman. We appreciate you joining us today. Sam?

ANDREW KINGMAN: I'll see all of you soon, I am sure.

REP. D'AGOSTINO (91ST): Yeah, we hope so.

SAMUEL CLARK: Next is Nick Casinelli.

REP. D'AGOSTINO (91ST): There you are, we can hear you.

NICOLA (NICK) CASINELLI: Can you hear me?

REP. D'AGOSTINO (91ST): Yep, you're on.

NICOLA (NICK) CASINELLI: Good morning. Can you guys see me as well, do you need to see me or just hearing is fine?

REP. D'AGOSTINO (91ST): I cannot see you, but that's okay, as long as we can hear you.

NICOLA (NICK) CASINELLI: Okay. I'm not sure if it was indicated when I registered what I was calling about, but I was calling or not calling, zooming, I guess? I guess we have a new verb to use in this time. It's the Raised Bill No. 5305, AN ACT CONCERNING TOBACCO BARS.

REP. D'AGOSTINO (91ST): Okay, go ahead.

NICOLA (NICK) CASINELLI: The reason for me to speak is just to, I own a tobacco shop at the moment and I was just wondering where this Bill can possibly can go, and what the possibility is of turning tobacco bars or tobacco shops into places where they could have bars where you can smoke a cigar and sell alcohol, like a traditional bar would do. And just

to see how, in what direction that's going and if I can just offer my reasons why I think that would be good for not only the business owners, but for the State of Connecticut.

REP. D'AGOSTINO (91ST): We would love to hear that from you as a tobacco shop owner. What would your plans be if we allowed this sort of additional expansion?

NICOLA (NICK) CASINELLI: Well, the first thing in my opinion, it would combat like losing business to other states. I'm in Stamford, which naturally is very close to Manhattan, and I can't tell you how many customers that I know of that come here and buy their cigars, but they go into Manhattan to, you know, and there's plenty of places in Manhattan that were sort of godfathered in from when the smoking laws came into effect in 2003. That they go into Manhattan and enjoy cigars, drinks, and otherwise all in one seating, all in one area. So I know the State of Connecticut is losing business to other neighboring states.

I also know that Rhode Island has these types of bars, and naturally people that are close to the border of Rhode Island, it's very simple for them to cross the border and to go to these places and enjoy that if they're close. So that is No. 1.

No. 2, I also know just from a revenue point of view, people walk in here often and say, could I get a cigar and a drink? And I'm like, unfortunately not a drink but a cigar, and then naturally, most times they defer and move on to somewhere else. So I think there is also some revenue loss for the state and for myself and for the other owners in the fact that we can't do both in one seating.

I understand what the smoking laws are for and why they're instituted. But I do believe there are -- not do I believe, I know there are dedicated cigar places throughout Connecticut that legitimately can

be factored into this idea that -- so let me rephrase that.

So people don't start popping up and just saying, hey, I'm in a cigar bar or I'm a tobacco bar. I know you guys have on record many different tobacco places, myself included, that have been operating for many years, and I think those places should be considered a waiver with the smoking laws so that they could operate under one roof, if that's making any kind of sense.

REP. D'AGOSTINO (91ST): It does. Thank you. Anybody have some questions? Representative Rutigliano..

REP. RUTIGLIANO (123RD): Thank you, Mr. Chairman. Really quick because quite frankly, sir, I honestly don't know. Are there any cigar bars operating currently in the State of Connecticut?

NICOLA (NICK) CASINELLI: Yes, there's two that were grandfathered in prior to the 2003 law passing. One is in New Haven, it's called the Owl Shop, and I'm sure that some people, I imagine some people on this have heard of it, and if not, it's a wildly popular place. It's very busy, and he does quite well with what he has setup.

REP. RUTIGLIANO (123RD): Is his primary business selling cigars, and then you could just get, I don't know, a bourbon or something with it or?

NICOLA (NICK) CASINELLI: You can do both. I don't want to speak for his business of course, but he definitely sells a lot of cigars, and there is a full bar and it really works very well.

REP. RUTIGLIANO (123RD): Would you have employees in this bar or is it just sort of like owner operated?

NICOLA (NICK) CASINELLI: Well, right now, I'm pretty much owner operated. When I need to take a day off, naturally, I have someone here and I am open seven days a week. Listen, and I understand your concern that employees would have to be in a smoking environment. I kind of think that it's very simple to set up a situation where the bar is separate from the smoking room.

In other words, let's do a hypothetical situation. You're a customer. You come in, one room could have the bar, the traditional bar set up with a bartender and so forth and so on. And that person could take their drink and if the smoking room is attached to the bar, but separated by say a doorway or some sort of separation, then they go back into the smoking room so there are no employees that are needed to go in the smoking room and be subjected to that.

REP. RUTIGLIANO (123RD): Do you have any special equipment? And would you be opposed to having a requirement that you have special ventilation or smoke heater, whatever the technology maybe?

NICOLA (NICK) CASINELLI: Yeah, all the smoking places do, absolutely. And it's very simple because you just get an air, you speak to these companies that sell fans and the engineers can tell you how to replace the air and how quickly you should replace the air, and it works very well if it's installed properly.

REP. RUTIGLIANO (123RD): My last question, Mr. Chairman. Thank you. Is if he didn't sell booze, if he didn't have a alcohol request, could you still have a smoking room? What prevents you from just doing it now and having it sort of like a BYOB situation where you sell soda or whatever, coffee?

NICOLA (NICK) CASINELLI: Well, nothing to that effect, to your answer. But again, you do lose business because of the fact that they're both not available. I've seen it firsthand. People walked

in, asked if they can get a cigar and a drink, and I'm like, a cigar yes, the drink no.

REP. RUTIGLIANO (123RD): I meant are you able to have a smoking room just based on your tobacco selling license now? Can you do it now? People could sit and smoke if they felt like it?

NICOLA (NICK) CASINELLI: Yes.

REP. RUTIGLIANO (123RD): You're saying you want to add an alcohol component to that experience?

NICOLA (NICK) CASINELLI: I believe that's what this Bill is expanding the tobacco bars, yes.

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

REP. D'AGOSTINO (91ST): Thank you. And to answer your question, Representative, the way this is drafted now is to set a percentage so that you are primarily still a tobacco bar, most of your sales come from the sale of tobacco products. I can't speak to whether the Owl Shop currently does that. I will note if you want to come up post-pandemic and check it out, it's quite an operation. It's a full bar, a fully staffed bar.

REP. RUTIGLIANO (123RD): Yeah, as soon as he said it, it sort of clicked in my brain and I remember that, I would like to check it out, to be honest.

NICOLA (NICK) CASINELLI: I would tell you there are places in New York City that I've researched that do the same thing. That their license requires them to say, 40% of their sales or 50% of their sales has to be a tobacco sale versus an alcohol sale. And I truly believe, based on habits that I've seen over the years, that that shouldn't be a problem. Because if it's a dedicated cigar store, which again, I know there are lists of dedicated cigar

stores in Connecticut, that shouldn't be too much of a problem.

REP. D'AGOSTINO (91ST): Thank you for your testimony. We appreciate you speaking about this, and stay tuned. We'll move on to the next person, Sam.

NICOLA (NICK) CASINELLI: Thank you for your time.

SAMUEL CLARK: The next person is Christopher Link.

CHRISTOPHER LINK: All right. Can you hear me?

REP. D'AGOSTINO (91ST): You are on.

CHRISTOPHER LINK: Beautiful. I'm very technically challenged when it comes to Zoom, so I appreciate this. I am here on behalf of Senate Bill 266, Section 12, and I appreciate you letting me testify again. I testified last year pre-pandemic and I'm glad this stayed its track.

Basically Section 12, and I know you've heard some testimony already and I don't want to repeat what other people have already said. Basically, what it does is it kind of fixes a minor accounting issue to say that we have with apprentices and ratio. So Section 12 will not change the ratio as it is now, it won't change the training as it is right now. What it will allow us to do is take our limited license, count our limited licenses when they are enrolled in an unlimited license apprenticeship, still count the limited licenses for hiring new apprentices.

And doing this, you know, I'm a small company. The gentleman who testified earlier had 30 apprentices. I right now have three in the unlimited license and three in the limited license. If this Bill, this section gets passed, I could hire three new employees, which would be huge for my business right now, especially during a pandemic.

My services are in demand; air cleaning, indoor air quality, HVAC is in great demand. And we could really use a few more employees and a few more trainees.

And one of the other things too is every day I get an application from an apprentice who is at Porter and Chester, at Goodwin Tech or somewhere else looking for a job. And I basically have a pile of them that I can't even consider because I'm to my max right now.

REP. D'AGOSTINO (91ST): Okay, Senator Witkos.

SENATOR WITKOS (8TH): Thank you, Mr. Chairman. And thank you, Chris, for coming in and testifying today. It may be helpful to some of the Committee Members if you could kind of provide an example of the difference between an unlimited license classification and a limited license classification, and what this Bill actually will do to help your company?

CHRISTOPHER LINK: Sure. In my business, HVAC, there are two licenses that we primarily use. The S License, which is an unlimited heating and cooling journeyman, they can do work on gas, oil, hot water, forced air, refrigeration, and steam systems. A D2, which is a limited license, can work on gas, air conditioning, refrigeration, forced air, hot water, and that's it. So the difference between them actually is steam and oil, the classifications.

So what happens is, when we have a technician who now is a licensed D2, he enrolls in the S2 to get his additional hours and maybe schooling for the steam and oil. His D2 doesn't count toward hiring a new apprentice. And what this does is this allows, with the ratio, to still safely make sure that we can hire another apprentice under the D2 license so he can go and get his limited license while the other guy is getting his unlimited license.

SENATOR WITKOS (8TH): Thank you, and I think that better explains to the Membership as to the importance of why we're trying to adopt this section in the Bill, because these are employees that are already certified in the State of Connecticut and they're trying to just enhance their own skills to attain that additional license, and not be held against them by reducing basically their status. And, also allowing you as a business owner to provide more job opportunities for the next wave of apprentices coming in. Is that fair to say?

CHRISTOPHER LINK: That's fair to say. And one of the things that I want to make sure that everybody understand is that, when you have an apprenticeship program, and we work with the Department of Labor very closely, they're fantastic. We make sure we've got the right ratios, we've got the right number of licensed guys. So nothing is getting kind of cut short here like, so the training still there, the hours are still there, everything still has to be there and we still have the safe amount; so many licensed technicians to so many journeymen.

This just is kind of like it was a weird accounting loophole that prevents us from getting the number of guys we really should have on the training courses.

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

REP. D'AGOSTINO (91ST): Thank you, Senator. Representative Ackert, followed by Representative Cheeseman.

REP. ACKERT (8TH): Thank you, Mr. Chairman, and Christopher, thanks for coming. So, the way you're reading that legislation is that is it the S2? How many hours does it take to get, to be able to test in the S2 licensure?

CHRISTOPHER LINK: 4,000 I believe.

REP. ACKERT (8TH): 4,000, and then what is it, 8,000 for the D license?

CHRISTOPHER LINK: No. it's the other way around then. It's 8,000 and 4,000; 4,000 for the D, 8,000 for the S.

REP. ACKERT (8TH): So the D is the limited?

CHRISTOPHER LINK: Limited right, and S is the unlimited.

REP. ACKERT (8TH): And you say that -- is there similar? So you said you're in HVAC, correct?

CHRISTOPHER LINK: Correct.

REP. ACKERT (8TH): Okay. Because the gentleman that was on earlier, he was also an HVAC contractor. So maybe he's looking at this language differently. So HVAC has that. I know you're in one trade and I'm a tradesman myself. So does the other licenses or other classifications like plumbing have similar licensure structures as HVAC?

CHRISTOPHER LINK: Well, the plumbing has P2 or P1, I don't believe they have the limited and unlimited. But in HVAC, you also have, there's so many licenses in our trade, it's a little crazy. But they have the B, there's the B license which is limited, the G license, there's a number of them which mostly pertained to HVAC and I believe electrical has it too. Because electrical has low voltage, data communication wiring, and then it moves up to the E which is the high voltage wiring. So they have more of the same kind of scenario that we do. I'm not sure if plumbing and sprinkler does though.

REP. ACKERT (8TH): Yeah, these are the licenses, that's what I fall under. And when you have somebody in the apprenticeship in the data world, they're pretty much working in security or something

along that line. But I thank you for your clarification on the hours and the structure of that of your field. Thank you very much. Thank you, Mr. Chairman.

REP. D'AGOSTINO (91ST): Thank you, Representative Ackert. Representative Cheeseman.

REP. CHEESEMAN (37TH): Thank you, Mr. Chairman. Thank you, Mr. Link, for coming here today and testifying, and I have no questions. Again, this is a general comment. I know the Governor's Bill was addressing some of those ratios. Was it last week the Governor announced his Workforce Development Initiative?

I think this is such a critical area. We're talking about not just jobs, but good-paying careers, and I think we have to do everything, both as a Committee and a Legislature to move this forward. As we recover from the pandemic, we're going to need to create these jobs, so I would encourage the Committee and everyone out there, please, this is of such high importance, and we need to keep this moving forward. So thank you, Mr. Link, thank you, Mr. Chairman.

CHRISTOPHER LINK: Thank you.

REP. D'AGOSTINO (91ST): Thank you. Thank you to the dogs as well. I can hear that they're supportive. Other questions or comments? Seeing none, thank you very much for your testimony, and Sam, let's move on to the next participant.

CHRISTOPHER LINK: Thank you very much.

SAMUEL CLARK: Okay. Up next is Kelly Ryan.

REP. D'AGOSTINO (91ST): Ms. Ryan, I can see you, I think you're on.

KELLY RYAN: Okay, thank you. Good morning, Distinguished Chairs and Members of the General Law Committee. My name is Kelly Ryan. I'm Deputy Vice President for State Policy at the Pharmaceutical Research and Manufacturers of America, otherwise known as PhRMA. I'm here today to express PhRMA's opposition to Senate Bill 269, because that would inject the state into a well-established federal construct around patent law, and it may have unintended consequences.

This is a pretty weedy issue, and our written statement provides considerable detail, so I'll just hit a couple few highlights here.

First and foremost, patent settlements do not and cannot extend the patent term of the brand drug. That is what it is under patent law. Rather, they often result in generics coming to market faster before the brand patent expires, generating significant savings for consumers. This Bill would likely have a chilling effect on these agreements, which would have the perverse result of delaying generic entry into the market.

Let me explain why. The Hatch-Waxman Act is the Federal Law that encourages generic entry, and successfully I might add, 90% of the prescriptions in the US are generics. That's compared to a fewer than 20% before Hatch-Waxman. But this will automatically sets up a patent conflict. To even start the process with the FDA, the generic company has to check a box on a form that says either the brand patent is already expired or that they believe the patent is invalid. Those are the only paths into starting their process.

And there is incentive to check this letter box before the patent has expired, because the first generic to market gets a period of patent exclusivity, so lawsuits kind of start automatically under this Hatch-Waxman construct. And this starts a really rigid and expensive patent litigation.

Patent settlements do exactly what the name applies, they settle the litigation saving costs for both parties and injecting some certainty into the dispute. Instead of litigating to the very end and patent litigation is complex and expensive, the parties will often weigh the risks and benefits and reach a settlement agreement, just like in all sorts of litigation.

And we'll also point out that when a suit is litigated to the end, the brand or innovator company most often prevails. And that means there's then no possibility of early generic entry. And this is why patents settle agreements get generics to market earlier. The parties may agree to generic entry sometime between when the claim is made that the patent is invalid, and the actual expiration of the patent, not after. Again, that's not a possibility on the table.

The second key point here is that state action is simply not needed because there are substantial federal activity and oversight in this space. Since 2003, pharmaceutical manufacturers have been required to submit settlement agreements to the Federal Trade Commission in the Department of Justice.

While early on there was some question about the scope of the FTC's authority, this has been settled for a number of years. The FTC's ability to review and take enforcement action against individual patent settlements was clarified by the Supreme Court in a 2013 holding in Actavis. The FTC aggressively investigates and intervenes in settlements it deems anticompetitive under this authority.

So to summarize, the perception that there is a problem is outdated. There is ample federal oversight and enforcement should there be a problem, and this Bill could unfortunately have the chilling

effect on settlements that actually get the generics to market faster, exactly the opposite of its stated goal. That's my time, so I'm happy to stop there, and I'll take any questions.

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

REP. CHEESEMAN (37TH): Thank you, Mr. Chairman. Thank you for coming here today, Ms. Ryan. I know in Senator Looney's testimony and when I questioned, I can't remember her last name from AARP, they cited a study that said there was an increase to patients of \$3.5 billion as a result of this delay in getting generics to market. When I mentioned that this was in fact from a 2010 study, I mean, \$3.5 billion sounds like a lot of money. Can you weigh in on this, please?

KELLY RYAN: Yeah, definitely, and you're right. So that number is used pretty frequently. I know AARP uses that in their kind of national materials on this issue. It is from a 2010 study. I looked at it just again this morning, citing a 2009 speech from the FTC Chairman at that time, so it's old data.

And, what's important about that, is that is before the Actavis decision in 2013, which really substantially changed the universe on this, right? So in 2003, a law was passed saying these agreements had to be sent to the FTC. And for about 10 years, there was some question about how much authority the FTC had to actually enforce, versus just review. That's where that number comes from in the middle.

And then the Supreme Court in 2013, set out a very clear standard for the FTC to weigh in, to regulate and to enforce. And so it's a very different world from 2013 on.

I have also poked around looking for another number and did not see an update to that 2010 number. But just to put it in a little bit of perspective, I

know \$3.5 billion sounds like a big number, right? But, one figure that we look at a lot is the difference between the list price and the net price for drugs. It's called the gross to net bubble, it's become kind of a hot topic lately. So that's basically all of the money that's lost in the system to insurers, to PBMs and fees and discounts, that doesn't get to patients. In 2019, that number was \$175 billion.

So if we want to find ways to get some savings to patients, which I think we all do, I think there are definitely ways to do that with a much greater and more immediate impact than messing around on the state level with federal patent law and creating a lot of uncertainty in the marketplace.

REP. CHEESEMAN (37TH): And you mentioned 90% of the drugs now available are generics?

KELLY RYAN: Yeah, 90% of the prescriptions written in the US are generics, yep. And we think -- so I represent the branded manufacturers, we think that's a good thing, right? And we're the only healthcare service that has built in savings into the system, right? You don't get a generic hospital, you don't get a generic CAT scan. Within a number of years, you automatically get really significant savings in the system, and that's a good thing.

REP. CHEESEMAN (37TH): I'm trying to remember my next question. So I mentioned the lawsuit in California, that the only comparable law to this is the one that was passed in California. And again, every time you pass a law for to do with drugs, there's a lawsuit. Can you just explore some of the background on that?

KELLY RYAN: I can tell you sort of what I know from the trade press and in general, we are not a party to that suit. And I think in your previous conversation, you hit on it, right? One of the biggest concerns is the Dormant Commerce Clause

concern that patent agreements and patent law in general is a pretty federal issue. So when you start to have territorial approaches in different states to a federal issue and to something that applies nationally, that does create Commerce Clause issues.

I think that lawsuit also had some language in there about excessive penalties, and I will point out this Bill, when I talk about a chilling effect, this is an incredibly complicated Bill, and the penalty at a minimum is \$20 million for not getting it just right. So that's significant and would give litigants pause when they're trying to negotiate a settlement agreement to actually get through litigation and get a generic on market faster.

REP. CHEESEMAN (37TH): Okay. And I know you submitted testimony also on SB 262. Were you going to go to that? Mr. Chairman, I don't want to jump in if she is going to then --

KELLY RYAN: No, no. I'm just testifying on this today. I think that the statement on 262 is pretty self-explanatory. I'm happy to answer questions, but the long and short on that is, that was an issue. So that Bill deals with providing samples from branded manufacturers to generics and biosimilars, again, to get them on the market.

There was some issue in the marketplace and the Federal Government passed a new law in 2019 that really resolved this across the board. And this Bill and the main version that it's based on, we're kicking around before that law passed in late 2019.

REP. CHEESEMAN (37TH): Okay, yeah, because I saw, what is that, CREATES?

KELLY RYAN: Yeah, CREATES Act.

REP. CHEESEMAN (37TH): Okay. All right. And I did notice on 262 that biotechnology companies also

testified in opposition to that Bill. And again, given that the biotechnology sector is so strong in Connecticut, I think it could give us real pause on doing anything that might adversely affect a robust sector that again, the Governor has indicated he wants to encourage as we develop these high-paying careers in Connecticut. So thank you very much, Ms. Ryan, for your time in answering my questions. And thank you very much, Mr. Chairman.

KELLY RYAN: Thank you, Representative.

REP. D'AGOSTINO (91ST): Thank you, Representative. Senator Witkos.

SENATOR WITKOS (8TH): Thank you, Mr. Chairman. Kelly, is there any reason why, rather than going forward with this Bill, I guess, as an alternative to not allow a potential litigant to "check the two boxes to begin" the procedure, so the pay to delay doesn't come into play anymore? I mean, you don't want to restrict somebody's ability to access the courts for redress if they need to, but if that's the standard practice in this industry is just let's get a suit and we'll get paid for it early to delay. I just don't --

KELLY RYAN: Yeah, so I want to clarify, and I will sort of put the asterisk, I am not an intellectual property attorney. I barely practice as it is now. But I'm not an IP attorney. But the way that works, it's a federal construct; like the way the Hatch-Waxman Act was written, the design was to both encourage generics to come to market, because they really weren't prior to Hatch-Waxman, this was in the 80s. I think it was less than 20% of prescriptions at that point were generic. So there's this real effort to find a way to encourage generics to come to market while at the same time encouraging innovator companies to still innovate.

And so all of these balances were struck in this great big federal law, and my understanding is

that's just how that construct of that law works. That the form that the generics have to fill out to sort of start the process of the review with the FDA, those are their only two options.

There is, I think it's like Item 4 or something. And I know that AAM is testifying later and they may have a little bit more insight into this because this is their space, but you can't even start the process with the FDA unless either the patent on the brand drug has already expired or you claim that the patent is invalid. Those are the only two paths. And that's the federal construct.

So that sets up this kind of litigious situation which I understand your point, that's not ideal, but my understanding is that's part of the bigger construct when Hatch-Waxman was devised.

SENATOR WITKOS (8TH): And if the State of California is the only state that has a statute on their books right now, and I'm sure that's this lawsuit, as Representative Cheeseman had mentioned. Is there any indication that you've heard of it in the industry that relocation is possible, and/or probable, for these companies that are located in California to move out if this lawsuit is struck down?

KELLY RYAN: I'll be honest, I haven't, but I'm not saying that's not because it hasn't been a conversation. I just, it's not something that I would be privy to. I think the focus has been, again, we're not party to that lawsuit. The focus has been on, this is really problematic for the system in general because it creates a lot of uncertainty. As opposed to we're going to pick up and move from one to the other. That's just not something I really have insight into, unfortunately.

SENATOR WITKOS (8TH): Okay. Thank you for your honesty. Thank you, Mr. Chairman. That's all the questions I have.

REP. D'AGOSTINO (91ST): Thank you. I don't see any more questions. Before we move to the next speaker, I need to step out to vote in another Committee. I'm going to ask Co-Chairman Maroney, can you take over?

SENATOR MARONEY (14TH): Yes.

REP. D'AGOSTINO (91ST): All right. Thank you. Sam, why don't you go to the next speaker, please?

SAMUEL CLARK: The next speaker is Ashlie Van Meter.

ASHLIE VAN METER: Hi, there. My name is Ashlie Van Meter. I'm from the Association for Accessible Medicines. We represent generic manufacturers as well as biosimilar manufacturers.

It's not really frequent that I would, as the generic industry, that I echo most of the comments that were provided by PhRMA on this particular issue. AAM opposes this legislation. We feel that it conflicts with federal law and also is going to result in a delay of access to more affordable medicines.

This law, as we've seen and we've spoke about, is substantially based on a law that was passed in California and is very likely unconstitutional and would result in expensive and time-consuming court challenges, as we've seen in the California case.

Courts have already recognized that state patent settlement litigation, like SB 269 that seeks to regulate patent settlements outside of its borders, impose a more stringent substantive standard than what the federal Actavis test has put forth, impose unreasonable penalties on individuals, is very likely unconstitutional.

As we said in the California case, the Eastern District of California recently concluded that their

version which is AB 824, that's nearly identical to this Bill, is likely unconstitutional, explaining that California in that case would likely violate the Dormant Commerce Clause if the Attorney General were to enforce the terms of that actual statute that is in place, against two out-of-state parties that entered into a settlement agreement outside of California.

State patent settlement legislation that stifles the creation or production or entry to the marketplace of a cheaper generic medicine would likely conflict with and therefore be preempted also by the Hatch-Waxman Act. We've heard the discussion about Hatch-Waxman is what essentially created the generic marketplace.

We also feel that SB 269 suffers from other constitutional defects. It would benefit brand-name pharmaceutical companies and ultimately lead up to potentially higher drug costs with the introduction and passage of SB 269.

Brand drug companies are increasingly building larger and larger, something that we call patent thickets, around some of their highest-priced drugs in the world. For example, AbbVie has secured more than 100 patents on Humira. Many were issued after AbbVie's initially compounded patent had actually expired, each designed to make it further and further difficult for generics to come into the marketplace.

And we feel that a law like this one would make that process and that problem even further, it would make it further, more difficult for generic drugs to come into the market. Patent settlements actually avoid costly and protracted litigation, which is often necessary to fight a situation where you do have a drug like Humira where there are over 100 patents.

Because in order for the generic drug to come to market if they were to be a generic or biosimilar

for something like Humira, you have to extinguish all of the challenges to all of the patents. So that would mean that a generic drug company would actually have to win or potentially lose on every single patent on the drug as part of the litigation. And so you do want certain instances where the companies would be allowed to settle claims, partial claims, all claims, on those patents.

And restricting party's ability to settle litigation on mutually beneficial terms would have an unintended consequences of actually helping the brand companies, the same companies that are actually currently driving prescription drug prices up right now.

As you heard, from testimony from PhRMA, the generic drugs are 90% of the marketplace, at around 28% to 30% of the cost of brand-name drugs. AAN members are encountering difficulties in attempting to settle cases in light of the California Legislation and the law that it passed, thereby making it -- the companies are now saying they're less likely to do the patent dance that is set up by Hatch-Waxman. Meaning going and launching a product or filing, as you heard about the two boxes where you're saying that you feel the patent is invalid. It's actually hampering generic drugs from doing that, and thereby decreasing the number of generics that are potentially come to market to offer savings to consumers.

SAMUEL CLARK: Ms. Van Meter, it's about three minutes, if you could just wrap up, please.

ASHLIE VAN METER: Okay. Sure. I think generally you provided some written testimony there. It's a very complicated issue. There are multiple constitutional challenges. We are part of the lawsuit, we would be happy to give additional information, provide any information the Committee needs on that lawsuit, where it is, and further

discuss why we feel that this would harm the generic industry and therefore harm patients.

SENATOR MARONEY (14TH): Great. Thank you very much. You said you had submitted the written testimony?

ASHLIE VAN METER: I have the written testimony, and I've given it to someone to submit for me. So we were in the process of submitting, we had a problem getting it submitted.

SENATOR MARONEY (14TH): Okay, great. I didn't see it in the system.

ASHLIE VAN METER: No, I will make sure that we submit it, and also we can send it to all Committee Members as well.

SENATOR MARONEY (14TH): Great, we would appreciate that. And I'll go in the order. So I believe Representative Cheeseman, you had raised your hand first. So would you like to ask a question?

REP. CHEESEMAN (37TH): Yes, please. Just two quick questions. Thank you, Ashlie, for coming today. So one, it's your belief that rather than lowering drug prices, this actually will work in the opposite direction and harm consumers, in that it will create more incentives for bad behavior on the part of drug companies, as you say, with the Humira. They will put a patent on every possible conceivable use of the drug, so you would have to exhaust every single one of those lawsuits before you could in fact bring the generic to market? Have I summed this up correctly?

ASHLIE VAN METER: Yes, you have. That's correct. That's what would happen. And this gives generic drug companies sort of the ability to have at least closure on a lot of these suits so that they can bring it to market. Many times patent litigation goes upwards of \$30 million, and so it gives them

the opportunity to have surety to bring more drugs to market.

REP. CHEESEMAN (37TH): And to your knowledge, and I mentioned before in earlier testimony under the Data Privacy Bill, had the proponents of the Bill reached out to you for your input on? All of us, of course, we want to make prescription drugs more affordable, but as to things the state could do to actually achieve that goal?

ASHLIE VAN METER: Yeah, we have actually worked in Connecticut. We did work with folks on, I think, I believe it's the 262 Bill. We actually were the ones that got the Bill passed in Maine and worked on the CREATES Act to do things with the REMS programs.

We also have worked and talked about doing different things with the way that generic drugs are tiered in formularies to make sure that they're getting beneficial treatment, that there is an incentive to use generics and not a disincentive through the use of rebating and couponing to actually pick the brand or not bring new generics into formularies, because folks within the supply chain make money off of that process. To actually change tiering in those structures so generics are used more frequently and saving money.

One of the things that's interesting is AARP actually did a study last year and it was, I believe, the tenth year in a row that generic prices went down. And also, the overall cost of generic drugs to the healthcare spend, the overall health care spend is around 3% of what is spent on health care. And so it's a misnomer to think that generic drugs are costing consumers more. It's actually going down. And through further utilization and not doing things that would keep us from the market, you'll continue to save.

REP. CHEESEMAN (37TH): So the best way to continue that progress toward reducing generic costs is, one,

not to create artificial barriers for generics to enter the market, and also to look at the other ways there is adverse selection on generics as you state with pharmacy benefit managers, with how they're tiered into insurance formularies, that sort of thing. That that is the best exercise of our possibly Legislative power and the power of the Attorney General and the comptroller to look at those things as a way to reduce drug costs.

ASHLIE VAN METER: Yes, I would agree with that.

REP. CHEESEMAN (37TH): All right. Thank you. Thank you, Senator Maroney. Thank you very much for your testimony today.

SENATOR MARONEY (14TH): Thank you, Representative Cheeseman. Senator Witkos.

SENATOR WITKOS (8TH): Thank you, Mr. Chairman. Ashlie, I'm a little confused, I guess, about your testimony. When you said that the price of drugs are not going up, they're coming down, during the Special Session, this General Assembly passed an Insulin Bill to cap the cost of the price of insulin because it was going up at such a high rate compared to the cost of what it takes to manufacture. We all know the story about the cost of the patent and how much the vendor or developer paid for that. So I do have a question about how the two interact.

But my question to you is, this is the second time that this Bill has been brought forward. So two years ago, in the beginning of this Session, last term, and it didn't get moved on. But what's happened in the industry over the course of a two-year period, because at the time when we first heard this Bill two years ago, we heard about the lawsuit in California and the negative implications it can have.

Has there been any negative implications in the industry that you've experienced? Or have there been

positive results of the lawsuit, or the enactment of the Bill, for that matter?

ASHLIE VAN METER: Well, okay. So first of all, on your question about insulin there, I said generic drug prices have gone down. I did not say that branded prices went down and there is not a generic insulin currently. And so you're correct in saying that insulin prices, specifically for type one diabetes, are continuing to go up.

We would argue that in order to prevent that you need a robust biosimilar marketplace, which is akin to a generic marketplace. And also, to stop the practices of what I referred to before as the patent thickets with insulin, like Humira. Many of these drugs have hundreds of patents around them and it's incredibly difficult for the pathway to be used for there to be a generic or a biosimilar to come to market.

And typically when they do come to market, and by the time a generic has been on the market past the exclusivity period, you're looking at savings of up to 80% on many drugs.

So I agree with you that drug prices are going up -- branded drug prices are going up, not generic drug prices. Like I said, the study from AARP showed the last ten years, every year we're on a deflationary trend.

And sometimes folks do get confused with the difference between a generic drug and an off-patent drug. Simply because it's no longer patented it does not mean it's been genericized, so it could be operating as a monopoly without competition, simply because it has not had a generic, a generic manufacturer hasn't stepped into the marketplace.

SENATOR WITKOS (8TH): Why would -- can I ask you just a follow up to that statement? When you're saying off-patent, I'm assuming, correct me if I'm

wrong, that generally a patent, to my knowledge, it lasts for 12 years, it gives you, the pharmaceutical company, enough time to make back the money through the R&D etc., or maybe it's 19 years? I don't know, you'll be able to tell me that. But that's my understanding of what an off-patent is.

And then if the drug itself is successful, why would a generic company not move to try to duplicate that? Because I think there was another Bill that says you have to basically give them the ingredients of what's in there.

ASHLIE VAN METER: Well, the other Bill that you're referring to is the Samples Bill. Folks have the misconception that generic drug companies do not do research and development. In fact, the samples are used to reverse engineer and be able to figure out how the branded product is made so you can make a generic.

What was happening is certain drugs were put into these protective classes so that generics couldn't receive the sample, and therefore not do the research and development to bring competitors to the marketplace. That's number one on that issue.

Also, as far as the patent --

SENATOR WITKOS (8TH): Can I just stop you there for a second, because I just want to ask a follow up. Who determines what the protected level of classification is? And how is that granted, and by whom?

ASHLIE VAN METER: FDA, at the federal level. It's at the FDA.

SENATOR WITKOS (8TH): And they do that upon approval of their drug once you go to market that they ask for exclusivity, and so it's in a protected class?

ASHLIE VAN METER: No. So there are certain things, there are certain ways that they can use something they called the REMS. It's a REMS process where they get certain medications and things. To be able to use that process, it was a way for them to not have to give us samples and like, it was testified to earlier. We, it was about three years ago, were able to get a law passed in Maine very similar to the other Bill. I believe it's 262 in front of the Committee, that we were able to get samples.

And quite frankly, when it was passed in one state, that was -- pretty much cured the problem because you could get samples through using the process in that state. We did do it at the federal level through the CREATES Act to make sure that it was done in the similar fashion across all 50 states at the federal level.

SENATOR WITKOS (8TH): So wouldn't that same analogy apply in this case that California passed the Bill that we're currently, you're testifying on, so why does any other state need to do it? Let it run its course through the courts?

ASHLIE VAN METER: Well. The way that we look at is it is still in the in the process of the courts, that the litigation is not complete. And so we don't know how it's going to ultimately affect it. We can say the way we think based on what our members tell us, that if they were not able to settle those types of cases, they're less likely to challenge these patents.

Because it's an incredibly expensive way to go about doing business, and it gives them the surety to say, you know what? If we move forward and we say we don't think this is a valid patent, but then you cannot settle that claim it's, like I said, upwards of \$30 million more, in many cases, in the litigation. Plus the penalties of that lawsuit at a minimum of \$20 million also has been acting sort of as kind of a stick against generic companies from

wanting to challenge these patents, because it's incredibly complex litigation that goes on for years.

The Actavis case is a good example of that and would ultimately change the dynamics of these types of settlements. And, you know, since there was a mention of the AARP study, the 2010 study, that was prior to the Actavis decision and since that time, if you look at the data coming out of the FTC, there were, over the last couple of years, I think two years ago, there were two settlements they were concerned with. And this past year, the data that we received, there were zero settlements that they were concerned with and overturned.

And so the court case, I believe, fixed the problem that existed. And so by states coming in and someone overturning the Supreme Court decision in the Actavis case, they're going to have consequences of it's going to affect competition, it's going to drive drug prices up, and you're going to have fewer generics.

SENATOR WITKOS (8TH): Thank you. And just kind of a little off topic. Are any of your members involved in the investigation by the Coalition of Attorney Generals for the opioid stuff, or is that all branded?

ASHLIE VAN METER: They're not involved in the investigation as far as the sales and marketing and that sort of thing, because we do not, generic drug companies do not do that. They don't detail their drugs. I'm not sure which members, if any, are part of an investigation right now as far as opioids. I believe many manufacturers have been sued who manufacture opioids. I'm not sure which, how many, if any of our members are party to that particular litigation.

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

SENATOR MARONEY (14TH): Thank you very much, Senator Witkos. I don't see anyone else who has a question, but I do have one question for you on SB 262, and not SB 269, which you are testifying on. But is it your opinion then that the federal CREATES Act would make SB 262 unnecessary or is there a benefit to also having that in state?

ASHLIE VAN METER: I mean, it does harmonize with federal law and also what's done in Maine. It makes a process where folks could get the samples in the State of Maine and it goes on record showing that the state wants generic drugs to come to market and doesn't want gamesmanship. If you're licensing brand manufacturers to do business in your state, you want to make clear that you want the generics to be able to come to market.

I think there's a good message in that. But we've - - our inability to get the samples has substantially declined since we had the Maine legislation and we think it'll further decline with the newer legislation of the CREATES Act.

SENATOR MARONEY (14TH): Okay, good. So you don't see it as being harmful and there is potential positive signaling of passing that legislation?

ASHLIE VAN METER: Yes.

SENATOR MARONEY (14TH): Great. Thank you very much. Mr. Clerk, who is next to testify?

SAMUEL CLARK: Next we have James Sabio.

JAMES SABIO: Mr. Chairman, Members of the Committee. My name is James Sabio. I am the President of the Connecticut Elks Association. I am here today to speak in support of Bill No. 263.

As President of Connecticut's Elks Association, I represent 22,000 members in 31 lodges across the

state. The Connecticut Elks are a fraternal nonprofit organization. We operate as a volunteer organization with very few paid employees. We do have overhead and all related costs to owning our buildings, including property taxes we pay to our towns.

Our organization supports the youth of our communities, veterans, homeless shelters, food banks, local schools, and the list goes on. In addition, the 31 lodges are constantly donating their lodge to countless numbers of organizations and fundraising events. The lodges of Connecticut for the year March 31, 2020, have donated in cash and in-kind donations of more than \$600,000.

We have a bar in each of our locations, most of them paying the \$300 club permit, and others paying the \$815 nonprofit permit. These bars are for our members and our guests and are not open to the general public. We do not get the traffic that other bars would who are open to the public. Our current total cost for permits for the 31 lodges approximates \$15,000.

When the Act concerning streamlining the Liquor Control Act, 647, which raised the permit fees for all type of liquor permits to \$2,000, which included nonprofits, came as a shock to all of us. Which means -- which would mean the 31 lodges of Connecticut will be paying \$62,000 in permit fees, a difference of \$47,000 from what we are paying.

What this would do to our organization? Some lodges will not be able to stay in business, our donations to the communities we live in will just decrease significantly. The good we are doing supporting little leagues, basketball and soccer teams, Boy Scouts, Girl Scouts, local schools, food banks, homeless shelters and veterans will all suffer. The extra \$47,000 we would be paying in permits would not be going to our communities.

The Connecticut Elks Association strongly believes that the Bill needs to be moved forward and be enacted as soon as possible and the \$2,000 fee be eliminated for all nonprofit organizations, current and in the future. I thank you for the time allocated, and if there are any questions.

SENATOR MARONEY (14TH): Great. Thank you very much, Mr. Sabio. I don't see any questions, but I did not see your written testimony. Did you submit any written testimony?

JAMES SABIO: I did not, but I will as soon as I complete the video, I will be sending that out.

SENATOR MARONEY (14TH): Great, that would be appreciated so we can enter that into the record. I do have a question for you. I know you mentioned some of your clubs have been paying the \$300 level, some of them paying at the \$815 level. I guess that's reflected in the fact that 31 lodges, \$15,000 in permit fees, so you're averaging just about \$500 per lodge. So I guess there's a mixture.

But I also had heard that some of the clubs that were paying the \$300 fee, I guess there were other charges, where some were paying \$400 or \$450 and that was from Legion posts, I guess, not necessarily from the Elks. But is that the case, that some of your lodges were paying fees in between the \$300 and the \$815?

JAMES SABIO: That is true. Some of the lodges have an auxiliary bar, either in a row facility or a banquet hall, separate from the main bar. So there is an additional fee that the lodges are paying for that second bar or third bar if there happened to be one.

SENATOR MARONEY (14TH): Great. Well, thank you very much. I think that was part of the intent, again, this raising the fees to the \$2,000 was an unintended consequence. But part of the intent of

the legislation was to simplify the fact that we did have so many various different permits in the past. Thank you again, for your testimony, and for all of the good works that the Elks are doing throughout the state.

JAMES SABIO: Thank you very much.

SENATOR MARONEY (14TH): Mr. Clerk, do we have anyone else to testify?

SAMUEL CLARK: I believe that is it for all the public individuals who are present. That concludes it.

SENATOR MARONEY (14TH): Okay, great. If we have no one else who is here who would like to say anything or any other testimony, I believe that concludes our public hearing for today. And our next meeting is a public hearing on I believe, Mr. Clerk, it's next Tuesday?

SAMUEL CLARK: It will be next Tuesday at 2:30. I will be sending out an email with the webinar invitation by this afternoon, hopefully.

SENATOR MARONEY (14TH): Okay, great.

SAMUEL CLARK: Look out for that email and then also Chairs and Ranking Members, look out for a separate email from me as well.

SENATOR MARONEY (14TH): Okay, great.

REP. RUTIGLIANO (123RD): Pardon me, Mr. Chairman. Is the public hearing Tuesday or Committee meeting on Tuesday?

SAMUEL CLARK: It is a public hearing.

SENATOR MARONEY (14TH): We also are planning on having a Committee meeting, I believe, on Tuesday. So we're having both a Committee meeting and a

public hearing on Tuesday, and the intent is to have another public hearing next Thursday as well. Mr. Clerk, were all the Bills filed in time for us to have the public hearing next Thursday?

SAMUEL CLARK: They were filed in time and I am currently in the works of working on that right now.

SENATOR MARONEY (14TH): So I should let you go and get that done then. So for all the Members, our Clerk is working.

REP. RUTIGLIANO (123RD): Let him have lunch, too.

SENATOR MARONEY (14TH): After that gets filed. No, our Clerk is working very diligently on ensuring that we also have a public hearing next Thursday. So thank you again to everyone, and I believe that concludes our public hearing for today.