



General Assembly

January Session, 2001

**Committee Bill No. 92**

LCO No. 4011

Referred to Committee on Environment

Introduced by:  
(ENV)

***AN ACT CONCERNING THE PERMITTING OF POUND NETS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-363b of the general statutes is repealed and  
2 the following is substituted in lieu thereof:

3 (a) Routine maintenance of permitted structures, fill, obstructions or  
4 encroachments or routine maintenance of structures, fill, obstructions  
5 or encroachments in place prior to June 24, 1939, and continuously  
6 maintained and serviceable since that date shall be exempt from the  
7 requirements of obtaining certificates of permission or permits  
8 pursuant to section 22a-363a, this section or section 22a-361. The  
9 following activities may be eligible for a certificate of permission, in  
10 accordance with the provisions of subsections (c) and (d) of this  
11 section: (1) Substantial maintenance or repair of existing structures, fill,  
12 obstructions or encroachments authorized pursuant to section 22a-33  
13 or section 22a-361; (2) substantial maintenance of any structures, fill,  
14 obstructions or encroachments in place prior to June 24, 1939, and  
15 continuously maintained and serviceable since such time; (3)  
16 maintenance dredging of areas which have been dredged and  
17 continuously maintained and serviceable as authorized pursuant to

18 section 22a-33 or section 22a-361; (4) activities allowed pursuant to a  
19 perimeter permit and requiring authorization by the commissioner; (5)  
20 the removal of derelict structures or vessels; (6) minor alterations or  
21 amendments to permitted activities consistent with the original permit;  
22 (7) minor alterations or amendments to activities completed prior to  
23 June 24, 1939; (8) placement of temporary structures for water-  
24 dependent uses, as defined in section 22a-93; (9) open water marsh  
25 management and conservation activities undertaken by or under the  
26 supervision of the Department of Environmental Protection; and (10)  
27 the placement or reconfiguration of piers, floats, docks or moorings  
28 within existing waterward boundaries of recreational marinas or yacht  
29 clubs which have been authorized pursuant to section 22a-33 or 22a-  
30 361. Notwithstanding the provisions of sections 22a-29 to 22a-35,  
31 inclusive, the commissioner may issue a certificate of permission for  
32 activities enumerated in this subsection which are to be conducted in  
33 tidal wetlands. Upon issuance, such certificate shall be in lieu of the  
34 permit required pursuant to section 22a-32.

35 (b) The commissioner may issue a certificate of permission for  
36 activities which have been completed prior to January 1, 1980, for  
37 which permits, certificates or emergency authorizations are required  
38 pursuant to section 22a-32, this section, section 22a-361 or 22a-363d,  
39 which have been conducted without such permit, certificate or  
40 emergency authorization, provided the applicant demonstrates that  
41 such activity does not interfere with navigation or littoral or riparian  
42 rights and does not cause adverse impacts on coastal resources, as  
43 defined in section 22a-93. In determining the eligibility of activities  
44 conducted without prior authorization, the commissioner may  
45 consider whether the applicant acquired [his] such real estate interest  
46 in the work site after the date of conduct of the unauthorized activity,  
47 is not otherwise liable for the unauthorized activity as a result of  
48 actions taken prior to the acquisition and did not know and had no  
49 reason to know of the unauthorized activity. The commissioner may  
50 authorize the maintenance of unauthorized activities consistent with  
51 this subsection. Unauthorized activities which are ineligible for

52 certificates of permission may be subject to applicable enforcement  
53 actions by the commissioner.

54 (c) A request for a certificate of permission shall be made to the  
55 Commissioner of Environmental Protection. If a proposed activity is  
56 within a category listed in subsection (a) or (b) of this section the  
57 commissioner may, in whole or in part, approve, modify and approve  
58 or deny a certificate. The commissioner shall issue such a certificate if  
59 the eligible proposed activity is consistent with a permit issued  
60 pursuant to section 22a-33 or 22a-361 or was in place prior to June 24,  
61 1939, and continuously maintained and serviceable since such time. If  
62 the eligible proposed activity does not have a permit or has not  
63 received any prior permits, the commissioner shall determine if the  
64 information provided is sufficient to determine if the proposed activity  
65 complies with the applicable standards and criteria and may (1) issue a  
66 certificate of permission if [he] the commissioner finds that the  
67 information indicates compliance with all applicable standards and  
68 criteria, or (2) require the submittal of a complete application for a  
69 permit pursuant to section 22a-32 or 22a-361, if [he] the commissioner  
70 finds that the information is not sufficient to indicate compliance with  
71 the standards and criteria. If the commissioner finds that changes in  
72 conditions or circumstances associated with a permitted structure, fill,  
73 obstruction or encroachment are likely to result in significant impacts  
74 to the environment or coastal resources, [he] the commissioner may  
75 require an application for a permit pursuant to section 22a-32 or 22a-  
76 361. If the commissioner finds that the structure, fill, obstruction or  
77 encroachment is not in substantial compliance with the permit or  
78 authorization under which a certificate of permission is requested, and  
79 is not consistent with applicable standards and criteria, [he] the  
80 commissioner shall not issue a certificate of permission. For the  
81 purposes of this subsection, standards and criteria are those specified  
82 in sections 22a-33 and 22a-359 and regulations adopted pursuant to  
83 section 22a-30, in any regulations adopted pursuant to subsection (c) of  
84 said section 22a-361, in the water quality standards of the Department  
85 of Environmental Protection, and in sections 22a-92 and 22a-98 for

86 activities within the coastal boundary, as defined in section 22a-93.

87 (d) The commissioner shall, within forty-five days of receipt of a  
88 request for a certificate of permission, issue such certificate or notify  
89 the person making such request that (1) additional information or an  
90 application for a permit pursuant to section 22a-32 or section 22a-361 is  
91 required or (2) the structure, fill, obstruction or encroachment is not  
92 eligible for a certificate of permission. If the commissioner requests  
93 additional information from an applicant, the commissioner shall  
94 make a determination on the application no later than ninety days  
95 from the date of receipt of the request for a certificate of permission. If  
96 the commissioner fails to respond within forty-five days of receipt of a  
97 request, the certificate of permission shall be deemed approved, except  
98 that no certificate of permission for dredging, activities located within  
99 tidal wetlands, as defined in section 22a-29, or activities conducted  
100 without prior authorization shall be deemed approved by virtue of the  
101 commissioner's failure to respond.

102 (e) Notwithstanding the provisions of the general statutes, the  
103 commissioner shall not issue a certificate of permission for a pound  
104 net, weir or similar fish harvesting structure. The commissioner may  
105 issue a permit for such fish harvesting structure, in accordance with  
106 section 22a-361, provided, if the commissioner receives a petition  
107 signed by twenty-five or more persons during the public comment  
108 period provided in subsection (b) of section 22a-361 for the application  
109 for any such permit, the commissioner shall hold a public hearing on  
110 such permit application.

111 Sec. 2. This act shall take effect from its passage.

**ENV**      *Joint Favorable*