



House of Representatives

File No. 709

General Assembly

January Session, 2003

(Reprint of File No. 358)

Substitute House Bill No. 5594
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 15, 2003

AN ACT CONCERNING MEMBERSHIP ON AND REVIEW OF APPLICATIONS TO PLANNING AND ZONING COMMISSIONS, THE LOCATION OF AUTO DEALERS, REPAIRERS, JUNKYARDS AND GASOLINE STATIONS AND ADOPTION OF A REHABILITATION SUBCODE.

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

1 Section 1. (NEW) (*Effective October 1, 2003*) Notwithstanding any
2 other provision of the general statutes, prior to the submission of an
3 application for use of property under chapters 124, 126, 440 and 541 of
4 the general statutes or any other provision of the general statutes
5 authorizing an authority, commission, department or agency of a
6 municipality to issue a permit or approval for use of such property,
7 such authority, commission, department or agency or authorized agent
8 thereof may separately, jointly, or in any combination, conduct a
9 preapplication review of a proposed project with the applicant at the
10 applicant's request. Such preapplication review and any results or
11 information obtained from it may not be appealed under any provision
12 of the general statutes, and shall not be binding on the applicant or any
13 authority, commission, department, agency or other official having

14 jurisdiction to review the proposed project.

15 Sec. 2. Section 14-54 of the general statutes is repealed and the
16 following is substituted in lieu thereof (*Effective October 1, 2003*):

17 Any person who desires to obtain a license for dealing in or
18 repairing motor vehicles shall first obtain and present to the
19 commissioner a certificate of approval of the location for which such
20 license is desired from the [selectmen or town manager of the town,
21 the mayor of the city or the warden of the borough,] zoning
22 commission, planning and zoning commission or other board or
23 authority designated by local charter, regulation or ordinance of the
24 town, city or borough wherein the business is located or is proposed to
25 be located. [, except in any city or town having a zoning commission
26 and a board of appeals, in which case such certificate shall be obtained
27 from the board of appeals.] In addition thereto, such certificate shall be
28 approved by the chief of police where there is an organized police
29 force or, where there is none, by the commander of the state police
30 barracks situated nearest to such proposed location. The provisions of
31 this section shall not apply to (1) a transfer of ownership to a spouse,
32 child, brother, sister or parent of a licensee, (2) a transfer of ownership
33 to or from a corporation in which a spouse, child, brother, sister or
34 parent of a licensee has a controlling interest, or (3) a change in
35 ownership involving the withdrawal of one or more partners from a
36 partnership.

37 Sec. 3. Subsection (a) of section 14-67i of the general statutes is
38 repealed and the following is substituted in lieu thereof (*Effective*
39 *October 1, 2003*):

40 (a) No person, firm or corporation shall establish, operate or
41 maintain a motor vehicle recycler's yard or motor vehicle recycler's
42 business unless a certificate of approval of the location to be used
43 therefor has been procured from the [selectmen of the town, the mayor
44 of the city or the warden of the borough] zoning commission, planning
45 and zoning commission or other board or authority designated by

46 local charter, regulation or ordinance in the town, city or borough
47 wherein such yard or business is located or is proposed to be located.],
48 except that, in any city or town having a zoning commission, such
49 certificate shall be procured from the zoning commission, certifying
50 that such location is suitable for the proposed use, consideration being
51 given to the factors specified in section 14-67k, nor unless a license to
52 establish or maintain such a yard or such a business has been obtained
53 from the Commissioner of Motor Vehicles as provided in section 14-
54 67l.]

55 Sec. 4. Section 14-321 of the general statutes is repealed and the
56 following is substituted in lieu thereof (*Effective October 1, 2003*):

57 Any person who desires to obtain a license for the sale of gasoline or
58 any other product, under the provisions of section 14-319, shall first
59 obtain and present to the commissioner a certificate of approval of the
60 location for which such license is desired. The certificate of approval
61 shall be obtained from the zoning commission, planning and zoning
62 commission or local authority of the town, city or borough where the
63 station or pump is located or is proposed to be located. A certificate of
64 approval shall not be required in the case of the transfer of the last
65 issued license from one person to another provided no more than one
66 year has elapsed since the expiration of such license, or in the case of a
67 renewal of a license by the holder of the license, or in the case of the
68 addition or discontinuance of pumps. If adjoining physical properties
69 are altered or changed, the applicant shall conform to the provisions of
70 this section. The commissioner shall not issue any license under the
71 provisions of section 14-319 for which a certificate of approval is a
72 prerequisite unless the certificate is presented to him within three
73 years after the date on which it was issued.

74 Sec. 5. Subsection (a) of section 14-58 of the general statutes is
75 repealed and the following is substituted in lieu thereof (*Effective*
76 *October 1, 2003*):

77 (a) Each new car dealer, used car dealer or repairer before engaging

78 in such business shall make a separate sworn application to the
79 commissioner for a license to engage in such business in each place of
80 business conducted by such dealer. The application shall include any
81 information that may be required by the commissioner on blanks to be
82 furnished by said commissioner. Each application shall be
83 accompanied by a fee of one hundred forty dollars for each place of
84 business conducted by the applicant, together with the fee for the type
85 of license for which the applicant is making application, and such fee
86 or fees shall not be subject to prorating and shall not be subject to
87 refund. No such license shall be transferable. When such licensee adds
88 buildings or adjacent land to such licensee's licensed place of business,
89 the commissioner may require the licensee to furnish satisfactory
90 evidence of compliance with the provisions of [sections] section 14-54,
91 [and 14-55,] or with other applicable provisions of law, administered
92 by the municipality wherein such business is located, concerning
93 building or zoning requirements. When a change of officers of a
94 corporation engaged in such business is made, a notice of the change
95 shall be sent to the commissioner within a period of fifteen days from
96 the date of the change. The commissioner may suspend the license of
97 any corporation, after notice and hearing, when the newly appointed
98 or elected officers cannot be considered as qualified to conduct the
99 business as provided in section 14-51.

100 Sec. 6. Section 14-324 of the general statutes is repealed and the
101 following is substituted in lieu thereof (*Effective October 1, 2003*):

102 Any person aggrieved by the performance of any act provided for in
103 sections 14-319 to [14-322] 14-321, inclusive, as amended by this act, by
104 the local authority may take an appeal therefrom to the superior court
105 for the judicial district within which such town or city is situated, or in
106 accordance with the provisions of section 4-183, except venue for such
107 appeal shall be in the judicial district of New Britain if the act was
108 performed by the commissioner.

109 Sec. 7. Section 8-19 of the general statutes is repealed and the
110 following is substituted in lieu thereof (*Effective October 1, 2003*):

111 Any municipality may create by ordinance a planning commission,
112 which shall consist of five members, who shall be electors of such
113 municipality and whose terms of office and method of election or
114 appointment shall be fixed in the ordinance. The ordinance may
115 provide that members may be municipal employees if the municipality
116 has adopted an ordinance authorizing such membership pursuant to
117 the provisions of subparagraph (C) of subdivision (2) of subsection (e)
118 of section 7-421. The chief executive officer of the municipality and the
119 engineer thereof or commissioner of public works, if any, shall also be
120 members of the commission, without voting privileges. The terms of
121 office shall be so arranged that the terms of not more than three
122 members shall expire in any one year. [Vacancies] Unless otherwise
123 provided by charter, vacancies shall be filled by the commission for the
124 unexpired portion of the term. Upon the adoption of this section by
125 ordinance as herein provided, and the appointment or election of a
126 commission thereunder, any planning commission in the municipality
127 established under any previous act of the General Assembly shall cease
128 to exist, and its books and records shall be turned over to the
129 commission established under this section, provided all regulations
130 promulgated by such planning commission prior to that time shall
131 continue in full force and effect until modified, repealed or superseded
132 in accordance with the provisions of this chapter. The area of
133 jurisdiction of a planning commission created by a town includes any
134 city or borough therein without a legally constituted planning
135 commission for all planning purposes except those specified in
136 sections 8-24 and 8-29. Powers granted under said sections may be
137 delegated by the legislative body of such city or borough to the
138 planning commission of the town in which such city or borough is
139 situated. Any city or borough in which a planning commission has
140 been previously established may, by ordinance, designate the
141 commission established under this section in the town in which such
142 city or borough is situated to be the planning commission of such city
143 or borough, and such commission shall supersede the planning
144 commission previously established in such city or borough. The
145 commission shall elect a chairman and a secretary from its members,

146 shall adopt rules for the transaction of business and shall keep a public
147 record of its activities. The planning commission of each municipality
148 shall file an annual report with the legislative body thereof.

149 Sec. 8. Section 29-256 of the general statutes is repealed and the
150 following is substituted in lieu thereof (*Effective October 1, 2003*):

151 (a) In order to make the State Building Code and the State Fire
152 Safety Code more responsive to present economic conditions, to
153 promote reduction in the cost of construction of homes and other
154 buildings, thereby creating more jobs in the construction industry and
155 promoting home ownership, as well as to enable the citizens of the
156 state to realize the benefits of the latest technology in energy
157 conservation in the design and construction of homes and other
158 buildings, the State Building Inspector and Codes and Standards
159 Committee, in conjunction with the Commissioner of Public Safety,
160 shall thoroughly review and revise the State Building Code and the
161 State Fire Safety Code, with an emphasis on performance rather than
162 design specifications. In the course of such review, the State Building
163 Inspector and the Codes and Standards Committee shall develop
164 [separate Building Code standards for the rehabilitation of buildings] a
165 rehabilitation subcode. The provisions of such subcode shall include,
166 but not be limited to, the identification and standardization of
167 economically feasible rehabilitation standards and modifications that
168 ensure the public health, safety and welfare, and protect the
169 environment. Such [separate standards] subcode shall be included in
170 any revision of the State Building Code.

171 (b) Not later than January 1, 2005, the commissioner shall adopt
172 regulations, in accordance with the provisions of chapter 54, to
173 implement the provisions of this section.

174 Sec. 9. Section 14-318 of the general statutes is repealed and the
175 following is substituted in lieu thereof (*Effective October 1, 2003*):

176 Terms used in this chapter shall be construed as follows, unless
177 another construction is clearly apparent from the language or context

178 in which the term is used or unless the construction is inconsistent
179 with the manifest intention of the General Assembly:

180 (1) The following terms shall be construed as they are defined in
181 section 14-1: "Fuels", "motor vehicle" and "person";

182 (2) "Commissioner" means the Commissioner of Consumer
183 Protection or any assistant to the Commissioner of Consumer
184 Protection who is designated and authorized by, and who is acting for,
185 the Commissioner of Consumer Protection;

186 (3) "Distributor" means any person, wherever resident or located,
187 who imports fuels or causes fuels to be imported into this state, for sale
188 or use; a person who produces, refines, manufactures or compounds
189 fuels within this state; and a person who distributes gasoline by tank
190 wagon in this state;

191 (4) "Local authority" means the selectmen or town manager of a
192 town, the mayor of a city or the warden of a borough or other board or
193 authority designated by local charter, regulation or ordinance, except
194 in any town or city having a zoning commission and a board of
195 appeals, [in which event] "local authority" means the board of appeals;

196 (5) "United States Government Motor Gasoline" means gasoline
197 which is or may be prescribed by the federal specification board of the
198 United States government for use as fuel for motor vehicle, motor boat
199 and similar engines;

200 (6) "United States Aviation Gasoline, Domestic Grade" means that
201 gasoline which is or may be prescribed by the federal specification
202 board of the United States government for use as aviation fuel; and

203 (7) "Retail dealer" means any person operating a service station,
204 filling station, store, garage or other place of business for the sale of
205 motor fuel for delivery into the service tank or tanks of any vehicle
206 propelled by an internal combustion engine.

207 Sec. 10. (Effective October 1, 2003) Sections 14-55, 14-67k and 14-322 of

208 the general statutes are repealed.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>
Sec. 6	<i>October 1, 2003</i>
Sec. 7	<i>October 1, 2003</i>
Sec. 8	<i>October 1, 2003</i>
Sec. 9	<i>October 1, 2003</i>
Sec. 10	<i>October 1, 2003</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Motor Vehicle Dept.; Public Safety, Dept.	TF - None	None	None
Public Safety, Dept.	GF - None	None	None

Note: TF=Transportation Fund; GF=General Fund

Municipal Impact: None

Explanation

This bill clarifies: 1) instances when local officials may grant “certificates of site approval” to applicants for dealers and repairers, recyclers and gas station licenses, and 2) procedures for filling vacancies on local planning commissions; and eliminates the requirement that municipalities hold certain site approval hearings for dealer, recycler and gas station license applicants. It also allows an authority, commission, department, agency or authorized agent of a municipality to conduct a non binding pre-application review of a proposed project, and requires the State Building Inspector to develop a rehabilitation sub-code which must include provisions to identify and standardize economically feasible rehabilitation standards and modifications that both ensure public health, safety and welfare and protect the environment. The Commissioner of Public Safety must adopt regulations, by January 5, 2005, to implement this provision.

Since Section 1 of the bill is discretionary in that it allows municipalities to hold pre-application reviews with potential applicants concerning proposed projects, it is anticipated that any additional costs or workload increase will be incurred when resources permit.

However, eliminating the requirement that municipalities hold site approval hearings for dealer, recycler and gas station license applicants could result in administrative efficiencies for municipalities.

Since the DPS regulations that are to be developed and implemented by January 2005 closely relate to current practice, passage of the bill is not anticipated to require additional funding.

Passage of this bill is not anticipated to have a fiscal impact on the Department of Motor Vehicles.

House "A" which specifies that a pre-application review is not binding on the applicant for land use and building permits, and changes the approval process to other board or authority designated by local charter, regulation or ordinance (instead of "local authority") will have no fiscal impact.

OLR Bill Analysis

sHB 5594 (as amended by House "A")*

AN ACT CONCERNING MEMBERSHIP ON AND REVIEW OF APPLICATIONS TO PLANNING AND ZONING COMMISSIONS, THE LOCATION OF AUTO DEALERS, REPAIRERS, JUNKYARDS AND GASOLINE STATIONS AND ADOPTION OF A REHABILITATION SUBCODE**SUMMARY:**

This bill explicitly allows municipal land use and building agencies and their agents to conduct a pre-application review on a proposed project with the applicant at his request. The review and any results or information obtained from it (1) are not binding on the applicant or the agency or official authorized to conduct the review and (2) cannot be appealed under the statutes. The provision applies to any municipal authority, commission, department, or other agency that issues permits and approvals under the zoning, planning, inland wetlands, building and fire code, and related laws. Agencies can conduct the pre-application review jointly, separately, or in any combination.

The bill eliminates the need to obtain certain local approval for certain motor vehicle-related land uses and repeals related notice, hearing, and fee requirements. It allows zoning and planning and zoning commissions, as well as legislative bodies and certain officials, to approve the location of gas stations. It also eliminates the need for a junkyard to obtain a Department of Motor Vehicles (DMV) license as a condition of obtaining local land use approval.

By law, the state building inspector and the Codes and Safety Committee, in consultation with the public safety commissioner, must revise the state building and fire codes to emphasize performance, rather than design specifications. As part of this mandate, the inspector and committee must develop separate standards for building rehabilitation. The bill instead requires the development of a rehabilitation subcode, which must include provisions to identify and standardize economically feasible rehabilitation standards and modifications that ensure public health, safety, and welfare and that

protect the environment. It requires the commissioner to develop regulations by January 1, 2005 to implement these provisions.

The bill specifies that a planning commission can fill vacancies only if the town's charter does not specify how vacancies must be filled.

*House Amendment "A" (1) specified that a pre-application review is not binding on the applicant for land use and building permits and (2) changed who can approve motor-vehicle related land uses.

EFFECTIVE DATE: October 1, 2003

APPROVAL OF MOTOR-VEHICLE-RELATED LAND USES

Under current law, in addition to meeting normal zoning requirements, a person who seeks to establish, operate, or maintain a junkyard must obtain the approval of a municipality's chief elected official or selectmen. A person seeking a DMV license for a vehicle dealership or repair facility must obtain the approval of this official or the town manager. But, in municipalities with zoning commissions, (1) a dealership or repair facility requires the zoning board of appeal's approval rather than the official's approval and (2) a junkyard requires the commission's, rather than the official's, approval. The bill eliminates these requirements and instead requires the approval of the municipal zoning commission, planning commission, or other board or authority designated by local charter, regulation, or ordinance.

Under current law, a person seeking a DMV license for a gas station requires the local authority's approval. The local authority is the chief elected official or town manager, but in towns and cities with zoning commissions and boards of appeals, the local authority is the board of appeals. The bill allows the zoning commission or planning and zoning commission to also issue this approval and allow the municipality to designate another authority.

BACKGROUND

Related Bill

sSB 930, reported favorably by the Transportation Committee, provides for a waiver from the municipal officials' approval of dealers and repairers locations under certain circumstances.

Legislative History

On April 22, the House referred the original bill (File 358) to the Public Safety Committee, which reported favorably it on April 23.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 16 Nay 0

Public Safety Committee

Joint Favorable Report

Yea 22 Nay 0