



# House of Representatives

**File No. 753**

General Assembly

January Session, 2005

**(Reprint of File No. 334)**

House Bill No. 6771  
As Amended by House Amendment  
Schedule "B"

Approved by the Legislative Commissioner  
May 13, 2005

**AN ACT CONCERNING THE DEFINITION OF AGRICULTURAL OPERATIONS.**

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

1 Section 1. Section 22-4c of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2005*):

3 (a) The Commissioner of Agriculture may: (1) Adopt, amend or  
4 repeal, in accordance with the provisions of chapter 54, such  
5 standards, criteria and regulations, and such procedural regulations as  
6 are necessary and proper to carry out the commissioner's functions,  
7 powers and duties; (2) enter into contracts with any person, firm,  
8 corporation or association to do all things necessary or convenient to  
9 carry out the functions, powers and duties of the department; (3)  
10 initiate and receive complaints as to any actual or suspected violation  
11 of any statute, regulation, permit or order administered, adopted or  
12 issued by the commissioner. The commissioner may hold hearings,  
13 administer oaths, take testimony and subpoena witnesses and  
14 evidence, enter orders and institute legal proceedings including, but  
15 not limited to, suits for injunctions and for the enforcement of any

16 statute, regulation, order or permit administered, adopted or issued by  
17 the commissioner; (4) provide an advisory opinion, upon request of  
18 any municipality, state agency, tax assessor or any landowner as to  
19 what constitutes agriculture or farming pursuant to subsection (q) of  
20 section 1-1, or regarding classification of land as farm land or open  
21 space land pursuant to sections 12-107b to 12-107f, inclusive; [(4)] (5) in  
22 accordance with constitutional limitations, enter at all reasonable  
23 times, without liability, upon any public or private property, except a  
24 private residence, for the purpose of inspection and investigation to  
25 ascertain possible violations of any statute, regulation, order or permit  
26 administered, adopted or issued by the commissioner and the owner,  
27 managing agent or occupant of any such property shall permit such  
28 entry, and no action for trespass shall lie against the commissioner for  
29 such entry, or the commissioner may apply to any court having  
30 criminal jurisdiction for a warrant to inspect such premises to  
31 determine compliance with any statute, regulation, order or permit or  
32 methods of manufacture or production ascertained by the  
33 commissioner during, or as a result of, any inspection, investigation or  
34 hearing; [(5)] (6) undertake any studies, inquiries, surveys or analyses  
35 the commissioner may deem relevant, through the personnel of the  
36 department or in cooperation with any public or private agency, to  
37 accomplish the functions, powers and duties of the commissioner; [(6)]  
38 (7) require the posting of sufficient performance bond or other security  
39 to assure compliance with any permit or order; [(7)] (8) provide by  
40 notice printed on any form that any false statement made thereon or  
41 pursuant thereto is punishable as a criminal offense under section 53a-  
42 157b; [(8)] (9) by regulations adopted in accordance with the provisions  
43 of chapter 54, require the payment of a fee sufficient to cover the  
44 reasonable cost of acting upon an application for and monitoring  
45 compliance with the terms and conditions of any state or federal  
46 permit, license, registration, order, certificate or approval. Such costs  
47 may include, but are not limited to, the costs of (A) public notice, (B)  
48 reviews, inspections and testing incidental to the issuance of and  
49 monitoring of compliance with such permits, licenses, orders,  
50 certificates and approvals, and (C) surveying and staking boundary

51 lines. The applicant shall pay the fee established in accordance with the  
 52 provisions of this section prior to the final decision of the  
 53 commissioner on the application. The commissioner may postpone  
 54 review of an application until receipt of the payment.

55 (b) In any hearing held on or after October 1, 1995, on an application  
 56 for any license issued by the commissioner, (1) the applicant shall pay  
 57 all costs of recording and transcribing the hearing if a transcript is  
 58 required by law, and (2) any applicant who requests a copy of a  
 59 transcript of a hearing for which a transcript is not required by law  
 60 shall pay to the department any expenses incurred by the department  
 61 in having such transcript prepared. In any proceeding held on or after  
 62 October 1, 1995, on a department order to enforce any statute,  
 63 regulation, permit or order administered or issued by the  
 64 commissioner, the respondent or other person taking an appeal from a  
 65 final decision of the commissioner shall pay all costs of recording and  
 66 transcribing the hearing if a transcript is required by law. Upon a  
 67 showing of indigency by such respondent or person, the court may  
 68 require the commissioner to pay such costs.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2005	22-4c

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:

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**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Department of Agriculture	GF - None	None	None

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

Allowing the Commissioner of the Department of Agriculture to make an advisory opinion at the request of a municipality, state agency, tax assessor or land owner, as to what constitutes agriculture or farming is not anticipated to result in a fiscal impact to the Department of Agriculture (DOAG). The DOAG already responds to such requests in an advisory capacity and anticipates 8-10 such requests per year. Each request takes approximately one-half day to complete.

House "B" eliminates the provision in the bill allowing the Commissioner of the DOAG to make a final determination as to what constitutes agriculture or farming, eliminating the potential impact on property tax assessments and any associated fiscal impacts.

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**OLR Bill Analysis**

HB 6771 (as amended by House "B")\*

**AN ACT CONCERNING THE DEFINITION OF AGRICULTURAL OPERATIONS****SUMMARY:**

This bill allows the agriculture commissioner, as part of his powers and duties, to provide an advisory opinion on (1) what, by law, constitutes agriculture or farming and (2) the classification of land as farmland or open space land under the 490 program when any municipality, state agency, tax assessor, or landowner requests it. The commissioner may already do so under current law. Thus, the bill appears to have no legal effect.

\*House Amendment "B" allows the commissioner to provide an advisory opinion, instead of making a final determination, when asked.

EFFECTIVE DATE: July 1, 2005

**BACKGROUND*****Definition of Agriculture***

By law, agriculture and farming include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, including horses, bees, poultry, fur-bearing animals, and wildlife. The terms also include:

1. the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish (aquaculture);
2. the operation, management, conservation, improvement, or maintenance of a farm and its buildings, tools, and equipment,

or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations;

3. the production or harvesting of maple syrup, maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations;
4. the harvesting of mushrooms;
5. the hatching of poultry;
6. the construction, operation, or maintenance of ditches, canals, reservoirs, or waterways used exclusively for farming purposes; and
7. handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage, market, or a carrier for transportation to market, or for direct sale (a) any agricultural or horticultural commodity as an incident to ordinary farming operations, or (b) in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or direct sale (CGS § 1-1).

### ***The 490 Program***

The 490 program provides owners of farmland with tax relief by assessing farmland, forest, and open space land based on its current use, rather than its market value.

### **COMMITTEE ACTION**

Environment Committee

Joint Favorable Change of Reference

Yea 26 Nay 0

Planning and Development Committee

Joint Favorable Report

Yea 15 Nay 3

Finance, Revenue and Bonding Committee

Joint Favorable Report  
Yea 44 Nay 1