



General Assembly

**Amendment**

January Session, 2005

LCO No. 5900

**\*SB0129405900SD0\***

Offered by:  
SEN. STILLMAN, 20<sup>th</sup> Dist.

To: Subst. Senate Bill No. 1294      File No. 354      Cal. No. 289

**"AN ACT CONCERNING THE MINIMUM WATER FLOW REGULATIONS."**

1      Strike everything after the enacting clause and substitute the  
2      following in lieu thereof:

3      "Section 1. Section 26-141a of the general statutes is repealed and the  
4      following is substituted in lieu thereof (*Effective October 1, 2005*):

5      Whenever any dam or other structure is maintained in this state  
6      which impounds, or diverts, the waters of a river or stream [which is  
7      stocked with fish by the Commissioner of Environmental Protection,]  
8      or which dam or other structure affects the flow of water in such a  
9      [stocked] river or stream, the [commissioner] Commissioner of  
10     Environmental Protection may [promulgate] adopt regulations, in  
11     accordance with the provisions of chapter 54, setting forth standards  
12     concerning the flow of such water in accordance with section 26-141b,  
13     as amended by this act.

14     Sec. 2. Section 26-141b of the general statutes is repealed and the

15 following is substituted in lieu thereof (*Effective October 1, 2005*):

16 The Commissioner of Environmental Protection shall, on or before  
17 [July 1, 1973] December 31, 2006, and after consultation and  
18 cooperation with the Department of Public Health, the Department of  
19 Public Utility Control, an advisory group convened by the  
20 Commissioner of Environmental Protection, and any other agency,  
21 board or commission of the state with which said commissioner shall  
22 deem it advisable to consult and after recognizing and providing for  
23 the needs and requirements of public health, flood control, industry,  
24 public utilities, [and] water supply, public safety, agriculture and other  
25 lawful uses of such waters and further recognizing and providing for  
26 stream and river ecology, the requirements of natural aquatic life,  
27 natural wildlife and public recreation, and after considering the  
28 natural flow of water into an impoundment or diversion, and being  
29 reasonably consistent therewith, [and also after thirty days' notice in  
30 the Connecticut Law Journal and after thirty days' notice sent by  
31 certified mail to all persons, firms and corporations known to have a  
32 direct interest, hold a public hearing and, not earlier than thirty days  
33 thereafter,] shall [promulgate] adopt regulations, in accordance with  
34 the provisions of chapter 54, establishing [instantaneous minimum]  
35 flow [standards and] regulations for all [stocked] river and stream  
36 systems. Such [instantaneous minimum] flow [standards and]  
37 regulations shall: (1) Apply to all river and stream systems within this  
38 state; [which the commissioner finds are reasonably necessary to keep  
39 a sufficient flow of water to protect and safely maintain the fish placed  
40 therein by him pursuant to his stocking program;] (2) preserve and  
41 protect the natural aquatic life, including anadromous fish, contained  
42 within such waters; (3) preserve and protect the natural and stocked  
43 wildlife dependent upon the flow of such water; (4) promote and  
44 protect the usage of such water for public recreation; (5) be [consistent  
45 with] based, to the maximum extent practicable, on natural variation of  
46 flows and water levels while providing for the needs and requirements  
47 of public health, flood control, industry, public utilities, water supply,  
48 public safety, agriculture and other lawful uses of such waters; and (6)

49 be based on the best available science, including, but not limited to,  
50 natural aquatic habitat, biota, subregional basin boundaries, areas of  
51 stratified drift, stream gages and flow data, locations of registered,  
52 permitted, and proposed diversions and withdrawal data reported  
53 pursuant to section 22a-368a, locations where any dams or other  
54 structures impound or divert the waters of a river or stream and any  
55 release made therefrom, and any other data for developing such  
56 regulations or individual management plans. Such flow regulations  
57 may provide special conditions or exemptions including, but not  
58 limited to, an extreme economic hardship or other circumstance, an  
59 agricultural diversion, a water quality certification related to a license  
60 issued by the Federal Energy Regulatory Commission or as necessary  
61 to allow a public water system, as defined in subsection (a) of section  
62 25-33d, to comply with the obligations of such system as set forth in  
63 the regulations of Connecticut state agencies. Any flow management  
64 plan contained in a resolution, agreement or stipulated judgment to  
65 which the state, acting through the Commissioner of Environmental  
66 Protection, is a party, or the management plan developed pursuant to  
67 section 3 of public act 00-152, is exempt from any such flow  
68 regulations. Flow regulations that were adopted pursuant to this  
69 section and sections 26-141a and 26-141c, as amended by this act, prior  
70 to the effective date of this section, shall remain in effect until the  
71 Commissioner of Environmental Protection adopts new regulations  
72 pursuant to this section.

73 Sec. 3. Section 26-141c of the general statutes is repealed and the  
74 following is substituted in lieu thereof (*Effective October 1, 2005*):

75 After the [promulgation of the aforesaid minimum flow standards,]  
76 adoption of regulations pursuant to section 21-146b, as amended by  
77 this act, no person [, firm or corporation] or municipality, as defined  
78 in section 22a-423, shall maintain any dam or structure impounding or  
79 diverting water within this state except in accordance with [such  
80 standards and] regulations as established by [said commissioner] the  
81 Commissioner of Environmental Protection. If the commissioner finds  
82 that any person [, firm or corporation] or municipality, as defined in

83 section 22a-423, is violating such [minimum flow standards]  
 84 regulations, the commissioner shall issue an order to such person [,  
 85 firm or corporation] or municipality to comply with [his] the  
 86 regulations. The order shall include a time schedule for the  
 87 accomplishment of the necessary steps leading to compliance. If such  
 88 person, or municipality [firm or corporation] fails thereafter to comply  
 89 with the [standards and] regulations concerning [minimum] flow of  
 90 water, the commissioner [is empowered to] may request the Attorney  
 91 General to bring an action in the Superior Court to enjoin such person  
 92 [, firm or corporation] or municipality from restricting the flow of such  
 93 water in accordance with such [standards and] regulations."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	26-141a
Sec. 2	<i>October 1, 2005</i>	26-141b
Sec. 3	<i>October 1, 2005</i>	26-141c