



General Assembly

Substitute Bill No. 5474

January Session, 2009

* HB05474ENV 032009 *

**AN ACT CONCERNING PRIVATE, MUNICIPAL AND STATE
RECYCLING, BENEFICIAL USE PERMITS AND ZONING
ORDINANCES.**

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

1 Section 1. Section 22a-209f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 The Commissioner of Environmental Protection may issue a general
4 permit for a category of processing or beneficial use of solid waste
5 when used in a manufacturing process to make a product or as an
6 effective substitute for a commercial product, provided: (1) Such
7 permit does not allow an activity for which an individual permit has
8 been issued; (2) the issuance of the general permit is not inconsistent
9 with the requirements of the federal Resource Conservation and
10 Recovery Act; (3) the solid wastes included in the category are
11 proposed for the same or substantially similar operations and have the
12 same or similar physical character and chemical composition; (4) the
13 solid wastes included in the category are proposed for the same or
14 substantially similar beneficial use or processing activities; and (5) the
15 commissioner finds that the activities in the category can be
16 adequately regulated using standardized conditions without harming
17 or presenting a threat of harm to public health and safety or the
18 environment. The commissioner's authority to issue a general permit
19 shall not apply to the reuse of hazardous waste as defined in section

20 22a-115. The issuance of the general permit shall be governed by
21 procedures established in subsection [(q)] (i) of section 22a-208a. The
22 general permit may require any person or municipality proposing to
23 conduct any activity under a general permit to register such activity on
24 a form prescribed by the commissioner. The commissioner may
25 identify one or more states that have a similar process and criteria for
26 issuing general permits for the processing or beneficial use of such
27 solid waste and, if such state or states has approved such a permit for a
28 particular beneficial use, the commissioner may issue a general permit
29 for a substantially similar proposed beneficial use in this state and
30 deem such activity to be in compliance with subdivisions (2) and (5) of
31 this section without further investigation.

32 Sec. 2. Subsection (h) of section 22a-220 of the general statutes is
33 repealed and the following is substituted in lieu thereof (*Effective*
34 *October 1, 2009*):

35 (h) On or before August 31, 1991, and annually thereafter, each
36 municipality, or its designated regional agent, shall provide a report to
37 the Commissioner of Environmental Protection describing the
38 measures taken during the preceding year to meet its obligations
39 under this section. The commissioner shall provide each municipality
40 with a form for such report by June 1, 1991. Such form may be
41 amended from time to time. Such report shall include, but not be
42 limited to, (1) a description of the efforts made by the municipality to
43 promote recycling, (2) a description of its efforts to ensure compliance
44 with separation requirements, [(3) the amount of each recyclable item
45 contained in its solid waste stream which has been delivered to a
46 recycling facility as reported to the municipality or its designated
47 regional agent by the owner or operator of a recycling facility pursuant
48 to section 22a-208e or by a scrap metal processor pursuant to section
49 22a-208f, and (4)] and (3) the amount of solid waste generated within
50 its boundaries which has been delivered to a resources recovery
51 facility or solid waste facility for disposal as reported to the
52 municipality or its designated regional agent by the owner or operator
53 of the resources recovery facility or solid waste facility pursuant to

54 section 22a-208e.

55 Sec. 3. Section 22a-241b of the general statutes is repealed and the
56 following is substituted in lieu thereof (*Effective October 1, 2009*):

57 (a) (1) On or before February 1, 1988, the Commissioner of
58 Environmental Protection shall adopt regulations in accordance with
59 the provisions of chapter 54 designating items that are required to be
60 recycled. The commissioner may designate other items as suitable for
61 recycling and amend said regulations accordingly. (2) On or before
62 October 1, 2010, the Commissioner of Environmental Protection shall
63 amend the regulations adopted under subdivision (1) of this
64 subsection to require the recycling of (A) containers made of
65 polyethylene terephthalate plastic and high-density polyethylene
66 plastic, (B) boxboard, and (C) paper, including but not limited to,
67 magazines and white and colored office and residential paper.

68 (b) Any item designated for recycling pursuant to subsection (a) of
69 this section shall be recycled by a municipality within three months of
70 the establishment of service to such municipality by a regional
71 processing center or local processing system.

72 (c) [On and after January 1, 1991, (1) each] (1) Each person who
73 generates solid waste from residential property shall, in accordance
74 with subsection (f) of section 22a-220, separate from other solid waste
75 the items designated for recycling pursuant to subdivision (1) of
76 subsection (a) of this section, and (2) every other person who generates
77 solid waste shall, in accordance with subsection (f) of section 22a-220,
78 make provision for and cause the separation from other solid waste of
79 the items designated for recycling pursuant to subdivision (1) of
80 subsection (a) of this section. On and after July 1, 2011, the provisions
81 of this subsection shall apply to items designated for recycling
82 pursuant to subdivision (2) of subsection (a) of this section.

83 (d) For the purposes of this section, "boxboard" means a lightweight
84 paperboard made from a variety of recovered fibers having sufficient
85 folding properties and thickness to be used to manufacture folding or

86 set-up boxes.

87 Sec. 4. (NEW) (*Effective October 1, 2009*) (a) For purposes of this
88 section, "commercial entity" means any individual or sole
89 proprietorship, partnership, firm, corporation, trust, limited liability
90 company, limited liability partnership, joint stock company, joint
91 venture, association or other legal entity through which business for
92 profit or not-for-profit is conducted, and "recyclable items" means the
93 items designated for recycling in accordance with subsection (a) of
94 section 22a-241b of the general statutes, as amended by this act. On
95 and after October 1, 2009, no commercial entity shall enter into or
96 renew a contract for the collection of solid waste without specifying
97 within such contract how recyclable items will be separated and
98 processed.

99 (b) The provisions of this section shall not be construed to require
100 any commercial entity to contract for the removal of such recyclable
101 items.

102 Sec. 5. Subsection (a) of section 8-2 of the general statutes is repealed
103 and the following is substituted in lieu thereof (*Effective October 1,*
104 *2009*):

105 (a) The zoning commission of each city, town or borough is
106 authorized to regulate, within the limits of such municipality, the
107 height, number of stories and size of buildings and other structures;
108 the percentage of the area of the lot that may be occupied; the size of
109 yards, courts and other open spaces; the density of population and the
110 location and use of buildings, structures and land for trade, industry,
111 residence or other purposes, including water-dependent uses, as
112 defined in section 22a-93, and the height, size and location of
113 advertising signs and billboards. Such bulk regulations may allow for
114 cluster development, as defined in section 8-18. Such zoning
115 commission may divide the municipality into districts of such number,
116 shape and area as may be best suited to carry out the purposes of this
117 chapter; and, within such districts, it may regulate the erection,

118 construction, reconstruction, alteration or use of buildings or
119 structures and the use of land. All such regulations shall be uniform
120 for each class or kind of buildings, structures or use of land throughout
121 each district, but the regulations in one district may differ from those
122 in another district, and may provide that certain classes or kinds of
123 buildings, structures or uses of land are permitted only after obtaining
124 a special permit or special exception from a zoning commission,
125 planning commission, combined planning and zoning commission or
126 zoning board of appeals, whichever commission or board the
127 regulations may, notwithstanding any special act to the contrary,
128 designate, subject to standards set forth in the regulations and to
129 conditions necessary to protect the public health, safety, convenience
130 and property values. Such regulations shall be made in accordance
131 with a comprehensive plan and in adopting such regulations the
132 commission shall consider the plan of conservation and development
133 prepared under section 8-23. Such regulations shall be designed to
134 lessen congestion in the streets; to secure safety from fire, panic, flood
135 and other dangers; to promote health and the general welfare; to
136 provide adequate light and air; to prevent the overcrowding of land; to
137 avoid undue concentration of population and to facilitate the adequate
138 provision for transportation, water, sewerage, schools, parks and other
139 public requirements. Such regulations shall be made with reasonable
140 consideration as to the character of the district and its peculiar
141 suitability for particular uses and with a view to conserving the value
142 of buildings and encouraging the most appropriate use of land
143 throughout such municipality. Such regulations may, to the extent
144 consistent with soil types, terrain, infrastructure capacity and the plan
145 of conservation and development for the community, provide for
146 cluster development, as defined in section 8-18, in residential zones.
147 Such regulations shall also encourage the development of housing
148 opportunities, including opportunities for multifamily dwellings,
149 consistent with soil types, terrain and infrastructure capacity, for all
150 residents of the municipality and the planning region in which the
151 municipality is located, as designated by the Secretary of the Office of
152 Policy and Management under section 16a-4a. Such regulations shall

153 also promote housing choice and economic diversity in housing,
154 including housing for both low and moderate income households, and
155 shall encourage the development of housing which will meet the
156 housing needs identified in the housing plan prepared pursuant to
157 section 8-37t and in the housing component and the other components
158 of the state plan of conservation and development prepared pursuant
159 to section 16a-26. Zoning regulations shall be made with reasonable
160 consideration for their impact on agriculture. Zoning regulations may
161 be made with reasonable consideration for the protection of historic
162 factors and shall be made with reasonable consideration for the
163 protection of existing and potential public surface and ground
164 drinking water supplies. On and after July 1, 1985, the regulations shall
165 provide that proper provision be made for soil erosion and sediment
166 control pursuant to section 22a-329. Such regulations may also
167 encourage energy-efficient patterns of development, the use of solar
168 and other renewable forms of energy, and energy conservation. The
169 regulations may also provide for incentives for developers who use
170 passive solar energy techniques, as defined in subsection (b) of section
171 8-25, in planning a residential subdivision development. The
172 incentives may include, but not be limited to, cluster development,
173 higher density development and performance standards for roads,
174 sidewalks and underground facilities in the subdivision. Such
175 regulations may provide for a municipal system for the creation of
176 development rights and the permanent transfer of such development
177 rights, which may include a system for the variance of density limits in
178 connection with any such transfer. Such regulations may also provide
179 for notice requirements in addition to those required by this chapter.
180 Such regulations may provide for conditions on operations to collect
181 spring water or well water, as defined in section 21a-150, including the
182 time, place and manner of such operations. No such regulations shall
183 prohibit the operation of any family day care home or group day care
184 home in a residential zone. No such regulations shall prohibit the use
185 of receptacles for the storage of items designated for recycling in
186 accordance with section 22a-241b, as amended by this act. Such
187 regulations shall not impose conditions and requirements on

188 manufactured homes having as their narrowest dimension twenty-two
189 feet or more and built in accordance with federal manufactured home
190 construction and safety standards or on lots containing such
191 manufactured homes which are substantially different from conditions
192 and requirements imposed on single-family dwellings and lots
193 containing single-family dwellings. Such regulations shall not impose
194 conditions and requirements on developments to be occupied by
195 manufactured homes having as their narrowest dimension twenty-two
196 feet or more and built in accordance with federal manufactured home
197 construction and safety standards which are substantially different
198 from conditions and requirements imposed on multifamily dwellings,
199 lots containing multifamily dwellings, cluster developments or
200 planned unit developments. Such regulations shall not prohibit the
201 continuance of any nonconforming use, building or structure existing
202 at the time of the adoption of such regulations. Such regulations shall
203 not provide for the termination of any nonconforming use solely as a
204 result of nonuse for a specified period of time without regard to the
205 intent of the property owner to maintain that use. Any city, town or
206 borough which adopts the provisions of this chapter may, by vote of
207 its legislative body, exempt municipal property from the regulations
208 prescribed by the zoning commission of such city, town or borough;
209 but unless it is so voted municipal property shall be subject to such
210 regulations.

211 Sec. 6. (NEW) (*Effective October 1, 2009*) The Commissioner of
212 Environmental Protection may contract with municipalities or a
213 qualified private organization for the enforcement of the provisions of
214 subsection (c) of section 22a-241b of the general statutes, as amended
215 by this act, subsection (i) of section 22a-220a of the general statutes or
216 section 9 or 10 of this act, and permit such municipality to retain a
217 portion of the proceeds of any fines assessed in accordance with
218 section 9 or 10 of this act.

219 Sec. 7. (NEW) (*Effective July 1, 2009*) Each state agency, as defined in
220 section 1-79 of the general statutes, that occupies or manages a state
221 building, facility or park shall, within the existing resources of such

222 state agency, develop and execute a list of proposed actions concerning
223 sustainability for such agency's state buildings, facilities or parks. Such
224 list shall include, but not be limited to, methods to increase energy
225 efficiency, provision of a sufficient number of recycling receptacles, a
226 preference for the use of biodegradable cleaning products when
227 feasible and appropriate separation and processing of recyclable
228 materials. Such list shall be filed with the Department of
229 Environmental Protection not later than August 1, 2010. For the
230 purposes of this section, "state building" means buildings and real
231 property owned or leased by the state, and "recyclable materials"
232 means those items designated for recycling in accordance with
233 subsection (a) of section 22a-241b of the general statutes, as amended
234 by this act.

235 Sec. 8. (NEW) (*Effective October 1, 2009*) (a) Each municipality shall
236 offer curbside recycling to all residents and businesses for which such
237 municipality provides municipal curbside collection of solid waste,
238 except that the provisions of this section shall not apply to any
239 municipality that the Commissioner of Environmental Protection
240 determines recycles its solid waste in a percentage that exceeds the
241 state-wide average for the amount of municipal solid waste recycled.

242 (b) Each trash hauler that offers curbside collection of solid waste
243 generated by residences in a municipality shall offer curbside recycling
244 to each of such trash hauler's customers at no additional charge above
245 the trash hauler's charge for solid waste collection. The provisions of
246 this subsection shall not be construed to prohibit any trash hauler from
247 determining and adjusting its fees for combined curbside collection
248 services.

249 (c) For the purposes of this section, "curbside recycling" means the
250 collection, by either municipal or private recycling vehicles, of
251 presorted recyclable items left for such collection by residents and
252 businesses in the front of the property of such residents and on the
253 property of businesses, "recyclable items" means the items designated
254 for recycling in accordance with subsection (a) of section 22a-241b of

255 the general statutes, as amended by this act, and excludes bulk items
256 such as furniture, demolition waste or trees, and "collector" has the
257 same meaning as in subsection (g) of section 22a-220a of the general
258 statutes.

259 Sec. 9. (NEW) (*Effective October 1, 2009*) (a) Each owner or lessee of a
260 public place shall provide recycling receptacles that are accessible to
261 the public at the same location as trash receptacles. Such recycling
262 receptacles shall, at a minimum, allow for the collection of beverage
263 containers of twenty-one ounces or less, and the owner or lessee may
264 also provide receptacles intended for the recycling of other recyclable
265 items. For the purpose of this section, "recyclable items" means those
266 items designated for recycling in accordance with subsection (a) of
267 section 22a-241b of the general statutes, as amended by this act, and
268 "public place" means any area or building, or portion thereof, that is
269 open to the public during normal business hours, including, but not
270 limited to, any (1) building that provides facilities or shelter for public
271 assembly, (2) inn, hotel, motel, sports arena, supermarket,
272 transportation terminal, retail store, restaurant or other commercial
273 establishment that provides services or retails merchandise, and (3)
274 museum, hospital, auditorium, movie theater and university building.

275 (b) The Commissioner of Environmental Protection may adopt
276 regulations, in accordance with the provisions of chapter 54 of the
277 general statutes, to implement the provisions of this section.

278 (c) Any owner or lessee who violates this section may be subject to a
279 civil penalty of not more than one thousand dollars for each offense.
280 Each violation of this section shall be a separate and distinct offense
281 and, in case of a continuing violation, each day's continuance thereof
282 shall be deemed to be a separate and distinct offense. The Attorney
283 General, upon the request of the Commissioner of Environmental
284 Protection, shall bring an action in superior court for the judicial
285 district of Hartford to recover such penalty.

286 Sec. 10. (NEW) (*Effective October 1, 2009*) (a) No person shall

287 recombine previously segregated items required to be recycled
 288 pursuant to subsection (a) of section 22a-241b of the general statutes, as
 289 amended by this act, with nonrecyclable solid waste.

290 (b) Any person who violates subsection (a) of this section shall be
 291 subject to a civil penalty of two hundred dollars for each offense. Each
 292 violation of said subsection (a) shall be a separate and distinct offense,
 293 and, in case of a continuing violation, each day's continuance thereof
 294 shall be deemed to be a separate and distinct offense. The Attorney
 295 General, upon the request of the Commissioner of Environmental
 296 Protection, shall bring an action in superior court for the judicial
 297 district of Hartford to recover such penalty.

298 Sec. 11. (NEW) (*Effective July 1, 2009*) (a) For the purposes of this
 299 section, "resources recovery facility" has the same meaning as in
 300 section 22a-207 of the general statutes and "recyclable item" means the
 301 items designated for recycling in accordance with section 22a-241b of
 302 the general statutes, as amended by this act.

303 (b) No contract between a municipality and a resources recovery
 304 facility entered into or renewed on or after July 1, 2009, may provide
 305 that the fees paid by such municipality to such facility shall increase if
 306 the tonnage of solid waste delivered to such facility is reduced and the
 307 tonnage of recyclable items delivered to such facility is increased.

308 (c) The provisions of this section shall not be construed to permit a
 309 municipality to sell such recyclable items to an entity other than the
 310 facility in violation of any such contract.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	22a-209f
Sec. 2	<i>October 1, 2009</i>	22a-220(h)
Sec. 3	<i>October 1, 2009</i>	22a-241b
Sec. 4	<i>October 1, 2009</i>	New section
Sec. 5	<i>October 1, 2009</i>	8-2(a)
Sec. 6	<i>October 1, 2009</i>	New section

Sec. 7	<i>July 1, 2009</i>	New section
Sec. 8	<i>October 1, 2009</i>	New section
Sec. 9	<i>October 1, 2009</i>	New section
Sec. 10	<i>October 1, 2009</i>	New section
Sec. 11	<i>July 1, 2009</i>	New section

ENV *Joint Favorable Subst.*