



Substitute House Bill No. 5120

Public Act No. 10-87

**AN ACT CONCERNING PRIVATE AND MUNICIPAL RECYCLING,
ZONING ORDINANCES AND SOLID WASTE COLLECTION
CONTRACTS.**

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

Section 1. Section 22a-207 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

For the purposes of this chapter, [and] chapter 103b and sections 5 to 7, inclusive, of this act:

(1) "Commissioner" means the Commissioner of Environmental Protection or his authorized agent;

(2) "Department" means the Department of Environmental Protection;

(3) "Solid waste" means unwanted or discarded solid, liquid, semisolid or contained gaseous material, including, but not limited to, demolition debris, material burned or otherwise processed at a resources recovery facility or incinerator, material processed at a recycling facility and sludges or other residue from a water pollution abatement facility, water supply treatment plant or air pollution control facility;

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(4) "Solid waste facility" means any solid waste disposal area, volume reduction plant, transfer station, wood-burning facility or biomedical waste treatment facility;

(5) "Volume reduction plant" means any location or structure, whether located on land or water, where more than two thousand pounds per hour of solid waste generated elsewhere may be reduced in volume, including but not limited to, resources recovery facilities and other incinerators, recycling facilities, pulverizers, compactors, shredders, balers and composting facilities;

(6) "Solid waste disposal area" means any location, including a landfill or other land disposal site, used for the disposal of more than ten cubic yards of solid waste. For purposes of this subdivision, "disposal" means the placement of material at a location with the intent to leave it at such location indefinitely, or to fail to remove material from a location within forty-five days, but does not mean the placement of material required to be recycled under section 22a-241b, as amended by this act, in a location on the premises of a recycling facility, provided such facility is in compliance with all requirements of state or federal law and any permits required thereunder;

(7) "Recycling" means the processing of solid waste to reclaim material therefrom;

(8) "Recycling facility" or "recycling center" means land and appurtenances thereon and structures where recycling is conducted, including but not limited to, an intermediate processing center as defined in section 22a-260;

(9) "Resources recovery facility" means a facility utilizing processes to reclaim energy from municipal solid waste;

(10) "Transfer station" means any location or structure, whether located on land or water, where more than ten cubic yards of solid

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waste, generated elsewhere, may be stored for transfer or transferred from transportation units and placed in other transportation units for movement to another location, whether or not such waste is stored at the location prior to transfer;

(11) "Municipality" means any town, city or borough within the state;

(12) "Municipal authority" means the local governing body having legal jurisdiction over solid waste management within its corporate limits which shall be, in the case of any municipality which adopts a charter provision or ordinance pursuant to section 7-273aa, the municipal resource recovery authority;

(13) "Regional authority" means the administrative body delegated the responsibility of solid waste management for two or more municipalities which have joined together by creating a district or signing an interlocal agreement or signing a mutual contract for a definitive period of time;

(14) "Region" means two or more municipalities which have joined together by creating a district or signing an interlocal agreement or signing a mutual contract for a definite period of time concerning solid waste management within such municipalities;

(15) "Solid waste management plan" means an administrative and financial plan for an area which considers solid waste storage, collection, transportation, volume reduction, recycling, reclamation and disposal practices for a twenty-year period, or extensions thereof;

(16) "Municipal collection" means solid waste collection from all residents thereof by a municipal authority;

(17) "Contract collection" means collection by a private collector under a formal agreement with a municipal authority in which the

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rights and duties of the respective parties are set forth;

(18) "Solid waste planning region" means those municipalities within the defined boundaries of regional planning agencies or as prescribed in the state solid waste management plan;

(19) "Biomedical waste" means infectious waste, pathological waste and chemotherapy waste generated during the administration of medical care or the performance of medical research involving humans or animals and which, because of its quantity, character or composition, has been determined by the commissioner to require special handling but excluding any solid waste which has been classified by the department as a hazardous waste pursuant to section 22a-115 or is a radioactive material regulated pursuant to section 22a-148;

(20) "Generator of biomedical waste" means any person who owns or operates a facility that produces biomedical waste in any quantity, including, but not limited to the following: General hospitals, skilled nursing facilities or convalescent hospitals, intermediate care facilities, chronic dialysis clinics, free clinics, health maintenance organizations, surgical clinics, acute psychiatric hospitals, laboratories, medical buildings, physicians' offices, veterinarians, dental offices and funeral homes. Where more than one generator is located in the same building, each individual business entity shall be considered a separate generator;

(21) "Biomedical waste treatment facility" means a solid waste facility capable of storing, treating or disposing of any amount of biomedical waste, excluding any facility where the only biomedical waste treated, stored or disposed of is biomedical waste generated at the site and any licensed acute care facility or licensed regional household hazardous waste collection facility accepting untreated solid waste generated during the administration of medical care in a

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single or multiple family household by a resident of such household;

(22) "Throughput" means the amount of municipal solid waste processed by a resources recovery facility determined by dividing the average annual tonnage of municipal solid waste by three hundred sixty-five days;

(23) "Municipal solid waste" means solid waste from residential, commercial and industrial sources, excluding solid waste consisting of significant quantities of hazardous waste as defined in section 22a-115, land-clearing debris, demolition debris, biomedical waste, sewage sludge and scrap metal;

(24) "Wood-burning facility" means a facility, as defined in section 16-50i, whose principal function is energy recovery from wood for commercial purposes. "Wood-burning facility" does not mean a biomass gasification plant that utilizes land clearing debris, tree stumps or other biomass that regenerates, or the use of which will not result in a depletion of, resources;

(25) "Person" has the same meaning as in subsection (c) of section 22a-2;

(26) "Closure plan" means a comprehensive written plan, including maps, prepared by a professional engineer licensed by the state that details the closure of a solid waste disposal area and that addresses final cover design, stormwater controls, landfill gas controls, water quality monitoring, leachate controls, postclosure maintenance and monitoring, financial assurance for closure and postclosure activities, postclosure use and any other information that the commissioner determines is necessary to protect human health and the environment from the effects of the solid waste disposal areas;

(27) "Designated recyclable item" means an item designated for recycling by the Commissioner of Environmental Protection in

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regulations adopted pursuant to subsection (a) of section 22a-241b, as amended by this act, or designated for recycling pursuant to section 22a-256 or 22a-208v;

(28) "Composting facility" means land, appurtenances, structures or equipment where organic materials originating from another process or location that have been separated at the point or source of generation from nonorganic material are recovered using a process of accelerated biological decomposition of organic material under controlled aerobic or anaerobic conditions.

Sec. 2. Subsection (h) of section 22a-220 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(h) On or before [August 31, 1991] September 30, 2010, and annually thereafter, each municipality, or its designated regional agent, shall provide a report to the Commissioner of Environmental Protection describing the measures taken during the preceding year to meet its obligations under this section. The commissioner shall provide each municipality with a form for such report by [June 1, 1991] July 1, 2010. Such form may be amended from time to time. Such report shall include, but not be limited to, (1) a description of the efforts made by the municipality to promote recycling, (2) a description of its efforts to ensure compliance with separation requirements, (3) [the amount of each recyclable item contained in its solid waste stream which has been delivered to a recycling facility as reported to the municipality or its designated regional agent by the owner or operator of a recycling facility pursuant to section 22a-208e or by a scrap metal processor pursuant to section 22a-208f, and (4) the amount of solid waste generated within its boundaries which has been delivered to a resources recovery facility or solid waste facility for disposal as reported to the municipality or its designated regional agent by the owner or operator of the resources recovery facility or solid waste

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facility pursuant to section 22a-208e] an identification of the first destinations that received solid waste, including recyclable material generated in the municipality's borders, and (4) the actual or estimated amount of such disposed solid waste and recyclable material that has been delivered to a first destination that is out of state or a Connecticut end user. If such amounts of recyclable material or solid waste are unknown to the municipality, the municipality shall provide the commissioner with the contact information of the collector who transported such recyclable material or municipal solid waste. For the purposes of this subsection, "collector" has the same meaning as in section 22a-220a, as amended by this act.

Sec. 3. Section 22a-241b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) (1) On or before February 1, 1988, the Commissioner of Environmental Protection shall adopt regulations in accordance with the provisions of chapter 54 designating items that are required to be recycled. The commissioner may designate other items as suitable for recycling and amend said regulations accordingly.

(2) On or before October 1, 2011, the Commissioner of Environmental Protection shall amend the regulations adopted pursuant to subdivision (1) of this subsection to expand the list of designated recyclable items to add (A) containers of three gallons or less made of polyethylene terephthalate plastic and high-density polyethylene plastic, and (B) additional types of paper, including, but not limited to, boxboard, magazines, residential high-grade white paper and colored ledger.

(b) Any designated recyclable item [designated for recycling pursuant to subsection (a) of this section] shall be recycled by a municipality within [three] six months of the [establishment] availability of service to such municipality by a regional processing

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center or local processing system.

(c) [On and after January 1, 1991, (1) each] Each person who generates solid waste from residential property shall, in accordance with subsection (f) of section 22a-220, separate from other solid waste the items designated for recycling pursuant to subdivision (1) of subsection (a) of this section. [and (2) every other]

(d) Every person who generates solid waste from a property other than a residential property shall, in accordance with subsection (f) of section 22a-220, make provision for and cause the separation from other solid waste of the items designated for recycling pursuant to subdivision (1) of subsection (a) of this section through the use of one or more collection containers for designated recyclable items that are separate from the collection containers for other solid waste. Collection containers that have been used for the collection of solid waste may be converted to containers for the collection of designated recyclable items by labeling or other means to identify that such container is dedicated to collecting designated recyclable items. On and after July 1, 2012, the provisions of this subsection shall also apply to items designated for recycling pursuant to subdivision (2) of subsection (a) of this section.

(e) No person shall knowingly combine previously segregated designated recyclable items with other solid waste.

(f) For the purposes of this section, "boxboard" means a lightweight paperboard made from a variety of recovered fibers having sufficient folding properties and thickness to be used to manufacture folding or set-up boxes.

Sec. 4. Subsection (a) of section 8-2 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

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(a) The zoning commission of each city, town or borough is authorized to regulate, within the limits of such municipality, the height, number of stories and size of buildings and other structures; the percentage of the area of the lot that may be occupied; the size of yards, courts and other open spaces; the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes, including water-dependent uses, as defined in section 22a-93, and the height, size and location of advertising signs and billboards. Such bulk regulations may allow for cluster development, as defined in section 8-18. Such zoning commission may divide the municipality into districts of such number, shape and area as may be best suited to carry out the purposes of this chapter; and, within such districts, it may regulate the erection, construction, reconstruction, alteration or use of buildings or structures and the use of land. All such regulations shall be uniform for each class or kind of buildings, structures or use of land throughout each district, but the regulations in one district may differ from those in another district, and may provide that certain classes or kinds of buildings, structures or uses of land are permitted only after obtaining a special permit or special exception from a zoning commission, planning commission, combined planning and zoning commission or zoning board of appeals, whichever commission or board the regulations may, notwithstanding any special act to the contrary, designate, subject to standards set forth in the regulations and to conditions necessary to protect the public health, safety, convenience and property values. Such regulations shall be made in accordance with a comprehensive plan and in adopting such regulations the commission shall consider the plan of conservation and development prepared under section 8-23. Such regulations shall be designed to lessen congestion in the streets; to secure safety from fire, panic, flood and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population and to facilitate the adequate

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provision for transportation, water, sewerage, schools, parks and other public requirements. Such regulations shall be made with reasonable consideration as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality. Such regulations may, to the extent consistent with soil types, terrain, infrastructure capacity and the plan of conservation and development for the community, provide for cluster development, as defined in section 8-18, in residential zones. Such regulations shall also encourage the development of housing opportunities, including opportunities for multifamily dwellings, consistent with soil types, terrain and infrastructure capacity, for all residents of the municipality and the planning region in which the municipality is located, as designated by the Secretary of the Office of Policy and Management under section 16a-4a. Such regulations shall also promote housing choice and economic diversity in housing, including housing for both low and moderate income households, and shall encourage the development of housing which will meet the housing needs identified in the housing plan prepared pursuant to section 8-37t and in the housing component and the other components of the state plan of conservation and development prepared pursuant to section 16a-26. Zoning regulations shall be made with reasonable consideration for their impact on agriculture. Zoning regulations may be made with reasonable consideration for the protection of historic factors and shall be made with reasonable consideration for the protection of existing and potential public surface and ground drinking water supplies. On and after July 1, 1985, the regulations shall provide that proper provision be made for soil erosion and sediment control pursuant to section 22a-329. Such regulations may also encourage energy-efficient patterns of development, the use of solar and other renewable forms of energy, and energy conservation. The regulations may also provide for incentives for developers who use passive solar energy techniques, as defined in subsection (b) of section

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8-25, in planning a residential subdivision development. The incentives may include, but not be limited to, cluster development, higher density development and performance standards for roads, sidewalks and underground facilities in the subdivision. Such regulations may provide for a municipal system for the creation of development rights and the permanent transfer of such development rights, which may include a system for the variance of density limits in connection with any such transfer. Such regulations may also provide for notice requirements in addition to those required by this chapter. Such regulations may provide for conditions on operations to collect spring water or well water, as defined in section 21a-150, including the time, place and manner of such operations. No such regulations shall prohibit the operation of any family day care home or group day care home in a residential zone. No such regulations shall prohibit the use of receptacles for the storage of items designated for recycling in accordance with section 22a-241b, as amended by this act, or require that such receptacles comply with provisions for bulk or lot area, or similar provisions, except provisions for side yards, rear yards and front yards. No such regulations shall unreasonably restrict access to or the size of such receptacles for businesses, given the nature of the business and the volume of items designated for recycling in accordance with section 22a-241b, as amended by this act, that such business produces in its normal course of business, provided nothing in this section shall be construed to prohibit such regulations from requiring the screening or buffering of such receptacles for aesthetic reasons. Such regulations shall not impose conditions and requirements on manufactured homes having as their narrowest dimension twenty-two feet or more and built in accordance with federal manufactured home construction and safety standards or on lots containing such manufactured homes which are substantially different from conditions and requirements imposed on single-family dwellings and lots containing single-family dwellings. Such regulations shall not impose conditions and requirements on

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

Sec. 5. (NEW) (*Effective October 1, 2010*) (a) (1) Not later than July 1, 2011, each municipality shall offer curbside or backyard collection of designated recyclable items to those residents and businesses for which such municipality provides municipal curbside or backyard collection of solid waste as of October 1, 2010.

(2) The provisions of this subsection shall not apply to any municipality that the Commissioner of Environmental Protection determines recycles its solid waste in a percentage, averaged over a continuous three-year period, that exceeds the state-wide average during such continuous three-year period for the amount of municipal solid waste recycled.

(b) (1) Not later than July 1, 2011, each collector who offers curbside or backyard collection of solid waste generated by residences in a municipality shall offer curbside or backyard collection of designated recyclable items to each of such collector's customers and such

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curbside or backyard collection of designated recyclable items shall be included in the collector's charge for solid waste collection. The provisions of this subsection shall not be construed to prohibit any collector from determining and adjusting its fees for combined curbside collection services.

(2) The provisions of this subsection shall not apply to any collector who provides service in a municipality described in subdivision (2) of subsection (a) of this section.

(c) For the purposes of this section, "curbside or backyard collection" means the collection, by either municipal collection services or private collectors, of presorted designated recyclable items or solid waste left for such collection by residents and businesses on the property where such residents reside or on the property of such business, and "collector" has the same meaning as in subsection (g) of section 22a-220a of the general statutes, as amended by this act.

Sec. 6. (NEW) (*Effective October 1, 2011*) (a) For the purposes of this section:

(1) "Generated" means sold or given away at a common gathering venue; and

(2) "Common gathering venue" means any area or building, or portion thereof, that is open to the public, including, but not limited to, any (A) building that provides facilities or shelter for public assembly, (B) inn, hotel, motel, sports arena, supermarket, transportation terminal, retail store, restaurant or other commercial establishment that provides services or retails merchandise, or (C) museum, hospital, auditorium, movie theater or university building.

(b) Each common gathering venue where designated recyclable items may be generated while the public congregates at such venue and that provides for the collection of solid waste shall provide

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recycling receptacles for the collection of any designated recyclable items generated at such venue, provided nothing in this section shall be construed to require an owner or operator of such venue, or the municipality where such venue is located, to provide such recycling receptacles whenever such receptacles are provided by another person pursuant to contract. Such recycling receptacles shall be as accessible to the public and at the same locations as trash receptacles. Any existing trash receptacle may be converted to a recycling receptacle by labeling or other means appropriate to identify that such receptacle is dedicated to the collection of designated recyclable items.

Sec. 7. (NEW) (*Effective July 1, 2012*) (a) For the purposes of this section, "customer" means a business and "collector" means any person offering solid waste or designated recyclable item collection services.

(b) Each contract between a collector and a customer for the collection of solid waste shall make provision for the collection of designated recyclable items, either by providing for the collection of designated recyclable items by the same collector who is party to the solid waste contract or by including an identification by the customer of the collector with whom such contract exists. The provisions of this section shall not be construed to require a customer to contract exclusively with one collector for the collection of both designated recyclable items and other solid waste. Each collector shall provide each customer with clear written or pictorial instructions on how to separate designated recyclable items in accordance with the provisions of section 22a-241b of the general statutes, as amended by this act.

Sec. 8. (*Effective from passage*) Not later than June 1, 2011, the Commissioner of Environmental Protection, in accordance with section 11-4a of the general statutes, shall report to the joint standing committee of the General Assembly having cognizance of matters relating to the environment on the costs and benefits to the state, municipalities and waste generators of different methods of removing

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food waste from the waste stream. Additionally, such report shall identify incentives and guidance the state could provide in order to develop the requisite composting facilities for the removal of such food waste from the waste stream.

Sec. 9. (*Effective from passage*) The Commissioner of Environmental Protection, in consultation with the Connecticut Academy of Science and Engineering, shall study the potential beneficial use of ash residue. Not later than January 1, 2011, the commissioner, in accordance with the provisions of section 11-4a of the general statutes, shall submit a report to the joint standing committee of the General Assembly having cognizance of matters relating to the environment concerning the results of such study.

Sec. 10. Subsection (d) of section 22a-220a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(d) (1) Any collector hauling solid waste generated by residential, business, commercial or other establishments, [in] including, but not limited to, recyclables generated within the borders of a municipality, shall register annually in such municipality and disclose: (A) The name and address of the collector and the owner of such collection company; (B) the name of any other municipality in which such collector hauls such solid waste, including recyclables; (C) whether the hauling done by such collector is residential, commercial or other; (D) the types of waste hauled; (E) the anticipated location of any disposal facilities or end users receiving recyclable solid waste; and (F) any additional information that such municipality requires to ensure the health and safety of its residents.

(2) On or before July 31, 2011, any such collector shall report to the municipality (A) the types of solid waste, including recyclables, as listed in subsection (c) of section 22a-208e generated within the borders

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of a municipality and collected by such collector, (B) the name, location and contact information for the first destination where such solid waste, including recyclables, was delivered by the collector during the previous fiscal year, and (C) the types and actual or estimated amounts of such solid waste, including recyclables, directly delivered to an out-of-state destination or to an end user or manufacturer in the state. Such reports shall be submitted to the municipality annually, on or before July thirty-first, and shall provide the information specified in this subdivision for the prior state fiscal year. Such reports shall be on a form prescribed by the Commissioner of Environmental Protection and shall include any other additional information the commissioner deems necessary.

Sec. 11. Subsection (g) of section 22a-220a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(g) As used in this section, "collector" means any person who holds himself out for hire to collect solid waste on a regular basis from residential, business, commercial or other establishments.

Sec. 12. Section 22a-220a of the general statutes is amended by adding subsections (j) and (k) as follows (*Effective July 1, 2010*):

(NEW) (j) If a collector hauls solid waste generated in this state, including recyclables as listed in subsection (c) of section 22a-208e from an entity located in the state other than a facility that has obtained a permit or authorization pursuant to this chapter and delivers such solid waste or recyclables to a destination that is an entity other than a facility that has obtained a permit or authorization pursuant to this chapter, then on or before July 31, 2011, and annually thereafter, such collector shall submit a report regarding such solid waste, including recyclables, to the Commissioner of Environmental Protection. Such report shall be on a form prescribed by the

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commissioner and shall provide such information regarding such solid waste as the commissioner deems necessary, including, but not limited to: (1) The types of solid waste, including recyclables, collected, (2) for municipal solid waste, the municipality of origin of such municipal solid waste including recyclables, (3) the amount by weight, volume or other method acceptable to the commissioner of such solid waste, including recyclables delivered to such destination, and (4) the name, address and contact information of the entity receiving such solid waste or recyclables.

(NEW) (k) If a collector hauls municipal solid waste generated in the state, including recyclables, and delivers such municipal solid waste, including recyclables, to a facility that has obtained a permit or authorization pursuant to this chapter, then, upon delivery, such collector shall identify to the receiving facility for each load of municipal solid waste or recyclables, as applicable: (1) The originating regional facility, (2) the originating municipality if such waste did not pass through a regional facility, or (3) the originating regional facility or state if such waste originated outside of the state. If such municipal solid waste load comes from more than one municipality, the collector shall estimate the amount of waste from each municipality.

Approved June 2, 2010