



STATE OF CONNECTICUT

DEPARTMENT OF ENVIRONMENTAL PROTECTION



Public Hearing – March 14, 2011
Environment Committee

Testimony Submitted by Acting Commissioner Daniel C. Esty
Department of Environment Protection

Raised Senate Bill No. 1112 - AN ACT CONCERNING BOATING UNDER THE INFLUENCE

Thank you for the opportunity to present testimony regarding Raised Senate Bill No. 1112 - AN ACT CONCERNING BOATING UNDER THE INFLUENCE.

We appreciate the Committee's willingness to raise this bill at the request of the Department of Environmental Protection (Department). This proposal that we strongly support amends and strengthens various sections of the General Statutes as they pertain to Boating Under the Influence (BUI) prosecutions and Per Se administrative proceedings.

Sections 1 and 2 of this bill make explicit that persons convicted under Sections 15-140l or 15-140n are subject to the boating rights suspensions identified in Sec. 15-133(h). The Department believes that the current construction of the BUI statutes intends for the suspensions identified in 15-133(h) to be applied to the more serious crimes of BUI attributed to Sec. 15-140l and 15-140n, but that intention is articulated only in Sec. 15-133(h).

In the absence of clarity, where a charge is brought under sections 15-140l or 15-140n, the Department has requested that officers also bring a charge under Sec. 15-133 – but this is a cumbersome solution and requires the awareness and cooperation of law enforcement both at the state and municipal level. Where the charges do not include Sec. 15-133, the implementation of boating rights suspension upon conviction under Sections 15-140l or 15-140n appears challengeable. The current proposal is intended to preempt any such challenge by making the link to boating rights suspension upon conviction under Sections 15-140l or 15-140n explicit, as the Department believes was intended.

Sections 3 and 5 of this bill address technical inconsistencies in the statutes brought to light in recent BUI administrative and criminal proceedings. The technical inconsistencies include, variously, failure to incorporate new statutes, failure to properly cross-reference or incorporate by reference new or displaced sections of law, and omission of the results of hospital urine samples as evidence of intoxication subject to seizure by warrant. This bill corrects those inconsistencies.

In Section 4 of this bill the Department proffers a change to the BUI statutes to align them with a 2009 change in Driving Under the Influence (DUI) statutes (PA 09-187). The 2009 change was

made to help expedite the processing of DUI arrests by reducing the mandatory wait time between blood alcohol tests from thirty minutes to ten minutes. The Department now proposes the same standard for BUI cases to eliminate growing confusion for law enforcement officers, provide for consistency in training, and pursuant to the Department's policy and practice to align BUI law with DUI law where possible.

Also in Section 4, the Department proposes to expand the requirements of Sec. 15-140r, which section requires a prosecutor to state openly in court as to why a charge brought under Sec. 15-133(d) is being reduced, nolle, or dismissed to BUI Sections 15-132a, 15-140l and 15-140n. The expansion of the Sec. 15-140r declaration requirement to these statutes is warranted since these are more serious crimes committed while boating under the influence. This, in the interest of consistency in the application of BUI law across all BUI prosecutions and as an acknowledgment of the seriousness of a charge brought under the newly enfranchised sections.

In summary, the Department strongly supports Raised Bill No. 1112 - AN ACT CONCERNING BOATING UNDER THE INFLUENCE to strengthen the State's response to BUI arrests and to correct errors that currently exist in state statutes.

Thank you for the opportunity to present the Department's views on this proposal. If you should require any additional information, please contact the Department's legislative liaison, Robert LaFrance, at (860) 424-3401 or Robert.Lafrance@ct.gov.