
OLR Bill Analysis

sHB 5145

AN ACT CONCERNING THE RECOMMENDATIONS OF THE SENTENCING COMMISSION REGARDING THE CLASSIFICATION OF UNCLASSIFIED MISDEMEANORS.

SUMMARY:

By law, misdemeanors are punishable by imprisonment of up to one year. They are classified according to severity as class A, class B, and class C. There are also unclassified misdemeanors which are punishable by imprisonment but not designated under one of these classes.

This bill:

1. creates a new misdemeanor classification (a class D misdemeanor),
2. adjusts the penalties of currently unclassified misdemeanors to fit them into classifications while deeming others to be classified,
3. reduces the penalties for some unclassified misdemeanors to fine-only violations, and
4. repeals some unclassified misdemeanors.

Specifically, it:

1. reduces 45 unclassified misdemeanors to violations which are punishable by fines only, with 39 of them payable by mail like an infraction;
2. classifies 57 unclassified misdemeanors without changing the maximum prison sentence each carries but increasing their potential fines;
3. classifies eight unclassified misdemeanors by increasing their

maximum prison sentence and 22 unclassified misdemeanors by decreasing the maximum prison sentence, with some changes to their potential fines;

4. for 13 statutes, creates a new penalty structure, with different penalties based on prior convictions under the statutes (in some instances these crimes already had different penalties depending on prior convictions and in some instances the bill adds them);
5. classifies 18 unclassified misdemeanors by making slight changes to their maximum prison sentences, such as classifying a crime punishable by up to 12 months in prison as a class A misdemeanor punishable by up to one year in prison;
6. eliminates 11 unclassified misdemeanors by repealing statutes and two unclassified misdemeanors by removing the criminal penalty for violating the statute;
7. requires that any unclassified misdemeanor with a maximum prison penalty equal to the penalty in one of the classes of misdemeanors be deemed included in that class of misdemeanor; and
8. sets the possible probation term for the class D misdemeanor classification it creates and changes the probation terms for some unclassified misdemeanors.

EFFECTIVE DATE: October 1, 2012, except (1) the changes to probation terms are effective October 1, 2012 and applicable to sentences imposed for crimes committed on or after that date and (2) two conforming changes are effective January 1, 2013.

CLASSES OF MISDEMEANORS AND UNCLASSIFIED MISDEMEANORS DEEMED CLASSIFIED (§§ 1-3)

By law, misdemeanors are crimes that are punishable by up to one year in prison. Current law classifies misdemeanors as:

1. class A, punishable by up to one year in prison, a fine of up to

\$2,000, or both;

2. class B, punishable by up to six months in prison, a fine of up to \$1,000, or both;
3. class C, punishable by up to three months in prison, a fine of up to \$500, or both; and
4. unclassified, punishable by a prison term and fine specified in the individual statute.

The bill creates a new class D misdemeanor punishable by up to 30 days in prison, a fine of up to \$250, or both.

Under the bill, an unclassified misdemeanor that specifies a maximum prison penalty that matches the maximum penalty for one of the classifications is deemed to be a misdemeanor of that classification. The bill also retains the fine specified in the statute creating that misdemeanor, even if it does not match the usual fine for that classification. An unclassified misdemeanor with a penalty of imprisonment that differs from any of the classifications remains unclassified.

PROBATION FOR MISDEMEANORS (§ 4)

The bill makes a number of changes regarding probation terms for misdemeanors.

It sets the possible probation term for a class D misdemeanor at up to one year, the same as the law currently provides for a class B or C misdemeanor. By law, unchanged by the bill, the maximum probation term for a class A misdemeanor is two years.

Currently, people convicted of unclassified misdemeanors can be sentenced to a probation term of up to (1) one year if the crime is punishable by up to three months in prison or (2) two years if the crime is punishable by more than three months in prison. The bill instead makes the maximum probation terms (1) one year if the crime is punishable by up to six months in prison and (2) two years if it

punishable by more than six months. Thus, the bill reduces, from two years to one, the maximum probation term for someone sentenced for an unclassified misdemeanor punishable by three to six months in prison.

The bill also changes the maximum probation terms for unclassified misdemeanors punishable by up to six months in prison that are deemed classified as B misdemeanors under the bill. The bill reduces their maximum probation term from two years to one.

UNCLASSIFIED MISDEMEANORS REDUCED TO VIOLATIONS

The bill reduces the penalty for 45 unclassified misdemeanors to violations, which are punishable by fines only and not a prison term.

Under the bill, 39 of these violations are payable by mail, like infractions, and do not require a court appearance (see § 50). The bill sets the maximum fine for each of these violations and authorizes the Superior Court judges to set the actual fine that violators will pay in their schedule of fines for infractions and violations. Table 1 lists the 34 crimes reduced to mail-in violations with fines of up to \$250. Table 2 displays the five crimes reduced to mail-in violations with maximum fines higher than \$250.

Table 1: Unclassified Misdemeanors Reduced to Mail-in Violations with Fines up to \$250

| Bill § | Statute § | Description | Current Penalty (Prison term, fine, or both) |
|---------------|------------------|-----------------------------------------------------------|-----------------------------------------------------|
| 6 | 14-283(h) | Obstruct emergency vehicle* | Up to 7 days Up to \$200 |
| 8 | 15-144(h)(2) | Illegal use of vessel registration or decal | Up to 30 days Up to \$100 |
| 9 | 15-154(d) | Operate vessel to obstruct law enforcement or fire vessel | Up to 7 days Up to \$200 |
| 10 | 16-44 | Fail to report change of name-public utility | Up to 60 days Up to \$200 |
| 12 | 20-249 | Act as master barber without license | Up to 30 days Up to \$100 |
| 14 | 21-1 | Selling at auction without license | Up to 60 days Up to \$50 |
| 15 | 22-12b | Violate fur breeding requirements | Up to 30 days Up to \$100 |
| 16 | 22-167 | Violate local order regarding milk | Up to 30 days |

| | | sales | Up to \$100 |
|----|----------|---------------------------------------------------------------------------------------------------------|---------------------------------|
| 17 | 22a-363 | Violate coastal water dredging requirements | 10 to 30 days \$15 to \$50 |
| 19 | 25-45 | Violate local reservoir ordinances | Up to 6 months Up to \$50 |
| 20 | 25-135 | Violate well drilling requirements | Up to 3 months Up to \$100 |
| 21 | 26-18 | False statement-application for fish/game | Up to 30 days Up to \$100 |
| 22 | 26-42 | Deal in raw furs without license | Up to 10 days \$100 to \$250 |
| 24 | 26-56 | Import rabbit without permit | Up to 30 days Up to \$100 |
| 25 | 26-58 | Taxidermy without license | Up to 30 days \$1 to \$100 |
| 26 | 26-87 | Unauthorized rabbit hunting with ferret | Up to 30 days \$10 to \$50 |
| 27 | 26-91(a) | Migratory bird hunting | Up to 30 days Up to \$50 |
| 28 | 26-94 | Swan hunting | Up to 30 days Up to \$100 |
| 29 | 26-98 | Hunting non-game birds, illegal bird trapping and trap shooting, false statement in bird hunting permit | Up to 30 days \$10 to \$200 |
| 30 | 26-104 | Illegal hunting in Bantam Lake sanctuary | Up to 30 days Up to \$100 |
| 31 | 26-105 | Illegal hunting in Lake Wononscopomuc | Up to 30 days Up to \$100 |
| 32 | 26-217 | Using chain bags on oyster beds | Up to 30 days Up to \$50 |
| 33 | 26-232 | Violate shellfishing restrictions on Housatonic and Saugatuck rivers | Up to 30 days Up to \$100 |
| 35 | 26-257a | Violate local shellfish commission regulations | Up to 30 days Up to \$50 |
| 36 | 26-260 | Illegal clamming in Milford and West Haven | Up to 30 days Up to \$7 |
| 37 | 26-276 | Illegal oystering in Hammonasset River | Up to 60 days Up to \$20 |
| 38 | 26-284 | Illegal oystering in Thames River | Up to 30 days Up to \$7 |
| 39 | 26-285 | Illegal oystering in Old Lyme | Up to 30 days Up to \$50 |
| 40 | 26-286 | Illegal oystering in East Lyme and Waterford | Up to 30 days \$7 to \$20 |
| 42 | 26-288 | Violate scallop regulations | Up to 60 days Up to \$50 |
| 46 | 29-25 | Fail to report laundry identification marks | Up to 3 months Up to \$100 |
| 47 | 45a-283 | Executor failing to apply for probate | Up to 30 days Up to \$100 |
| 48 | 53-199 | Theater seating capacity violations | Up to 30 days Up to \$50 |
| 49 | 53-280 | Operating pool room without municipal permit | Up to 6 months Up to \$50 |

* Fines doubled if in a construction or utility work zone (see CGS § 14-212a).

Table 2: Unclassified Misdemeanors Reduced to Mail-in Violations with Other Fines

| Bill § | Statute § | Description | Current Penalty (Prison term, fine, or both) | Mail-in Violation Fine Under the Bill |
|--------|-----------|-------------------------------------------|----------------------------------------------|---------------------------------------|
| 7 | 15-25 | Injury to navigational aid | Up to 60 days \$250 to \$500 | Up to \$1,000 |
| 11 | 19a-113 | Violate scuba compressed air requirements | Up to 5 months Up to \$500 | Up to \$500 |
| 13 | 20-366 | Violate sanitarian requirements | Up to 3 months Up to \$300 | Up to \$500 |
| 18 | 25-43(a) | Bathing in reservoir | Up to 30 days Up to \$500 | Up to \$500 |
| 34 | 26-244 | Improper redesignation of oyster grounds | Up to 6 months Up to \$300 | Up to \$300 |

The bill reduces six unclassified misdemeanors to violations with fines of up to \$250 but they are not subject to the mail-in procedure and the offender must appear in court. For these six offenses, the law also authorizes the court to impose additional penalties. Table 3 displays these crimes reduced to violations. As under current law, the penalty for illegal sale of raw furs (§ 23, CGS § 26-43) includes suspending the fur dealer's license for one year, the penalty for towing a dredge near shellfish (§ 154, CGS § 26-231) includes forfeiting the right to fish for one year, and the penalties for violating the other four statutes include allowing the court to order that a shellfishing permit or license not be issued to the offender.

Table 3: Unclassified Misdemeanors Reduced to Violations with Fines of up to \$250 not Subject to Mail-in Procedures

| Bill § | Statute § | Description | Current Penalty (Prison term, fine, or both) |
|--------|-----------|-------------------------------------------|----------------------------------------------|
| 23 | 26-43 | Illegal sale raw furs to dealer | Up to 10 days \$100 to \$250 |
| 41 | 26-287 | Illegal shellfishing in the Niantic River | Up to 10 days Up to \$200 |
| 43 | 26-290 | Illegal scallop taking in Groton | Up to 60 days Up to \$50 |
| 44 | 26-291a | Illegal shellfishing in Stonington | Up to 30 days Up to \$25 |
| 45 | 26-292 | Illegal scallop taking in Stonington | Up to 60 days Up to \$50 |

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|-----|--------|------------------------------|----------------------------------------------|-----------------------------|
| 154 | 26-231 | Towing dredge near shellfish | 1 st offense | Up to 30 days Up to \$50 |
| | | | 2 nd and subsequent (SBS) offense | Up to 60 Up to \$100 |

UNCLASSIFIED MISDEMEANORS CLASSIFIED WITHOUT A CHANGE IN MAXIMUM SENTENCE BUT CHANGES IN FINES

The bill classifies 57 unclassified misdemeanors without changing their maximum prison terms. By classifying these crimes, the bill increases their maximum fines but, in some instances, also eliminates a minimum fine. Table 4 displays these crimes.

Table 4: Unclassified Misdemeanors the Bill Classifies Without Changing Maximum Prison Sentences but Changing Fines

| Bill § | Statute § | Description | Current Penalty (Prison term, fine, or both) | Penalty Under the Bill |
|--------|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|------------------------|
| 51 | 1-1h | Illegal use of identity card | Up to 30 days Up to \$50 | D misdemeanor |
| 52 | 9-56 | Illegal act by registrar regarding party enrollment list | Up to 30 days Up to \$200 | D misdemeanor |
| 53 | 9-64 | Registrar's failure to erase name | Up to 30 days Up to \$200 | D misdemeanor |
| 54 | 9-236 | Prohibited acts near polling place | Up to 3 months Up to \$50 | C misdemeanor |
| 55 | 9-396 | Illegal act-ballot vote at caucus | Up to 30 days Up to \$200 | D misdemeanor |
| 56 | 9-625 | Fail to appear as witness-campaign finance inquiry | Up to 30 days Up to \$25 | D misdemeanor |
| 57 | 12-53 (c)(4) | Fail to answer tax assessor's question | Up to 30 days Up to \$100 | D misdemeanor |
| 58 | 14-36a(f) | Motor vehicle license class violations--2 nd and SBS (1 st offense is an infraction) This penalty also applies to operating a commercial vehicle without a commercial drivers' license (CGS § 14-44a) | Up to 30 days Up to \$100 | D misdemeanor |
| 59 | 14-37a(d) | Special operator permit violations | Up to 30 days Up to \$100 | D misdemeanor |
| 60 | 14-40a(e) | Motorcycle endorsement requirement violations--2 nd and SBS (1 st offense is an infraction) | Up to 30 days Up to \$100 | D misdemeanor |
| 61 | 14-66c | Mini-motorcycle sale or disposal violations--2 nd and SBS (1 st offense is an infraction) | Up to 30 days \$50 to \$100 | D misdemeanor |
| 62 | 14-67 | Operate an automobile club without a license | Up to 30 days Up to \$100 | D misdemeanor |
| 63 | 14-103 | Obstruct a motor vehicle inspection | Up to 30 days Up to \$50 | D misdemeanor |

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|----|--------------|------------------------------------------------------------------------------------------------|---------------------------------|---------------|
| 64 | 14-112(h) | Forgery-motor vehicle financial responsibility requirements | Up to 30 days At least \$100 | D misdemeanor |
| 65 | 14-314b | Damage a traffic control device | Up to 30 days Up to \$100 | D misdemeanor |
| 66 | 19a-36(a)(7) | Public health code violations | Up to 3 months Up to \$100 | C misdemeanor |
| 67 | 19a-180(d) | Prohibited act by emergency medical services | Up to 3 months Up to \$250 | C misdemeanor |
| 68 | 19a-228 | Illegal anchoring of houseboat | Up to 30 days Up to \$50 | D misdemeanor |
| 69 | 19a-230 | Municipal health violations | Up to 3 months Up to \$100 | C misdemeanor |
| 70 | 20-278 | Electrologist violations | Up to 30 days Up to \$100 | D misdemeanor |
| 71 | 20-609 | Illegal use of pharmacy title | Up to 30 days Up to \$200 | D misdemeanor |
| 72 | 21-13 | Junk dealer violations | Up to 3 months Up to \$50 | C misdemeanor |
| 73 | 21a-11 | Refusing to give consumer protection officials access to records or samples | Up to 30 days Up to \$25 | D misdemeanor |
| 74 | 21a-25 | Violate impure vinegar requirements— 2 nd and SBS (1 st is fine only) | Up to 30 days Up to \$100 | D misdemeanor |
| 75 | 21a-155 | Bread or pastry sales violations | Up to 30 days Up to \$25 | D misdemeanor |
| 76 | 22-277 | Livestock violations or interfering with inspections by agriculture officials | Up to 30 days Up to \$200 | D misdemeanor |
| 77 | 22-321 | Animal disease control violations or obstructing agriculture officials | Up to 30 days Up to \$100 | D misdemeanor |
| 78 | 22-329 | Obstructing a canine control officer preventing cruelty to animals | Up to 30 days Up to \$50 | D misdemeanor |
| 79 | 22-332c | Impoundment of dogs and medical research violations | Up to 30 days Up to \$100 | D misdemeanor |
| 80 | 22-363 | Possessing a vicious or barking dog—2 nd and SBS (1 st is infraction) | Up to 30 days Up to \$100 | D misdemeanor |
| 81 | 22-365 | Obstructing an animal control officer | Up to 3 months Up to \$100 | C misdemeanor |
| 82 | 22-366 | Cropping a dog's ears—2 nd and SBS (1 st is fine only) | Up to 30 days Up to \$50 | D misdemeanor |
| 83 | 26-45 | Sale of bait without a license | Up to 30 days \$10 to \$100 | D misdemeanor |
| 84 | 26-74 | Hunting with a motor vehicle, all terrain vehicle, or snowmobile | Up to 30 days Up to \$200 | D misdemeanor |
| 85 | 26-127 | Illegal transport of bait species | Up to 30 days \$50 to \$200 | D misdemeanor |
| 86 | 26-149 | Unlicensed commercial hatchery | Up to 30 days Up to \$200 | D misdemeanor |
| 87 | 26-157a | Violating lobster taking requirements | Up to 30 days \$25 to \$200 | D misdemeanor |
| 88 | 26-213 | Taking shellfish without a license for commercial purposes | Up to 30 days Up to \$100 | D misdemeanor |
| 89 | 26-216 | Illegal use of a power dredge—2 nd and SBS (1 st is fine only) | Up to 30 days \$50 to \$200 | D misdemeanor |
| 90 | 26-219 | Taking conch without a license | Up to 30 days Up to \$200 | D misdemeanor |

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|-----|------------|-------------------------------------------------------------|-------------------------|--------------------------------|---------------|
| 91 | 31-4 | Defrauding immigrant workers of wages | | Up to 1 year Up to \$100 | A misdemeanor |
| 93 | 43-9(a)(3) | Impersonating weights and measures inspector | | Up to 1 year \$100 to \$500 | A misdemeanor |
| 94 | 46a-64 | Discrimination-public accommodations | | Up to 30 days \$25 to \$100 | D misdemeanor |
| 95 | 46a-64c | Discrimination-housing | | Up to 30 days \$25 to \$100 | D misdemeanor |
| 96 | 46a-81d | Sexual orientation discrimination-public accommodations | | Up to 30 days \$25 to \$100 | D misdemeanor |
| 97 | 46a-81e | Sexual orientation discrimination-housing | | Up to 30 days \$25 to \$100 | D misdemeanor |
| 98 | 50-10 | Violate finder's duty-lost property | | Up to 30 days Up to \$100 | D misdemeanor |
| 99 | 52-571bb | Discriminate against armed forces member | | Up to 30 days \$25 to \$100 | D misdemeanor |
| 100 | 53-37 | Ridicule based on race, color, or creed | | Up to 30 days Up to \$50 | D misdemeanor |
| 101 | 53-132 | Sale of equipment without a serial number or identification | | Up to 3 months Up to \$100 | C misdemeanor |
| 102 | 53-142a | Illegal possession of a master car key | 1 st offense | Up to 30 days Up to \$100 | D misdemeanor |
| | | | 2 nd and SBS | Up to 6 months Up to \$500 | B misdemeanor |
| 103 | 53-203 | Illegal discharge of firearm | | Up to 3 months Up to \$250 | C misdemeanor |
| 104 | 53-205 | Loaded gun in motor vehicle or snowmobile | | Up to 30 days \$10 to \$100 | D misdemeanor |
| 105 | 53-215 | Illegal discard of refrigerator | | Up to 30 days Up to \$100 | D misdemeanor |
| 106 | 53-249 | Cruelty to poultry | | Up to 30 days Up to \$100 | D misdemeanor |
| 107 | 53-250 | Illegal use of animals | | Up to 30 days Up to \$100 | D misdemeanor |
| 108 | 53-370 | Fraudulent sale liquid fuel/oil | | Up to 30 days Up to \$200 | D misdemeanor |

UNCLASSIFIED MISDEMEANORS CLASSIFIED WITH INCREASED SENTENCES AND CHANGES IN FINES

The bill classifies eight unclassified misdemeanors by increasing their maximum prison sentences from the 60 days' or two months' sentence in current law. In all but one instance (§ 112, CGS §19a-347), classification also increases each offense's maximum fine. Table 5 displays these crimes.

Table 5: Unclassified Misdemeanors the Bill Classifies with Increased Sentences and Changes in Fines

| Bill § | Statute § | Description | Current Penalty (Prison term, fine, or both) | Penalty Under the Bill |
|--------|-----------|----------------------------------------------------------------------------------|----------------------------------------------|------------------------|
| 109 | 13b-85 | Violating motor bus regulations | Up to 60 days Up to \$100 | B misdemeanor |
| 110 | 15-52 | Operating an aircraft with a suspended or revoked license | Up to 60 days Up to \$100 | C misdemeanor |
| 111 | 15-100 | Reckless flying and other aeronautics violations | Up to 60 days Up to \$100 | C misdemeanor |
| 112 | 19a-347 | Criminal contempt for violating an injunction relating to a house of assignation | Up to 2 months Up to \$500 | C misdemeanor |
| 113 | 26-78 | Possession or sale of bird or reptile violations | Up to 60 days Up to \$200 | C misdemeanor |
| 114 | 26-88 | Killing an animal with an explosive | Up to 60 days \$25 to \$200 | C misdemeanor |
| 115 | 47a-52 | Unfit sanitation in rented dwellings | Up to 60 days Up to \$200 | C misdemeanor |
| 116 | 51-88 | Illegal practice of law | Up to 2 months Up to \$250 | C misdemeanor |

UNCLASSIFIED MISDEMEANORS CLASSIFIED WITH DECREASED SENTENCES AND CHANGES IN FINES

The bill classifies 22 unclassified misdemeanors by decreasing their maximum prison sentences. In all but four instances where the bill decreases the maximum fine, the bill's classifications increase maximum fines. In seven instances, the bill also eliminates minimum fines. Table 6 displays these crimes.

Table 6: Unclassified Misdemeanors the Bill Classifies with Decreased Sentences and Changes in Fines

| Bill § | Statute § | Description | Current Penalty (Prison term, fine, or both) | Penalty Under the Bill |
|--------|-----------------|------------------------------------------------------------------------------------------|----------------------------------------------|------------------------|
| 117 | 7-169(k)(5) | Bingo game without permit or false statement in application or report | Up to 60 days Up to \$500 | D misdemeanor |
| 118 | 9-361(3) to (6) | Certain primary or enrollment violations | Up to 60 days Up to \$100 | D misdemeanor |
| 119 | 12-6 | Hinder state's attorney audit of municipal accounts | Up to 60 days Up to \$200 | D misdemeanor |
| 120 | 14-146 | Throwing object at vehicle— 2 nd and SBS (1 st is fine only) | Up to 60 days \$0 | D misdemeanor |
| 122 | 19a-109 | Home or office heating and utility violations | Up to 60 days Up to \$100 | D misdemeanor |
| 123 | 19a-553 | Fail to report nursing home crimes | Up to 60 days Up to \$200 | D misdemeanor |

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|-----|-------------------|-------------------------------------------------------------------------------------------------|--------------------------------|---------------|
| 124 | 20-265 | Violate hairdresser requirements—2 nd and SBS (1 st is fine only) | Up to 60 days Up to \$100 | D misdemeanor |
| 125 | 21-33 | Itinerant vendor violations and false statements in license applications | Up to 60 days Up to \$50 | D misdemeanor |
| 126 | 21-35 | Itinerant vending without license | Up to 60 days Up to \$50 | D misdemeanor |
| 128 | 22-342(d) and (e) | Operating kennel after license revoked or suspended and license or inspection violations | Up to 1 year Up to \$1,000 | B misdemeanor |
| 129 | 22-344e | Procure dog or cat for resale without pet shop license | Up to 1 year Up to \$1,000 | B misdemeanor |
| 130 | 22-358(d) | Permitting dog to pursue deer | Up to 60 days \$25 to \$200 | D misdemeanor |
| 131 | 26-47 | Control nuisance wildlife without license | Up to 60 days \$25 to \$200 | D misdemeanor |
| 132 | 26-57 | Transporting animals without permit | Up to 60 days \$10 to \$200 | D misdemeanor |
| 134 | 26-71 | Violate wild game hunting and wildlife management requirements and taking certain wildlife | Up to 60 days Up to \$200 | D misdemeanor |
| 135 | 26-72 | Wild game trapping violations | Up to 60 days Up to \$200 | D misdemeanor |
| 136 | 26-81 | Certain hunting, fishing, and trapping violations including Sunday hunting and using a silencer | Up to 60 days \$10 to \$200 | D misdemeanor |
| 137 | 26-90(b) | Quadruped hunting, deer hunting, and false statement in permit violations when no other penalty | Up to 60 days \$25 to \$200 | D misdemeanor |
| 138 | 26-101 | Wildlife refuge violations | Up to 60 days Up to \$200 | D misdemeanor |
| 141 | 26-229 | Damage shellfish grounds markers | Up to 90 days Up to \$150 | D misdemeanor |
| 142 | 29-243 | Violate steam boiler requirements—2 nd and SBS (1 st is fine only) | Up to 4 months Up to \$500 | C misdemeanor |
| 143 | 43-9(a) | Obstructing weights and measure inspector | Up to 90 days \$2 to \$200 | D misdemeanor |

The bill also reduces the possible prison term for four crimes to match those for misdemeanor classifications but the bill imposes higher fines for them than for the appropriate classifications. Because the prison terms match those for class B and D misdemeanors, these crimes would be deemed to be class B and D misdemeanors, as appropriate, with higher fines than those associated with these classifications. Table 7 displays these crimes.

Table 7: Unclassified Misdemeanors with Decreased Penalties

that are Deemed Classified

| Bill § | Statute § | Description | Current Penalty (Prison term, fine, or both) | Penalty Under the Bill (Prison term, fine, or both) |
|--------|-----------|--------------------------------------------------------------------------|----------------------------------------------|------------------------------------------------------------------|
| 121 | 15-15 | Operating a boat without a pilot | Up to 60 days \$500 to \$1,000 | Up to 30 days in prison, \$500 to \$2,000—deemed a D misdemeanor |
| 127 | 22-319a | Illegal sale of hog cholera serum | Up to 1 year \$5,000 to \$10,000 | Up to 6 months, \$5,000 to \$10,000—deemed a B misdemeanor |
| 139 | 26-159a | Violate striped bass regulations—3rd and SBS (1st and 2nd are fine only) | Up to 60 days Up to \$500 per fish | Up to 30 days, up to \$500 per fish—deemed a D misdemeanor |
| 140 | 26-228 | Taking shells or shellfish at night | Up to 60 days \$100 to \$500 | Up to 30 days, \$100 to \$500—deemed a D misdemeanor |

CHANGES TO THE PENALTY STRUCTURE FOR CERTAIN UNCLASSIFIED MISDEMEANORS

Some unclassified misdemeanors have different penalties for subsequent convictions of the offense. The bill (1) makes changes to the penalties in these statutes in a number of different ways and (2) adds penalties for subsequent convictions of some offenses that do not already have these penalties. Table 8 displays these statutes with changes in penalties based on the number of convictions for the offense.

Table 8: Unclassified Misdemeanors the Bill Classifies with a New Penalty Structure

| Bill § | Statute § | Description | Current Penalty (Prison term, fine, or both) | Penalty Under the Bill | |
|--------|-----------|-------------------------------------------------------------|----------------------------------------------|---------------------------------------|----------------------------------------|
| 133 | 26-61(d) | Procuring hunting or fishing license while under suspension | 1 st offense | Up to 60 days At least \$200 | D misdemeanor |
| | | | 2 nd and SBS | Up to 1 year \$200 to \$500 | A misdemeanor |
| 144 | 15-77 | Operating an aircraft under the influence | 1 st offense | Up to 60 days Up to \$100 | 1 st : C misdemeanor |
| | | | 2 nd and SBS | Up to 1 year Up to \$500 | 2 nd and SBS: A misdemeanor |
| 145 | 15-97 | Violating airport zoning requirements | Up to 60 days | 1 st : Up to \$250 mail-in | |

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|-----|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-------------------------------------------------------|----------------------------------------------------------------------------------------------|
| | | | | Up to \$25 | violation 2 nd and SBS: D misdemeanor |
| 146 | 21a-19 | Violating oleomargarine requirements | 1 st offense | Up to 60 days Up to \$100 | 1 st : Up to \$250 mail-in violation |
| | | | 2 nd and SBS | Up to 4 months Up to \$200 | 2 nd and SBS: C misdemeanor |
| 147 | 21a-159 | Violating bakery requirements | 1 st offense | Up to \$50 | 1 st : Up to \$250 mail-in violation |
| | | | 2 nd offense | Up to 10 days Up to \$100 | 2 nd and SBS: D misdemeanor |
| | | | 3 rd and SBS | Up to 30 days Up to \$200 | |
| 148 | 22-362 | Permitting dog annoyance on highway | 1 st offense | Up to 30 days \$25 to \$50 | D misdemeanor for all offenses |
| | | | 2 nd and SBS | Up to 60 days \$50 to \$100 | |
| 149 | 23-65(c) | Certain littering violations | | Up to 6 months Up to \$50 | 1 st : Up to \$250 mail-in violation 2 nd and SBS: C misdemeanor |
| 150 | 26-76 | Possessing game over limit | | Up to 60 days Up to \$200 | 1 st : Up to \$250 mail-in violation 2 nd and SBS: D misdemeanor |
| 153 | 26-226 | Damaging an oyster enclosure | 1 st offense | Up to 30 days Up to \$50 | 1 st : Up to \$250 mail-in violation |
| | | | 2 nd offense | 30 to 90 days \$50 to \$100 | 2 nd and SBS: C misdemeanor with no minimum sentence |
| | | | 3 rd and SBS | Up to 6 months \$150 | |
| 155 | 29-198 | Violating elevator or escalator requirements | 1 st offense | \$25 to \$100 | 1 st : Up to \$250 mail-in violation |
| | | | 2 nd and SBS | 30 to 180 days \$100 to \$500 | 2 nd and SBS: B misdemeanor |
| 156 | 35-20 | Using a filed device, name, or mark on a receptacle | 1 st offense | Up to 30 days Up to \$5 per bottle or \$10 per box | 1 st : Up to \$250 mail-in violation |
| | | | 2 nd and SBS | Up to 1 year Up to \$10 | 2 nd and SBS: C misdemeanor |
| 157 | 43-9 | <ul style="list-style-type: none"> • Using a false weighing device • Manufacture, sale, and use of milk bottles (see CGS § 43-23) • Liquefied petroleum gas container violations (see CGS § 43-43) • Thread violations (see CGS § 43- | 1 st offense | Up to 3 months \$50 to \$300 | 1 st : C misdemeanor |
| | | | 2 nd and SBS | Up to 1 year \$100 to \$1,000 | 2 nd and SBS: B misdemeanor |

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|-----|-------|----------------------------------------------------------------------------------------------|-------------------------|---------------------------------|----------------------------------------|
| | | 45) • Weight dealer violations (see CGS § 43-52) | | | |
| 158 | 43-34 | Violate petroleum product weighing, delivery ticket, and tare weight of vehicle requirements | 1 st offense | Up to 3 months \$20 to \$200 | 1 st : C misdemeanor |
| | | | 2 nd and SBS | Up to 1 year \$50 to \$500 | 2 nd and SBS: B misdemeanor |

Except for certain violations with other penalties, current law punishes commercial fishing violations with up to 30 days in prison, a fine of up to \$250, or both, with each fish or crustacean taken being a separate offense. The bill retains this penalty for commercial fishing violations involving net and boat licenses, restricted waters near streams or estuaries, and fish oil or fertilizer making them a class D misdemeanor, which does not change the penalties. For other commercial fishing violations, the bill (1) reduces the penalty for a first offense to a mail-in violation of up to \$250 and (2) makes a second or subsequent offense a class D misdemeanor, which matches the current penalty (§ 152, CGS § 26-186).

The law punishes illegally taking a moose or bear and the bill makes the following changes to the penalties.

1. For a first offense, the bill reduces the prison penalty from up to 90 days to up to 30 days and the possible fine from at least \$500 to up to \$500. The prison penalty matches the penalty for a class D misdemeanor and thus the bill deems this to be a class D misdemeanor.
2. For a second offense, the bill reduces the prison penalty from up to 120 days to up to three months and the possible fine from at least \$750 to up to \$750. The prison penalty matches the penalty for a class C misdemeanor and thus the bill deems this to be a class C misdemeanor.
3. For a third or subsequent offense, the bill reduces the prison penalty from up to 180 days to up to six months and the possible fine from at least \$1,000 to up to \$1,000. The prison

penalty matches the penalty for a class B misdemeanor and thus the bill deems this to be a class B misdemeanor (§ 151, CGS § 26-80a).

UNCLASSIFIED MISDEMEANORS WITH SLIGHT CHANGES IN PRISON TERMS AND CHANGES IN FINES

The bill classifies 18 crimes by making only slight changes to their maximum prison sentences, such as classifying a crime punishable by up to 12 months in prison as a class A misdemeanor punishable by up to one year in prison. The bill also makes changes to fines for all but five of these crimes.

Table 9: Unclassified Misdemeanors with Minor Changes in Prison Terms and Changes in Some Fines

| Bill § | Statute § | Description | Current Penalty (Prison term, fine, or both) | Penalty Under the Bill |
|---------------|------------------|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|-------------------------------|
| 159 | 2-46 | Fail to comply with legislative investigation and fail to answer claims commissioner's subpoena (see CGS § 4-151(e)) | 1 to 12 months \$100 to \$1,000 | A misdemeanor |
| 160 | 9-365 | Threat by employer of voter | 6 to 12 months \$100 to \$500 | A misdemeanor |
| 163 | 14-67v | Motor vehicle recycler violations | Up to 90 days Up to \$100 | C misdemeanor |
| 168 | 15-7 | Violate Bridgeport harbormaster order | Up to 90 days Up to \$1,000 | C misdemeanor |
| 169 | 15-115(b) | False statement in report of aircraft accident | Up to 90 days \$100 to \$1,000 | C misdemeanor |
| 171 | 19a-92a | Illegal tattooing of person | Up to 90 days Up to \$100 | C misdemeanor |
| 172 | 20-407 | Violate hearing aid dealer requirements | Up to 90 days Up to \$500 | C misdemeanor |
| 173 | 21-35h | Violate closing-out sale requirements | Up to 90 days Up to \$500 | C misdemeanor |
| 174 | 22-272a | Using illegal slaughter methods | Up to 90 days Up to \$500 | C misdemeanor |
| 175 | 22a-45c | Obstructing mosquito control | Up to 90 days Up to \$100 | C misdemeanor |
| 176 | 26-6b | Fail to obey conservation officer | Up to 90 days \$50 to \$500 | C misdemeanor |
| 179-180 | 29-357 | Sell fireworks without a permit | Up to 90 days Up to \$100 | C misdemeanor |
| 181-182 | 29-366 | Fail to comply with fireworks requirements | Up to 90 days Up to \$100 | C misdemeanor |
| 184 | 42-115u | Violate unfair sales practices requirements | Up to 90 days Up to \$500 | C misdemeanor |
| 185 | 42-141 | Violate the home solicitation sales act | Up to 90 days Up to \$500 | C misdemeanor |

| | | | | |
|-----|-----------|----------------------------------------------------------------------------------------------|---------------------------------|---------------|
| 186 | 43-16q(a) | Solicit a false weight certificate—2 nd and SBS (1 st is fine only) | 30 to 90 days \$100 to \$500 | C misdemeanor |
| 186 | 43-16q(b) | Illegal act by licensed public weigher | 30 to 90 days \$50 to \$500 | C misdemeanor |
| 187 | 53-329 | Illegal sale of prisoner products | Up to 90 days Up to \$1,000 | C misdemeanor |

The bill also makes minor changes to prison terms in order to deem certain misdemeanors classified. In doing so, it preserves the existing fines which vary from those that usually apply to the classification. Table 10 displays these offenses.

Table 10: Unclassified Misdemeanors with Minor Changes in Prison Terms that are Deemed Classified Under the Bill with No Change in Fines

| Bill § | Statute | Description | Current Penalty (Prison term, fine, or both) | Penalty Under the Bill |
|--------|------------|-------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|----------------------------------------------------|
| 161 | 10a-224(g) | Illegal financial interest by Connecticut Higher Education Supplemental Loan Authority board member | Up to 1 month \$50 to \$1,000 | 30 days and same fine, deemed a D misdemeanor |
| 162 | 14-35a | Motor carrier operating vehicle with suspended or revoked registration or operating without authority—1 st offense | Up to 90 days \$500 to \$1,000 | Three months and same fine, deemed a C misdemeanor |
| 165 | 14-215(b) | Operate motor vehicle while under license suspension or revocation—1 st offense | Up to 90 days \$150 to \$200* | Three months and same fine, deemed a C misdemeanor |
| 166 | 14-215a | Operate motor vehicle while license suspended for certain reasons (see CGS § 14-140)—1 st offense | Up to 90 days \$150 to \$200 | Three months and same fine, deemed a C misdemeanor |
| 167 | 14-299a(e) | Violate traffic signal preemption device requirements | Up to 90 days Up to \$5,000 | Three months and same fine, deemed a C misdemeanor |
| 170 | 15-156(c) | Operate boat while safe boating certificate revoked or suspended—1 st offense | Up to 90 days \$150 to \$200 | Three months and same fine, deemed a C misdemeanor |
| 177 | 26-192f | Shellfishing in closed area and misleading shipments | Up to 12 months Up to \$1,000 or three times the shellfishes' value | One year and same fine, deemed an A misdemeanor |
| 178 | 26-235(d) | Taking clams from a closed area | Up to 12 months \$75 to \$1,000 or three times the clams' value | One year and same fine, deemed an A misdemeanor |

| | | | | |
|-----|---------|-----------------------------------------------|-----------------------------------|----------------------------------------------------|
| 183 | 38a-734 | Insurance consultant-receiving an illegal fee | 30 to 90 days \$250 to \$2,500 | Three months and same fine, deemed a C misdemeanor |
|-----|---------|-----------------------------------------------|-----------------------------------|----------------------------------------------------|

* Fines doubled if in a construction or utility work zone (see CGS § 14-212a).

ELIMINATED CRIMINAL PENALTIES

The bill eliminates the following two criminal penalties:

1. up to three months in prison, a fine of up to \$50, or both for a registrar who knowingly makes false entries in vital records (§ 188) and
2. up to 30 days in prison, a fine of up to \$100, or both for violating the brucellosis control regulations which include testing cattle, quarantines, vaccinations, and importing cattle (§ 189).

REPEALED STATUTES

The bill repeals the following 11 statutes (§ 194) and makes conforming changes (§§ 190-193).

1. It eliminates a provision that willfully refusing to leave the vicinity when ordered to do so by a fire department officer directing activities at a fire or emergency site, unless the person has a state police press card, is punishable by up to seven days in prison, a fine of up to \$50, or both. By law, the fire chief or any member serving as officer-in-charge when responding to a fire or emergency can order someone to leave the vicinity (CGS § 7-313e). By law, it is a class A misdemeanor to obstruct, resist, hinder, or endanger a firefighter or fail to assist a firefighter when commanded to do so (CGS §§ 53a-167a and -167b).
2. It eliminates a provision punishing removing or damaging a traffic control sign at a railroad crossing or light illuminating a sign with up to 30 days in prison, a fine of up to \$10, or both (CGS § 13b-346). By law, damage to railroad property is a (a) class D felony if a person intentionally causes an interruption in service by damaging property or intentionally causes more than \$1,500 in damage; (b) class A misdemeanor if a person intends to cause an interruption by damaging property and causes a risk of

interruption or intentionally causes more than \$250 in damage; or (c) class B misdemeanor if a person intentionally or recklessly damages property, intentionally or recklessly tampers with property and places the property in danger of damage, or damages property by negligence using a potentially harmful or destructive force or substance (CGS § 53a-117k et seq.).

3. It eliminates a provision punishing willfully damaging property on the fair grounds of an agricultural society, obstructing officers performing their duties there, and wrongfully gaining admission to the fairgrounds with up to 30 days in prison, a fine of up to \$25, or both (CGS § 22-125). By law, various generally applicable criminal laws apply to this conduct, regardless of where it occurs.
4. It eliminates provisions requiring anyone growing swine to be used other than on the premises to register with the agriculture commissioner; authorizing the commissioner to issue orders and regulations on examinations, quarantines, disinfection, treatment, disposition, transportation, importation, feeding, and sanitation; authorizing investigations of diseases and preventing spread of diseases, prohibiting bringing swine into the state unless they are brucellosis-free and pseudorabies-negative and requiring test after importation (with exceptions); and requiring swine brought in for immediate slaughter to be killed in an approved slaughterhouse under veterinary inspection. It eliminates the penalty of up to 30 days in prison, a fine of up to \$100, or both for violating these provisions (CGS § 22-319). A number of other statutes apply to diseases of domestic animals and provide penalties for their violation (CGS §§ 22-278 et seq., 22-319a, and 22-320a et seq.).
5. It eliminates a provision punishing putting or leaving a dead animal in a pond, spring, or reservoir that supplies water to a building or willfully putting a dead animal in any water with up to 30 days in prison, a fine of up to \$50, or both (CGS § 25-38). By law, putting anything into a spring, fountain, cistern, or other

place where water is taken for drinking or other purposes to pollute its quality is punishable by up to six months in prison, a fine of up to \$500, or both (CGS § 25-39). By law, anyone who puts a pollutant or harmful substance into a reservoir, lake, pond, or stream that provides public water supply is subject to up to 30 days in prison, a fine of up to \$500, or both (CGS § 25-43(b)). The law also prohibits allowing a pollutant or harmful substance to enter a public water supply reservoir or its tributaries but the bill changes the penalty for violating this provision from an unclassified misdemeanor to a mail-in violation of up to \$500 (see § 18 above, CGS § 25-43(a)).

6. It eliminates a provision punishing (a) a state or local police officer or anyone with arrest powers who, directly or indirectly, receives a reward, gift, or gratuity for influencing his or her behavior and (b) anyone who gives, offers, or promises it (unless approved by the commissioner, chief, or police commissioners because of official services) with up to six months in prison, a fine of up to \$100, or both (CGS § 29-9). By law, it is a class C felony (punishable by one to 10 years in prison, a fine of up to \$10,000, or both) for a (a) public servant to solicit, accept, or agree to accept a benefit for, because of, or as consideration for a decision, opinion, recommendation, or vote or (b) person to offer to do so (CGS §§ 53a-147 and -148).
7. It eliminates a provision punishing anyone who operates or intends to operate a manufacturing or mechanical establishment who has not registered with the labor commissioner or not been included on the list of Connecticut factories. (The labor department no longer compiles this list.) The registration includes the owner's and business' name, nature, and location, and other information the commissioner requires. An employer's failure to register is punishable by a fine of \$25 to \$100 for the 1st offense and a fine of \$100 to \$500 and 30 to 60 days in prison, or both for subsequent offenses (CGS 31-28)
8. It eliminates provisions prohibiting industrial home work (a

business giving materials to someone at home to manufacture, finish, repair, or handle) unless the business and person performing the work receive certificates from the labor commissioner. To receive a certificate, a person must be age 16 or older and prove that illness or old age incapacitate him or her from working in the regular business place or that his or her services are essential in the home to care for a household member. The work at home must be customary in the field and suspending it must be an undue hardship. Certificates cannot be issued if someone in the home has a communicable disease. Wage rates must be the same as in places of similar work. An employer can receive a certificate for a \$25 annual fee if work in home is customary and necessary in the industry, no harmful or dangerous apparatus or substance is used, and certified home workers are used. The employer must keep records and the commissioner can seize evidence of violations. Violations are punishable by up to \$25 per day, up to 30 days in prison, or both, and the commissioner can revoke a certificate or permit (CGS § 31-33).

9. It eliminates a provision that payments to employee welfare funds (CGS § 31-53(i)) that are considered past due under a written contract or rules and regulations adopted by the fund's trustees are treated as wages for purposes of allowing an employee, labor organization, or the labor department to sue and recover twice the amount due plus costs and reasonable attorneys' fees. A proprietor, partner, or corporate officer, director, or employee who fails to make a payment is subject to up to a \$200 fine, up to 30 days in prison, or both for each week of nonpayment. A proprietor, partner, or corporate officer of director is personally liable in a civil action for the amounts due plus costs and reasonable attorney's fees (CGS § 31-89a).
10. It eliminates a provision prohibiting burying a body within 350 feet of a house unless (1) a public highway intervenes, (2) the body is encased in a lined vault, (3) it is buried in a cemetery established by November 1, 1911 or a plot adjacent to it was

made part of it with the public health commissioner's approval (which must be recorded in the land records), or (4) the cemetery was more than 350 feet away from any house when it was established. Currently, violations are punishable by up to a \$50 fine, up to 30 days in prison, or both (CGS § 53-332).

11. It eliminates a provision that requires the top of a container with a corpse to be buried at least 2.5 feet below ground or 1.5 feet below ground if the container is made of steel, bronze, concrete, or other impermeable material, with violations punishable by up to a \$100 fine, up to 30 days in prison, or both (CGS § 53-333a). The law also prohibits burial wholly or partially above ground unless in an established cemetery or ground or structure approved by the Department of Public Health (CGS § 19a-313).

OTHER CHANGES TO UNCLASSIFIED MISDEMEANORS

The bill places a maximum prison sentence on the unclassified misdemeanor of willfully violating zoning regulations (§ 5, CGS § 8-12). Under current law, this crime is punishable by up to 10 days in prison, a fine of \$100 to \$250 per day, or both for each day the zoning violation continues. The bill caps the possible prison term at 30 days. Because the 30-day prison term matches the prison penalty for a class D misdemeanor, the bill deems this offense to be a D misdemeanor.

The law punishes eavesdropping by an employer under certain circumstances. By law, a first offense is a \$500 fine and a second offense is a \$1,000 fine. Under current law, a third or subsequent offense requires a 30-day prison sentence. The bill also allows the court to impose a fine of up to \$1,000 for a third or subsequent offense. The bill deems a third or subsequent offense to be classified as a D misdemeanor (§ 92, CGS § 31-48b).

The law punishes false statement by a dealer, repairer, or motor carrier regarding vehicle inspection. For a first offense, the bill retains the fine of up to \$1,000 but changes the maximum prison term from 90 days to three months. Thus, the bill deems this crime to be a class C misdemeanor (§ 164, CGS § 14-163e). For a second or subsequent

offense, the bill changes the potential fine from at least \$2,000 to no more than \$2,000. It retains the maximum prison sentence of up to one year. Thus, the bill deems this crime to be a class A misdemeanor. By law, this conduct is also subject to the penalty for false statement.

Under current law, anyone who violates the law or regulations regarding fireworks displays and permits and causes death or injury is punishable by up to 10 years in prison, a fine of up to \$10,000, or both. The bill makes this a class C felony, which has the same penalty except that the prison penalty is one to 10 years. As under current law, a judge can suspend any or all of the prison sentence as none of it is a mandatory minimum sentence (§§ 179-180, CGS § 29-357, also see Table 9 for the penalty for violations that do not cause death or injury).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 42 Nay 0 (03/26/2012)