

REMARKS OF CONNECTICUT COMMISSIONER OF AGRICULTURE

STEVEN K. REVICZKY

BEFORE THE ENVIRONMENT COMMITTEE

FEBRUARY 13, 2015

Good morning Chairmen Kennedy and Albis, Vice Chairs Moore and Arconti, Ranking Members Chapin and Shaban, and members of the committee. My name is Steve Reviczky. It is my honor to serve as the commissioner of the Connecticut Department of Agriculture, and to be here this morning to testify on the agency's 2015 legislative agenda.

Joining me is George Krivda, our chief of staff and legislative program manager, Jason Bowsza and Steve Jensen from my office. Also joining me is, Wayne Kacasek, assistant Bureau Director of the agency's Bureau of Regulation and Inspection, , David Carey, director of the Bureau of Aquaculture and Linda Piotrowicz, director of the Bureau of Agricultural Development and Resource Preservation.

Our legislative package contains proposals that have the potential to significantly help us Grow Connecticut Farms – for the benefit of not only our hard-working farm families but all residents of our state. Thank you in advance for thoughtfully considering our requests.

Let me begin with our number one priority H.B. No. 6732 AN ACT CONCERNING THE APPEAL OF RESTRAINT AND DISPOSAL ORDERS ISSUED BY ANIMAL CONTROL OFFICERS (Statutory Reference: Sec. 22-358). As it stands currently, the Department of Agriculture handles as many as fifteen disposal or restraint hearings per year. Unlike many state agencies our agency does not have an office or professional staff to adjudicate these matters. This is further complicated by state policies that prevent us from using personal service agreements to hire outside counsel specifically to hear these cases. Currently a bureau director or assistant bureau director, with counsel from an assistant attorney general, dedicates an inordinate amount of time to the hearing process. There are often complex legal questions that arise, including those resulting from motions and other filings, on which agency staff, serving as hearing officers, are required to make rulings that often have serious legal implications. These administrative appeals are almost always emotionally charged, very similar to issues before family court. Disposal and restraint order appeal hearings are held in accordance with the Uniform Administrative Procedures Act and the Department's regulations on Rules of Practice, and would be most properly handled by an agency with sufficient legal staff and training. The process begins with the filing of an appeal to the Department of Agriculture of an order issued by a municipal animal control officer. A hearing is then scheduled to provide the parties involved, i.e., the dog owner(s) and the municipality, both most-often represented by counsel, with an opportunity to present evidence and

argument on all issues to be considered by the Department. The hearing officer (usually a bureau director or assistant bureau director) conducts the hearing, reviews the hearing transcript and testimony and any relevant evidence entered into the record. The hearing officer then, issues a proposed final decision to the commissioner of agriculture and it is shared with the parties involved. The parties are given an opportunity to file exceptions and briefs relative to the proposed final decision and request oral argument before the commissioner, who considers the arguments made as well as the transcript, evidence and proposed final decision. The commissioner then must write and issue a final decision. The commissioner and department staff take this responsibility very seriously and devote many hours to each case. The parties involved can appeal the commissioner's final decision to the superior court, at which time the process begins again in the superior court. The process can take many months to execute, and requires legal and procedural expertise outside of the resources currently available to the Department. Moving the process to the superior court would alleviate the department of significant time and resource constraints, and ensure that the process is being handled by individuals with the necessary legal and procedural expertise.

In the first paragraph of the bill we are requesting the inserted new text and the word "observes" be deleted and replaced with "which they actually observe". This would also be consistent with other similar wording concerning dogs pursuing deer in this section.

The agency's next proposal, H.B. No. 6727 AN ACT CONCERNING THE DESIGNATION OF HEARING OFFICERS BY THE COMMISSIONER OF AGRICULTURE (Statutory Reference: 22-4b and 22-6). This agency proposal would allow the Commissioner additional options when designating hearing officers for proceedings within the agency. Currently, other state agencies have the authority to work with law schools and law clinics to assist in conducting the administrative appeal process. The proposal would allow the Department of Agriculture to utilize similar resources. The proposal would also allow the agency to work with law firms, as other agencies currently do. In Section 22-4b the department seeks to add language allowing for hearing officers to be appointed pursuant to the Uniform Administrative Procedures Act. This would allow the commissioner discretion in assigning restraint and disposal hearings to anyone deemed by the commissioner to hear such cases. As the statute is currently written, the Attorney General's Office does not feel that the commissioner has that flexibility. Implementing this change would increase efficiencies within the hearing process and would significantly reduce the strains on agency senior staff responsible for administrative hearings. In Section 22-6 the proposal removes redundant language already found in 22-4b. It also removes the requirement that the commissioner serve as the final decision maker in administrative hearings, except for hearing an appeal for reconsideration or modification of a final decision.

Our number three priority, S.B. No. 348 AN ACT CONCERNING THE SALE OF FARM PRODUCTS AS "CONNECTICUT-GROWN" AND CERTIFICATION FOR "CONNECTICUT-GROWN MARKETS AND RESTAURANTS (Statutory Reference: 22-38) is a little more ambitious than the agency originally intended. We seek to require all farm products for sale at any of a variety of farm-related markets in Connecticut to be identified by a sign or label with the name and complete

business address of the farm where the product was grown or produced. This measure of transparency will allow consumers to better determine exactly where farm products were grown or produced and, thus, assist in making better-informed purchasing decisions. Clearly identifying Connecticut Grown farm products and differentiating them from those grown in other states will (1) strengthen the integrity of the Connecticut Grown brand, (2) bolster consumer confidence in that brand, and (3) empower consumers to better support Connecticut farm families and businesses by making better informed purchasing decisions.

H.B. No. 6729 AN ACT CONCERNING THE USE OF CERTAIN NOISE-MAKING DEVICES FOR AGRICULTURAL PURPOSES (Statutory Reference 22-26g). This proposal would take steps to ensure that noisemaking devices used for agricultural purposes are being used properly. The proposal allows the department flexibility regarding conducting an on-site inspection rather than requiring one to issue a permit. The proposal expands the information required when submitting an application for a permit for use to include an estimate of the potential crop loss as a percentage of the total crop attributable to wildlife damage.

It also requires that any noisemaking device permitted be operated according to the recommendations of the manufacturer of the device and any written conditions stated on the permit as stipulated by the commissioner or his designated issuing agent. The proposal also allows for the commissioner to consult with additional experts in wildlife damage to crops when determining if the issuance of a permit creates an undue hardship on homeowners or a neighborhood, or suspension or revocation of a permit to use a noise making device has created an undue hardship on a farmer. The proposal allows for the commissioner or his designee to issue a warning notice for any violation of the section. It establishes a process for a hearing regarding any suspension or revocation of a permit to operate a noise making device if it is appealed within fifteen (15) days. Any appeal would follow the Uniform Administrative Procedures Act and the Department's regulations on Rules of Practice, and the commissioner would be allowed to designate a hearing officer to hear any appeal. The appeal would only consider whether the violations leading to a suspension or revocation of a permit to operate a noise making device existed.

S.B. No. 870 AN ACT CONCERNING THE DUTIES OF ANIMAL CONTROL OFFICERS (Statutory Reference 22-331 and 22-332). The agency is proposing a minor change to sections 22-331 and 22-332 to include the phrase "or other domestic animal" where appropriate, to reflect that animal control officers are responsible for the well-being of all domestic animals, not limited only to dogs. This would provide consistency with section 22-330. This proposal expands the circumstances in which animal control officers may take custody of an animal found to be roaming, injured, neglected, abandoned or mistreated. As it stands now, ACO's have jurisdiction over only dogs in these circumstances. The changes to these sections are being requested to recognize circumstances that the agency is regularly called upon to address.

S.B. No. 346 AN ACT CONCERNING THE FARMLAND RESTORATION AND VACANT LANDS PROGRAMS OF THE DEPARTMENT OF AGRICULTURE (Statutory Reference 22-6c). This bill expands the items reimbursable to farmers under the farmland restoration program and

increases the maximum reimbursement for management or restoration plans for certain state and municipal lands. The program encourages farmers to restore farmland that has gone out of production. The bill allows the agriculture commissioner to reimburse a farmer for part of the cost of developing, implementing, and complying with a farm resources management plan or a farmland restoration plan, instead of only for developing a farm resources management plan.

The agency's final proposal this session, H.B. No. 6728 AN ACT CONCERNING MINOR REVISIONS TO ANIMAL IMPORTER RECORDS REQUIREMENTS (Statutory Reference:22-344f) The refinement offered in this proposal will require the reporting of necessary additional information within the existing framework of the law. The changes will assist the Department of Agriculture in knowing specifically when the dog or cat was adopted by the importer, thus giving the Department the opportunity to insure that the animal was examined by a Connecticut veterinarian, within fifteen days of purchase or adoption, as required by current law. By requiring the adopter's information, the change will assist with the collection of data allowing the Department to analyze how many imported animal adoptions in Connecticut are associated with persons entering Connecticut from neighboring States to purchase animals and circumvent their home State animal importation laws.

That concludes my testimony this morning. Thank you for your attention and for considering the merits of these proposals before you. If you have questions, I will be happy to answer and provide any additional information you would like.

Respectfully Submitted,

Steven K. Reviczky
Commissioner