

Proposed amendment to Bill 5710, as recommended by the Berkshire- Litchfield Environmental Council to

REP. WILLIS, 64th Dist.

AN ACT REQUIRING THE COMMISSIONER OF ENERGY AND ENVIRONMENTAL PROTECTION TO REFER CASES AGAINST PERSONS ENCROACHING ON STATE-OWNED OPEN SPACE TO THE ATTORNEY GENERAL OR THE STATE'S ATTORNEY.

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

That section 52-560a of the General Statutes be amended by adding the following sections:

(e) Whenever the Commissioner of Energy and Environmental Protection discovers an encroachment on open space land owned by the state, the Commissioner shall refer the matter to either the Attorney General or to the State's Attorney. The Commissioner has no jurisdiction to resolve encroachments by any other process.

(f) The Commissioner shall render a report to the Environment Committee of the General Assembly by the fifteenth day of February of each year in which the Commissioner shall report the state of the state open lands and forests, the number of timber trespasses and encroachments in the previous calendar year, and the status of all referrals to the Attorney General or State's Attorney.

Statement of Purpose:

To make clear that the Commissioner of Energy and Environmental Protection has no authority to settle cases involving encroachment of state forests and open space land under General Statutes §52-560a and requiring the Commissioner to refer all encroachments to either the Attorney General or the State's Attorney. Public Act 06 – 89 provided for the protection of the state forest and open space land by giving the Attorney General enforcement authority. The Council on Environmental Quality in a report to the General Assembly, *Preserved but Not Protected* (December 20, 2005) had recommended that the Commissioner be required to refer all encroachments to the Attorney General for swift action. The Commissioner has yet to refer one case to the Attorney General for action. In May 2010 a start-up company trespassed into the part of the Housatonic State Forest on Canaan Mountain in Canaan, Connecticut and clear-cut 2.5 acres of old-growth forest. The area that was cut is among the rarest, most unique and threatened habitats in the state, home to endangered and special concern species of both flora and fauna. More than 332 trees were felled — some as large as 30 inches in diameter — and randomly pushed into piles and left to rot on the forest floor. The appraised value of the 111 largest trees alone is well over \$1 million as determined under the procedure established in General Statutes §52-560a. Instead of referring the matter to the Attorney General, the Commissioner took it upon himself to settle this valuable claim by way of an administrative consent order under section 22a-6, in which he sought a contingent penalty of up to \$10,000. This bill clarifies the original intent of the General Assembly in adopting §52-560a.