OLR Bill Analysis
sSB 998

AN ACT CONCERNING MINOR REVISIONS TO ENVIRONMENT RELATED STATUTES.

SUMMARY

This bill makes the following changes to environment-related statutes:

1. allows Connecticut to exchange forest fire protection and control resources with states beyond New England and New York (§ 7);

2. applies the law on registering proposed ownership transfers of Department of Energy and Environmental Protection (DEEP)-licensed facilities to proposed license application transfers (§ 2);

3. eliminates the DEEP commissioner’s role in approving municipal noise ordinances (§ 6);

4. eliminates an annual reporting requirement for restricted use pesticide applicators and instead requires applicators to compile records, maintain them for at least five years, and make them available to DEEP upon request (§§ 3 & 4);

5. authorizes the commissioner to renew certifications for pesticide applicators whose certifications have lapsed for less than one year without reexamination but upon payment of a late fee (§ 10);

6. authorizes the commissioner to (a) grant a 60-day extension to renew a commercial forest practitioner certification and (b) certify additional forest practitioners without examination (§ 8);

7. modifies the continuing professional education requirements and associated reporting requirements for certified forest practitioners (§§ 8 & 9);
8. exempts certain aquaculture structures from having to obtain a DEEP permit to erect, keep, or maintain a structure in the state’s tidal, coastal, or navigable waters (§ 5); and

9. allows law enforcement or fire rescue vessels to use either an audible signal device or flashing lights, rather than both, to indicate that nearby boats must slow or alter course (§ 1).

The bill also allows, rather than requires, the commissioner to annually submit a report to the Environment Committee on DEEP’s conservation program for species not traditionally harvested (§ 11). (The program is not currently active or funded.)

Lastly, the bill makes minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage

§ 2 — LICENSE APPLICATION TRANSFERS

Under existing law, no one can act under the authority of a DEEP license issued to another unless the license is formally transferred.

The law requires a licensee and a proposed transferee to register with the DEEP commissioner a proposed transfer in ownership of the facility subject to the license within 30 days of the transfer. The bill additionally applies this requirement to proposed license application transfers.

As under existing law for ownership transfers of licensed facilities, the bill requires the applicant and proposed transferee to register the proposed application transfer with the commissioner within 30 days of the transfer. It must be done on forms prescribed by, and with a processing fee established by, the commissioner. Once the commissioner receives the registration, if she determines the transferee is able to comply with the terms and conditions of the license application, she must send a notice to the license applicant and proposed transferee that confirms the registration and acknowledges the applicability of the license application.
The bill also allows the commissioner to include in a transferred license any new conditions as may be necessary to enable the transferee to comply with the license’s original terms and conditions.

§§ 3, 4 & 10 — PESTICIDE REGULATION

Restricted Use Pesticide Application Records

By law, certified pesticide applicators must maintain records on their use of restricted use pesticides. Some of the information that must be kept includes the (1) kind and amount of pesticide used, (2) date and place of application, and (3) crop or site treated.

Under current law, certified private applicators must keep a record for each use of a restricted use pesticide and submit a copy of it to the DEEP commissioner by the end of the January following the application. Certified commercial applicators must submit summary information of restricted use pesticide applications to the commissioner for the previous calendar year by the same date.

Rather than submitting this information to the commissioner, the bill requires the applicators to (1) compile it in a format she prescribes; (2) maintain it for at least five years; and (3) make it available to her upon request. Existing law, unchanged by the bill, already requires these applicators to allow a commissioner-designated officer or employee to access the records upon request and allow the records to be copied (CGS § 22a-58(e)).

Similarly, existing law allows the commissioner to inspect required pesticide records and information kept by a pesticide application business. The bill specifies that these businesses must make the records and information available upon her request.

Pesticide Applicator Certification Renewal

The bill allows the DEEP commissioner to renew a pesticide applicator’s certification that has lapsed for less than one year if the applicator (1) submits a signed renewal application and (2) pays both the renewal fee and any late fee. By law, renewal fees range from $80 to $285, depending on the certification level. Under the bill, the late fee
is equal to 10% of the renewal fee, plus 1.25% per month or part of a month for up to a year, dating from when the certification lapsed.

Under the bill, anyone whose certification lapses for more than one year must retake the examination. (The bill does not specify whether someone whose certification lapses for exactly one year must retake the examination.) By law, pesticide application certifications are valid for five years.

§ 5 — AQUACULTURE STRUCTURES

Existing law requires a DEEP certificate or permit in order to conduct certain work, including erecting and maintaining structures, in the state’s tidal, coastal, or navigable waters, waterward of the coastal jurisdiction line.

The bill exempts from this permitting requirement individual structures used for aquaculture that (1) have a federal Army Corps of Engineers permit and (2) do not interfere with navigation in customary boating or shipping areas. Current law exempts the structures if they do not need an Army Corps permit and do not interfere with navigation.

Aquaculture includes the controlled rearing, cultivation, and harvest of aquatic plants and animals. Aquaculture structures include such things as racks, cages, bags, and buoys.

§ 6 — NOISE REGULATION

The bill eliminates the DEEP commissioner’s role in approving municipal noise ordinances.

By law, municipalities may adopt and enforce a noise control ordinance that includes certain elements set in statute, including noise levels and implementation procedures. Current law requires (1) that an ordinance conform to applicable state and federal noise standards or regulations and (2) the commissioner’s approval before the ordinance can take effect.

The bill (1) eliminates the requirement to obtain the commissioner’s
approval and (2) requires municipal noise ordinances to be at least as stringent as state and federal noise standards or regulations (e.g., Conn. Agencies Regs. § 22a-69-1 et seq.).

§ 7 — FOREST FIRE RESOURCES

The bill expands the applicability of the Northeastern Interstate Forest Fire Protection Compact’s interstate aid provisions by allowing aid to or from any state that belongs to a regional forest fire protection compact, as long as the other state’s legislature agrees to the provisions. In doing so, it allows Connecticut to exchange forest fire protection and control resources with up to 43 other states, instead of only member states. Members of the northeastern compact include the New England states and New York.

By law, the compact’s interstate aid provisions seek to help control, combat, or prevent forest fires and address issues such as the powers and rights of responding forces, liability, and repayment for services.

§§ 8 & 9 — FOREST PRACTITIONER CERTIFICATION AND CONTINUING EDUCATION

60-Day Extension for Renewals

The bill allows the DEEP commissioner to grant a certified commercial forest practitioner a 60-day extension for submitting a renewal application if he or she did not do so before the certification expired. A practitioner granted an extension must (1) submit a complete application within the 60-day period and (2) pay a fee the commissioner sets in addition to the $235 renewal fee (Conn. Agencies Regs. § 23-65h-1(r)). The bill specifies that the practitioner is not required to retake the certification examination.

By law, there are three classifications of certified forest practitioners: forester, supervising forest products harvester, and forest products harvester. Certifications must be renewed every four years (Conn. Agencies Regs. § 23-65h-1(k)).

Alternative Certification

The bill allows the DEEP commissioner to certify a forest
practitioner without examination if he or she is certified through an examination given by the Society of American Foresters or a similar organization. The commissioner may do this only if the (1) organization’s certification qualifications are substantially similar to Connecticut’s and (2) practitioner can demonstrate knowledge of Connecticut’s forestry laws to the commissioner’s satisfaction.

The law already allows the commissioner to certify forest practitioners without examination if they are certified in another state with substantially similar certification qualifications and that state grants similar privileges to Connecticut residents.

**Continuing Education**

By law, certified forest practitioners must participate in continuing education programs to improve or maintain their professional forestry skills. Existing regulations provide that these practitioners must obtain continuing education credits, ranging from six to 12 credits depending on their certification level, to renew their credential every four years (Conn. Agencies Regs. § 23-65h-1(k) and (q)).

The bill eliminates a requirement that practitioners participate in continuing education programs on a biennial basis, thus allowing them to fulfill their education requirements at any time during the four-year term. It requires practitioners to meet these education requirements according to a prescribed schedule to be set out in regulations.

The bill also requires the practitioners to attest to, rather than provide evidence of, their participation in continuing education programs as part of their annual forest practice activity reports to DEEP. But, if the commissioner requests it, practitioners must provide proof of program participation, in accordance with the regulations’ prescribed schedule.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 28  Nay 0  (03/18/2019)