
OLR Bill Analysis

sHB 6484

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BACKGROUND

AN ACT CONCERNING RECOMMENDATIONS BY THE DEPARTMENT OF TRANSPORTATION.

SUMMARY

This bill makes numerous changes to transportation-related statutes. Among other things, it:

1. requires all motor vehicle occupants to wear seat belts, not just drivers, front seat passengers, and certain back seat passengers (§§ 17 & 18);
2. specifies that DOT is not required to issue motor bus certificates to companies it contracts with, except under certain circumstances (§§ 6 & 7);
3. makes permanent DOT's authority to use consultants for projects using an alternative delivery method, subject to certain conditions in existing law (§ 8); and
4. prohibits crossing a bridge with a vehicle that exceeds the posted weight limit and establishes a fine for doing so, increases the fine for driving under bridges while exceeding the posted

clearance, and clarifies the liability of overweight trucks for damage to bridges (§§ 2 & 3).

EFFECTIVE DATE: Upon passage, unless otherwise noted below.

§ 1 — STATE PROPERTIES REVIEW BOARD THRESHOLD

Increases, from \$5,000 to \$10,000, the threshold under which certain DOT property transactions do not require State Properties Review Board approval

By law, the State Properties Review Board must review and approve (1) matters dealing with the initial acquisition of any existing mass transit system or the purchase or sale of real property (i.e., land and buildings and any estate, interest, or right in land) in connection with state highways or mass transit and (2) all surplus property sales or exchanges by DOT.

However, by law, acquisitions and administrative settlements related to these properties that involve sums of money that fall below a certain threshold must be reported to the board but do not require the board's review and approval. The bill increases this threshold from \$5,000 to \$10,000.

§§ 2 & 3 — OVERWEIGHT VEHICLES ON BRIDGES

Prohibits crossing a bridge with a vehicle that exceeds the posted weight limit; increases the fine for driving under bridges while exceeding the posted clearance and extends the fine to vehicles exceeding the weight limit; and clarifies the applicability of a statute on the liability of overweight trucks for damage to bridges

Existing law prohibits driving over, on, through, or under any bridge or structure if the vehicle's height or load exceeds the height of the posted clearance or load shown on a sign. The bill additionally prohibits doing so when the weight of the vehicle or the vehicle and load exceeds the posted weight limit.

The bill also (1) increases the penalties for violating the height or load limits and (2) extends the same penalties to violations of its weight limit. Currently, a violation of the height or load limit is an infraction, subject to a \$50 fine plus additional surcharges and payable by mail (see BACKGROUND).

Under the bill, a first violation is punishable by a fine of up to

\$1,500, which is not payable by mail, and a subsequent offense is a class A misdemeanor, punishable by up to one year in prison, up to a \$2,000 fine, or both.

The bill also clarifies the application of a law that makes vehicle owners liable for damage to bridges caused by overweight vehicles. It specifies that the law applies when the vehicle has a gross weight that exceeds the posted weight limit, rather than the stated maximum safe load. It also deletes an obsolete reference to reckless driving, which is primarily a speed-related offense addressed in the motor vehicle statutes (CGS § 14-222).

EFFECTIVE DATE: October 1, 2021, for the overweight vehicle prohibition and the penalty increase.

§§ 4 & 5 — CHANGES TO CONSULTANT DEADLINES

Moves up the deadline for consultant prequalification applications from November 15 to October 15 and reduces the frequency of consultant performance evaluations from once every six months to once a year

Consultant Prequalification (§ 4)

By law, consultants who wish to provide services to DOT in any year must prequalify by submitting information, in the preceding calendar year, on their qualifications. The bill moves up the deadline for these prequalification submissions from November 15 to October 15 of the preceding calendar year.

As under existing law, the DOT commissioner must annually publish notice sometime between September 1 and October 1 that entities wishing to provide consultant services must submit prequalification applications to the department. Annually by January 1, the commissioner must review and determine which consultants are qualified to perform services.

Consultant Evaluation (§ 5)

The law requires DOT to conduct performance evaluations of all consultants who have active agreements with the department. The bill reduces the required frequency of these evaluations from once every six months to at least annually.

§§ 6 & 7 — MOTOR BUS CERTIFICATES

Specifies that people providing bus service under a contract with DOT do not need a motor bus certificate, except in the case of routes currently operated by certificated holders

By law, the DOT commissioner may, in order to aid or promote the temporary or permanent operation of any transportation service, contract with any person, including a common carrier, to initiate, continue, develop, provide, or improve a transportation service.

The bill specifies that any person that DOT contracts with under this authority to provide bus service is not required to obtain a motor bus certificate (see BACKGROUND), conforming to current department practice. But it provides one exception to this rule, specifying that until July 1, 2026, any bus route operated by a person under contract with the state and with a motor bus certificate as of the bill's effective date must continue to be operated by a person with a certificate issued prior to the bill's effective date.

§ 8 — USE OF CONSULTANTS FOR PROJECTS USING ALTERNATIVE DELIVERY METHODS

Makes permanent DOT's authority to use consultants for projects using alternative delivery methods, subject to certain conditions in existing law

The law allows DOT to use the "construction manager at risk" (CMAR) or "design-build" processes (see BACKGROUND) as alternatives to the traditional "design-bid-build" construction process. This authorization is subject to certain conditions, including limits on the department's use of consultants for these projects. Generally, the law seeks to have DOT gradually reduce the use of these consultants and, where possible, have its employees perform development and inspection work.

More specifically, the law requires that DOT use department employees to perform all development and inspection work after the first two alternative delivery projects are performed. The administrative services commissioner must place positions required for this work on continuous recruitment, and employees may be appointed to durational positions to reduce the need for consultants to perform inspection or development work, including employees who have met engineering education and training requirements but have

not taken an examination.

Regardless of these restrictions on consultants, current law establishes a “transition period” during which DOT may continue using consultants to complete projects using alternative delivery methods. This period expires (1) January 1, 2022, or (2) January 1, 2025, if the governor certifies that the continued use of consultants is necessary to complete alternative delivery projects.

The bill eliminates the expiration date and transition period language, making this authority to use consultants permanent.

Existing law’s capacity building requirements and restrictions on consultant use continue to apply, including requirements for DOT to:

1. make reasonable efforts to (a) use DOT employees, if available, for development and inspection work and (b) reduce, and eliminate where possible, dependency on outside consultants;
2. establish a program to train DOT employees to support alternative delivery methods; and
3. annually report to the governor on progress made in training employees on the alternative delivery methods, improving the diversity of employees’ technical expertise, and building internal project delivery capacity.

§ 9 — TAXI CERTIFICATE HEARINGS

Eliminates the three-month waiting period for hearings on taxi certificate applications

By law, DOT authorizes taxi services by issuing certificates of convenience and necessity, which allow taxis to accept and solicit rides within a specified territory. The law sets a number of applicant qualification and procedural requirements, including that the department hold a hearing on certificate applications. Current law requires the department to wait at least three months after receiving a certificate application before holding a hearing. The bill eliminates this waiting period, allowing DOT to hold hearings at any time after receiving an application.

The law, unchanged by the bill, requires DOT, upon receiving a certificate application, to schedule a hearing and promptly give notice of it to the applicant, the chief elected official of each municipality in the proposed territory, and any common carriers operating within the territory.

§ 10 — STAGNANT LIVERY PERMITS

Establishes a process for revoking stagnant livery service permits

The bill sets conditions under which DOT may, without a hearing, revoke a stagnant livery service permit (e.g., limousines).

Specifically, it allows DOT to revoke a livery permit without a hearing if the following conditions are met:

1. DOT sends a revocation notice to the holder at the address the department has on file and (a) the notice is returned undeliverable or could not be delivered or (b) the permit holder fails to respond within the timeframe specified in the notice;
2. DOT conducts a physical inspection of the address it has on file for the permit holder and determines that no livery service is operated at the address; and
3. no motor vehicle is registered to the permit holder with DMV for use under the permit.

EFFECTIVE DATE: October 1, 2021

§§ 11-13 & 22 — HOUSEHOLD GOODS CARRIER CERTIFICATES

Eliminates requirements that DOT, before permitting an applicant to operate a moving company, (1) hold a hearing and (2) consider highway condition

The bill eliminates the requirement that the DOT commissioner, before issuing a household goods carrier (i.e., moving company) certificate, hold a hearing on the application. It also eliminates the requirement that the commissioner, in determining whether to issue a certificate, consider the condition of the involved highways and how the issuance will affect highway condition and public safety.

Existing law, unchanged by the bill, requires the commissioner to

consider the following when issuing a certificate:

1. the applicant's suitability, or the suitability of management if the applicant is a corporation;
2. the applicant's financial responsibility, financial stability, and ability to efficiently perform the service;
3. the applicant's criminal history; and
4. existing motor transportation facilities and the effect on them of granting a certificate.

The bill also eliminates obsolete language referring to recommendations the commissioner must take into consideration.

EFFECTIVE DATE: October 1, 2021

§ 14 — SMOKING PROHIBITION AT RAIL PLATFORMS AND BUS SHELTERS

Prohibits smoking in any area of a platform or shelter at bus and rail facilities, not just in those that are partially-enclosed

The bill prohibits smoking in any area of a platform or shelter at a rail, busway, or bus station that is owned or leased and operated by the state or any political subdivision. Under current law, smoking is prohibited only in partially enclosed shelters on rail platforms or in bus shelters that are owned or leased and operated by the state or any political subdivision.

EFFECTIVE DATE: October 1, 2021

§ 15 — PORTLAND STREET RAIL CROSSING IN MIDDLETOWN

Allows all vehicles to use the Portland Street rail crossing in Middletown

The bill allows all vehicles, not just emergency vehicles, to use an at-grade crossing at the east end of Portland Street and Bridge Street in Middletown.

§ 16 — AMENDMENTS TO NEGOTIATED CONTRACTS

Specifies that an amendment to a negotiated contract is considered a new and separate contract and is subject to a three-year books and record retention requirement

By law, state contracting agencies may audit the books and records of a contractor or subcontractor under any negotiated contract or subcontract to the extent that the books and records relate to the performance of the contract or subcontract. The contractor must maintain the books and records for three years from the date of final payment under the prime contract and the subcontractor must maintain them for three years from the expiration of the subcontract.

The bill specifies that, if a state contracting agency enters into an amendment to any negotiated contract or subcontract, the amendment must be considered a new and separate negotiated contract for the purposes of the above provisions. The contractor or subcontractor must maintain its books and records related to performing the amendment for at least three years after the date of final payment under the amendment, or the date the amendment expires, whichever is later.

By law, a “state contracting agency,” with certain exceptions, is an executive branch agency, board, commission, department, office, institution, or council.

§§ 17 & 18 — BACK SEAT PASSENGER SEAT BELT USE

Requires, with some exceptions, all motor vehicle occupants to wear seat belts, not just drivers, front seat passengers, and certain back seat passengers

The bill requires all occupants in a motor vehicle or fire-fighting apparatus to wear a seat belt while the vehicle is moving. Current law requires only the driver, front seat passenger, and certain back seat passengers (i.e., passengers under age 16 and passengers of drivers under age 18) to do so.

The bill makes the failure to wear a seat belt by any back seat passenger age 16 or older a secondary offense, prohibiting officers from stopping a vehicle unless another offense has occurred. Under current law, back seat passengers of drivers under age 18 who fail to wear a seat belt commit a primary offense, which allows a law enforcement officer to stop the vehicle solely for that offense. As under existing law, a driver or front seat passenger who fails to wear a seat

belt commits a primary offense.

The bill exempts bus passengers from the seat belt use requirement. As under existing law, the following are also exempt:

1. children under age 8, who must instead be secured in an appropriate car seat or booster seat;
2. any person with a physical disability or impairment that would prevent restraint in a seat belt;
3. authorized emergency vehicles (other than firefighting apparatus) responding to an emergency call;
4. a motor vehicle operated by a rural letter carrier of the U.S. postal service while performing official duties; and
5. a person delivering newspapers.

As under existing law, failure to wear a seat belt is not probable cause for law enforcement to search a vehicle and its contents. Violators commit an infraction (see BACKGROUND) and are subject to existing fines of (1) \$50 if the vehicle driver is age 18 or older or (2) \$75 if the vehicle driver is under age 18.

EFFECTIVE DATE: October 1, 2021

§ 19 — SERVICE SIGNS ON LIMITED ACCESS HIGHWAYS

Combines two limited access highway sign programs into one Specific Service Sign program, in conformance with federal regulations, and requires DOT to adopt implementing regulations

DOT currently administers two programs for signs on limited access highways: (1) the Specific Information Signs on Limited Access Highways Program (i.e., food, gas, lodging, and camping logo signs), which is established in state law (see below), and (2) the Tourist Attraction Guide Sign Program for Limited Access Highways (see BACKGROUND).

The bill appears to combine these programs into one statutory Specific Service Sign program to conform with the federal Manual on

Uniform Traffic Control Devices (see BACKGROUND). It allows the DOT commissioner to enter into an agreement with a qualifying person or company for the erection, maintenance, and removal of a specific service sign within the rights-of-way of state-maintained limited-access highways, other than parkways. It requires DOT to adopt regulations on:

1. specific service sign design and installation requirements,
2. the minimum qualifications and application process for a person or company to get a specific service sign,
3. the financial responsibility of the person or company, and
4. terms regarding specific service sign removal or agreement revocation.

The bill repeals the current specific information sign program and the corresponding authority to adopt regulations. In doing so, it eliminates the statutory requirements that people or companies seeking to erect signs (1) obtain encroachment permits from DOT and (2) file with the commissioner a bond or recognizance with the state. It also eliminates a statutory requirement that a person or company be reimbursed for a portion of the sign's costs by subsequent permittees on the same sign.

§ 20 — DISTRIBUTION OF SURPLUS RAIL MATERIAL

Modifies the process for distributing surplus rail material to freight railroad companies

By law, DOT must offer rail and other track material to freight railroad companies for upgrading state-owned rights-of-way before directly or indirectly selling, transferring, or otherwise disposing of this material. The bill additionally (1) requires DOT to do so before it salvages this material and (2) specifies that this requirement applies to material that is surplus and includes rail sections up to 200 feet in length, ties, and tie plates.

The bill also modifies the process for notifying and selecting recipients, requires that material be made available for inspection, and

modifies the process for distributing material to selected recipients. It also allows DOT to enter into agreements with salvage companies for salvaging or disposing of surplus rail material that is not distributed to freight rail companies.

EFFECTIVE DATE: October 1, 2021

Notification and Selection of Recipients

The bill establishes a more specific process for notifying and selecting freight railroad companies to receive the material. It requires DOT to offer surplus material in writing and send the offer by first class mail or e-mail. Within 30 days after receiving an offer, an interested freight railroad company must submit, in a manner the commissioner prescribes, a notice of interest and a statement on why it needs the material and how it intends to use it. If more than one company submits a notice, the commissioner may choose a company based on the prior distribution of surplus material and the best intended use of the material on state property, as determined by the commissioner. The commissioner must notify the company it has selected by first class mail or e-mail.

As under current law, DOT must offer any remaining material to freight rail companies to upgrade other rail lines in the state. The bill requires DOT to do so using the process outlined above.

Availability for Inspection

The bill requires that DOT make surplus rail material available for inspection at a designated location in a rail yard or along a siding track in the state. The bill does not specify when DOT must make the material available.

Distribution of Material

The bill also modifies the process for distributing the surplus material to selected companies. Under current law, DOT must transfer the material to the recipient's designated material site and charge the recipient for doing so. The amount depends on whether the property will be used to upgrade a state-owned right-of-way. If it is, the charge

cannot exceed the value, as scrap, of the materials replaced by those the commissioner transfers. If the transferred materials are used to upgrade non state-owned rights-of-way, the charge cannot exceed the value, as scrap, of the materials transferred.

The bill instead requires selected freight railroad companies to:

1. arrange and pay for handling and delivering the material from a specific location in a rail yard or along a siding track;
2. accept the material in “as-is” condition;
3. acknowledge that the commissioner assumes no responsibility for the material’s quality or fitness; and
4. install the material in accordance with the statement of intended use that it submitted to DOT, unless the commissioner approves a different use in writing.

The bill prohibits the selected company from salvaging the surplus material and obtaining reimbursement for the handling and delivery costs but allows it to salvage any material the surplus material replaces in order to offset the costs.

Under the bill, the selected company must accept delivery of the surplus material within 30 days after receiving notice of selection. If the company does not do so, DOT may (1) select another company that sent a notice of interest or (2) salvage or otherwise dispose of the material.

§ 21 — METRO NORTH BRANCH LINE REPORTS

Requires DOT to report on the status of installing side rail on the New Canaan line and increasing direct service to New York on the Danbury line

By January 1, 2022, the bill requires DOT to report to the Transportation Committee on the status of (1) installing a side rail on the New Canaan branch line and (2) increasing direct service to New York on the Danbury branch line.

BACKGROUND

Infractions

Infractions are punishable by fines, usually set by Superior Court judges, of between \$35 and \$90, plus a \$20 or \$35 surcharge and an additional fee based on the amount of the fine. There may be other added charges depending on the type of infraction. For example, certain motor vehicle infractions trigger a Transportation Fund surcharge of 50% of the fine. With the various additional charges, the total amount due can be over \$300 but often is less than \$100.

An infraction is not a crime, and violators can pay the fine by mail without making a court appearance.

Motor Bus Certificates

State law prohibits people and entities from operating motor buses without obtaining a certificate from DOT or the Federal Highway Administration that certifies that public convenience and necessity require the operation of a bus over the route (CGS § 13b-80) (i.e., a motor bus certificate).

Those seeking a certificate must apply to DOT, and upon receiving an application, DOT must notify the following, in writing, of the pending application: (1) the mayor of each city, the warden of each borough, or the first selectman of each town in or through which the applicant desires to operate and (2) any common carrier that operates over any portion of the route, or on another route substantially parallel to it, for which the certificate is requested. The municipalities may petition the department regarding routes, fares, speed, schedules, continuity of service, and the convenience and safety of passengers and the public. If they do so, DOT may hold a hearing and provide notice to interested parties at least one week before the hearing.

Motor bus regulations require, among other things, certificate holders to obtain permission in advance for modifying routes or schedules (CT Public Utilities Commission docket 8500 (Feb 27, 1952)).

Related Case — Motor Bus Certificates

In 2019, as part of ongoing litigation regarding the rights of motor

bus certificate holders over certain bus routes, the Superior Court issued a decision holding that the General Statutes require all motor bus operators to have certificates, including those who operate routes under contract with the state. The court stated that, concerning CGS §§ 13b-34 and 13b-80, “[n]either statute exempts any person from the certificate requirement (*DATTCO, Inc. v. DOT*, 2019 WL 1386346 (Feb. 11, 2019)).

Alternative Delivery Methods

By law, the DOT commissioner may designate certain projects to be built using alternatives to the traditional “design-bid-build” construction process, specifically, the “construction manager at risk” (CMAR) with a guaranteed maximum price and “design-build” processes.

“Design-bid-build,” “construction-manager-at-risk,” and “design-build” use different approaches to design and build construction projects. The methods differ chiefly in how they assign responsibility for design and construction services, as follows:

1. In design-bid-build, the most traditional method, the owner has separate contracts with the designer and the builder, and the project design is completed before bids are solicited for a construction contract.
2. In CMAR, the owner generally contracts with a single construction manager, who works with the designer and then provides labor, materials, and project management during construction. The CMAR method typically guarantees the maximum cost of the work.
3. In the design-build approach, the owner contracts with a single entity that both designs and builds the project.

Manual on Uniform Traffic Control Devices (MUTCD)

The MUTCD is a handbook published by the Federal Highway Administration that specifies standards and guidance for the design,

installation, and use of traffic control devices (e.g., signs, traffic signals, and road markings). Federal regulations make the MUTCD the national standard for all traffic control devices installed on any street, highway, or bicycle trail open for public travel. The regulations also require state regulations and manuals on traffic control devices to substantially conform to the MUTCD and give states two years to adopt changes to the MUTCD (23 C.F.R. § 655.603).

Connecticut has incorporated the MUTCD into its traffic control device regulations by reference (e.g., Conn. Agencies Regs. § 14-298-500).

Tourist Attraction Guide Sign Program for Limited Access Highways

DOT currently administers a program that allows qualifying attractions to be included on an “attractions” sign near highway exits. Qualifying attractions are those (1) with a primary purpose of satisfying the needs of visitors from outside the immediate area for recreational, educational, scientific, environmental, natural, cultural, historical, or entertainment activities and (2) meeting other designated criteria (e.g., operating hours). This program is administered separately from the Specific Information Signs program.

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute

Yea 33 Nay 2 (03/24/2021)