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## OLR Bill Analysis

**sHB 5255 (as amended by House “A”)\***

### **AN ACT CONCERNING RECOMMENDATIONS BY THE DEPARTMENT OF TRANSPORTATION.**

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[BACKGROUND](#)

**SUMMARY**

This bill makes various changes in the transportation statutes, including the following:

1. modifies laws pertaining to illegal encroachments on state highway property and increases the penalties for illegal encroachment;

2. beginning in FY 25, freezes urban transit district funding at FY 24 levels and requires the Department of Transportation (DOT) to establish a grant program to help districts expand and regionalize services;
3. allows the DOT to enter and use private property during commissioner-declared emergencies to restore service or correct unsafe conditions;
4. establishes conditions under which certain vehicles may operate in a “platoon”; and
5. codifies the Office of the State Traffic Administration’s (OSTA) authority to designate and make rules for high occupancy vehicle (HOV) lanes and allows “blood transport vehicles” to use HOV lanes under specified conditions.

\*House Amendment “A” (1) eliminates provisions in the underlying bill banning open alcoholic beverage container possession in a motor vehicle and allowing DOT to take land for bicycle lanes and trails by eminent domain and (2) adds provisions on HOV lanes, wrong way signs, a microtransit pilot program, marine pilots, external speaker noise, transit district funding, a transit mobile application, the sale of goods on Ethan Allen Highway in Ridgefield, and golf carts crossing Route 156 in Old Lyme.

EFFECTIVE DATE: July 1, 2022, unless otherwise noted below.

## **§ 1 — CROSSWALKS**

*Prohibits drivers from parking within 25 feet of a mid-block crosswalk, but grandfathers in existing parking spaces and broadens an exception for crosswalks and intersections with curb extensions*

Current law prohibits drivers from parking within 25 feet of an intersection or a crosswalk located at an intersection. The bill generally broadens this prohibition to include crosswalks not located at intersections (i.e., mid-block crosswalks).

However, the bill adds another exception to this prohibition, grandfathering in any parking space established on or before October 1,

2022. It also expands an existing exemption allowing parking within 10 feet of an intersection that has a curb extension treatment that is as wide or wider than the parking lane. Currently, this exception applies only to intersections located in and comprised entirely of highways under New Haven’s jurisdiction. Under the bill, it applies to any intersection or marked crosswalk with such a curb extension treatment.

EFFECTIVE DATE: October 1, 2022

**§§ 2 & 3 — SPEED LIMITS DURING WEATHER EVENTS OR EMERGENCIES**

*Allows the DOT commissioner to modify speed limits during weather events or emergencies, so long as the limit is posted on electronic signs*

The bill allows the DOT commissioner to modify speed limits during weather events or emergencies, so long as there are electronic signs indicating the speed limit. The bill also makes a conforming change to make exceeding the commissioner-established speed limit subject to existing speeding penalties.

EFFECTIVE DATE: October 1, 2022

**§ 4 — INDEMNIFICATION FOR RAILBANKING ARRANGEMENTS**

*Allows the DOT commissioner to indemnify a railroad company in connection with a railbanking agreement*

The bill allows the DOT commissioner, if he deems it in the state’s best interest, to indemnify and hold harmless any railroad company in connection with an interim trail use and rail banking arrangement executed according to federal law. “Railbanking” is a voluntary arrangement between a railroad company and another entity to use an out-of-service rail corridor as a trail until a railroad might need the corridor again for rail service.

**§§ 5-8 — CONTRACTING CHANGES**

*Makes changes related to representations required in certain contracts*

***Nondiscrimination Provisions (§ 5)***

Existing law generally requires that state contracts, municipal public works contracts, and a quasi-public agency contracts contain a nondiscrimination affirmation provision to certify that the contractor (1)

understands the law's nondiscrimination and affirmative action obligations and (2) will maintain a nondiscrimination policy for the contract's duration.

Under current law, the authorized signatory of the contract must demonstrate his or her understanding of this obligation by either (1) providing an affirmative response in the required online bid or request for proposals or (2) initialing the affirmation provision in the contract. Under the bill, the signatory may also do so by signing the contract.

### **Consulting Agreements (§ 6)**

By law, goods and services contracts with a total value of \$50,000 or more in a calendar or fiscal year must have a representation as to whether a consulting agreement had been entered into in connection with the contract. The bill eliminates the requirement that it be "sworn as true" to the signatory's best knowledge and belief, instead requiring it be made to his or her best knowledge and belief. As under existing law, the representation is subject to the penalty of false statement.

The bill also makes technical changes related to the information included in applicable consulting agreement representations.

### **Minor and Conforming Changes (§§ 7 & 8)**

The bill eliminates a reference to "most qualified or highest ranked" person in a provision about certification requirements for large state contracts.

The bill also makes a conforming change related to PA 21-76, which eliminated the false penalty statement for certifications related to contractor investments in Iran.

## **§§ 9 & 10 — ENTERING PRIVATE PROPERTY DURING EMERGENCIES**

*Allows DOT to enter and use private property during commissioner-declared emergencies to restore service or correct unsafe conditions, subject to certain requirements*

The bill gives DOT the right to enter and use private property during commissioner-declared emergencies to, as applicable, (1) correct unsafe or emergency conditions or (2) restore the highway system or

interrupted essential rail or transit services. Under current law, DOT must follow existing laws governing property rights acquisition procedures before entering private property (CGS § 13a-73).

Under the bill, DOT must (1) make a reasonable effort to notify a private property owner before entering the property and (2) compensate the property owner for the property use in accordance with state law pertaining to real property acquisition.

By law, the DOT commissioner may declare an emergency under any of the following circumstances:

1. a public railroad or its facilities are deemed to be in unsafe condition or there is an interruption of essential rail services
2. a public transit facility or airport, or its equipment, is damaged due to natural disaster or incurs substantial casualty loss that results in an unsafe condition or interruption of essential services; or
3. an emergency condition exists on a public road that demands immediate attention to ensure public safety.

## **§ 11 — OVERSIZE/OVERWEIGHT PERMIT FEES**

*Increases the fee for electronically transmitted oversize/overweight permits and imposes an engineering analysis fee on superloads*

The bill increases the fee for electronically transmitted oversize/overweight permits from \$5 to \$12. It also imposes an additional engineering analysis fee on vehicles and trailers or commercial combination vehicles that exceed a permit weight of 200,000 pounds (known as superloads). The fee amount is \$2 per thousand pounds, or fraction thereof, over 200,000 pounds.

## **§§ 12-14 — DUI-RELATED CHANGES**

*Makes changes related to (1) tests for impairment based on cannabis odor, (2) impaired boating and diversionary programs, and (3) drug influence evaluation administration*

### ***Testing Based on Cannabis Odor (§ 12)***

Under existing law, the odor of cannabis or burnt cannabis does not constitute probable cause or reasonable suspicion and cannot be used to

justify a stop or search of a person or vehicle. But current law allows law enforcement officers to test for impairment based on this odor if the officer reasonably suspects that a motor vehicle's driver or passenger is violating the DUI laws. Under the bill, the officer may only test the driver based on this suspicion.

The bill also deletes an obsolete reference.

### ***Diversionsary Programs and Impaired Boating (§ 13)***

The bill adds impaired boating to the list of offenses excluded from participation in the accelerated rehabilitation diversionary program.

Under existing law, people charged with a first violation of an impaired boating offense are already eligible for the pretrial impaired driving intervention program (CGS § 54-56r(a)(1)). By excluding impaired boating offenses from the accelerated rehabilitation program, impaired boaters may be convicted upon their second offense, as is already the case with impaired drivers.

### ***Drug Influence Evaluations (§ 14)***

PA 21-1, June Special Session, authorized the use of drug influence evaluations in investigations of impaired driving. The bill specifies that these evaluations do not need to start within two hours after the suspect drove. By law, chemical tests of blood, breath, and or urine for alcohol or drugs generally must be started within the two-hour timeframe.

## **§ 15 — TRUCK PLATOONING**

*Establishes conditions under which certain vehicles may operate in a "platoon" (i.e., electronically coordinate speed and following distances)*

This bill establishes conditions under which certain vehicles may operate in a "platoon" and exempts them from the law's ban on following too closely. Under the bill, a platoon is two or three commercial motor vehicles or buses (other than school buses) traveling in a unified manner at electronically coordinated speeds at following distances closer than would be reasonable and prudent without the coordination.

### ***Platoon Plan***

Under the bill, a person may operate a platoon on public roads in the state if the person (1) files with the DOT commissioner a general plan for platoon operations and (2) the commissioner approves the plan. When the commissioner receives a platoon operations plan, he must approve or reject it within 15 days. If he rejects the plan, he must provide a written explanation as to why it was rejected and guidance for resubmission.

### ***Platoon Operation***

The bill requires vehicles in a platoon to obtain a DOT-issued mark indicating that the vehicle is part of a platoon and display it, as DOT prescribes, at all times while platooning. Each person operating a vehicle in a platoon must be seated in the driver's seat and hold a license of the appropriate class for the vehicle being driven. The bill also prohibits vehicles in a platoon from pulling or dragging another vehicle in the platoon.

### ***Penalty***

Anyone who violates the bill's platooning provisions faces a fine of \$100 to \$150. If violation causes an accident, the fine is between \$100 and \$200.

## **§§ 16 & 17 — ILLEGAL ENCROACHMENTS IN RIGHT-OF-WAY**

*Modifies laws about illegal encroachments on state highway property, including by allowing DOT to take immediate corrective action when necessary and to bill violators for the costs; increases the penalties for illegal encroachment*

Existing law prohibits any person, firm, or corporation from doing the following to a state highway (including appurtenances to the highway) without a permit: (1) excavating within or under it; (2) placing obstructions or substructions within, under, upon, or over it; or (3) interfering with construction or maintenance of, or drainage from it. The bill specifically adds utility companies to the list of people to whom this prohibition applies.

By law, anyone who does these things without a permit, or who violates the conditions of the permit, must remove or alter the obstruction, substruction, or excavation within 30 days after the commissioner sends a notice requiring them to do so. The bill



additionally allows the commissioner, upon someone's failure to comply with the requirements in the notice within 30 days, to (1) fill in or close any excavation or remove or alter any excavation, obstruction, or substruction and (2) bill them for the expenses incurred.

If the DOT commissioner determines that an unsafe condition exists within, under, upon, or over the state highway that requires immediate corrective action, the bill allows the DOT commissioner to authorize this action and bill the violator for the costs.

Under the bill, the state is not liable for any damage to private property placed in state highways without a permit.

The bill increases the penalty for violations of these encroachment provisions. Under current law, the penalty is up to \$100 for a first offense and between \$100 and \$500 for a subsequent offense. Under the bill, the penalty is between \$2,000 and \$5,000 for each offense. The bill also makes each violation a separate and distinct offense and makes each day the violation continues a separate and distinct offense. Lastly, the bill makes a conforming change to eliminate these violations from processing through the centralized infractions bureau.

## **§§ 18-20 — TECHNICAL CHANGES**

*Makes several technical changes in laws on work zone speed cameras and pedestrian safety zones*

The bill makes several technical changes in laws on work zone speed cameras and pedestrian safety zones.

## **§ 21 — HOV LANES AND BLOOD TRANSPORT VEHICLES**

*Codifies the Office of the State Traffic Administration's (OSTA) authority to designate and make rules for HOV lanes and allows "blood transport vehicles" to use HOV lanes under specified conditions and*

Under existing agency practice, OSTA designates lanes on multi-lane limited access highways as HOV lanes and erects signs indicating the lanes and the rules for their use. The bill codifies this authority and allows OSTA to adopt regulations to implement the bill's provisions.

The bill also requires OSTA to allow "blood transport vehicles" to use HOV lanes, regardless of the number of passengers, when the vehicle is

transporting human blood and blood products between a collection point and a hospital or storage center. A blood transport vehicle is a vehicle owned by a nonprofit general blood banking operation or state-licensed nonprofit blood collection facility and used to transport blood and blood products (e.g., plasma or platelets).

To use the HOV lane, the bill requires blood transport vehicles to display, on each side and the rear, a removable decal or sign indicating that it is transporting blood and blood products between a collection point and a hospital or storage center. The vehicle must also display the logo or emblem of the blood banking operation or collection facility, as applicable, on each side of the vehicle.

Federal law establishes HOV lane rules that states must follow, requiring that the lanes be restricted to vehicles with at least two occupants with certain exceptions (23 U.S.C. § 166). The recent federal infrastructure bill expanded these exceptions to include blood transport vehicles (Infrastructure Investment and Jobs Act, P. L. 117-58, § 11527).

EFFECTIVE DATE: October 1, 2022

## **§ 22 — WRONG WAY SIGNS**

*Sets January 1, 2024, as the deadline for DOT to finish installing wrong way signs on exit ramps from interstate highways that are prone to accidents*

The bill sets January 1, 2024, as the deadline by which DOT must finish installing wrong way signs on exit ramps from interstate highways that are prone to accidents, as required in the 2020 bond act (PA 20-1, § 40).

EFFECTIVE DATE: Upon passage

## **§ 23 — MICROTRANSIT PILOT PROGRAM**

*Requires DOT to establish a microtransit pilot program*

The bill requires the DOT commissioner to establish a two-year pilot program to test microtransit services in the state, including in rural areas not currently served by public transportation. “Microtransit” is transportation by a multi-passenger vehicle that uses a digital network or software application to offer fixed or dynamically allocated routes

and schedules in response to individual or aggregate consumer demand. Under the bill, DOT may contract with third parties to provide microtransit services.

By January 1, 2025, the bill requires the DOT commissioner to submit a report to the Transportation Committee on the pilot program's implementation and any recommendations for future use of microtransit services.

EFFECTIVE DATE: Upon passage

#### **§ 24 — MARINE PILOT EXTENSION OF ROUTE**

*Allows Connecticut-licensed marine pilots to apply for an "extension-of-route" using experience gained while piloting under the authority of a federal pilotage endorsement*

The bill provides an alternative way for Connecticut-licensed marine pilots to meet the experience requirement for an "extension-of-route." By law, the Connecticut Pilot Authority (CPA) issues pilotage licenses for specific geographic areas of the Long Island Sound and allows licensees to apply for an expansion of the areas in which they may operate (i.e., "extension-of-route") (see BACKGROUND).

Under current law, a marine pilot applying for an extension-of-route must document to CPA that, within the previous 36 months before applying, he or she made six round trips through the applicable port or waterway (1) as an observing pilot on registered or enrolled vessels that are subject to the state's compulsory pilotage requirements and (2) while doing the piloting work under a licensed pilot's supervision. Under the bill, an applicant may alternatively document that he or she made those six trips as a pilot of record on American enrolled vessels on which he or she was not a crew member. Existing law allows experience on American enrolled vessels to be used to obtain initial marine pilot licensure (CGS § 15-13(a)).

#### **§ 25 — MUNICIPAL ORDINANCE ON EXTERNAL SPEAKER NOISE**

*Authorizes municipalities to impose higher penalties on violators of ordinances regulating the use of external speakers attached to a vehicle*

By law, municipalities have general powers to, among other things, preserve the public peace and good order and prevent disturbing noises

(CGS § 7-148(c)(7)(H)(viii)). Municipalities may exercise their general powers by adopting regulations and ordinances that may be enforced through penalties of up to \$250 unless the law specifies otherwise (CGS § 7-148(c)(10)(A)).

The bill authorizes municipalities to set comparatively higher penalties when adopting these general power ordinances to regulate the operation and use of external speakers attached to a motor vehicle. Under the bill, the ordinances may (1) prescribe a penalty of up to \$1,000 for first violations, \$1,500 for second violations, and \$2,000 for third or subsequent violations and (2) provide for seizing and forfeiting the speakers to the municipality, with one exception. The forfeited speakers must be sold at a municipal public auction, with sale proceeds paid to the municipality's treasurer for deposit into the municipality's general fund.

The bill exempts speakers from forfeiture to the extent an owner, by reason of any act or omission by another person, did not know and could not have reasonably known that the speakers were being used or were intended to be used in violation of an ordinance.

EFFECTIVE DATE: October 1, 2022

## **§ 26 — TRANSIT DISTRICT FUNDING**

*Beginning in FY 25, freezes urban transit district funding at FY 24 levels and requires DOT to establish a grant program to help these districts maintain, expand, and regionalize services*

Beginning with FY 25, the bill freezes funding for transit districts in an urbanized area (urban transit districts) at the FY 24 level but maintains the existing funding formula for transit districts located in a rural area. Under the bill, an "urbanized area" is one with a population of at least 50,000 people and defined and designated in the most recent decennial census as an "urbanized area" by the U.S. Secretary of Commerce. "Rural area" means an area with a population of less than 50,000 that has not been designated as an urbanized area.

However, the bill requires the DOT commissioner to establish a grant program, starting in FY 25, to help urban transit districts maintain and

expand transit services; provide regional services; and upgrade equipment, facilities, and other transit-related infrastructure. The commissioner must establish an application process, eligibility and evaluation criterion, and reporting requirements for the grant program. He must also prioritize grants to transit districts formed by a municipality with a population at least 100,000 or with member municipalities having a combined population at least 100,000. Population is based on the Department of Public Health's most recent population estimate.

The bill also updates outdated references in the existing funding formula provisions to make them consistent with federal law and department practice.

#### **§ 27 — TRANSIT MOBILE APPLICATION**

*Requires DOT to develop a mobile app to provide transit district service information and trip planning services*

Starting October 1, 2023, the bill requires DOT to develop and maintain a mobile application ("app") to (1) integrate real-time information on transit services provided by transit districts and (2) provide trip planning services to the public. Each district must provide real-time information about its services, including the schedule, routes, trips, and location of the transit services in the way the DOT commissioner prescribes.

EFFECTIVE DATE: Upon passage

#### **§ 28 — SALE OF GOODS ON ETHAN ALLEN HIGHWAY**

*Requires DOT to issue a request for proposals on the sale or offer of goods within the right-of-way located at approximately 300 Ethan Allen Highway in Ridgefield*

By July 1, 2022, the bill requires DOT to issue a request for proposals on the sale or offer of goods within the right-of-way located at approximately 300 Ethan Allen Highway in Ridgefield. It requires DOT to do so regardless of any OSTA-adopted regulations.

EFFECTIVE DATE: Upon passage

#### **§ 29 — GOLF CARTS CROSSING ROUTE 156**

*Allows a person to drive a golf cart on Route 156 in Old Lyme to cross the road, if the municipality authorizes golf cart operation on its roads*

The bill allows a person to drive a golf cart on Route 156 in Old Lyme, but only for crossing the road and as long as the municipality's traffic authority authorizes golf cart operation on its roads (see BACKGROUND).

EFFECTIVE DATE: Upon passage

## **BACKGROUND**

### ***Marine Pilots***

A marine pilot is not a member of a vessel's crew but comes aboard to help navigate the vessel in or out of port. State-licensed marine pilots are expected to act in the public interest and take reasonable actions to prevent ships under their navigational direction from engaging in unsafe operations.

Under existing law, the CPA licenses marine pilots. The Connecticut Pilot Commission, which is within the CPA for administrative purposes, advises the CPA on marine pilot licensure, safe conduct of vessels, pilotage rates, and the protection of ports and waters in Connecticut. Connecticut marine pilots must, among other things, (1) hold a federal ship master's license (which is required to serve as a ship captain) and a federal pilotage license and (2) complete the required number of trips as a pilot or observing pilot (CGS § 15-13; Conn. Agencies Regs., § 15-15a-7).

### ***Registered and Enrolled Vessels***

Registered vessels typically operate in foreign commerce, whereas enrolled vessels generally carry domestic cargo between U.S. ports (referred to as "coastwise" under federal law). Federal law requires that a federally licensed marine pilot accompany coastwise vessels (46 C.F.R. § 15.812(a)(1)).

### ***Municipal Authorization of Golf Carts***

By law, municipalities may authorize the use of golf carts on roads under their jurisdiction, subject to the following conditions:

1. the permitted use must be on roads with a posted speed limit of 25 miles per hour or less and limited to daylight hours,
2. golf carts must be equipped with an operable horn that meets state legal requirements and a flag that helps drivers of other vehicles to see the cart, and
3. operators must carry a valid driver's license (CGS § 14-300g(a)).

**Related Bills**

sSB 390 (File 386), favorably reported by the Transportation Committee, (1) contains identical provisions on HOV lanes, wrong way signs, and a microtransit pilot program and (2) allows golf carts to cross state-owned roads in municipalities that allow golf cart use on municipal roads.

sHB 5256 (File 381), favorably reported by the Transportation Committee, phases out the state subsidy for certain transit districts formed by a municipality or member municipalities that do or does not have a combined population of at least 100,000.

HB 5259 (File 292), favorably reported by the Transportation Committee, contains identical provisions on marine pilot extensions of route.

HB 5422 (File 404), favorably reported by the Transportation Committee, contains identical provisions on external speaker noise.

**COMMITTEE ACTION**

Transportation Committee

Joint Favorable Substitute

Yea 23 Nay 12 (03/24/2022)

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 31 Nay 17 (04/22/2022)