
OLR Bill Analysis

sHB 5255

AN ACT CONCERNING RECOMMENDATIONS BY THE DEPARTMENT OF TRANSPORTATION.

TABLE OF CONTENTS:

SUMMARY

§§ 1 & 2 — OPEN CONTAINERS

Generally prohibits possessing an open alcoholic beverage container in the passenger area of a motor vehicle, providing exceptions for for-hire transportation and RVs

§ 3 — 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

§§ 4 & 5 — 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

§ 6 — INDEMNIFICATION FOR RAILBANKING ARRANGEMENTS

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

§§ 7-10 — CONTRACTING CHANGES

Makes changes to related to representations required in certain contracts

§§ 11 & 12 — 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

§ 13 — OVERSIZE/OVERWEIGHT PERMIT FEES

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

§§ 14-16 — 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

§ 17 — LAND ACQUISITION FOR BIKE LANES AND TRAILS

Expands the DOT commissioner's eminent domain power to allow him to take land for bicycle lanes and multi-use trails

§ 18 — TRUCK PLATOONING

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

§§ 19 & 20 — ILLEGAL ENCROACHMENTS IN RIGHT-OF-WAY

Modifies laws pertaining to 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

§§ 21-23 — TECHNICAL CHANGES

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

BACKGROUND

SUMMARY

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

1. generally prohibits possessing an open alcoholic beverage container in the passenger area of a motor vehicle, with exceptions for for-hire transportation and RVs;
2. modifies laws pertaining to illegal encroachments on state highway property and increases the penalties for illegal encroachment;
3. allows the Department of Transportation (DOT) to enter and use private property during commissioner-declared emergencies to restore service or correct unsafe conditions;
4. expands the DOT commissioner’s eminent domain power to allow him to take land for bicycle lanes and multi-use trails; and
5. establishes conditions under which certain vehicles may operate in a “platoon.”

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

§§ 1 & 2 — OPEN CONTAINERS

Generally prohibits possessing an open alcoholic beverage container in the passenger area of a motor vehicle, providing exceptions for for-hire transportation and RVs

This bill prohibits possessing an open alcoholic beverage container in a motor vehicle’s “passenger area” while the vehicle is on a public road.

An open alcoholic beverage container is a bottle, can, or other receptacle that contains an alcoholic beverage and is either (1) open or has a broken seal or (2) partially empty. Under federal law, states are required to adopt an open container prohibition or face fiscal penalties (see BACKGROUND).

The prohibition does not apply to passengers in (1) vehicles designed, maintained, and used primarily for for-hire transportation, including taxis, motor buses, and livery vehicles; (2) transportation network company (e.g., Uber and Lyft) vehicles; or (3) a recreational vehicle's living quarters.

People who violate the bill's provisions face a fine of up to \$500. Under existing law, drivers who drink an alcoholic beverage while driving are guilty of a class C misdemeanor (punishable by up to three months imprisonment and a fine of up to \$500, CGS § 53a-213).

Passenger Area

The bill's open container prohibition applies to occupants of a vehicle's passenger area, which means (1) the area designed to seat the driver and any passenger while the vehicle is moving and (2) any area that is readily accessible to the driver or a passenger while they are in seating position. In motor vehicles without trunks, "passenger area" does not include locked glove compartments, the area behind the last upright seat, or an area not normally occupied by a driver or passenger.

Reporting (§ 2)

Existing law requires police departments to collect and report data to the Office of Policy and Management (OPM) on (1) traffic stops (including the characteristics of the person stopped and the alleged violation) and (2) complaints of discriminatory stops. It also requires OPM to annually report on the prevalence and disposition of these stops and complaints. The bill specifically requires that this report review stops for open container violations.

EFFECTIVE DATE: October 1, 2022, for the open container prohibition.

§ 3 — 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

Under current law, drivers are prohibited 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, this exception applies to any intersection or marked crosswalk with such a curb extension treatment.

EFFECTIVE DATE: October 1, 2022

§§ 4 & 5 — 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 makes a conforming change to make exceeding the commissioner-established speed limit subject to existing speeding penalties.

EFFECTIVE DATE: October 1, 2022

§ 6 — 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.

§§ 7-10 — CONTRACTING CHANGES

Makes changes to related to representations required in certain contracts

Nondiscrimination Provisions (§ 7)

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 (§ 8)

By law, goods and services contracts with a total value of \$50,000 or more in a calendar or fiscal year have to include 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 (§§ 9 & 10)

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.

§§ 11 & 12 — 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 when any of the following circumstances occur:

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.

§ 13 — 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.

§§ 14-16 — 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 (§ 14)

Existing law provides that 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.

Diversions Programs and Impaired Boating (§ 15)

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 currently the case with impaired drivers.

Drug Influence Evaluations (§ 16)

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 was driving. By law, chemical tests of blood, breath, and or urine for alcohol or drugs generally must be started within the two-hour timeframe.

§ 17 — LAND ACQUISITION FOR BIKE LANES AND TRAILS

Expands the DOT commissioner's eminent domain power to allow him to take land for bicycle lanes and multi-use trails

Under existing law, the DOT commissioner has the power to take any land he finds necessary for the layout, alteration, construction, extension, widening, change of grade, repair, maintenance, or other improvement of any state highway. The bill expands this eminent domain power to allow him to take property necessary for bicycle lanes and multiuse trails. Under the bill, existing eminent domain provisions and restrictions apply, including requirements for notice and payment to property owners.

§ 18 — 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 prohibition on following too closely. Under the bill, a platoon means 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.

§§ 19 & 20 — 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 the commissioner incurs.

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.

§§ 21-23 — 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.

BACKGROUND

Federal Open Container Law Requirement

Federal law requires states to adopt an open container law that meets federal compliance criteria (23 U.S.C. § 154). To comply, state law must apply to (1) possession and consumption, (2) the entire passenger area, (3) all alcoholic beverages, (4) all occupants, and (5) all motor vehicles. It must also provide for primary enforcement (i.e., law enforcement may issue a citation upon observing someone violating the law) (23 C.F.R. § 1270.4).

States that do not have a compliant law must transfer 2.5% of their annual apportionment under specified highway construction programs (i.e., National Highway Performance Program and the Surface Transportation Block Grant Program) to specified traffic safety programs (i.e., 402 Highway Safety DUI Countermeasures Program or the Hazard Elimination Program).

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute

Yea 23 Nay 12 (03/24/2022)