



House of Representatives

General Assembly

File No. 456

January Session, 2023

Substitute House Bill No. 6744

House of Representatives, April 5, 2023

The Committee on Transportation reported through REP. LEMAR of the 96th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING COMPENSATORY REFORESTATION PLANS, THE CONSTRUCTION OF NOISE BARRIERS, DECIBEL TESTING FOR MOTOR VEHICLES AND IDLING MOTOR VEHICLES.

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

1 Section 1. (NEW) (*Effective October 1, 2023*) (a) On or before July 1,
2 2024, and annually thereafter, the Department of Transportation shall
3 develop and submit to the Department of Energy and Environmental
4 Protection, a plan for the compensatory reforestation for all areas of not
5 less than one-half acre in size that are owned or maintained by the
6 Department of Transportation and scheduled for deforestation. The
7 compensatory reforestation plan shall establish a goal of no net loss of
8 existing forested areas based upon a reasonable and practical tree
9 replacement factor developed in accordance with the regulations
10 adopted pursuant to this section. Such plan shall be subject to approval
11 by the Department of Energy and Environmental Protection. After the
12 date the Department of Transportation submits such plan, the
13 department shall not commence a project that would result in the
14 deforestation of land of not less than one-half acre in size that is owned

15 or maintained by the department unless the department's compensatory
16 reforestation plan is approved by the Department of Energy and
17 Environmental Protection.

18 (b) Each compensatory reforestation plan developed pursuant to this
19 section shall: (1) Provide that, if tree planting adjacent to the deforested
20 area is not feasible, tree planting shall be conducted within the
21 municipality in which the deforestation occurred, within five miles of
22 the site of deforestation or on an off-site property in accordance with the
23 provisions of this section; and (2) include appropriate and approved
24 methods for the planting, protection, care and management of trees and
25 other related natural resources.

26 (c) The Department of Energy and Environmental Protection shall
27 adopt regulations, in accordance with the provisions of chapter 54 of the
28 general statutes, to develop requirements for a compensatory
29 reforestation plan. Such requirements shall include, but need not be
30 limited to, the following:

31 (1) If the Department of Energy and Environmental Protection or the
32 Department of Transportation determines that it is not feasible to
33 conduct the required tree-planting efforts on the site of deforestation,
34 the tree planting shall be conducted first on state property within the
35 municipality in which the deforestation occurred or, secondly, on
36 municipal property within the municipality in which the deforestation
37 occurred, provided the municipality agrees to such tree planting. For
38 purposes of this subdivision, "municipal property" means property
39 owned by a municipality, including parks, streets, schools, municipal
40 facilities and open space and recreational areas;

41 (2) If the Department of Energy and Environmental Protection or the
42 Department of Transportation determines that it is not feasible to
43 conduct such tree-planting efforts on the site of deforestation or within
44 the municipality, the tree planting shall be conducted on property
45 located within five miles of the site of the deforestation that is owned or
46 maintained by a state agency, as defined in section 4-67g of the general
47 statutes, or any other municipality, provided the state agency or other

48 municipality, as the case may be, agrees to such tree planting;

49 (3) If the Department of Energy and Environmental Protection or the
50 Department of Transportation determines that it is not feasible to
51 conduct the tree-planting efforts on the site of deforestation, within the
52 municipality or within five miles of the site of deforestation, the tree
53 planting shall be conducted on an off-site property owned or
54 maintained by a state agency, provided the state agency agrees to such
55 tree planting;

56 (4) For any such tree planting, the Department of Transportation shall
57 use native species when practicable;

58 (5) The shape or configuration of the reforested area may be
59 substantially similar to the shape or configuration of the deforested area;

60 (6) The replacement of trees shall be determined by the tree
61 replacement factor and shall be based upon accepted forestry research
62 and practices that show the average tree density within urban areas to
63 be two hundred four trees per acre of tree cover;

64 (7) In using the tree replacement factor, or TRF, for sites that are
65 deforested, the following number of stems shall be calculated for
66 seeding, caliper and whip/container trees:

T1 TRF = 204 (2" - 2 1/2") caliper trees per acre

T2 = 408 whip/container (4' - 6') trees per acre

T3 = 1210 tree seedlings per acre;

67 (8) The seedlings used for such replanting shall be planted from six
68 to ten feet apart, or at a distance mutually agreed to by the Departments
69 of Energy and Environmental Protection and Transportation, and such
70 seedlings shall be those that are the most suitable for the site; and

71 (9) The species of caliper nursery-grown trees measured at two and

72 one-half inches and whips at one and one-half inches shall be planted
73 based upon the compensatory reforestation plan and subject to the
74 standards established by the American Horticulture Industry
75 Association. Diversity in species composition shall be required to reduce
76 the risk of widespread loss of trees to single insect and disease
77 infestation. Similar species shall not exceed thirty per cent of the total
78 planting.

79 (d) The Department of Transportation shall enter into a
80 memorandum of agreement with the Department of Energy and
81 Environmental Protection to reimburse the Department of Energy and
82 Environmental Protection for the actual labor hours attributable to the
83 review and implementation of the Department of Transportation's
84 compensatory reforestation plan pursuant to this section. In the event
85 the reforestation required by a compensatory reforestation plan cannot
86 be accomplished with regard to a project commenced by the
87 Department of Transportation, the Department of Energy and
88 Environmental Protection and the Department of Transportation may
89 agree within such memorandum of agreement that the Department of
90 Transportation shall pay an amount equal to the value of the number of
91 trees required, as determined by the tree replacement factor and in
92 accordance with the approved compensatory reforestation plan. Any
93 such payment shall be deposited in an account controlled by the
94 Department of Energy and Environmental Protection to be used for
95 reforestation by the department. Such memorandum of agreement shall
96 be part of the Department of Transportation's compensatory
97 reforestation plan.

98 Sec. 2. (NEW) (*Effective October 1, 2023*) For the purposes of this
99 section, "Type II project" has the same meaning as provided in 23 CFR
100 772.5, as amended from time to time. The Department of Transportation
101 shall develop and implement a Type II program in accordance with the
102 provisions of 23 CFR 772, as amended from time to time, to provide for
103 the construction of noise barriers along an existing highway. The
104 department shall conduct a state-wide evaluation of the feasibility and
105 reasonableness of constructing noise barriers for Type II projects and

106 identify the benefits, length, location and approximate construction
107 costs associated with such projects. The department shall establish a
108 priority rating system to rank such projects and use such system to
109 establish a priority list of such projects.

110 Sec. 3. (*Effective from passage*) On or before February 1, 2024, the
111 Department of Transportation shall submit, in accordance with the
112 provisions of section 11-4a of the general statutes, to the joint standing
113 committee of the General Assembly having cognizance of matters
114 relating to transportation, the results of the evaluation conducted
115 pursuant to section 2 of this act and a description of the priority ranking
116 system and the priority list developed pursuant to said section.

117 Sec. 4. Section 19 of public act 22-44 is repealed and the following is
118 substituted in lieu thereof (*Effective from passage*)

119 Not later than [January] October 1, 2023, the Commissioner of Motor
120 Vehicles shall submit, in accordance with the provisions of section 11-
121 4a of the general statutes, a plan to implement a state-wide decibel level
122 testing program for motor vehicles and motorcycles at official emissions
123 inspection stations, as defined in section 14-164b of the general statutes,
124 and any recommendations for legislation and funding necessary for
125 such implementation, to the joint standing committees of the General
126 Assembly having cognizance of matters relating to transportation,
127 appropriations and the budgets of state agencies and finance, revenue
128 and bonding.

129 Sec. 5. Subsection (c) of section 14-80a of the general statutes is
130 repealed and the following is substituted in lieu thereof (*Effective July 1,*
131 *2023*):

132 (c) The Commissioner of Motor Vehicles shall, with the advice of the
133 Commissioner of Energy and Environmental Protection, adopt
134 regulations, in accordance with the provisions of chapter 54,
135 establishing (1) the maximum decibel levels permissible for motor
136 vehicles, which shall not exceed the maximum decibel levels established
137 for motor vehicles by federal law or regulation, and (2) the procedure

138 for testing maximum decibel levels. The commissioner shall amend such
139 regulations to reflect industry standards and advancements in
140 technology and shall submit the amended regulations to the standing
141 legislative regulation review committee under section 4-170 not later
142 than ~~January~~ October 1, 2024.

143 Sec. 6. (NEW) (*Effective October 1, 2023*) Any municipality may, by
144 ordinance adopted by its legislative body, establish a fine for any
145 violation of the prohibition against operating the engine of a motor
146 vehicle for more than three consecutive minutes as set forth in
147 regulations adopted pursuant to section 22a-174 of the general statutes,
148 provided such fine shall not be more than ninety dollars per violation.
149 Any police officer or other person authorized by the chief executive
150 officer of the municipality may issue a citation to any person who
151 commits such violation. Any municipality that adopts an ordinance
152 pursuant to this section shall also adopt a citation hearing procedure
153 pursuant to section 7-152c of the general statutes, as amended by this
154 act, by which procedure such fine shall be imposed. Any fine collected
155 by a municipality pursuant to this section shall be deposited into the
156 general fund of the municipality or in any special fund designated by
157 the municipality.

158 Sec. 7. Subsection (c) of section 7-152c of the general statutes is
159 repealed and the following is substituted in lieu thereof (*Effective October*
160 *1, 2023*):

161 (c) Any such municipality, at any time within twelve months from
162 the expiration of the final period for the uncontested payment of fines,
163 penalties, costs or fees for any citation issued under any ordinance
164 adopted pursuant to section 7-148, ~~[or section]~~ 7-152e, section 5 of this
165 act or section 22a-226d, for an alleged violation thereof, shall send notice
166 to the person cited. Such notice shall inform the person cited: (1) Of the
167 allegations against ~~[him]~~ such person and the amount of the fines,
168 penalties, costs or fees due; (2) that ~~[he]~~ such person may contest ~~[his]~~
169 such person's liability before a citation hearing officer by delivering in
170 person or by mail written notice within ten days of the date thereof; (3)

171 that if [he] such person does not demand such a hearing, an assessment
172 and judgment shall be entered against [him] such person; and (4) that
173 such judgment may issue without further notice. For purposes of this
174 section, notice shall be presumed to have been properly sent if such
175 notice was mailed to such person's last-known address on file with the
176 tax collector. If the person to whom such notice is issued is a registrant,
177 the municipality may deliver such notice in accordance with section 7-
178 148ii, provided nothing in this section shall preclude a municipality
179 from providing notice in another manner permitted by applicable law.

180 Sec. 8. (*Effective October 1, 2023*) On and after October 1, 2023, and
181 until October 1, 2024, the Department of Motor Vehicles shall establish
182 a pilot program to test different methodologies for inspecting the
183 maximum decibel level produced by a motor vehicle at five official
184 emission inspection stations, as defined in section 14-164b of the general
185 statutes, selected by the department for inclusion in such program. Such
186 decibel level inspection shall be conducted at the time a motor vehicle is
187 presented for inspection pursuant to subsection (c) of section 14-164c of
188 the general statutes at a selected official emissions inspection station.
189 The maximum decibel level for a motor vehicle shall not exceed the
190 maximum decibel level permitted pursuant to section 14-80a of the
191 general statutes, as amended by this act, and any regulation adopted
192 thereunder. The different methodologies used to conduct such decibel
193 level inspections shall reflect industry standards and advancements in
194 technology. Not later than January 1, 2025, the department shall submit
195 a report to the joint standing committees of the General Assembly
196 having cognizance of matters relating to transportation, appropriations
197 and the budgets of state agencies and finance, revenue and bonding, in
198 accordance with the provisions of section 11-4a of the general statutes,
199 concerning the implementation of the pilot program, the results of the
200 different methodologies used to conduct such decibel level inspections
201 and recommendations for a state-wide decibel level testing program.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2023</i>	New section
Sec. 2	<i>October 1, 2023</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	PA 22-44, Sec. 19
Sec. 5	<i>July 1, 2023</i>	14-80a(c)
Sec. 6	<i>October 1, 2023</i>	New section
Sec. 7	<i>October 1, 2023</i>	7-152c(c)
Sec. 8	<i>October 1, 2023</i>	New section

Statement of Legislative Commissioners:

In Section 1(c)(3), "practicable" was changed to "feasible" for internal consistency; and in Section 1(c)(9), "and, therefore, similar" was changed to ". Similar" for conciseness.

TRA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Department of Transportation	TF - Cost	500,000	50 million - 100 million
Department of Energy and Environmental Protection	GF - See Below	See Below	See Below
Department of Motor Vehicles	TF - Cost	See Below	See Below

Note: TF=Transportation Fund; GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 24 \$	FY 25 \$
Various Municipalities	Revenue Gain	Potential	Potential

Explanation

Section 1 requires the Departments of Transportation (DOT) and Energy and Environmental Protection (DEEP) to take numerous actions regarding reforestation with respect to planned DOT projects involving deforestation.

This section requires DOT to annually develop and submit to DEEP for approval, a plan for the compensatory reforestation for all DOT-owned and -maintained areas of at least half an acre that are scheduled for deforestation in the upcoming year, with the first plan due by July 1, 2024. The plan must comply with regulations that DEEP adopts, including planting priority as it relates to native species and other reforestation considerations. This has no fiscal impact to DEEP as the department has expertise within its Forestry Division that can be used for this purpose.

This section requires DOT to enter into a memorandum of agreement (MOA) with DEEP to reimburse DEEP for the actual labor hours spent reviewing and implementing DOT's compensatory reforestation plans. If reforestation cannot be accomplished for a given project, then DOT must pay the value of the required trees, as determined by the plan, to an account managed by DEEP for reforestation. This would result in costs to DOT associated with the value of the number of trees required under the reforestation plan, and a revenue gain to DEEP in the same amount.

The annual cost to DOT for developing the plan and for paying DEEP to either plant trees directly and/or fund the newly-established reforestation account is expected to be significant. DOT does not have experience planting trees but, based on the amount of land the department deforests in any given year through both its maintenance and construction programs, reforestation efforts are expected to be in the \$50 million - \$100 million range annually, beginning in FY 25. Minor costs are also expected in FY 24 to support plan development.

Sections 2 and 3 require DOT to conduct an evaluation of constructing noise barriers for Type II projects (i.e., retrofit of existing highways), to establish a priority list of such projects, and to submit the results to the Transportation Committee by February 1, 2024. This is expected to cost up to \$500,000 for DOT to hire a consultant to perform the evaluation and prioritization work.

Section 6 allows municipalities to impose a fine of up to \$90 for violating the vehicle idling ban. This results in a potential revenue gain to municipalities beginning in FY 24. Any revenue gain would be dependent on if the municipality imposes the fine, the amount of the fine, and the number of violations.

Section 8 requires the Department of Motor Vehicles (DMV) to establish a 12-month noise testing pilot program at five of its emissions stations and to submit the results of such program to the Appropriations and Finance, Revenue, and Bonding Committees by January 1, 2025. The cost of such a program depends on planning decisions to be made by

DMV but is not expected to be significant.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the terms of the MOA between DOT and DEEP.

OLR Bill Analysis**sHB 6744*****AN ACT CONCERNING COMPENSATORY REFORESTATION PLANS, THE CONSTRUCTION OF NOISE BARRIERS, DECIBEL TESTING FOR MOTOR VEHICLES AND IDLING MOTOR VEHICLES.*****SUMMARY**

This bill establishes various initiatives to address transportation-related noise and the loss of trees along state highways.

Beginning July 1, 2024, the bill requires the Department of Transportation (DOT) to annually develop and submit to the Department of Energy and Environmental Protection (DEEP) for approval, a plan for compensatory (“no net less”) reforestation for all DOT-owned and -maintained areas of at least half an acre that are scheduled for deforestation. It also requires DOT to develop and implement a program to provide for building noise barriers along existing highways under federal law.

The bill requires the Department of Motor Vehicles (DMV) to establish a one-year pilot program to test a vehicle’s maximum decibel level during an emissions inspection. And it extends two related deadlines for the DMV commissioner to:

1. submit to the General Assembly an implementation plan, as well as legislation and funding recommendations, for a statewide decibel level testing program at official emissions inspection stations, from January 1, 2023, to October 1, 2023 (§ 4); and
2. with the advice of DEEP, amend current regulations setting maximum vehicle decibel levels and related testing procedures and submit them to the Regulation Review Committee, from January 1, 2024, to October 1, 2024 (§ 5).

The bill authorizes a municipality, by ordinance, to establish a fine of up to \$90 for violating the vehicle idling ban. It also makes minor and technical changes, including adding a missing statutory reference on unregistered vehicle citations (§ 7).

EFFECTIVE DATE: October 1, 2023, except the provisions on submitting the results of the (1) priority ranking system and list (§ 3) and (2) plan for a statewide decibel level testing program (§ 4) are effective upon passage, and the provision on amending vehicle decibel level regulations (§ 5) is effective July 1, 2023.

§ 1 — COMPENSATORY REFORESTATION (“NO NET LOSS”)

DOT’s reforestation plan must set a goal of no net loss of existing forested areas based on a reasonable and practical tree replacement factor developed under regulations that the bill requires DEEP to adopt. Once submitted, the plan must be approved by DEEP before DOT can begin deforestation projects.

The bill requires each reforestation plan to include appropriate and approved methods for planting, protecting, caring for, and managing trees and other related natural resources. They also must provide a specified order of priority for planting locations, where DEEP and DOT proceed through the list until a suitable site is found, as described below.

Required Reforestation Plan Regulations

Under the bill, DEEP must adopt regulations to develop plan requirements that specify the order of priority for planting, use of native species, the shape and configuration of reforested areas, tree density, and planting distance. More specifically, if DEEP and DOT determine that it is unfeasible to conduct the required tree-planting efforts on the deforested site, then the departments must determine the feasibility of planting according to the following specified order of priority, until a suitable location is found:

1. on state property within the municipality where the deforestation occurred;

2. on municipally owned property (including parks, streets, schools, municipal facilities, open space, and recreational areas) where the deforestation occurred, as long as the municipality agrees;
3. within 5 miles of the deforestation, including on property owned or maintained by a state agency or another municipality, as long as the agency or municipality agrees; and
4. on an off-site property owned or maintained by a state agency, as long as the agency agrees.

The bill defines “state agency” as any office, department, board, council, commission, institution, constituent unit of higher education, technical education and career school, or other agency in the three branches of state government. The regulations must also require:

1. that the reforested area’s shape or configuration be substantially similar to the deforested area’s shape or configuration;
2. tree replacement to be based on accepted forestry research and practices that show the average tree density in urban areas is 204 trees per acre of tree cover and determined by the tree replacement factor (TRF), as follows:
 - a. 204 nursery-grown trees with a 2”-2 ½” diameter per acre;
 - b. 408 container-grown trees that are four to six feet tall and with at least a 1 ½” diameter per acre; or
 - c. 1,210 tree seedlings per acre;
3. seedlings to be planted six to 10 feet apart, or at a distance mutually agreed to by DEEP and DOT;
4. use of native species when practicable;
5. planting seedlings that are most suitable for the site;

6. choosing the species of nursery- and container-grown trees based on the plan and the American Horticulture Industry Association's established standards; and
7. that similar tree species are not more than 30% of plantings to reduce the risk of widespread tree loss to single insect and disease infestation.

Memorandum of Agreement (MOA)

As part of DOT's plan, the bill requires the department to enter into an MOA with DEEP to reimburse DEEP for the actual labor hours attributable to reviewing and implementing DOT's compensatory reforestation plans. In the MOA, DEEP and DOT may agree that, if a plan's required reforestation cannot be accomplished for a DOT-commenced project, then DOT must pay the value of the required trees, under the regulations and the approved plan, to be deposited in a DEEP-controlled account for reforestation.

§§ 2 & 3 — NOISE BARRIER PROGRAM

The bill requires DOT to develop and implement a Type II (i.e., retrofit; see BACKGROUND) program under federal law to provide for building noise barriers along an existing highway by:

1. conducting a state-wide evaluation of the feasibility and reasonableness of building noise barriers for Type II projects and identifying the benefits, length, location, and approximate associated construction costs; and
2. establishing a priority rating system to rank projects and establish a priority list.

By February 1, 2024, DOT must submit the evaluation's results, a description of the priority ranking system, and a copy of the priority list to the Transportation Committee.

§§ 6 & 7 — MUNICIPAL ENFORCEMENT OF IDLING VIOLATIONS

The bill authorizes municipal legislative bodies to adopt an ordinance

that sets a fine up to \$90 for violating the vehicle idling ban (see BACKGROUND). Any police officer or other person authorized by the municipality's chief executive may issue a citation to a violator. Under the bill, a municipality that adopts an idling ordinance must also adopt a citation hearing procedure for imposing fines. Fines collected by the municipality must be deposited into its general fund or in any special fund it designates.

State regulations prohibit "mobile sources," which includes cars, buses, trucks, and tractors, from idling for more than three minutes (except in certain instances). Since there is no specific penalty for this violation, DEEP must use its general enforcement powers, which call for a fine of up to \$25,000 a day (or up to one year in jail) for first-time offenders. However, the penalty cannot be imposed unless the offender violates the law knowingly or with criminal negligence (CGS § 22a-175).

§ 8 — DECIBEL LEVEL TESTING PILOT

From October 1, 2023, until October 1, 2024, the bill requires the DMV to establish a pilot program at five selected official emission inspection stations. The program must test different methodologies for inspecting the maximum decibel level produced by a motor vehicle during an emission inspection, which may not exceed the levels established in statute and any adopted regulations (ranging from 72 to 92 decibels depending on the vehicle's speed, weight, and the road surface) (Conn. Agencies Regs., § 14-80a-4a). Under the bill, the different methodologies used must reflect industry standards and advancements in technology.

By January 1, 2025, the DMV must submit a report to the Appropriations, Finance, Revenue and Bonding, and Transportation committees on the pilot's implementation, the results of the different methodologies used, and recommendations for a state-wide decibel level testing program (see also § 4).

BACKGROUND

Use of Noise Barriers

State and federal regulation and policy separate noise barriers into

two types, based on whether they are associated with an existing or new source of noise. Noise barriers are required under federal regulations to mitigate increased traffic noise exceeding allowable levels resulting from new highway or bridge construction or reconstruction (i.e., Type I projects). The federal government generally pays most of the noise barrier costs as part of the approved project. Federal regulations allow federal funds to be used for retrofitting an area with noise barriers (i.e., Type II projects) if a state adopts a Type II program that includes a federally approved priority ranking system. In practice, however, federal funds are rarely made available for these projects (23 C.F.R. 772.7).

Exceptions to the Idling Ban

A car, truck, or motor bus may idle for more than three consecutive minutes only when:

1. it must remain motionless because of traffic conditions or mechanical difficulties over which the operator has no control;
2. it is necessary to operate defrosting, heating, or cooling equipment to ensure the health or safety of the driver and passengers;
3. it is necessary to operate auxiliary equipment located in or on the vehicle to accomplish its intended use;
4. it is necessary to bring the vehicle to the manufacturer's recommended operating temperature;
5. the outdoor temperature is below 20 degrees Fahrenheit;
6. maintenance or inspection requires the vehicle to be operated for more than three consecutive minutes; or
7. it is waiting in line to gain access to a U.S. military installation (Conn. Agencies Regs., § 22a-174-18(b)(3)(C)).

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute

Yea 31 Nay 5 (03/17/2023)