



2001
ACTS AFFECTING

ENVIRONMENT



Prepared for members of the

Connecticut General Assembly

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NOTICE TO READERS

This report highlights 2001 acts affecting the environment. The acts are listed in numeric order by subject. Readers should examine the full text of the acts that interest them. They can obtain the acts from the Connecticut State Library or the House Clerk's office. Complete analyses of all public acts passed during the regular and special sessions will be available in early fall when OLR releases its Public Act Summary book, but many analyses are now available on the OLR website (www.cga.state.ct.us/olr).

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AGRICULTURE/DEPARTMENT OF AGRICULTURE

Maintenance, Repair, and Improvement Account

A new act creates a separate, nonlapsing General Fund account to maintain, improve, build on, or repair property, including houses and other buildings, owned by the Department of Agriculture. It authorizes the commissioner to deposit money into the account from other private or public sources, including the federal and municipal governments, and use these funds to pay to maintain, repair, or build on department property. The commissioner must report annually to the Appropriations Committee on account activities and status. **(PA 01-126**, effective July 1, 2001)

Transportation of Milk

A new act requires owners of milk tanker trucks to obtain permits for each truck carrying milk or milk products to or from farms, milk plants or receiving or transfer stations. Tankers must carry the permit and a current safety and sanitation report. The agriculture commissioner may stop and check trucks for the documents and remove from service trucks that need repair or significant cleaning. **(PA 01-138**, effective July 1, 2001)

AIR QUALITY

Clean Air Standards for Power Plants – VETOED

Recently adopted Department of Environmental Protection (DEP) regulations impose tighter air emission standards on the state's older fossil fuel power plants. This act would have eliminated emissions credit trading as a way for these plants to meet the regulation's stage two sulfur dioxide standards as of December 31, 2004, approximately two years after the standard goes into effect under the regulations. But it would have added another option (a tonnage cap) as of this date. It would require plant owners to submit a plan to DEP by July 1, 2002, showing how they would comply with the standards and indicating if they would use the tonnage option.

The act would also have allowed, and in certain cases required, DEP to suspend the stage two standards if there were a shortfall in electricity supply. The act would have superseded a provision in the regulations that allows the DEP commissioner to waive the standards for a plant that normally meets them by burning low sulfur fuel if he finds there is an emergency shortage in the supply of such fuel. **(PA 01-107**, effective upon passage)

Alternative Fuel Vehicle Incentives

The legislature extended, from January 1, 2002 to July 1, 2002, the applicability of several tax exemptions for alternative fuel vehicles. (**PA 01-6, June Special Session**, effective July 1, 2001)

ANIMALS

Avian and Animal Diseases Reporting

A new act requires the state veterinarian to annually publish a list of reportable bird and animal diseases and laboratory findings. He must distribute the list, along with necessary reporting forms and instructions, to licensed veterinarians and laboratories that test birds and animals. (**PA 01-12**, effective October 1, 2001)

State Dog Fund Administration

A new act makes the agriculture commissioner the administrator of the state dog fund. It requires him to return to towns, on a pro rata basis, all the funds in the account when the account exceeds \$5,000, and to carry the balance into the next fiscal year when the account is \$5,000 or less. It waives dog license fees for people who have guide dogs of any age placed temporarily with them by nonprofit organizations that train guide dogs, and extends the

waiver to people who have dogs placed with them for breeding purposes. (**PA 01-62**, effective October 1, 2001)

Animals in Drawing Contests

A new act authorizes the agriculture commissioner to disqualify an animal drugged by its trainer from drawing contests, and to bar the trainer from claiming prize money and entering the animal in future contests. The act adds to the offenses for which animal owners, trainers, or both, may be temporarily barred from taking part in drawing contests, and subjects those who violate certain of its provisions to a civil penalty of up to \$2,500 per violation, plus \$250 for each day the violation continues after the penalty is imposed. (**PA 01-77**, effective July 1, 2001)

Animal Population Control Program

This act implements a voucher system to pay veterinarians who sterilize and vaccinate impounded, quarantined, and stray dogs and cats. It requires the agriculture commissioner to certify veterinarians who can take part in the program and specifies the certification requirements. It requires the commissioner to develop a standard dog license form for veterinarians to distribute to dog owners, and permits him to spend up to \$40,000 a year to help charitable

organizations sterilize and vaccinate feral cats. (**PA 01-87**, effective October 1, 2001)

Nuisance Wildlife Control Officers

A new act requires municipal officers who control and handle animals to obtain state nuisance wildlife control licenses. (**PA 01-204**, effective October 1, 2001)

ENVIRONMENTAL CONCERNS IN GOVERNMENT PURCHASING

Energy Efficient Highway Lights

By law, road lighting bought with state funds must be designed to maximize energy conservation, minimize light pollution, and meet other criteria. The transportation commissioner may waive these requirements under certain circumstances. This act extends nearly identical requirements to (1) lighting bought with municipal funds and (2) lighting installed by a utility company when municipal funds pay its operating costs. It allows municipal chief elected officials to waive the requirements. Municipal funds include bond revenue and any money a municipality appropriates or allocates. (**PA 01-134**, effective October 1, 2001)

Department of Administrative Services Purchasing

A new act requires the Department of Administrative Services (DAS) to promote state agencies' use of recycled products and of products, services, or practices that are less harmful to human health and the environment than comparable products, services, or practices. It increases, from 10% to 30%, the percentage of fiber material in recycled white paper used in the manufacture of state lottery tickets and tax return forms that must come from post-consumer recovered paper.

The act requires DAS to compute the fuel efficiency of new state-owned cars and light trucks by averaging their highway mileage ratings, rather than requiring that each vehicle attain a certain rating, and it lowers the fuel efficiency required of state cars purchased after October 1, 2001. It also requires DAS to increase the number of state vehicles that run on alternative fuels. (**PA 01-168**, effective October 1, 2001)

FISH AND SHELLFISH

Using Pound Nets for Fishing

A new act requires additional procedural steps before the DEP commissioner can authorize the erection of a pound net, fish weir, or similar fishing structure that was not used before the act passed. A pound net is a fish

trap that uses a long net to direct fish through a check valve into an enclosure.

Under prior law, the commissioner could use an expedited process to issue certificates of permission for a range of activities. The act prohibits him from issuing certificates for the above fishing structures. Instead, it allows him to issue a permit for such structures only under the law that governs the placement of structures in navigable, tidal, and coastal waters. Unlike the certificate of permission, this permit requires the applicant to publish a newspaper notice and notify various public officials and others. (**PA 01-98**, effective upon passage)

Fishing Penalties

A new act doubles the fines for violating various sport and commercial fishing laws and regulations. It requires DEP and the Department of Agriculture to report to the Environment Committee by January 1, 2002 their findings and recommendations on the effect of commercial and recreational fishing on the state's glass eel beds. (**PA 01-115**, effective July 1, 2001)

Protection of Connecticut's Aquaculture Industry

In this act, the legislature states that aquaculture is an integral part of the state's environmental resources and

provides an irreplaceable economic and recreational asset to its citizens. The act declares that it is state policy to protect the state's aquaculture resources to the maximum reasonable extent. It requires the Connecticut Siting Council, when considering the environmental impact of building or modifying energy and telecommunications facilities, to determine whether they conflict with state policies regarding aquaculture. (**PA 01-120**, effective July 1, 2001)

HAZARDOUS MATERIALS AND CONTAMINATED PROPERTY

Contamination of DOT- Condemned Land

A new act requires consideration of environmental remediation costs in assessing fair-market value in all Department of Transportation (DOT) condemnation proceedings. It also requires a state trial referee making a final assessment of damages pursuant to a property owner's appeal of a DOT damages award for property it acquired through condemnation to consider any required environmental remediation by the DOT along with other relevant evidence of the property's fair-market value. It requires the referee to make a separate finding for remediation costs and entitles the property owner to a set-off of these costs in any pending or subsequent legal action against him to

recover environmental remediation costs. (**PA 01-75**, effective upon passage)

Brownfield Remediation Project Financing

A new act allows the Connecticut Development Authority (CDA) and its subsidiaries to issue bonds on behalf of towns for brownfield remediation projects. They or the towns are liable for the bonds, which can be repaid with the project's income and revenue, including incremental property tax revenue and payments in lieu of taxes. CDA and its subsidiaries can approve projects for this type of financing until June 30, 2005. (**PA 01-179**, effective October 1, 2001)

Transfer Act Changes

The Transfer Act regulates the sale or other transfer of (1) property where hazardous waste was generated or processed and (2) dry cleaners and certain other businesses. An act adopted this year changes the definition of "establishments" subject to the Transfer Act to include, among other things, properties where off-site generated waste is processed, and adds an exemption for waste produced by the remediation of contaminated sediment or groundwater. The act exempts property acquired by government agencies from the Transfer Act. It also requires towns to pay the state some of the increased property tax

revenue on land that was cleaned up and then transferred under the act.

The act specifies that federal regulations governing hazardous waste will replace parallel state regulations. The substitution does not happen if the DEP commissioner publishes notice of intent to adopt the federal regulations by January 1, 2002 and submits them to the secretary of the state by June 30, 2002. The act also has provisions on asphalt plants, sewage sludge incinerators, funding for open space, water company lands, and littering, among other things. (**PA 01-204**, effective October 1, 2001)

LAND USE

Mediation for Land Use and Dumping Violations

A new act allows parties to resolve disputes involving land use decisions or locally cited violations of state dumping laws through mediation instead of litigation. A party must first file an appeal to Superior Court before mediation can be tried. The parties must comply with the act's requirements for starting, conducting, and concluding a mediation, which must be conducted by an impartial third party using generally accepted mediation principles. All must agree to the mediation, but a party can withdraw from it at any time.

The mediator can ask anyone to participate in the process if needed to resolve the dispute. The court cannot require the mediator to testify if the mediation fails and the appeal resumes. Nor can it admit the contents of the mediation sessions as evidence. The mediator must report the mediation's results to the court. **(PA 01-47**, effective October 1, 2001)

Filing DEP Orders on Land Records/Conservation Easements

A new act requires certain DEP orders, certificates, and permits to be filed on the land records. The requirement applies to DEP's (1) final orders to correct, abate, or penalize any violation of the laws dealing with wetlands, dredging and structures in navigable waters, and areas near the coast that are subject to development restrictions and (2) certificates or permits issued under these laws or the commissioner's general powers to enforce environmental laws.

Under prior law, DEP had to file orders to correct water pollution on the land record. The act limits this requirement to final orders.

The act also exempts conservation easements held by a land trust or nonprofit organization from certain provisions of the Marketable Title Act, under which easements on the land become invalid after 40

years if their holder does not re-record them on the land record. **(PA 01-118**, effective October 1, 2001)

Plans of Conservation and Development

This act recodifies the statutes governing the form and content of local plans of conservation and development, making few substantive changes. It allows all, rather than just specified, municipalities to recommend ways in their plans to preserve and conserve traprock and other ridgelines. It requires municipalities contiguous to Long Island Sound to make their plans consistent with the state's Coastal Management Program. The act also adds the environmental protection commissioner to the list of state officials municipalities must notify when they go more than 10 years without reviewing their plans. **(PA 01-197**, effective July 1, 2001)

Various Land Use Issues

A new act allows municipally owned land located on or next to watershed to be used for a golf course under certain conditions. (The law restricts the development of watershed land.) The land must (1) have been purchased in January 1999 and (2) have been previously used for agricultural purposes. The golf course must (1) be municipally-owned and (2) be designed, constructed, and operated using

best management practices (BMPs) as recommended by DEP, including integrated pest management and above-ground storage of chemicals and fuels. The golf course manager must file an annual report with (1) any water utility owned by the municipality or that draws water from the watershed, (2) DEP, and (3) the municipality. The report must describe the BMPs used in the course's operation, including a description of the type and amount of pesticides used and other information DEP or the water utility requests. The report must be available to the public.

The act also exempts certain historic properties from the Connecticut Environmental Policy Act's provisions dealing with such properties. The exemption applies to any property or structure first listed on the state register of historic places during March 2001 if (1) the owner gives the Connecticut Historical Commission director and the state Historic Preservation Officer a written, notarized objection to listing the property that certifies the person's ownership of it and (2) the owner has not withdrawn or rescinded the objection in writing.

The act also exempts the Connecticut River interceptor sewer project from the need to file a state environmental impact evaluation. Finally, it exempts any crematory issued an air quality permit before October 1, 1998 from the law that bars any crematory that was not operating

on that date from being located within 500 feet of any land used for residential purposes (other than land owned by the crematory owner). (**PA 01-4, June Special Session**, effective October 1, 2001)

MISCELLANEOUS

Fishing Licenses, State Parks, Fires, and Invasive Species

A new act extends the moratorium on the issuance of new commercial fishing licenses for two years, until December 31, 2003. It extends by one year, until October 1, 2003, the period in which a person can transfer his commercial lobstering license, increases fees for nonresident commercial fishing licenses, expands reporting requirements with regard to commercial fishing, and makes several related changes. It also regulates fishing in conjunction with environmental tourism.

The act specifically allows the DEP commissioner to ban the possession or drinking of alcoholic beverages in lands under his control. But in the case of areas where possession or drinking was not prohibited as of October 1, 1999, he must adopt regulations to prohibit such activity. The commissioner had banned such activity in several DEP-controlled areas before October 1, 1999, and subsequently banned it in all DEP-controlled areas.

The act authorizes DEP to provide, for a fee, outdoor recreation-related services at state parks and forests. The services may include bicycle, boat, cabin, and tent rentals; firewood sales; and camp stores. Revenue from such services must be deposited in and credited to a new account in the Conservation Fund to be used in state park and forest facilities generally. The services offered must not compete with a concessionaire under DEP contract to provide the same service.

The act requires the DEP commissioner to designate trails in state parks or forests for horseback riding.

The act makes the commissioner, rather than the state forester, the state forest fire warden. It allows the state warden to pay fire companies rather than fire fighters individually for helping to fight forest fires and authorizes him to establish rates for such services and equipment and supplies used. It changes the powers of state forest fire personnel and makes several minor and corresponding changes.

The act requires the commissioner to make recommendations and take appropriate actions to control non-native invasive plant species, prepare informational material and conduct educational activities regarding these species, and maintain a list of them for annual distribution.

The act subjects a person who kindles a fire in the open without authorization from state or local officials that does not cause injury or property damage to a fine of up to \$200, imprisonment for up to six months, or both. This penalty already applies to someone who kindles a fire that causes injury or property damage. The act also imposes this penalty on anyone who burns materials that state or local laws prohibit burning. (**PA 01-150**, effective October 1, 2001)

Criminal Records Checks for DEP Permits

This session the legislature established new criminal records check procedure for DEP permit, registration, certificate, or other license applicants and proposed transferees. The checks are at the department's discretion. (**PA 01-175**, effective July 1, 2001)

OPEN SPACE

Conveyance to East Windsor

The legislature required DEP to convey to the town of East Windsor 18 acres that must be used for open space and recreational purposes. The conveyance is subject to the State Properties Review Board's approval and must be made at a cost equal to the administrative cost of the conveyance. The property reverts to the state if the

town fails to use it for the stated purpose or leases or sells it. (**PA 01-194**, effective upon passage)

State Funds For Property Acquisitions

The legislature authorized \$19 million in bonds in FY 02 and \$15 million in FY 03 for grants and loans to towns for acquiring land for parks, recreational and water quality improvements, water mains, and water pollution control facilities. (**SA 01-2, June Special Session**, effective July 1, 2001)

Kelda Land Agreement

This act requires the DEP commissioner to approve the terms and conditions of any contract between him; the Nature Conservancy; and Bridgeport Hydraulic Company (BHC), Acquarion, or Kelda Group to protect open space by buying land or land interests from the companies. (PA 01-09, June Special Session, specifies some of those terms and conditions.) It requires any land the state purchases under such a contract to be preserved perpetually and kept predominately in its natural and open condition. But recreation consistent with protecting natural resources is permitted.

The act allows the companies to ask a court to enforce whatever contractual rights they have in and to land or interests in land they reserve as part of their property conveyances. This

is in addition to their right to bring a claim against the state to the claims commissioner. It authorizes DEP and the state to fulfill their contractual obligations.

The act makes the state's right to acquire land from these companies superior to the right of another water company or a town to buy the land or a town to take it by eminent domain. It supersedes another law that gives water companies and towns priority over the state.

The law generally prohibits the sale, lease, assignment, or change of use of class I or II water company land without a Department of Public Health (DPH) permit. The act allows the DPH commissioner to use his existing authority to issue one or more permits for the sale of the companies' class II land to the Nature Conservancy and for the sale or assignment of interests in class I and II land to DEP or the conservancy. Under this authority, whoever purchases the land must agree to maintain it according to law and the permit's conditions and cannot subsequently convey the property without getting another permit.

The act allows the Department of Public Utility Control (DPUC) to accept the companies' applications to sell or assign their land before DPH grants the permits, but it cannot give final approval to the sale until the permits are issued. And it exempts the companies from the

requirement to notify DPUC before a sale. (**PA 01-7, June Special Session**, effective July 1, 2001)

UNDERGROUND STORAGE TANKS

This act substantially revises the DEP program that provides financial assistance for the removal or replacement of residential underground oil tanks, thus, in effect, creating a new program for projects that start on or after July 1, 2001.

Under the existing program, a DEP-registered contractor must conduct the remediation in order for the costs to be reimbursable. The contractor is responsible for paying the costs of the remediation (other than a deductible paid by the homeowner) and seeking reimbursement from the board that administers the program. The act limits the existing program to projects where work began before July 1, 2001. (However, another section limits contractor reimbursement to projects completed by this date.) The act requires contractors to submit their applications by December 1, 2001 to be eligible for reimbursement for such projects.

Starting July 1, 2001, the act makes homeowners eligible for reimbursement of the costs they incur, thus implicitly requiring them to pay the costs of projects

that start on or after this date. It requires that such projects be completed by December 1, 2001.

Under the new program, the homeowner, rather than the contractor, must apply to the board that administers the program for reimbursement. The application must be submitted by December 31, 2001.

The act generally subjects applications filed by homeowners to the same review as applications filed by contractors. But it requires the homeowner, as a condition of eligibility for this program, to comply with the law's requirements under a separate program. That program requires a homeowner to (1) provide for the removal or replacement of his underground tank by January 1, 2002 and (2) notify DEP of the completion of these steps, in order to gain immunity from liability to the state for oil spills.

Under the new program, homeowners whose adjusted gross income (AGI) is above \$50,000 must pay larger deductibles than under the existing program. For homeowners with incomes below \$50,000, the deductible remains \$500. The act makes homeowners with AGIs over \$500,000 ineligible.

DEP has another program that covers nonresidential underground storage tanks. The act increases the amount annually allocated to DEP for its administrative costs for this program from \$1,150,000 to \$2 million.

In addition, the act authorizes a state business tax credit for taxpayers investing any amount in eligible environmental remediation and urban site reinvestment projects through community development entities. **(PA 01-9, June Special Session, effective July 1, 2001)**

WATER

Water Planning Council

The legislature established a water planning council to address issues involving water companies, water resources, and the future of the state's drinking water supply. The council must study specific issues in consultation with towns, water companies, environmental and agricultural groups, and other water users. **(PA 01-177, effective October 1, 2001)**

Reducing Nitrogen In Long Island Sound

This act requires DEP to set limits on the amount of nitrogen municipal sewage treatment plants discharge into Long Island Sound, and creates a nitrogen credit exchange program. The

credit exchange program allows plants to meet their discharge limits by buying credits (though DEP) from plants that have reduced their discharges below their permit levels. **(PA 01-180, effective July 1, 2001)**

Water Diversions

A new act requires companies, municipalities, and other entities that withdraw substantial amounts of water from wells or surface waters to provide the DEP with information about their water diversions. **(PA 01-202, effective July 1, 2001)**

Clean Water Fund

The legislature authorized \$40 million in state general obligation bonds in each of FY 02 and 03 for Clean Water Fund grants. It also authorized \$81 million in revenue bonds in FY 02 for low interest loans to towns for clean water projects and \$158 million for this purpose in FY 03. **(PA 01-7, June Special Session, effective July 1, 2001)**

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