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Connecticut General Assembly

OLR ACTS AFFECTING

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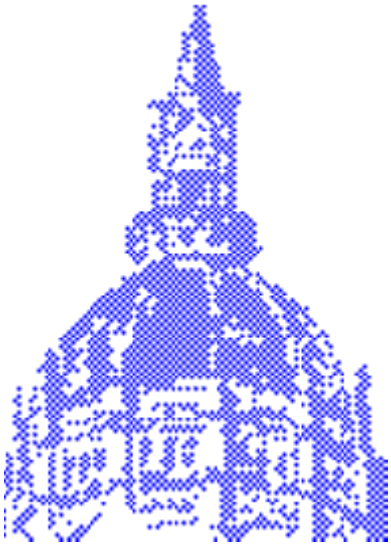

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TO THE READER

This report provides highlights of new laws (Public Acts) affecting the environment enacted during the 2010 regular and special legislative sessions. At the end of each summary we indicate the Public Act (PA) number and the date the legislation takes effect. Vetoed acts are not included unless the legislature overrode the veto.

Not all provisions of the acts are included here. Complete summaries of all 2010 Public Acts will be available on OLR's webpage: (www.cga.ct.gov/olr/OLRPASums.asp).

Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, the House Clerk's Office, or the General Assembly's website (www.cga.ct.gov/).

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ANIMALS

Tethering Dogs

The law prohibits confining or tethering a dog for an unreasonable period of time. A new law, with some exceptions, prohibits tethering a dog to a stationary object or mobile device under certain conditions and in some situations. It changes the fines and penalties for such actions. The act does not affect other protections for dogs in state or local law, ordinance, or regulation.

The act also makes changes to the law on certificates of origin for dogs sold by pet shops.

(**PA 10-100**, effective October 1, 2010)

BOATING, FISHING, AND HUNTING

Boating

New legislation eliminates the two-hour timeframe in which a blood alcohol test or analysis must be performed for it to be used as evidence (1) for a peace officer to revoke a safe boating certificate for 24 hours or (2) in a hearing contesting boating certificate suspension before the DEP commissioner. The act also requires expert testimony to establish the reliability of a blood alcohol test performed more than two hours after the operation of the vessel for it to be used in any criminal prosecution for operating a vessel under the influence or carrying a firearm under the influence. Under prior law, evidence had to show that the test was administered within two hours of operating a vessel.

The act also requires that certain individuals be permitted, for the two years following passage of the act, to operate a vessel with a marine dealer's registration number. The individuals must (1) hold a current U.S. Coast Guard passenger-for-hire license; (2) hold a current DEP-issued charter boat registration; and (3) have operated, for at least five of the 10 years preceding the act's passage, a recreational charter fishing guide service using a vessel registered with the marine dealer's registration number in connection with the guide service. The act prohibits DEP from revoking a marine dealer's registration number for vessels used in the above circumstance.

(**PA 10-124**, effective upon passage)

Hunting and Fishing License Fees

New legislation decreases several sportsman's fees and caps camping and state park fees. It also creates and allows for donations of at least $2 to the Connecticut Migratory Bird Conservation account.

The act requires that funds accruing from any permit, tag, or

stamp fees, excluding the migratory bird conservation stamp and fees paid by trappers and anglers, fund the programs and functions of the Bureau of Natural Resources within the Department of Environmental Protection (DEP) according to federal regulations. It requires the DEP commissioner to establish (1) procedures and business processes for using the internet and other means for communication to conduct transactions for licenses, permits, stamps, and tags and (2) a schedule of the parts of fees agents may retain.

The act also increases, to $87 from $77, the fee for any violation of the sportsmen's statutes for which no other fee is specified.

(**PA 10-3**, effective upon passage, except the camping and state park provisions, which are effective upon passage and apply to fees collected after May 1, 2010)

A second act requires the environmental protection commissioner to reserve a credit for anyone who bought sportsmen's licenses, stamps, permits, or tags between October 1, 2009 and April 14, 2010. The credit is the difference between the amount paid and fee charged on or after October 1, 2010 and will be applied against the fee for any such license, permit, or tag bought on or after October 1, 2010.

(**PA 10-99**, effective on passage)

Using a Handgun to Hunt Deer

A new law requires the environmental protection commissioner to issue $5 permits allowing hunters to hunt deer on private land in deer hunting season with handguns that (1) fire cartridges of at least .357 caliber and (2) have barrels less than 12 inches long. The hunting is subject to the private land deer permit bag limit established by the commissioner.

(**PA 10-99**, effective on passage)

GREEN TECHNOLOGIES

Training and Financing

A comprehensive new law to promote new jobs has several provisions to promote green technologies. It act exempts from the sales and use tax items sold, stored, used or consumed in the renewable and clean energy technology industries. These industries produce, improve, or develop solar energy electricity generating systems, passive or active solar water or space heating systems, and wind power electric generation systems and related equipment. The exemption applies to machines, equipment, tools, materials, supplies, and fuel sold, stored, used, or consumed in these industries.

The act also establishes loan reimbursements and grants to Connecticut students seeking jobs in alternative energy

technology and other related fields funded by transferring $3 million from the quasi-public Connecticut Health and Educational Facilities Authority to the General Fund.

Finally, the act authorizes $500,000 in bonds with up to 20-year terms for a pilot program to help manufacturers convert their facilities into green operations or implement energy efficiency measures by using lean manufacturing strategies. Manufacturers qualify for assistance if they are principally located in Connecticut and have fewer than 250 employees, at least 75% of whom work here. The Department of Economic and Community Development must implement the program.

(**PA 10-75**, effective upon passage for the training provisions, except for the provision transferring funds to the General Fund, which takes effect January 1, 2012, and July 1, 2010 for the financing provisions)

Green Connecticut Loan Guaranty Program

A new law requires the Connecticut Health and Educational Facilities Authority (CHEFA) to use state bond money to guarantee loans made by participating lending institutions to eligible participants for energy conservation projects. Eligible participants are individuals, nonprofits, and businesses employing up to 50 full-time workers. In consultation with the Office of Policy and Management, CHEFA must identify types of projects that are eligible for the program. These can include the purchase or installation of insulation, alternative energy devices, energy conservation materials, replacement furnaces and boilers, and technologically advanced energy conserving equipment.

(**PA 10-179**, effective July 1, 2010)

Education and Training

This act requires higher education institutions in Connecticut to (1) publicize green technology initiatives in higher education and (2) collaborate in furthering these initiatives.

The act requires the Department of Higher Education, in consultation with the Department of Education, to develop annually and publish on its website (1) a list of every green jobs course and academic program in a public higher education institution or a regional vocational-technical school in the state and (2) an inventory of green jobs-related equipment in these schools. Additionally, the act requires the Community-Technical Colleges (CTC) Board of Trustees to have uniformly named green jobs academic programs in the CTC.

The act also requires institutions to (1) hold meetings to explore possible ways to collaborate on green initiatives and (2) support efforts to develop

career ladders in the green technology industry.

(**PA 10-156**, effective October 1, 2010)

Biodiesel

A new law qualifies entities intending to actively produce or store and distribute biodiesel fuel for grants from the Connecticut Qualified Biodiesel Producer Incentive Account, which is administered by the Department of Economic and Community Development. Prior law limited the grants to entities actively producing or storing and distributing this fuel.

The grants for producers are based on the amount of fuel produced according to a statutory schedule. The act substitutes a reduced grant schedule when funds fall below specified amounts.

The act also requires the DEP commissioner to sell carbon dioxide allowances from a separate account to combined heat and power generators that meet specific conditions and sets the price of these allowances.

(**PA 10-64**, effective upon passage)

LAND USE

Conservation Easements Held by the State

By law, anyone seeking a permit from state or local land use agencies, local building officials, or health directors generally must notify holders of conservation or preservation restrictions on the affected property before filing an application, other than for permits for interior or exterior work not expanding or altering the building's footprint. This act specifies that it does not prohibit filing a permit application or requiring written notice when the activity that is the subject of the application will take place on a portion of property not restricted under the terms of the conservation or preservation restriction.

Where a state agency holds the restriction, the act increases, from 15 to 30 days, the amount of time the state agency has to appeal the granted permit.

By law, the permitting authority must reverse its permit approval if it finds that the requested land use violates the restriction. The act additionally requires the permitting authority to immediately reverse its approval if the state agency commissioner holding a restriction certifies that the land use activity authorized by the permit violates the restriction.

The act creates a civil penalty of up to $5,000 for anyone who files a permit application without proof of having provided written notice to the state agency holding the restriction, as well as a fine of $1,000 per day for violations continuing beyond the initial penalty. The act specifies that it applies only to property subject to a restriction.

The act requires a municipality to record certain information in the land records whenever it (1) acquires real property with the intent to place a conservation, preservation, or other restriction on its use or (2) intends to permanently protect municipal property by dedicating it as a park or open space land. It authorizes the attorney general to bring an action in Superior Court to enforce these provisions.

(**PA 10-85**, effective October 1, 2010, except that the municipal land records provisions take effect upon passage)

Dry Cleaners and Other Regulated Activities

New legislation allows a regulated activity, such as dry cleaners, to be conducted in an aquifer protection area on a site where hazardous waste is being cleaned up at the time the area is designated on a municipal zoning or inland wetland map. The activity may be conducted, as long as (1) the regulated activity did not substantially begin, or actively operate, for five years before the area was designated on such a map and (2) anyone conducting the regulated activity for 10 years, starting on the date of the designation, registers it on a DEP form according to DEP regulations.

The act also makes the owner of a site formerly occupied by a dry cleaning establishment eligible for grants from the dry cleaning establishment remediation account. It applies to former dry cleaning establishment sites the criteria that, under existing law, operating establishments must demonstrate to the economic and community development commissioner when approved for grants. The criteria include demonstrating that the establishment (1) used, or accepted clothing to be cleaned by another establishment using, tetrachlorethylene, Stoddard solvent, or other chemicals; (2) did business at the site for at least one year before the grant application was submitted or approved; and (3) is not in arrears on any state or local tax or the dry cleaning surcharge.

(**PA 10-86**, effective upon passage)

State Plan of Conservation and Development

The law requires the state, regions, and municipalities to prepare periodic plans for balancing the need to conserve and develop land. This act requires the Office of Policy and Management (OPM) to develop a new process for adopting, revising, and implementing the five-year State Plan of Conservation and Development (State Plan of C&D) by incorporating "cross-acceptance," comparing and reconciling local, regional, and state plans. The act also postpones, from March 1, 2011 to March 1, 2012, the deadline for revising the next

five-year State Plan of C&D. In doing so, it resets the schedule for revising the plan.

The law requires municipalities to prepare 10-year plans of conservation and development and disqualifies those that fail to update their plans from receiving discretionary state funds until they do so or the OPM secretary waives this provision. The act relieves municipal planning commissions from the obligation to prepare or amend a municipal plan between July 1, 2010 and June 30, 2013, and suspends the disqualification provision until July 1, 2014, after the next time the state adopts its revised Plan of C&D.

The act requires state agencies to review grant applications for proposed development, rehabilitation, or other construction projects for their compliance with some or all of the smart growth principles set out in legislation enacted in 2009.

(**PA 10-138**, effective upon passage except the section on the delay for municipal plans is effective July 1, 2010 and the provision on compliance with smart growth principles is effective October 1, 2010)

MISCELLANEOUS

Environmental Impact Evaluations

This act allows state agencies, institutions, and departments (agencies) conducting an environmental impact evaluation (EIE) under the Connecticut Environmental Policy Act (CEPA) to contract with a person to prepare the EIE as long as the agency (1) guides the person in preparing the EIE, (2) participates in its preparation, (3) independently reviews the EIE before submitting it for comment under CEPA, and (4) ensures that any third party responsible for conducting an activity that the EIE is evaluating is not a party to the contract. The agency may require that such a third party pay the agency enough money for the agency to hire the person preparing the EIE.

In the case of an EIE (1) of a development project at a state-owned airport; (2) completed before the act's passage by a contractor retained by a private, non-state entity; and (3) independently evaluated by the Department of Transportation (DOT), DOT must review, circulate, publish, and hold a public hearing on the EIE as CEPA requires. DOT must submit all comments and responses it receives to the Office of Policy and Management (OPM). The act requires OPM to review the EIE, comments, and responses according to CEPA within 30 days of after DOT submits them. But it specifically bars OPM, in determining whether the EIE complies with CEPA, from considering that the EIE was prepared by a contractor retained by a private, non-state

entity. The state-owned airport to which the act refers is the Waterbury-Oxford airport.

(**PA 10-120**, effective upon passage)

Invasive Species

A new law authorizes conservation officers, special conservation officers, and patrolmen appointed by the environmental protection commissioner to enforce the law against growing, distributing, or buying invasive plants. The penalty for violating the law is a fine of up to $100 per plant. By law, full-time conservation officers have the same powers as police officers or constables have in their jurisdictions to (1) enforce the laws and (2) make lawful arrests in connection with criminal matters.

(**PA 10-20**, effective October 1, 2010)

Speeding Up the Process for Obtaining DEP Permits

New legislation requires DEP to review existing time limits for acting on individual permits and submit a comprehensive report proposing an expedited permitting pilot program, prescribing amended review schedules, and identifying elements necessary to meet those schedules. It also requires the commissioner, in coordination with business, environmental, and municipal representatives, to study the impact of the state environmental protection and general permit procedures and recommend how to improve the process and expedite decisions.

(**PA 10-158**, effective on passage)

Multi-faceted Legislation

A new law requires anyone receiving a wetlands regulated activity permit and certain other authorizations on or after October 1, 2010, to file a certified copy of the document on the land records of the municipality where the property is located within 30 days of issuance. It requires a property owner transferring land for which such a document is issued to record the document in the land records before the transfer.

The act establishes a fee for retaining structures (1) built without the required building or dredging permit and (2) ineligible for a certificate of permission. The fee is four times the fee for a permit to build the structure, although the DEP commissioner may lower it if she finds significant extenuating circumstances, including when the applicant acquired his or her interest in the site after the unauthorized activity occurred, is not otherwise liable, and did not have reason to know about the unauthorized activity. The act permits the commissioner to, through regulation, establish a simplified schedule and vary the statutory permit fees and cost of publishing notice. The schedule

must promote expedited approval for applications consistent with all applicable standards and criteria.

The act eliminates a provision allowing the placement, maintenance, or removal of aquaculture structures and marking buoys without a permit while a permit is pending.

By law, the commissioner may issue a certificate of permission for certain activities in state tidal, coastal, or navigable waters, including maintenance and repair of existing structures. The act expands the activities eligible for a certificate.

The act adds to those individuals who may petition for a hearing on a regulated activity permit. It also eliminates the deadline for holding wetlands hearings.

The act makes changes to the statutes governing waste discharge. It replaces the state-designated "no discharge" areas within Long Island Sound with the Environmental Protection Agency's designated areas. For the purposes of the section, the act amends the definition of sewage to (1) include only human body wastes, toilet wastes, and waste from other receptacles for body waste; and (2) exclude animal, domestic, and manufacturing wastes.

The act eliminates (1) coastal management grants to municipalities and (2) the estuarine embayment improvement program. The act also creates a group fishing license for any tax-exempt organization for the purpose of conducting a group fishing event for certain individuals. The license fee is $250.

The act prohibits the DEP commissioner from making a determination of need or approving any permit application that is pending or filed as of the act's passage for a new solid waste facility or the expansion of an existing facility located within 1,000 feet of a primary or secondary aquifer, until the need for additional capacity is determined by the Solid Waste Management Plan.

(**PA 10-106**, effective October 1, 2010, except for the repeal of coastal management grants and the estuarine environment improvement program, the group fishing license, and the provisions affecting solid waste facilities, which are effective on passage)

Clean Water Fund

A new law makes several changes, primarily technical, to transfer the management and administration of the Clean Water Fund's Drinking Water State Revolving Fund from DEP the Department of Public Health (DPH), codifying current practice.

By law, the fund may be used in specific ways to provide financial assistance for the construction of eligible DPH-approved drinking water projects, administration and management of drinking water programs, and

for other federally authorized purposes. The act allows the DPH commissioner to administer this financial assistance including loans, grants, principal forgiveness, negative interest loans, or combinations of these, if permitted by federal law and made according to a legally authorized project funding agreement.

In transferring the fund's management to DPH, the act requires the department to assume responsibilities such as administering the fund's subaccounts, funding studies and surveys to assess drinking water needs and priorities, maintaining a priority list for project selection, and representing the state in funding agreements with eligible projects.

The act requires DPH to adopt regulations pertaining to the Clean Water Fund's drinking water federal revolving and state accounts and eligible drinking water projects.

(**PA 10-117**, effective October 1, 2010)

SOLID WASTE

Recycling

New legislation expands the types of items that must be recycled; requires garbage collectors to handle recyclables; and prohibits towns from passing ordinances unreasonably limiting the size of, or access to, recycling receptacles.

(**PA 10-87**, effective July 1, 2010)

Bottle Bill

This legislation makes the Department of Revenue Services (DRS), instead of the DEP, commissioner the primary administrator for bottle deposit initiators. (A "deposit initiator" is the first distributor to collect the deposit on a beverage container sold to a person in the state.) It requires (1) holding bottle bill deposits in a special trust fund for the state; (2) quarterly reporting on account balances, credits, and withdrawals; and (3) initiators to pay outstanding balances quarterly. The act also eliminates the state treasurer's right to examine records and allows both DEP and DRS to file a complaint with the attorney general to institute action.

The act also requires that the reimbursement of refund values for redeemed bottles be computed using the Internal Revenue Service cash receipts and disbursements accounting method. It allows the DRS commissioner to accept an alternate accounting method if a deposit initiator petitions for one. The act treats any required payments as a tax for the purpose of specified sections.

(**PA 10-25**, effective July 1, 2010)

Another law requires DEP to create, by July 1, 2010, a procedure for deposit initiators to take a credit against any

quarterly payment made to the DEP commissioner in the amount of deposits refunded on beverage containers that the deposit initiator donated for a charitable purpose.

(**PA 10-114**, effective upon passage)

Ash Landfills

By law, before the DEP commissioner issues a permit for a resources recovery facility, composting facility, or ash residue disposal area, she must make a written determination that the facility or disposal area is necessary to meet the state's solid waste disposal needs and will not result in substantial excess capacity. Within 60 days after a permit application is complete, she must publish notice of the preliminary determination of need in a newspaper circulated in the area where the facility or disposal area is to be located. No final determination of need is issued unless a permit is issued.

This act advances the point in the process at which the DEP commissioner must issue a written determination of need, but only with respect to a disposal area for ash residue generated by a waste-to-energy facility that is operated by a state quasi-public agency. She must do so before the physical inspection or evaluation of any parcel of land proposed to be used as the disposal area.

As under prior law, the permit applicant must submit information the commissioner considers necessary, including the name of the resources recovery facilities or municipalities served by the disposal area, the transportation system needed to serve the disposal area, and the available capacity of other disposal areas in the state for ash residue or mixed municipal solid waste that already have construction permits. The act does not require submission of the design capacity for a disposal area proposed by a waste-to-energy facility and operated by a state quasi-public agency like the law requires for other proposed facilities or disposal areas. In making her determination, the commissioner must consider this information and any other information she considers pertinent.

(**PA 10-140**, effective upon passage)

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