

Legislative History for Connecticut Act

HB 5796

76-381

1976

Judiciary p 391-393

House p 2093-96

Senate p. 2467-68

LAW/LEGISLATIVE REFERENCE
DO NOT REMOVE FROM LIBRARY

9 p.

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
and House of Representatives Proceedings

Connecticut State Library

Compiled 2014

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 2
293 - 573

1976

JUDICIARY

PRESIDING CHAIRMAN: SENATOR NEIDITZ AND REPRESENTATIVE HEALEY

MEMBERS PRESENT: Representatives Quinn, Lowden, Clark, Tulisano, Mannion,
Burke

REPRESENTATIVE JAMES HEALEY: (BEGINNING OF MEETING WAS NOT PICKED UP ON THE TAPE) started when we originally scheduled this Meeting we were not aware of the fact that the House was going to meet at noon. We thought it was going to be at 1:00 o'clock. As a result we have just an hour and a half so I would appreciate it if you'd make every effort to be succinct.
John Weider.

JOHN WEIDER: Good morning Mr. Chairman. I'm John Weider, I'm with the Pace Corporation in Strafford, and I'm speaking here today representing the Connecticut Marine Trades Association with reference to Committee Bill 5796. We don't have any basic objection to what we're doing here, we for a long time, have felt that ought to be in fact, some penalties in some of these areas and the Statutes have been a little unclear. There are a couple potential problems with some of the language that we would like to call to your attention.

First, I, on the second page of the Bill I noticed my at least, has no line numbers. On the second page Item 4 in Sub-Section A of Section 2, as far as we know that State does not have nor does any Federal Agency have any noise level standards for boat engines. This being the case we're a little concerned as to how one would determine that an infraction in this instance had been committed. How would we judge that a muffling devise is not affective since there is no standard?

REPRESENTATIVE JAMES HEALEY: As I read the Bill apparently that's an existing Law. It has been on the books for some time.

JOHN WEIDER: Existing Law. Right. And this is the problem that has, some of these problems I think that have existed for some time. And this may perhaps be a problem here. There would be a similar type of a problem with Sub-Section 3 of Section 4, which concerns the loading of a vessel beyond it's capacity. Again as far as we know the Coast Guard and no other agency has listed capacity requirements for boats by make and model. Some manufacturers do, but it is a very small number of them and very few specific types of boats, specific models carry capacity rating. So again this, enforcement of this could end up being a very subjective thing. And we would suggest perhaps somewhat difficult to, to enforce in that way.

There is a more serious problem we think, still in Section 14 which is on

JUDICIARY

JOHN WEIDER, CONTD.: page 11. This Section refers to altering or defacing a certificate of number or the identification number. The problem that we see here and it's one that we've raised before, nothings been done yet, identification number within Industry and I think by most boat owners, is generally taken to mean the Federal Hull Identification Number, which is a number that the manufacturer brands, so to speak, into the hull. And what this Statute really refers to is the registration number which the State provides inwhich the boat must carry on it's bow. What we really mean is registration and we think it's possible that if a person is charged with committing the infraction of altering or defacing the identification number if it gets into Court, if he has a Hearing, gets into Court he could argue that "no" he didn't touch the identification number at all. Because identification number means this Hull number.

We think that the simple solution would be to change the word identification to the word registration. Which is really what we are referring to or perhaps the State Registration number. Whatever the specific language might be.

In the last Section on page 12, we are a little confused as to what specifically in this section would constitute an infraction? As we read the Bill, really the only infraction would be if you failed, if you refused to stop your boat. Or if you refused to take it to a designated area. On the other hand the penalty for that still remains as the way this Bill was written for \$50.00. I don't know whether what we're saying is that it would be an infraction with a fine of no more than \$50.00 or whether that ought to come out or what it is. One of our members said that almost sounds like the boat owner could around and charge the enforcement official with an infraction if he stopped him for some reason other than what's listed here. Which we don't think is what you're trying to do. Maybe there is not a problem here but it looks to us as if there might be with that.

The only other comment that we would make about this, and I tried to get an answer from some of our people before I came here this morning. Unfortunately we didn't know about this Bill until yesterday. It is our understanding that in some cases some that may be covered by this Bill. Under Federal Statute the boat owner has the option if he's charged with a violation of having this taken to either a State or a Federal Court. And as we understand infractions it would automatically go to the State Court. If we are correct in this understanding which is based on some information we had a couple of years ago, that the boat owner has the option of going to Federal or State Court. There may perhaps then be some problems with some of the Sections. I haven't yet been able to get an answer of this to, in which case it's those that apply and I'll try and do so and get an answer for the Committee as soon as I can.

REP. HEALEY: I gather however you have no objection to the Committee's primary intention with this Bill taking these various offenses out of the regular court system and putting them in the Infractions Bureau ?

JOHN WEIDER: No, not as far as I can tell. The only possible concern would be

JUDICIARY

JOHN WEIDER, CONTD.: with Section 14, which I mentioned and also Sub-Section (h) of Section 9. We're given the nature of those and giving the increase in volume of problems that we're having with boat theft. There is some feeling among our members that the fines ought to be higher, the penalties ought to be higher than the existing. Now obviously to a certain extent infraction makes it a little higher. I think one of them is now \$50.00 infraction would make it up to \$99.00. We were talking at one point and we have not taken a definitive stand but some of our members have said we ought to have a very substantial penalty, \$250.00, \$500.00 something like that. Because of the nature of those particular items and because of the increase in problem of boat theft, but that's something that we have not taken a firm position on as an association. And so this Bill we have no problem with.

REP. JAMES HEALEY: Fine. Thank you very much for your views. Commissioner Pac.

COMMISSIONER PAC: Thank you Mr. Chairman, Members of the Committee, I am Stanley J. Pac, Commissioner of Motor Vehicles. I strongly am in favor of Bill 5783. This Bill in essence among its other provisions would require that the Motor Vehicle Department erase all records where the accused has been found not guilty or the charges have been dismissed. Another provision calls for the erasure of all records in regard to a nolle after 13 months have it expired. The question arises why a Bill of this type is even necessary? We ought to do it as a matter of course. But you really need this Bill. Let me give you an example. Just about a week ago and this has happened frequently, an individual contacted my office, his Insurance Company was assigning him to a Risk Pool. I checked his record. He had no record. The only record he did have and this has a bearing on this Bill, was the fact that he was involved in an accident where he brushed a car in a highly congested area. It was raining at the time, it was near a church, he stopped the car a few feet from the side of the accident and another patrolman at that time, moved the car around the corner, to Carol Street. It happened in New Britain so I'm very familiar with the area. He was charged with evading responsibility. Well of course in between, before he came into Court the patrolman did sign a statement that he did in fact move his vehicle from $\frac{1}{2}$ a mile away and it wasn't his fault. But that was on the record. It was in the report. And of course the case was dismissed. But it's still there and this poor guy's are dropping him. They're dropping his Insurance or at least assigning him to a High Risk Pool. It just doesn't make any sense, does it? And it's on the record. You have to take some kind of positive action. We're in a Data Processing Era, what a big brother takes over. Take a look at our records, we have 1,972,000 operators outstanding here in the State of Connecticut. And we have a record for each one. Now theoretically, not theoretically but in fact every second or third offense is defined as, as a, an offense of this type if it occurs within 5 years. After 5 years we're supposed to erase it. But this does not happen. Because, because of inertia, lack of funds, might be 6, 7, 8 years before they're erased. I takes a positive to go into the records and eliminate it. And I repeatedly get requests, gee, they're my records of 7, 8 years ago against me. And that's true and this is a good Bill. We have another Bill that would compliment this one before the Transportation Committee, which defines a second or a third offense as occurring within 3 years. I'm in favor of that one, I think that 3 years is sufficient time and what that would

H-176

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1976

VOL. 19
PART 5
1677 - 2154

House of Representatives

Wednesday, April 14, 1976

104
ec

THE CLERK:

Calendar No. 612. Substitute for House Bill No. 5796. AN ACT
CONCERNING INFRACTIONS.

THE GUEST SPEAKER: (Tiffany)

Gentlemen from the 37th.

REP. ROBERT D. TOBIN (37th):

Mr. Speaker, I move for acceptance of the Joint Committees
favorable report and passage of the bill.

THE GUEST SPEAKER:

The question is on acceptance and passage. Will you remark?

REP. ROBERT D. TOBIN (37th):

Mr. Speaker, the Clerk has an amendment LCO 2536. I re-
quest permission to summarize.

THE GUEST SPEAKER:

The Clerk please call.

THE CLERK:

House Amendment Schedule "A" LCO 2536 offered by Mr.
Tobin of the 37th 37th.

THE GUEST SPEAKER:

Is there objection to the summarization? If not, the gentle-
man may proceed.

REP. ROBERT D. TOBIN (37th):

Mr. Speaker, this amendment makes an infraction. Last year
we passed a bill which made infractions in a number of minor
criminal offenses. In reviewing the proposed bill it was noted
that we overlooked a particular section of the Dog Law which

House of Representatives

Wednesday, April 14, 1976

105
ecp

basically provides that when a dog is a nuisance by reason of disposition or excessive barking or other disturbance, and such barking or other disturbances are a source of annoyance to any sick person residing in the vicinity, we decided that that also should be included in the infraction section and so this amendment just adds that to the infraction section. I move adoption of the amendment.

THE GUEST SPEAKER:

Further discussion. If not, the question is on adoption of Amendment "A". All in favor signify by saying "Aye". Those opposed. Amendment is adopted. Ruled technical. Further amendments?

REP. ROBERT D. TOBIN (37th):

I move adoption of the bill as amended.

THE GUEST SPEAKER:

Any further discussions on the bill as amended by Amendment "A". Gentlemen of the 37th.

REP. ROBERT D. TOBIN (37th):

Mr. Speaker, last session we passed Public Act ⁵⁷⁷ 75-77 the so-called Infraction Bill which has done a great deal to alleviate the burden in our Court System. In reviewing some of the Statutes the bill is basically a housekeeping measure and also adds a certain sections that were overlooked last year. Basically the bill adds a provision which is a person fails to pay the fine or send in his plea of not guilty by the specified date, that he would be guilty of a misdemeanor and subject to a penalty of imprisonment for up to three months and or a fine of up to \$500.00. It also reduces

House of Representatives

Wednesday, April 14, 1976

106
ecp

the amount of the total that could be charged for any infraction from \$100.00 to \$99.00 which thereby eliminates the possibility of a Jury Trial in these cases. In addition, the bill also would change from criminal violations to infractions certain minor motor vehicle violations, regulations with regard to the operation of snowmobiles and boating violations which were overlooked last year would be changed from criminal offences to infractions. Under the present system the Judges of the Court of Common Pleas determine what the penalty is for each infraction. I would, therefore, move adoption of the bill.

The Guest Speaker:

Will you remark further? If not, the aisles be cleared. Members take their seats. The machine will be open. Has everyone voted. Is so, the machine will be locked. The Clerk will take the tally.

THE SPEAKER:

Gentlemen of the 93rd.

REP. IRVING STOLBERG (93rd):

In the affirmative, please.

THE SPEAKER:

Gentlemen of the 96th

REP. VINCENT VILLANO (96th):

In the affirmative, please.

THE SPEAKER:

Clerk please note. Anyone else. Gentlemen of the 139th.

House of Representatives

Wednesday, April 14, 1976

107
ecp

REP. JOHN F. MCGUIRK, SR. (139th):

In the affirmative.

THE SPEAKER:

The clerk please note. The Clerk announce the tally.

THE CLERK:

Total Number Voting.....	134
Necessary for Passage...../	68
Those voting Yea.....	134
Those voting Nay.....	0
Those absent and not Voting.....	17

THE SPEAKER:

Bill is passed as amended by House "A".

THE CLERK:

Calencar 614. Substitute for House Bill No. 5630. AN ACT CONCERNING MORTGAGE DEEDS WITH RESPECT TO SUBORDINATION CLAUSES AND NOTES.

THE SPEAKER:

~~Gentlemen from the 146th~~ Gentlemen from the 89th.

REP. ELMER W. LOWDEN (146th):

Mr. Speaker I move acceptance of the Joint Committees favorable report and passage of the bill.

THE SPEAKER:

Questions on acceptance and passage. Will you remark?

REP. ELMER W. LOWDEN (146th):

Mr. Speaker, Secion 1 of the bill makes it clear that an instrument affecting Real Property may provide therein that it

S-118

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1976

VOL. 19
PART 6
2171 · 2626

Monday, May 3, 1976

59.

roc

THE CLERK:

Cal. 645, Files 482 and 668. Favorable report of the joint standing committee on Judiciary. Substitute for House Bill 5344, AN ACT CONCERNING VENUE, as amended by House Amendment Schedule A.

THE PRESIDENT:

Senator Neiditz.

SENATOR NEIDITZ: (5th)

Mr. President, I move acceptance and passage, as amended by House Amendment Schedule A and transfer to CONSENT.

THE PRESIDENT:

Move to consent. Is there objection? Hearing none, the matter is placed on the CONSENT CALENDAR.

THE CLERK:

Cal. 648, Files 515 and 670. Favorable report of the joint standing committee on Judiciary. Substitute for House Bill 5796, AN ACT CONCERNING INFRACTIONS, as amended by House Amendment Schedule A.

SENATOR NEIDITZ:

I move adoption of the favorable report as amended by House Amendment Schedule A, and Mr. President, the Clerk has an amendment.

THE CLERK:

The Clerk has received no amendments.

SENATOR NEIDITZ:

I move adoption of the bill as amended by House Amendment

Monday, May 3, 1976

60.

Schedule A. The Clerk has no amendments. And I ask that it be transferred to the CONSENT CALENDAR.

roc

THE PRESIDENT:

I hear no objection to that. So ordered.

THE CLERK:

Continuing on page five of the Calendar, Cal. 740, File 611. Favorable report of the joint standing committee on Government Administration and Policy. Substitute for House Bill 5573, AN ACT CONCERNING MUNICIPAL FLOOD AND EROSION CONTROL BOARDS.

THE PRESIDENT:

Senator Julianelle.

SENATOR JULIANELLE: (14th)

Mr. President, I move acceptance of the committee's joint favorable report and passage of the bill. It is merely a technical bill which increases the membership on Flood and Erosion from five to seven. If there is no objection, I move it be placed on CONSENT.

THE PRESIDENT:

Is there objection? Hearing none, the matter is placed on CONSENT.

THE CLERK:

Cal. 745, File 613. Favorable report of the joint standing committee on Judiciary. Substitute for House Bill 5289, AN ACT CONCERNING MECHANICS LIENS.

THE PRESIDENT: