



Legislative History for Connecticut Act

SB 15 PA 543 1984

House 2595, 5149-5156 (9)

Senate 1097-1127, 1180, 3303-3305, 3322 (36)

Environment (Interim) 7-10, 29-30, 34-40, 41,
49, 53-66 (29)

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1984

VOL. 27

PART 7

2238-2605

klc

House of Representatives

Tuesday, April 24, 1984

objection? Is there objection? Seeing no objection,
it's so ordered.

CLERK:

Calendar Page 19, Calendar No. 498, File No. 22,
Substitute for Senate Bill No. 15, AN ACT ESTABLISHING
A LOBSTER LIMIT ON ANY VESSEL USING AN OTTER TRAWL,
BEAM TRAWL OR SIMILAR DEVICE, as amended by Senate
Amendment Schedule "A". Favorable Report of the Committee
on Environment.

REP. GROPPA: (63rd)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Groppo.

REP. GROPPA: (63rd)

May this item be referred to the Committee on
Judiciary.

SPEAKER STOLBERG:

The motion is reference to Judiciary. Is there
objection? Is there objection? Seeing no objection,
it's so ordered.

CLERK:

Calendar Page 20, Calendar No. 502, File No. 637,
Substitute for House Bill No. 5883, AN ACT CONCERNING
THE VIDEOTAPE RENTAL CONSUMER PROTECTION ACT. Favorable

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House of Representatives

Thursday, May 3, 1984

CLERK:

Calendar Page 7, Calendar No. 498, File No. 22 and 910, Substitute for Senate Bill No. 15, AN ACT ESTABLISHING A LOBSTER LIMIT ON ANY VESSEL USING AN OTTER TRAWL, BEAM TRAWL OR SIMILAR DEVICE, as amended by Senate Amendment Schedule "A". Favorable Report of the Committee on Judiciary.

SPEAKER STOLBERG:

Rep. Bertinuson.

REP. BERTINUSON: (57th)

Thank you, Mr. Speaker. I move acceptance of the Joint Committee's Favorable Report and the passage of the bill.

SPEAKER STOLBERG:

Will you remark, ma'am?

REP. BERTINUSON: (57th)

Yes, Mr. Speaker. The Clerk has an amendment, LCO 3795. I'd ask if he would call and I be allowed to summarize.

SPEAKER STOLBERG:

Rep. Bertinuson, the Clerk has LCO 2570, Senate "A". Would you like to call that at this time?

REP. BERTINUSON: (57th)

Mr. Speaker, it is my understanding, perhaps I'm

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wrong, that the bill was before us with Senate "A" and in that form without us acting on Senate "A", was referred to Judiciary.

It came back from Judiciary as a new file, so it's my understanding that Senate "A" is no longer before us. Perhaps you could correct me if I'm wrong. There is a new file, No. 910 reported out of Judiciary.

SPEAKER STOLBERG:

Madame, your point is well taken. The second file apparently has incorporated the amendment; therefore we do not need to deal with the amendment at this time. Therefore you have called LCO 3795, which will be designated House Amendment Schedule "A". Will the Clerk please call.

CLERK:

LCO No. 3795, designated House Amendment Schedule "A", offered by Rep. Casey of the 118th District.

SPEAKER STOLBERG:

Is there objection to summarization? Seeing none, please proceed.

REP. BERTINUSON: (57th)

Thank you, Mr. Speaker and members of the House. The simplest way for me to summarize this now

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amendment is that this here is the original file copy the say it was reported out of the environment committee. It was amended in the Senate. This puts it back to the original file copy. The purpose of the bill is to correct a misunderstanding of legislation that we passed last year.

It makes it clear that when we say trawlers can take 100 lobsters, it's by catch, we mean 100 lobsters per boat, not 100 lobsters per person, a basic change in the bill. It's in the middle of a two-year study, and we feel that this does not change our commitment last year. It simply clarifies the legislation that we passed, and I would urge adoption of the amendment.

SPEAKER STOLBERG:

Will you remark further on House "A"? If not, all those in favor of the amendment please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

Those to the contrary, nay.

The amendment is adopted.

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House Amendment Schedule "A".

Strike everything after the enacting clause and insert the following in lieu thereof:

"Section 1. Subsection (a) of section 26-157a of the general statutes, as amended by section 2 of public act 83-262, is repealed and the following is substituted in lieu thereof:

(a) Lobsters may be taken only by lobster pots, traps, trawls or similar devices or by skin diving, including the use of self-contained underwater breathing apparatus, or by hand. (,provided, on or) ON AND AFTER THE EFFECTIVE DATE OF THIS ACT AND before July 1, 1985, (no person on any vessel using an otter trawl, beam trawl or similar device operating in the waters of this state west of longitude seventy-three degrees shall possess more than one hundred lobsters taken as an incidental catch to the use of any vessel using an otter trawl, beam trawl or similar device) THERE SHALL BE A TRIP LIMIT OF ONE HUNDRED LOBSTERS ON ANY VESSEL USING AN OTTER TRAWL, BEAM TRAWL OR SIMILAR DEVICE ON THE WATERS OF THIS STATE WEST OF LONGITUDE SEVENTY-THREE DEGREES. THE TRANSFER OF ANY LOBSTER FROM ANYVESSEL USING AN OTTER TRAWL, BEAM TRAWL OR SIMILAR DEVICE TO ANY OTHER VESSEL ON THE WATERS OF THE STATE IS PROHIBITED. THE POSSESSION AN ANY VESSEL OF AN OTTER TRAWL, BEAM TRAWL OR SIMILAR DEVICE CAPABLE OF TAKING LOBSTER SHALL BE PRIMA FACIE EVIDENCE OF USE OF SUCH OTTER TRAWL, BEAM TRAWL OR SIMILAR DEVICE. The use of spears of any kind to take lobsters is prohibited. No person shall buy, sell, give away, expose for sale or possess any lobster less than three and three-sixteenths inches in length, measured by taking the length of the body shell parallel to the center line from the rear end of the eye socket to the rear end of such body shell, or any female lobster with ova or spawn attached or from which the ova or spawn has been removed.

Sec. 2. Subsection (i) of section 26-157a of the general statutes, as amended by section 3 of public act 83-262, is repealed and the following is substituted in lieu thereof:

(i) Any person who violates any provision of this section shall be fined not less than twenty-five dollars nor more than two hundred dollars or be imprisoned

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not more than thirty days or both, for each offense and each lobster taken or possessed, and each net, pot, trap, trawl, spear or similar device used in violation of any provision of this section shall constitute a separate offense, except that any person (taking a lobster less than the minimum length established in subsection (a) of this section or any person possessing more than one hundred lobsters taken as an incidental catch to the use of any vessel using an otter trawl, beam trawl or similar device shall be fined twenty-five dollars for the first violation, fifty dollars for the second violation and one hundred dollars for the third violation) WHO VIOLATES ANY PROVISION OF SUBSECTION (a) SHALL BE FINED TWENTY-FIVE DOLLARS FOR EACH LOBSTER TAKEN OR POSSESSED FOR THE FIRST VIOLATION, FIFTY DOLLARS FOR EACH LOBSTER TAKEN OR POSSESSED FOR THE SECOND VIOLATION AND FOR EACH SUBSEQUENT VIOLATION SHALL BE FINED ONE HUNDRED DOLLARS FOR EACH LOBSTER TAKEN OR POSSESSED. NO PART OF ANY FINE IMPOSED PURSUANT TO THIS SUBSECTION SHALL BE REMITTED.

Sec. 3. This act shall take effect from its passage."

SPEAKER STOLBERG:

The amendment is adopted. Will you remark further on the bill.

REP. BERTINUSON: (57th)

Thank you, Mr. Speaker. The amendment now is the bill, and I would urge its passage.

SPEAKER STOLBERG:

Will you remark further on the bill? Rep. Osler.

REP. OSLER: (150th)

Thank you. May I ask a question of the proponent of the bill? I'm awfully glad that this

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has been reduced to the boat may only have a hundred lobsters per day. Last year I remember asking a question, or perhaps it was two years ago, and we talked about this before. But that seemed like an awful lot of lobsters to me for each person.

And I was going to, before you brought out this amendment, going to get up and yell about the Senate amendment changing the bill. But I have a question as to where this longitude seventy-three I think it is that is mentioned in the bill, about what town is that?

SPEAKER STOLBERG:

Rep. Bertinuson.

REP. BERTINUSON: (57th)

Mr. Speaker, through you, I can't answer that except that that is no change. This is the line that was established last year.

REP. OSLER: (150th)

I think I asked the same question last year, and I don't remember where it was.

REP. BERTINUSON: (57th)

I'd be happy to yield to Rep. Casey who I'm sure can answer that.

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SPEAKER STOLBERG:

Rep. Casey, can you respond to the question?

REP. CASEY: (118th)

Mr. Speaker, that's from Milford westward to New York.

SPEAKER STOLBERG:

Thank you, sir. Will you remark further on the bill? If not, will members please be seated. Staff and guests come to the well of the House. The machine will be opened.

CLERK:

The House of Representatives is now voting by roll. Will the members please return to the Chamber immediately.

The House of Representatives is now voting by roll call. Will the members please return to the Chamber immediately.

SPEAKER STOLBERG:

Have all the members voted? Have all the members voted, and is your vote properly recorded? Have all the members voted? If all the members have voted, the machine will be locked, and the Clerk will take a tally.

Will the Clerk please announce the tally.

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CLERK:

Senate Bill 15 as amended by House Amendment
Schedule "A".

Total Number Voting	143
Necessary for Passage	72
Those Voting Yea	143
Those Voting Nay	0
Those Absent and Not Voting	8

SPEAKER STOLBERG:

The bill is passed.

CLERK:

Calendar Page 13, Calendar No. 618, File No.
399, Substitute for Senate Bill No. 604, AN ACT CONCERNING
ELIGIBILITY UNDER THE JOB INCENTIVE GRANT PROGRAM,
as amended by Senate Amendment Schedule "A" and "B".
Favorable Report of the Committee on Planning and
Development.

REP. GARAVEL: (110th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Paul Garavel.

REP. GARAVEL: (110th)

Mr. Speaker, I move acceptance of the Joint
Committee's Favorable Report and passage of the bill

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FILING REQUIREMENTS FOR CERTIFICATES OF ORGANIZATION OF
CREDIT UNIONS. Favorable report of the Committee on Banks.

THE CHAIR:

Senator Sullivan.

SENATOR SULLIVAN:

Mr. President, may that be P.T'd?

THE CHAIR:

The matter will be Passed Temporarily, hearing no ob-
jection.

THE CLERK:

Going back to Page one of today's Calendar, under the
heading of Favorable Reports, Cal. 27, File 22. Substitute
for Senate Bill No. 15. AN ACT ESTABLISHING A LOBSTER LIMIT
ON ANY VESSEL USING AN OTTER TRAWL, BEAM TRAWL OR SIMILAR
DEVICE. Favorable report of the Committee on Environment.
The Clerk has amendments.

THE CHAIR:

Senator Skowronski.

SENATOR SKOWRONSKI:

Thank you, Mr. President. Mr. President, I move accept-
ance of the Joint Committee's favorable report and passage of
the bill.

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THE CHAIR:

The Clerk will call the first amendment.

THE CLERK:

The Clerk has Senate Amendment Schedule A. LCO 2570.

THE CHAIR:

Senator Skowronski.

SENATOR SKOWRONSKI:

Thank you, Mr. President. Mr. President, I move the amendment, request that the reading be waived and request permission to summarize.

THE CHAIR:

Any objection to waiving the reading? Hearing no objection, proceed, Senator.

SENATOR SKOWRONSKI:

Thank you, Mr. President. Mr. President, what this amendment does is tighten up the language in the file copy which makes it crystal clear that when they are trawling for lobsters in the western end of the Sound, the trawlers are limited to one hundred lobsters by catch only.

Last year, we intended to do this with the bill, except the language was flawed. Some trawlers took the bill to court and defeated it saying that we intended last year that there only be one hundred lobsters by catch per day, per boat and

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WHAT the trawlers said was that each person on the boat is entitled to one hundred lobsters by catch and they won in court.

What my amendment seeks to do is to make it clear that they are entitled to only one hundred lobsters on the boat, and that's it, in the western end of the Sound. It doesn't move the line at all. It just says in the western end of the Sound, you get one hundred lobsters by catch per day, period, and that's it.

So I would move the amendment.

THE CHAIR:

Will you remark further on Senate Amendment Schedule A? If not, the issue before the chamber is adoption of Senate Amendment Schedule A. All in favor will signify by saying Aye. Those opposed Nay. The Ayes have it. SENATE AMENDMENT A IS ADOPTED.

THE CLERK:

The Clerk has Senate Amendment Schedule B. LCO 2592, Senator Gunther.

THE CHAIR:

Senator Gunther.

SENATOR GUNTHER:

Mr. President, I move adoption of the amendment, waive

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the reading and I will explain it.

THE CHAIR:

Any objection to the waiving of the reading? Hearing no objection, proceed, Senator.

SENATOR GUNTHER:

Very simply, this just deletes the language 73 degrees west of seventy-three degrees longitude in Long Island Sound. What this will do, in essence, is take the present dividing line, which is approximately at the New Haven area, and discontinue it and have the entire state of Connecticut all the way, the entire Long Island Sound to conform to the New York law. Right now, in the State of New York, and incidentally, the State of New York passed their law about three or four months after we had adopted ours. I think if New York had their law passed and on the books at the time it was discussed here last year, I am almost certain we probably would have it paralleled, both the New York and the Connecticut law and having them paralleled, so that we don't have the problem we are having today.

Since the passage of this bill, in the area of New Haven, we have had a tremendous amount of conflict and I am talking about gear conflict where the trawlers are destroying pots. We have the trawlers themselves, and incidentally, you had

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A letter placed on your desks by the Long Island Sound Draggermen, I believe yesterday or the day before, and I would like to use this as a good argument as to why you ought to take and pass this amendment. They have identified that there are only thirteen trawlers that are operating in the western end of the Sound, and incidentally, there are only fifteen draggers in the entire Stonington area, so that means that two of them don't operate in the Long Island Sound area, in the western area where we are. But thirteen draggers are down there, seven of them are over forty feet and six are under forty feet. How thirteen draggers down there and they cite that there are approximately one hundred twenty-five to one hundred fifty commercial pot lobstermen. You are darn right and those pot lobstermen have been down there for a long time and again with many thousands of lobster pots. He says also many hundreds of lobster pots maintained by private individuals. I tell you there are many. If there are three thousand licensed recreational sports lobstermen in the State of Connecticut and if everyone of them had their ten pots out there, that's over thirty thousand pots that are out there by recreational lobster people who are just as important in some respects as the commercial lobstering is. We have an intense pot lobster

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fishing in the State of Connecticut, and again, I would like to cite the statistics as to how many are caught by trawlers. An infinitesimal amount. In fact, you hear the argument only eleven thousand pounds of lobster were taken here last year, I mean the first six months of last year. If you believe that, you will still believe in Santa Claus because believe me, the reporting by the trawlers of their lobster catch is a myth, and the Department, if you set them down, our own state department will admit this because we are not getting the reporting. I know of one commercial lobsterman, a trawler, who is out there, who violates this line day after day, night after night, and I would dare say his catch alone exceeded eleven thousand pounds. So that anybody that knows the industry and that, knows darn right well that the statistical data that we are getting from the Department relative to trawlers as opposed to pot lobstermen is so far out of line that it is not even funny.

What is happening right now, in fact the past couple of weeks, we have had an intense destruction of lobster pots in this area, almost a threat; and let me tell you, there have been plenty of threats made out there, and if you could come down and talk to both the small trawler and the pot lobster people in our area and that, and especially around the New

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AREA, you will find out that they are being threatened constantly, the pots are being ripped up because these fellows are telling them that you are going to pass a law, your conservation officers aren't going to enforce it, and we are going to fish out there, those fish are ours, and there is nothing that you are going to do about it. And I tell you, they have been violating the law that we passed last year and they are doing it flagrantly. And you might say, how come? It is a pretty tough job to enforce this particular law and I think that Senator Santaniello, he is not here, was yelling about how do you enforce it? Well, it is almost impossible because these big boats like to get out there first of all, at night, second in rough weather and if you know our conservation officers in the State of Connecticut, they have an eighteen, nineteen foot outboard motorboat to go out there and try to enforce this law.

As far as the small trawlers and that are concerned in this state, they have no problem. They would like to catch more lobsters. They have no problem with this bill and they are conforming to it, and many of these big guys are saying to them, look, never mind this stuff, we are doing it, so you go out and catch them too, because if you don't you are

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a damn fool. Now in New York State, incidentally, you can't catch lobsters by pot or by trawling at night, and yet most of these fellas are going out and they are trawling and they can get back into that New Haven area and they can dock as many lobsters as they want. Incidentally, in part of this bill that already exists, there is this business of off-loading. Now I know of one instance out there last year, where one of these trawlers off-loaded eight hundred pounds onto a lobster boat and tried to bring them into the dock, and passed it off as a pot lobsterman. So that would be tightening that up. But there has been a flagrant disregard of this law, as far as I am concerned.

Now, lastly, I will say that the State of New York called me in the past couple of days and said - look, can you get that amendment passed? This is the State of New York, the marine fisheries people over there who say that you have got to get this law passed, and you have got to extend it to the whole Sound because it is creating havoc in the whole Long Island Sound and especially on the New York side where these fellas have been over there the past couple of weeks, Connecticut trawlers that are trawling in areas where there are no fisheries for trawling and they are ripping the hell out of the pots. They are having a large pot loss over there,

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which they are getting reported, and the New York people are concerned that these fellows are almost up to the point of actually trying to blow each other out of the water. That's how critical it is in the State of New York. And the only way this thing is going to be made enforceable, is if we make it the entire Long Island Sound.

Incidentally, I was told the other day that the Department has no record of pot losses by pot lobstermen in the State of Connecticut, and that's right, because all the pot lobstermen say, what's the use of taking and going in there and reporting your pot losses, when there isn't a darn thing that will be done about it. When they go in and complain to our Department, the Department says - did you catch the trawler, did you see the trawler, can you identify the person? Then, how do you know it is the trawler that destroyed your pots? Of course, the big secret here is the trawlers are in there and then they find out their pots are missing. Try to catch them when they are working at night and that type of thing.

All I can say is that the State of Maine is a noted state for lobstering. Do you know that the big trawlers up there, and incidentally, you have to be a heck of a big trawler, ninety percent of them in the State of Maine, they do not

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allow one by catch in the State of Maine. You cannot have one lobster aboard a trawler, and they know and they value their fishery.

All I can say is that this is an important amendment. I think it is an important step that we should take today, and we should have the entire State of Connecticut conform with New York State because the only way we can have this law enforced, the only way we can reduce the conflict in the fishery, and frankly, as much as there can be a little dispute about the resource itself, if we allow these guys to just fish this resource unrestricted, you are going to find out, and we will learn through experience, that it is going to impact on the resource itself.

So I think it is an important amendment. I would love to see unanimous support but I know darn right well that's not coming, but I do think this is one of the most important fishery bills, outside of the striped bass bill you passed the other day, for the State of Connecticut. And if you don't pass it, then you are going to look for some real trouble out on Long Island Sound between the two fisheries that are in conflict right now.

THE CHAIR:

Will you remark further on Senate B? Senator Avallone.

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SENATOR AVALLONE:

Mr. President, Doc Gunther has indicated on a number of occasions that the New Haven area is specifically affected by this particular legislation, and I would have to concur with him completely. I have had numerous calls from pot fishermen who make their living from their harvest by pots, and also by individuals who have smaller numbers, five, ten, fifteen pots, mostly for their own use as opposed to commercial resale. They have indicated to me on numerous occasions, the losses of their pots which they attribute to the trawlers in the Sound.

I don't want to reiterate all of the comments that Doc made, but I certainly want to associate myself with him and I want to establish firmly, in your minds, that this is a serious problem throughout Long Island Sound. Thank you.

THE CHAIR:

Will you remark further? Senator Schneller.

SENATOR SCHNELLER:

Mr. President, I guess this is getting to be known as the Great Lobster War because this is the second year that we have had this issue back before us, and last year, when the issue was presented, I felt that we had reached a reasonable compromise with the Senate Chairman of the Environment

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Committee. We drew a line and that line was seventy-three degrees longitude and it said that east of that line there would be certain restrictions on by catch. West of that line, there were no restrictions. But also as part of that compromise, we mandated a study to be undertaken by the Department of Environmental Protection and the Department of Environmental Protection is to report the results of its findings on or before January 1, 1985.

And I think this amendment is somewhat of a violation of a compromise that was reached because what it attempts to do is to restrict any trawling for lobsters anywhere in Long Island Sound prior to the time that the Department of Environmental Protection has made its report.

So that number one, I would urge voting against this particular amendment if for no other reason that it violates a compromise that was entered into with Senator Gunther, with Senator Skowronski and with Senator Martin and many of us that have an interest in this particular issue, and I really think that we ought to wait until the Department of Environmental Protection makes its report.

It is my understanding that DEP officials are out on these boats now, getting information and trying to provide us with some hard facts relative to this entire situation

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TO permit us to make an intelligent decision, and I think we ought to continue with that process.

The other thing that I want to point out is, that at the present time, and it is my understanding that approximately ninety-two percent of the lobster catch in Long Island Sound is taken by these large number of pot lobstermen. So between now and the time that the DEP makes its report, how really urgent is it that something be done immediately. It is only a relatively small percentage of the entire catch.

Third, I think that if the State of New York had as much concern as Senator Gunther indicates, the proper agency that they should have contacted was our Department of Environmental Protection, and I don't think any of us have had any communication from our Department of Environmental Protection that has indicated the urgency of adopting this type of amendment.

So for those reasons, I think it is important and equitable and fair and the sensible thing to do is to vote against this amendment and wait until the DEP makes its report. Thank you.

THE CHAIR:

Will you remark further. Senator Mary Martin.

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SENATOR MARTIN:

Mr. President, Senator Schneller has expressed the facts very well. Many fishermen have spoken to me expressing their concern about this amendment. It is their main income during the winter. If the laws that we have now are more strictly enforced, these few who are abusing the laws would be apprehended. The draggers do need eight to ten weeks in the winter to catch lobsters when the lobster pots are not working. In the summer, they fish. It is costing much more to go to Long Island Sound, which is a nightmare I hear, with fifty mile per hour winds and taking more of their time to go so much farther out into the waters and this is what they would be forced to do. Besides, and most importantly, as Senator Schneller mentioned, we passed legislation last year after working out a compromise for a study. This study will be reported in February of eighty-five and knowledgeable people are involved in this study, and they are working very hard on it, and I think it is very, very unfair to do anything until the study reaches us.

There is no problem with the taking of the lobsters and depleting them. They are plentiful. This has been verified by the DEP, and the dragging does not harm the beds

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also according to the DEP. But if several boats are actually doing harm, it is up to the enforcement officers to rectify the situation, but don't close the whole coastline as this amendment will do at this time. Wait for the report of the study committee to resolve this emotional situation. You will be doing more harm than good, if you do this.

Thank you.

THE CHAIR:

Will you remark further? Senator Hampton.

SENATOR HAMPTON:

Thank you, Mr. President. Last year, I talked about this bill and I, too, believed that we had a commitment that we would do the study, finish it, and then make a decision. I can say to you that the trawl fishermen have made an agreement that after this study, if it is found that they are the ones that are creating the problem out there that they will withdraw. So it seems to me that we are doing something by this commitment that will protect everyone, but if we go ahead with this amendment, we are going to renege on something that this Assembly voted for.

Senator Gunther talked about the eleven thousand pounds that were taken between January and July of nineteen eighty-three by the trawlers, I would like to tell you that by pots

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two hundred and fifty-eight thousand eight hundred and seventy-six pounds were taken by pot fishermen. These figures are given to us by DEP and you have to understand that both the trawlers and the pot fishermen operate under the same license. They have to keep a log as same as each side and show if, I believe that if the trawlers are not putting in their log what they catch, I wonder if the pot people are putting in their logs more than they catch. I doubt that.

The number of traps hauled and I would like to just show you the rapid increase in numbers. In 1982 from January to July, we had one hundred ninety thousand six hundred and ninety-two pots pulled in the Sound. January 1983 to July 1983, the number increased to two hundred and sixty-seven thousand five hundred and nineteen. I don't believe that people would put in almost one hundred thousand more pots if they were not being very successful. The underwater photography that is being done by DEP in the Sound tells me that, as they describe it, wall-to-wall lobsters in the Sound.

I don't believe that this amendment is necessary. I think we should wait until this study is over, then make the decision of what we should do out there. I urge the defeat of this amendment.

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THE CHAIR:

Senator Skowronski.

SENATOR SKOWRONSKI:

Thank you, Mr. President. Mr. President, I rise to support the amendment and I would like to address and respond to what Senator Schneller talked about the issue of violation of compromise and the issue of good faith and the issue of clean hands.

I would like to remind the members of the circle that last year, the Environment Committee approved a bill that came to the floor of the Senate that banned the taking of lobsters by trawling in the entire Long Island Sound. That bill sat on the Senate Calendar. It was passed by the Environment Committee after public hearing. There was a tremendous outcry, outrage about what the trawlers were doing to the pot lobstermen and the resource in the Long Island Sound. The bill sat on the Senate Calendar and we attempted to work things out in good faith. We did reach a compromise, Mr. President, and I was part of it. The compromise was, as Senator Schneller said, that we drew a line and banned the taking of lobsters by trawling in the western end of the Sound, roughly the Milford-Stratford line west to Greenwich. We also mandated a study of the issue

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THAT will be done in February of eighty-five. We said that in the western end of the Sound, where lobsters, the taking of lobsters by trawling would be banned, that we would allow a by catch of one hundred lobsters per day by trawling. Everyone thought that we had reached a compromise in good faith, but I don't believe, Mr. President, that the trawlers lived up to the compromise and that's why I support and speak today in favor of changing the compromise, and I speak about the issue of bad faith. The only reason we have a bill before us today is because the trawlers violated the compromise. What they did, as I mentioned earlier in the debate when I brought out the amendment, after we passed the law last year, the trawlers took our law to court and defeated it. Our law last year intended that in the western Sound, you can only take one hundred lobsters per day as by catch. What the trawlers came in, as they exploited our law, and said, every person on board could take one hundred and the judge agreed with them and threw out the enforcement case of the DEP. That's the first thing they did.

The second thing they did, which came out at our public hearing this year, was that in the New Haven area, all the trawlers began to congregate in that area and what they started doing was causing tremendous damage to the equipment

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and the pots of the pot lobstermen in that area. And we had constituents of Senator Avallone come before the committee and say that they suffered five to ten thousand dollars worth of damage to their equipment and their pots and they could turn to no one for justice or recompense. The trawling is done all hours of the day and night. The DEP does not have the ability to enforce the law and the trawlers would not live up to their responsibility and recompense the pot lobstermen for their damage. That to me showed bad faith.

There is one other element that is important, Mr. President, and that's the element of changed circumstances. Last year, when we passed this bill, the State of New York on its side of the Sound allowed the taking of lobsters by trawling. Last summer, they passed a law banning the taking of lobsters by trawlers in the New York part of the Sound. That has changed the circumstances in Connecticut dramatically because now the eastern end of the Sound in Connecticut is the only place they can trawl for lobsters and they have put a lot of pressure in that area of the Sound.

So, Mr. President, I don't lightly change a compromise but when there has been bad faith, where they took our law to court and defeated it and where they have done damage to pots and have failed to come forward and to help the people

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whose pots were damaged, and when we have changed circumstances that causes more trawlers to come into our waters because of a change in the New York law, I think a change in the compromise is appropriate and necessary.

And I will only make one final point. This change that Senator Gunther wishes to do is not a permanent change. This ban on the total Sound would go off on July 1, 1985, after the study is completed, and next year's General Assembly will deal with the issue. And I urge the members of the circle to ban the taking of lobsters in the entire Sound, to send a clear signal to the trawlers that we mean business and that they must live up to their responsibilities, live up to the compromise that they agreed to last year, and act in a fair, reasonable, honorable manner. Thank you.

THE CHAIR:

Will you remark further? Senator Gunther.

SENATOR GUNTHER:

First of all, I would like a roll call vote, Mr. President.

THE CHAIR:

So noted.

SENATOR GUNTHER:

Again, I would like to agree with the comments that were

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just made by Senator Skowronski on the lack of conforming to the bill and that. I think that you have a situation in the State of Connecticut, you have a half dozen of these trawlers out there that are raising hell with the entire pot fishery and as far as I am concerned, being trawlers and our trawlers were designed and made to catch fin fish not a fishery for lobster. Now they started a (next word unintelligible) for catching lobster, and, of course, if you hear some of these trawlers yelling that they catch so little, we hear. It is such an infinitesimally small amount but yet they've got to have it and they've got to operate where they want to.

Pot lobstermen don't catch one hundred seventy-eight thousand pounds of flounder, twenty-two thousand pounds of fluke, twenty thousand pounds of blackfish, four hundred twelve thousand pounds of bluefish, eighty-three thousand pounds of weakfish. They don't catch those in lobster pots. That's what we have beam and otter trawlers for. And yet, they want to by catch.

There used to be a time historically, Mr. President, that when a trawler caught lobster on his boat, he gave it to the crew as sort of a little bonus, because they really they really didn't intend on getting lobster. They actually

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WERE out there trawling for fin fish, but now, when they find out they can trawl for lobster and do it properly and catch up to three thousand pounds a day, if we allow them. Boy, that's a big issue now. It used to be for the crew, not for the captain of the boat.

What does it take for a pot lobsterman, to catch lobster? He has got to put out these thousands of pots we hear about and a two million ? averages about three hundred pots a day, and I don't know how many people in this circle have gone out and pulled pots, but it is a damn, tough job, and it is a dirty, sloppy, stinking job because you haul those pots and you have to bring them up, you have to measure every lobster, and, incidentally, when a lobster is found to be undersized and I don't say we don't have some fellas violating the law, but not as flagrantly sometimes as these renegades that are operating down in the western end of the Sound right now with their trawlers, but you have got to put those lobsters back in the water fairly carefully. What happens with trawler lobsters is they are hauled around two and three hours in the cod end, that's the end of the net that catches the fish, and if you can imagine them packed in with flatfish and everything else you can think of, and jammed in there for two to three hours, and you put them on the deck, you want

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TO see the condition of those lobsters. Boy, they love it. Most of them don't survive too long when they bring them into the retail market for more than two or three days in a lobster tank where it is three or four times/^{that}when you get into a pot lobstering. But these are pot lobstermen that go out there, if they can pull three hundred traps a day, they average one hundred pounds, about one pound per pot. When you put the cost of fuel, bait, help, cost of the traps, and incidentally, you hear alot about the loss of pots, eighteen dollars apiece wholesale is what it costs them. And when one of those trawlers runs through them and these guys average about ten pots to a trawl, it costs that guy one hundred and eighty dollars.

I don't say that all of the trawlers are ripping the hell out of them and in fact, some of the nice guys that are out there and there are some nice guy trawlers, they will, at least when they pick up the pots and they find out they have a guy's trawl, they call them on the air and say, look, I made a mistake, I picked up your pots. But these renegades, we ought to have that pot lobsterman that is up in Senator Avallone's district about what experience he had when the guy ran right through his trawls, pulled them up, snapped them off with a knife and showing him that nobody is going to tell

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him what the hell to do and how to trawl in that area. There are a half a dozen of them out there that are doing this and I tell you the lobbying that has hit this thing, any violation of any confidence or any compromise has not been by the pot lobstermen but certainly has been by the trawlers; and I tell you when you take a look at the total fin fishery in the State of Connecticut, and you tell me how small the lobsters are that these trawlers catch, when technically they are fin fishermen, I bleed for them because it is too bad that the pot lobstermen can't take and rig their pots to catch the flounder, the fluke, the blackfish, the bluefish and everything else in the Sound and let's let them have a little competition.

All I can tell you is that this is a necessary amendment, and as far as New York State getting in touch with me, I know they have tried to get in touch with the people over here and are amazed that our enforcement people aren't concerned as they are, because they expect a shooting war if this thing continues in New York State; and the guys that are going to do it are those sweet, lovable fellows that we are talking about in the trawler field that want to take and go out there and they just want to make a living. All I can say is we ought to take and pass this amendment. I really

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hope that you are listening to the debate and not listening to some of the lobby that we get around here and especially some of the distortion on some of the figures, because if you tell me that everybody is reporting all of the lobsters, and yes, Senator, some of the pot lobstermen don't report their catch either, but those pot lobstermen don't get out there and get five and six hundred pounds in a night or in any given period of time. It takes them ten to fifteen, twenty hours to do it, and I don't think you will find too many of them out there more than eight hours a day, and they are lucky if they come in with a catch of one hundred to two hundred pounds.

This is an important amendment and I wish we could get the support for it and I hope you will support this amendment.

THE CHAIR:

Will you remark further? Senator Schneller.

SENATOR SCHNELLER:

Mr. President, I guess this debate can go on a long time. I am hopeful we will bring it to a conclusion, shortly.

THE CHAIR:

I hope you will too.

SENATOR SCHNELLER:

There are arguments, prevailing arguments that can be

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made on behalf of the trawlers. One of the reasons that trawlers need this by catch, particularly in the eastern part of the Sound is that there is a period of about three or four months when their catches of fin fish are extremely small and frankly, they need the lobster catch in order to make a living. If we want to keep a fishing industry in this state, and we want to keep those fishing fleets in Stonington and the eastern part of Connecticut, and we want them to go out there every day and provide food for our people, then we must enable them to stay in business. So that there is alot involved here. There is food for our tables that must be considered and involves an important decision. I think we ought to wait until we get the facts before we change the circumstances, and that's what we will be doing if we vote for this amendment. That's why I ask because of all the important decisions that hinge on this that we wait until we get that decision and defeat this amendment. Thank you.

THE CHAIR:

Are you ready to vote? Senator Hampton.

SENATOR HAMPTON:

Mr. President, through you, please, sir, I have just read the amendment, and to Senator Skowronski, would he please

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tell me what line it says that this amendment will go off in 1985?

THE CHAIR:

Senator Skowronski, if you care to respond.

SENATOR SKOWRONSKI:

Mr. President, I can't respond to Senator Hampton based on the amendment before me. I didn't intend to misrepresent to the Senate, but my understanding is and my guess is that Senator Gunther's amendment amends Section 2 and 3 of Public Act 83-262 and Section 4 of Public Act 83-479. I think, therefore, ~~that~~ the remaining sections of those Public Acts remain intact and my supposition is that among those remaining sections in those public acts that remain unaffected or unamended, one would be the study that Senator Schneller referred to and the other would be the sunset of the ban on trawling for lobsters that I alluded to that takes place on July 1, 1985. If you wish, Senator, we can check the Public Acts themselves to make sure that what I am saying is correct, but my understanding is that Senator Gunther's amendment, if it is passed, which would ban the taking of lobsters by trawling would also be sunseted on July 1, 1985, just as the ban on trawling for lobsters in the western Sound sunsets on July 1, 1985. But if you want a definitive answer,

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we would have to look at the Public Acts, which I would be happy to do.

THE CHAIR:

Is that sufficient, Senator Hampton.

SENATOR HAMPTON:

Thank you, Mr. President. Just one more thing and I will be quiet about it. Senator Gunther talked about the number of lobsters being taken by the pot fishermen and how difficult it was, and I am sure it is very difficult especially when it is cold, but according to the DEP, a total of one hundred and five pot fishermen caught two hundred and sixty-nine thousand nine hundred and eighty-six pounds in six months. It seems to me that that would probably fill this hall, and so I don't think that they are having difficulty out there. I would remind the circle that just two days ago, an amendment was defeated here because we didn't want other states telling us what to do. So I don't think we should be concerned about what New York or Maine or any other places are doing. I think we should be concerned about what Connecticut is doing. Thank you, Mr. President.

THE CHAIR:

Will you remark further? Are you ready to vote? The Clerk will make the appropriate announcement for a roll call.

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THE CLERK:

An immediate roll call has been requested in the Senate. Will all senators please take their seats. An immediate roll call has been called for in the Senate. Will all senators please be seated.

THE CHAIR:

The issue before the chamber is Senate Amendment Schedule B, which is LCO No. 2592. The machine is open. The machine will be closed and locked.

Total Voting is 36. Necessary for Passage is 19. Voting Yea is 15. Voting Nay is 21. SENATE AMENDMENT SCHEDULE B IS DEFEATED.

Does the Clerk have any further amendments?

THE CLERK:

No, Mr. President.

THE CHAIR:

Senator Skowronski, on the bill as amended.

SENATOR SKOWRONSKI:

Thank you, Mr. President. The bill, as amended, simply makes a technical change in the law we passed last year. It still bans the trawling for lobsters only in the western end of the Sound. It doesn't move the line. It tightens up the language to make sure that in that area, they can only really

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get one hundred lobsters as by catch and can't possess more than that on a trawling boat.

I would move it to the Consent Calendar, Mr. President.

THE CHAIR:

Senator Martin.

SENATOR MARTIN:

Mr. President, I would ask for reconsideration of the bill and ask everyone to vote against reconsideration.

THE CHAIR:

You are talking about the amendment?

SENATOR MARTIN:

Yes, I would like to ask for reconsideration of Senate Amendment B and ask everyone to vote against reconsideration.

THE CHAIR:

The Clerk will make the appropriate announcement for a roll call.

THE CLERK:

An immediate roll call has been called for in the Senate. Will all senators please take their seats. An immediate roll call has been called for in the Senate. Will all senators please be seated.

THE CHAIR:

The issue before the chamber is Reconsideration of Senate

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Amendment Schedule B, which was just defeated. LCO No. 2592.

A yes vote is to reconsider; a no vote is not to reconsider and the machine is open. Have all senators voted? The machine will be closed and locked.

Total Voting is 36. Necessary for Reconsideration is 19. Voting Yea is 8. Voting Nay is 28. THE MOTION TO RECONSIDER HAS BEEN DEFEATED.

Senator Skowronski.

SENATOR SKOWRONSKI:

Mr. President, I would move the bill to the Consent Calendar.

THE CHAIR:

Any objection to placing the bill as amended by Senate A on the Consent Calendar? If not, the bill will go on Consent.

THE CHAIR:

Senator Regina Smith. May we have your attention. Senator Regina Smith is coming to the podium on a matter of Personal Privilege. Senator Smith.

SENATOR REGINA SMITH:

Thank you, Mr. President. I would like to introduce someone very special in Connecticut and also in my 12th Senatorial District. Her name is Georgine Hill Mendillo and she is here today to meet the members of the circle and we

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SENATOR OWENS:

Yes. While the senators are coming back to the chamber, I would just like to make an announcement that after the public hearing of the Judiciary tomorrow at twelve o'clock, there will be a committee meeting and that's for the record.

Thank you.

THE CHAIR:

Any other announcements? The Clerk will now call the Consent Calendar for today.

THE CLERK:

The following is a list of items on today's Consent Calendar:

Page one - Cal. 27. Page two - Cals. 144, 165 and 168.
Page three - Cals. 181, 209 and 211. Page four - Cals. 232
and 235. Page five - Cals. 240, 242, 245. Page six - Nothing.
Page seven - Cals. 278, 279 and 280. Page eight - Cal. 285.
Page nine - Cals. 287, 288, 289, 291 and 292. Page ten - Cals.
293, 294, 295 and 296. Page eleven - Cals. 299, 300, 301,
302 and 303. Page twelve - Cals. ^{304,} 307, 308. Page thirteen -
Cals. 309, 310, 311 and 314. Page fourteen - Cals. 316, 317,
318, 319. Page fifteen - Cals. 320, 321, 322, 324. Page SB401
sixteen - Cals. 325, 328, 330. Page seventeen - Cal. 331. HB5724

SB-15, SB56, SB53, SB285, SB109, HB5410, HB5422, SB370, SB71, SB167, SB540, SB374
SB557, SB361, SB102, SB127, SB433, HB5929, HB5535, HB5540, HB5706
HB5708, HB5715, HB5371, HB5784, HB5590, HB5508, HB5686, HB5078, HB5168
HB5227, HB5549, HB5631, HB5512, HB5384, HB5700, HB5705, HB5712, HB5717
HB5709, HB5714, HB5165, HB5677, HB5147, HB5560, HB5762, HB5202, HB5520,

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call has been called for in the Senate. Will all senators please be seated.

THE CHAIR:

The question before the chamber is a motion to adopt Cal. 752, House Bill 5423. File 594, as amended by House B and Senate A. The machine is open. Please record your vote. Has everyone voted? The machine is closed. The Clerk please tally the vote. RESULT OF THE VOTE: 32 Yea. 4 Nay. THE BILL, AS AMENDED, IS ADOPTED.

Under Rule 17, since one of the amendments was rejected, this item is transmitted to the House.

THE CLERK:

Page four, under Disagreeing Actions, Cal. 27, Files 22 and 910, Substitute for Senate Bill 15. AN ACT ESTABLISHING A LOBSTER LIMIT ON ANY VESSEL USING AN OTTER TRAWL, BEAM TRAWL OR SIMILAR DEVICE, as amended by Senate Amendment Schedule A and House Amendment Schedule A. Favorable report of the Committee on Judiciary. (Senate Passed Ev. bill with Senate A on 4/11. House Referred Env. bill to Jud. on 4/24.

THE CHAIR:

May we have some quiet please so that we can proceed.
Senator Owens.

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SENATOR OWENS:

Yes. Since this is a bill that originated in the Environment Committee and is primarily Environment, I would yield to Senator Skowronski, as this is the Lobster Bill.

THE CHAIR:

Senator Skowronski.

SENATOR SKOWRONSKI:

Thank you, Mr. President Mr. President, I move acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the House.

THE CHAIR:

Will you remark?

SENATOR SKOWRONSKI:

Thank you, Mr. President. What the House did was it knocked off Senate Amendment A, which tightened up the by-catch language and substituted therefore the original file copy language on by-catch. I think we've reached a disagreement with the House. I think the file copy language that was originally in the bill is satisfactory. It doesn't go as far as I wanted it to go. I don't think it completely addresses the problem. I still think there is the potential for someone to do more than one trip in one day and thereby get more than one hundred lobsters a day, but at this late

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date, I don't think it is wise for us to find ourselves in disagreement with the House so, I urge us to adopt the bill in concurrence with the House.

THE CHAIR:

Senator Gunther.

SENATOR GUNTHER:

I am very happy to see that the Senate Chairman of Environment agrees that the bill before us is acceptable. I would argue with the point that it needed more qualification than what he had put in his amendment. His amendment was a disaster. I ate a rat that day that it passed here. I certainly would have liked to debate it, but it shows the total lack of knowledge relative to the fishery, when you say that the amendment that was sent down from the Senate is going to be more definitive than the amendment that we had before us. So I am very happy to see that the chairman is accepting the language from the House and I move it to the Consent Calendar.

THE CHAIR:

Any objection to placing this on the Consent Calendar.
Hearing none, so ordered.

The Senate will stand at ease.
Senator Schneller.

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THE CHAIR:

Please give your attention to the Clerk who will call SB618-HB5694
the items that were put on the Consent Calendar. HB5742-HB5704

THE CLERK:

Page one - Cal. 570. Page two - Cals. 590, 642, 666, HB5605-HB5755
673, 685, 737. Page three - Cals. 753, 762, 772, 775. HB5824-HB5629
Page four - Cals. 776, 777, 778 and 27. Page five - Cals. HB5796-HB5762
38, 60, 61, 143, 147. Page six - Cals. 242, 271, 277, HB5088-HB5707
282 and 345. Page seven - Cals. 369, 372, 383, 391, 465. HB5733-HB5239
Page eight - Cal. 501. Page nine - Cals. 302, 329. Page SB15-SB43-SB108
ten - Cal. 656. SB312-SB489
SB261-SB540
SB379-SB536
SB484-SB470

I believe that completes the list of items on today's SB276-SB455
Consent Calendar, Mr. President. SB578-SB606
SB346-HB5084
SR15

THE CHAIR:

Any omissions, corrections? The machine is open.
Please record your vote. Has everyone voted? The machine
is closed. The Clerk please tally the vote. RESULT OF THE
VOTE: 35 Yea. 0 Nay. THE CONSENT CALENDAR IS ADOPTED.

Senator Robertson.

SENATOR ROBERTSON:

Thank you very much, Mr. President. Mr. President, I
would like to announce that the Republican caucus will begin
at one-thirty, sir. And i would also like to ask in accordance

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COMM. PAC: It goes into our fund that we have, we have a fee fund that you approved last year, so we've been co-mingling it.

REP. JOYCE: Also, there are limitations on the penalties that you, isn't there, Stanley, when you assess a civil penalty? There's a form whereby you just can't arbitrarily (inaudible)

COMM. PAC: Oh no. Correct. We have even in our enforcement charges, we have to come up with the rationale, the cost, etc. manhours or woman days, depending on the job, etc. and we have to rationalize that and also in the civil penalties program because it's outlined there what it will amount to. I think the minimum would be \$1,000 a day, or is a maximum, I'm not sure right at this moment. It's stated in the law, and at that point depending on what the court assesses it, I do have the authority as I indicated to you earlier, to come up with a compromise with the source.

REP. TIFFANY: I'm a little confused. As I recall it, you're answer to Rep. Noonan's , the judge doesn't have any discretion, you have.

COMM. PAC: I have some discretion.

REP. TIFFANY: However does the culprit, for lack of a better word have any recourse to a hearing, or ?

COMM. PAC: Oh, yes, every order issued by us can be appealed under the administrative procedure act. Yes, that's the first thing before we can come up and say, we're going out with civil penalties and this and that. They can appeal the order, we have a hearing and after the hearing, if they're dissatisfied with the result, they can appeal it back to me, because the hearing is heard at the adjudications level. I hold the hearing and make a determination at that point. I can either modify it, whatever the penalties are that are listed and from that point on, if they don't comply with it, then we go into court.

REP. TIFFANY: Is that built into this bill?

COMM. PAC: It's part of the --

REP. TIFFANY: Now this bill does not give you the power to

REP. TIFFANY: (continued)
assess civil penalties as well as recovering costs of --

COMM. PAC: No, I can't assess the penalties. I can just go ahead, and in the case where the penalty may be listed as maybe \$10,000, I have the authority to work out an arrangement with the attorney general's office where I can settle for \$6,000 or \$7,000 and along those lines.

REP. TIFFANY: Thank you.

REP. BERTINUSON: So, the only thing --

COMM. PAC: That is in that other statute that I pointed out to you and it only relates to some of our programs, not all of them. I want to make that clear.

REP. BERTINUSON: So the only thing that changes really, is that it relieves that preclusion that now exists of going through civil penalties, which you can in other cases. That you can exercise the --

COMM. PAC: There's nothing else that precludes us from going ahead with civil penalties, and this bill will permit us to go ahead. No other changes.

House Bill No. 5141. I'll skip that one for the moment.
House Bill No. 5143, An Act Concerning Flood
Encroachment Lines. Under Sections 22a-342 through 348
the Commissioner has the authority to set flood encroachment
lines along the streams. Under Section 7-147 the municipi-
palities have a right to set encroachment lines if the
commissioner doesn't act. This deal would give the muni-
cipalities the right to go ahead and set encroachment lines
at any point in time to conform with the National Flood
Insurance Program. We have literally thousands of stream
miles out there and I'm no where near the point where I
at least have gone ahead with the setting of the encroachment
lines in those streams.

So this would enable them to comply and be eligible for
national flood insurance by setting their own lines. So
where are we to pass some additional authority to the
local municipalities.

REP. MORDASKY: Commissioner?

COMM. PAC: Yes.

REP. MORDASKY: Could you tell me how these encroachment lines are established. Are they established 10 year flood, 100 year flood, or what? What criteria do they use?

COMM. PAC: Generally, when we set them, we try to set it on the 100 year basis, the 1% flood, the flood that can occur, 1% of the time, so that's 100 year flood. That's about the extent of it. What we do, we character that into it, we have to look at the present use, some structures that are in that area presently, and oftentimes they are within the flood plains, so when we do it with the limited funds we have, we take all those things into consideration. We get a listing of the HUD flood lines that have been drawn and all the experience since that date, all the flood events, 1955, 1982, etc. We factor it in and we come up if there's any change in the 100 year flood which we may have come about as a result of these events.

REP. MORDASKY: My concern is that will the towns follow your criteria, or will they say, well, 25 year flood is --

COMM. PAC: Well, they've got that authority right now. And as the law states 7-147, they set the encroachment lines. Except they do it before I go in. I have the primary authority. Now in this case they would have to set it for purposes of this national flood insurance. They would have to set it in accordance with F E M A . They just arbitrarily set any kind of a loose number.

REP. BERTINUSON: Commissioner, I'm still not exactly clear what this ad, it looks to me like they cannot even do that at any time.

COMM. PAC: No, they can only do that now, before I act. Now this would permit them to do that any time with the bill, if you pass this bill.

REP. BERTINSON: So you're saying that if you have already established --

COMM. PAC: No, they can -- I understand what you're saying there. There may be cases where we may have established the line. And maybe,--

REP. BERTINUSON: I see, and that may not be in compliance with FEMA.

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COMM. PAC: And there may be cases for whatever reasons FEMA or this national flood insurance would allow them to remake a previous line, and that in billing all these technicalities, you want to give them this authority to do whatever is needed to comply with the program.

REP. BERTINUSON: Are there other questions?

COMM. PAC: House Bill #5144, An Act Concerning Permits to Operate Sources of Air Pollution. We have two categories of air pollution sources. Old sources and new sources. Old sources are those that were on line prior to 1972. New sources are those since 1972. All the new sources are bills that came on after that date, but with ponderance of the sources of course, are the old sources.

Both categories have to comply with all standards. However, old sources merely are registered. New sources have to get permits, which are renewable, and what we're saying here, we'd like to have this bill, would require permits for the old sources. It would be a pro forma thing in almost all of the cases. Why do we have to do that? We have to have a complete inventory of the _____ years, sulphur dioxide, nitrogen oxide, total suspended particulets, lead, ozone, etc.

Now, we keep an updated inventory. However, with the old sources, it's difficult to keep it updated. Why do we need it? We need it in case of any facility that wants to relocate in that area, or any facility that wants to expand. Obviously, they're not allowed to expand if that grid contains greater contamination that is allowed under the standards. And so this would be one way of updating our grids. It's absolutely necessary with the SIT plans that have to be filed with the federal government, so that's about the extent of it.

REP. BERTINUSON: Commissioner, that information that you need, I understand you need this to be kept up to date is not provided by registration?

COMM. PAC: We, of course work with them, even though they're registered, we have to work with them to make sure that any kind of pollutant that might be in their process, etc. are removed. But we don't have nearly a complete inventory because there is no renewable schedule. Say they're registered 10 years ago (both talking at once)

MR. CARVILLE: (continued)
growing on to eight to 10 years to harvest as they cut
Christmas tree or as a living Christmas tree.
You state on line 44 that none of these trees may be sold
with roots attached. That essentially is a cut Christmas
tree.

I would like to remind you that last year in the Hall of
the Flags when we had the showcase of agriculture, the
Connecticut Nurserymen's Association presented each of
you with a tree seedling. It was a Colorado blue spruce.
We were pleased to do that. We purchased it from a
member firm and we gave it to the legislators. The cost
of that tree seedling, which was about this tall in a
plastic bag was 65¢ at wholesale. If you chose to
multiply this with the numbers involved in the State of
Connecticut you can see the tax dollars, and the sales
tax revenue that would be lost if the state were suddenly
flooding the surplus stock in the state nursery.

This year we will supply you on March 21 in the Hall of
the Flags with a dogwood seedling, grown and produced in
Connecticut. It's unfair for the commissioner and the
Department of Environmental Protection to say that planting
stock is not being produced in the State of Connecticut.
It is, and in great volume.

Our membership does not feel that the state should be in
the nursery business. We have never felt that we should
be unfairly forced to compete against a state agency which
is being paid salaries and overhead costs with my tax
dollars, and I would encourage this committee to reject
this bill and go no further with it.

One closing statement, I would support John Hibbard's
comments. We have been trying for years to get the
executive division to proclaim Arbor Day and any support
from this committee to proclaim Arbor Day the end of
April will be a tremendous help to the industry and to
the populus.

REP. BERTINUSON: I just have one question, Mr. Carville. You
do realize that a good share of this legislation is already
on the books.

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- MR. CARVILLE: Yes, I do, and it's only in an opportunity when an addition comes up that I can address it. We have always been opposed to state nurseries in the State of Connecticut.
- REP. BERTINUSON: So basically, you're really opposed to the statute as it now exists.
- MR. CARVILLE: That's right. But you cannot address it until, of course, there is a change (inaudible)
- REP. BERTINUSON: Rep. Joyce.
- REP. JOYCE: What is a shelter belt.
- MR. CARVILLE: A shelter belt initially was envisioned by the Department of Environmental Protection to provide a planting to give shelter to wild birds, rodents, rabbits, woodchucks and so forth in a natural environment. The birds feed on the seeds or the fruit. And for years the state nurseries have been providing 15 seedlings in a little plastic bag during the time of year which is called the shelter belt. It's white pines, white spruce, some red oak and dogwood and some Russian olive. These are about two year seedlings. The homeowners buy and plant them in their yard. They grow, they have ornamental beauty and give protection and food to the wildlife in the environment. If you interpret that through a state highway planning, that is a very large shelter belt. You see plantings of natural materials on both sides of the highway as well as in the median strip. That is a shelter belt and could be so interpreted in the application of this bill.
- REP. TIFFANY: I can readily understand your opposition to the Christmas trees, season. I'm a little bit perhaps more at a loss when you say (inaudible) you object to giving the seedlings to elementary schools and others so that they can celebrate Arbor Day. It's got to be planted on public land not on private lands.
- MR. CARVILLE: Mr. Tiffany. I don't object to that portion on this legislation, but it's, I want to put into a bill to further extend it to shelter belt and public lands to permit the commissioner to then to the Department of Transportation at its greatest extreme in providing planting material for state highway beautification. The

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SEN. SKOWRONSKI: You're saying that this file copy then would give the permit function to the air unit?

MR. HUHN: Yes, I believe that's right. I guess you could read this as not doing that. It is a DEP bill, but I think this bill probably does come from the area that it would be viewed as their authority to permit this.

SEN. SKOWRONSKI: And finally, what are these you alluded to, your contention that the bill requiring a permit, may be to generate permit fees. What do those fees run?

MR. HUHN: Well, John, I think a hundred dollars is a number that's been kicked around. There is a fee schedule that's in existence in the state that I don't have in mind, but if it were true that this would add 1500 sources, that would add up to a lot of money. I don't think that, I think there's a sliding scale in effect too. If there's a lot of emission points at one plant that they give you a break on the price, but someone from DEP probably could answer that.

REP. JOYCE: Rep. Joyce. I'm just wondering about the conflict between two units of DEP, is that what you're saying, the waste unit and the air device?

MR. HUHN: Yeah.

REP. JOYCE: I can't, where, it would seem as though if you're burning oil, that would be clearly the air device.

MR. HUHN: Well --

REP. JOYCE: And the waste unit is trying to assume --

MR. HUHN: No, it's really the regulation of waste is something that's been handled at the federal level and then down at the state level by the waste units, and a very central part of that is the drive for recycling and reuse rather than having things go into the land and contaminate ground water to find ways to reuse materials. And some things are salvaged completely and reused, and other things are burned for energy value. There are many waste fuels that are cleaner than crude oil.

REP. JOYCE: So that they would say you may burn this and air device would say you may not burn this.

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MR. HUHN: That's right. And the waste units will say, if you're going to burn such and such material, you need to have a boiler of a certain size that operates at a certain heat and contains this type of material but not that type of material. There are those sorts of technical regulations and the air unit I think would have similar requirements but somewhat different, different definitions.

REP. JOYCE: Also, I think you said that in the registration of you make a report to the state yearly, annually, is that what you said about registration, and bring up, you every year, do you?

MR. HUHN: It's not the registration. It's the inventory of registered and permitted emission points. But there's a lot of data that we submit every year on both our registered points and our permitted points. Permits are renewed every five years and there's a fee. Registered points are not renewed and there's no fee.

REP. JOYCE: But on the registration, of these registered points, do they have to make a report every year on the inventory?

MR. HUHN: Yes.

REP. JOYCE: All of them? They all must do this.

MR. HUHN: All of ours do.

REP. JOYCE: Of course, you're in hazardous, I guess.

MR. HUHN: That isn't part of it. It's just, all of the emission points that are permitted under the state had to be registered if they were in existence prior to 1972, so they were, it depended on the size of the emission point and when it was constructed, but as far as the data that's submitted every year, that's for all of your permitted or registered sources. It has nothing to do with whether the emissions are hazardous or not. It's the base, routine permits.

REP. JOYCE: So the registered sources have to make a report of inventory every year.

MR. HUHN: Yes.

REP. JOYCE: I'm just trying to figure out what the commissioner's point was.

MR. HUHN: Well, I don't know, they may have some additional data that they want, but I just, well, I think we're being ground through a lot of additional paperwork for something that really has more to do with fees than it does with data and.

REP. JOYCE: Thank you.

REP. MUSHINSKY: I just want to say on the record that there is a perfectly logical reasons for having both portions of DEP look at the waste oil questioning. We have done this for other hazardous waste. The hazardous waste unit of DEP does the tracking, they keep control of where the waste is going, how much of it there is and they are going to take waste oil under their wing in the coming year. How the waste oil is treated, and if it's treated in such a way as to cause emissions, that's a totally separate issue and should be considered by your compliance just as air compliance would now monitor EW-1 Waterbury, if they had an air emission or solvents recovery, if they had an air emission. But the tracking of the wastes themselves and the emission control of the waste process are two separate issues and there's really no reason why they couldn't both, why both units shouldn't be involved.

MR. HUHN: Well, that's correct, and it happens many times, but it also is correct that sometimes there are unseemly turf battles that occur and that really is not a good thing and it, so the question would be which is happening here.

SEN. SKOWRONSKI: Thank you. The next speaker is David Curtis.

MR. DAVID CURTIS: Mr. Chairman, I have a brief facts sheet which might help the members.

SEN. SKOWRONSKI: Yes, why don't you bring those up and put it in the basket there.

MR. CURTIS: Good morning, my name is David Curtis. I am president of International Hydrological Services, a firm specializing in automated and vinyl monitoring systems and their implementation in the U. S. and abroad. I'm very familiar with the flood warning situation in

HB5141

MR. CURTIS: (continued)

Connecticut. Both of my _____ as well as my former capacity as a hydrologist with the National Weather Services Northeast River Forecast Center also located in Bloomfield.

There are several compelling reasons why you should support Bill 5141, An Act Concerning Flood Warning. I will briefly address two of them. One is an economic issue and the other is a human issue. The fact sheet that I passed out to you basically gives an anatomy of a flood forecast in Connecticut.

A flood forecast is made by going out and collecting some information, how much rain is falling in an area. It takes a while to collect that data at the central site. It takes a while to process it and prepare the forecast. It also takes a while to get that forecast out to the public. The fact sheet contains an itemized estimate of the length of time it takes to do each one of those components, of getting the flood warning out to the public where it can do some good.

There is both a current analysis and an analysis for the proposed network that's being considered in this bill. Under the current situation, the average rainfall observer delay, in other words, how long it takes to get the information into say a river forecast center is currently about 5.7 hours statewide. The people at the river forecast center have to sit around about two hours waiting for the data to come in by telephone, by computer analysis, or any other means. It takes about two hours to take that information, prepare it and get it into a format for dissemination to the public and an optimistic estimate is the public finally gets it about an hour and a half later. And that would be through various distribution means, through the radio, television, telegraph, word of mouth, or whatever, for a total of about 11.2 hours to get that information out to the public.

Now Connecticut is filled with very small rivers and streams, there are virtually no major river systems within the state except the Connecticut River and the Housatonic River. Most of the rivers and streams in the state are exceedingly small. In fact, approximately two thirds of Connecticut's rivers and streams flood in less than that 11.2 hour period. In other

MR. CURTIS: (continued)

words, under current conditions, most of Connecticut's communities won't even get the warning until after flood begins.

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Under the proposed system, the data would automatically come into a central location. That would totally eliminate the rainfall observer delay. There would also be some efficiencies in the data collection period and even if no other changes were made in the forecast preparation and dissemination period, the total of lapsed time would be reduced from roughly 11.2 hours to four and a half hours. And if you refer to the last note on that first page, that flood damage can be reduced in Connecticut by an estimated \$5 million annually if the only thing that you do is increase the warning time by approximately three hours. That's \$5 million annually. You're only talking about \$240,000 in this bill to provide instrumentation to initiate that effort.

You have before you, basically, an opportunity to have one of the most cost effective bills passed in flood management in quite some time.

The second issue that I want to address is basically a human issue. In a very few terrifying hours in 1982, the residents of Essex, Connecticut learned all about the devastating fury of a major flood. When it was all over, that entire valley lay strewn with smashed homes and shattered dreams. But during those terrifying hours, the people in Essex also learned a very important lesson. They learned the value of warning and evacuation. Many people thought it was a miracle that no one died in the devastating flood. There weren't any injuries. The primary reason for that was the early detection of the developing danger and the ultimate swift action that led to the evacuations.

Now let me point out in very strong terms. A flood warning and evacuation system will not strengthen weak dams and it's not going to enlarge small spillways. But as part of that comprehensive intra-structure safety program, the Essex example points out that flood warning and evacuation systems can play a major role in reducing the risk of flood death, flood injury and loss of property.

MR. CURTIS: (continued)

Now looking back on the Essex situation, we found that an observer had been at the dam, reviewing the dams during the day and watching the threat develop. When it finally reached a critical point, he warned the community. Evacuations began immediately, and as they were pulling the last people out, they heard the thunder of the failing dam.

Now other towns aren't going to be as lucky. They aren't going to get that information in time, and there will be flood deaths and major damage in the future. The bill you have before you will offer a significant improvement in developing comprehensive statewide flood warning system that can give vital information to the people who need it. Thank you.

SEN. SKOWRONSKI: Any questions? The next speaker is Charles Mokriski, representing Bridgeport Hydraulic Company.

MR. CHARLES MOKRISKI: Sen. Skowronski, Rep. Bertinuson, my name is Charles Mokriski, I'm an attorney in Hartford representing Bridgeport Hydraulic Company. I'd like to speak briefly in connection with House Bill 5145. I'd endorse the remarks of Mr. Burke who spoke for the water works association earlier, and say that of the two parts of this bill, we'd say the first part doesn't go far enough, and the second part goes considerably too far.

The first part of course is the provision in Section 1 that allows the commissioner to waive a public hearing or to dispense with a public hearing in an intra-basin transfer. I think if the committee members will look at the map that is referenced in the diversion bill and maps out subregional draining basins, you'll notice that they vary considerably in size. Some are quite large. It is my understanding that the subregional basin involving the Farmington River is very large indeed, whereas there are some, particularly in southeastern Connecticut which are very small in geographical area.

I don't know that the distinction between an intra-regional transfer and one involving transfers between some regional drainage basins is a useful way in determining whether there ought to be a hearing or not, and you probably ought to give the commissioner the authority to dispense with a

MR. MOKRISKI: (continued)

hearing in any diversion subject to the protections that are written in here whereby citizens can petition to have a hearing where it is important diversion.

The second part of the bill which Mr. Burke spoke on at some length proposes to dispense with the automatic approval mechanism that was very carefully crafted into the bill two years ago as part of the compromise whereby the two sides on this bill came together.

One of the, reference is made to the zoning statutes and I don't think that's the more compelling reference. This provision was patterned particularly on the DPUC, 150 day time limit for rendering a decision in a rate case and the reason is that although as Rep. Mordasky pointed out, if the law says he's got to issue a decision in 90 days, one would presume he would, there is no effective remedy, if in fact the commissioner does not issue a decision in 90 days. It is a very tortuous and time consuming mandamous route. There are loopholes in the UAPA for the court to let the agency off the hook on the time limit. It's generally considered to be directory rather than mandatory and without the leverage of an automatic approval for lack of issuing the permit, agencies which operate as most of us do according to principles of Parkinson's Law will take as much time as they are able to take without any kind of sanction.

So a 90 day theoretical limit is not as effective from the water utilities point of view as 120 day absolutely mandatory limit for decisions. And again, to endorse testimony of Mr. Burke, the water resources task force is taking into its consideration the way the divergent policy act is working, the water utility industry has a number of quibbles and problems with the act itself, but we've kind of restrained ourselves from addressing them in a piecemeal fashion until the entire report of the task force is delivered and the problems are dealt with comprehensively.

So I'd urge the committee to reject this elimination of 22a-373. We've got to write our statutes for commissioners of all times, not just for the incumbent and while I respect Comm. Pac's diligence and promptness, and responsiveness in getting out decisions in time, this might not always be the case with successors.

REP. BERTINUSON: I just have one question. Isn't there, I mean, couldn't the case happen where if the 120 days was approaching and the commissioner felt that he was not, that he didn't have enough information to make a decision, then he would deny it then?

MR. MOKRISKI: That's quite possible, and in fact, what can happen under these circumstances is for an agency to get a waiver and extension from the parties involved in order to extend the time in extraordinary circumstances, and that's permissible under the existing law. You know, an applicant could waive the 120 day limit.

REP. BERTINUSON: In other words, it could be mutual consent.

MR. MOKRISKI: By mutual agreement. But unless there's a pressure on the commissioner to decide in 120 days and that pressure is taking the form of the automatic approval such as we have in the DPUC statutes and in the zoning statutes, it's a very weak to rely on.

REP. BERTINUSON: The other question that I have, it just occurred to me talking about 25 people requesting, what about the case where a water company would want there to be a hearing. There really isn't a provision for that. You have to get 25 people I guess, I think Atty. Burke raised the question of the 25 persons perhaps ought to be specified in some way, as having some interest. But it occurred to me at that time, that what if a water company felt there should be a public hearing?

MR. MOKRISKI: Well, I think that's a good point. I thank you for doing my job for me, Representative. I think perhaps you might --

REP. BERTINUSON: No, I didn't know if there was some other provision that I wasn't aware of.

MR. MOKRISKI: No, I don't think there is and I think that a better formulation might be to allow a hearing upon the petition of 25 persons with a certain kind of standing, that's an important element, or a water utility serving 25 or more connections, because of course, they'd be in sense standing as trustees for those people.

SEN. SKOWRONSKI: Any other questions?

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State Capitol
Room 418
February 21, 1984
9:30 A.M.

PRESIDING CHAIRMEN

Senator Skowronski
Representative Bertinuson

COMMITTEE MEMBERS PRESENT:

SENATORS:

Skowronski, Gunther

REPRESENTATIVES:

Bertinuson, DelBianco,
Mordasky, Savage, Joyce,
Casey, Abercrombie, Lyons,
McLaughlin, Holbrook, Tiffany,
Noonan, Beckett-Rinker,
Mushinsky

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REP. BERTINUSON: Good morning. I'd like to call this public hearing of the Environment Committee to order. We are crowded in this room, and the acoustics aren't good, so I would ask you to please keep your conversations down.

I'm Rep. Terry Bertinuson, House Chair of the Environment Committee. To my left is Rep. Mordasky, the Vice-Chairman, being joined by Sen. Gunther, the senior member of the committee. Behind him, Rep. John Savage, Rep. DelBianco and Rep. Ray Joyce behind me.

As usual the first hour will be given over to legislators and state agency heads, and our first speaker is Mary Goodhouse.

MS. MARY GOODHOUSE: Good morning. My name is Mary Goodhouse. I'm Executive Assistant for the Department of Agriculture and I'm here representing the department to speak in favor of Raised Committee Bill 5250, An Act Concerning An Appropriation to the Council on Soil and Water Conservation.

I represent the commissioner on this council and I'd like the committee to know that in 1983, the council did the following for agricultural interests in Connecticut. In the area of farmland preservation they published "Farmland Forum", a newsletter which discusses techniques for saving farm land. The council gave testimony and lobbied for

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REP. MORDASKY: (continued)
enforcement, what do you now when they don't license them?
Be the same thing, you'd have an unlicensed dog.

MR. GOLET: Well, they have to go out and canvas the towns
and this is something that's not being done by the mun-
icipalities diligently. Some of the municipalities are
very good about this, but the majority, unfortunately are
not going out or providing the assistance that is needed
to conduct a job of this nature, and in some of the larger
communities it's quite a task to go door to door and this
is the only way you can really find them.

But I mean, what I was making reference to, Rep. Mordasky,
is that there's no penalty in there if someone does not
vaccinate their dog.

REP. MORDASKY: What's the penalty for not licensing?

MR. GOLET: We have an infraction which is attached to -- it's
an infraction with a \$40 penalty.

REP. MORDASKY: Okay, if they don't have the dogs innoculated
then they don't license, then you have the infraction.

MR. GOLET: But if they don't license, this is my concern,
they just stay stagnant, they don't do either.

REP. MORDASKY: If they don't license, a rabies shot isn't
going to stop them. I mean, people that license are con-
cerned about their dogs and will have a rabies shot. I'm
concerned about the spread of rabies coming east. There HB 5249
were 602 cases of rabies in Maryland. We had 6 cases here
in Connecticut, with the result that you have the chance
of the wild animal biting the person is pretty slim, but
a wild animal biting a dog, and then a dog being exposed
to rabies is quite a greater chance. Therefore, if you
give the protection, at least to the dog, you have a better
chance of containing the disease.

MR. GOLET: Again, I want to reiterate what I said recently.
I'm not against vaccination. I want to make that emphat-
ically clear. It's just that I see there could be enforce-
ment problem.

Here's another example that just came to mind. We now sell

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MR. GOLET: (continued)

dogs, many of the towns sell animals directly from their shelters, animals which have not been claimed and are strays, therefore these animals are sold. On the basis of a person wishing to purchase an animal in this state, you must go to the town for it and come with the license.

What do a person do in event of compliance with the compulsory vaccination law. He cannot or she cannot go to a vet and come back with a certificate I'm sure because the dog must go to the vet first, so we have a little bit of a problem in that area.

REP. MORDASKY: Not too much of a problem. If they want the dog they'll go and have him vaccinated. If they go to the bother and everything else, going to the pound to get the dog, certainly they're going to go to a veterinarian and have them vaccinated and then --

MR. GOLET: I wish I could believe that, Rep. Mordasky, and this is not saying that I'm testing the integrity of our citizens, but we see what goes on with the licensing program, and that's compulsory too, but believe me, there's a lot of people not complying with it.

SEN. SKOWRONSKI: Lou, do we have any compulsory vaccination law for rabies right now?

MR. GOLET: No, there is none, Senator.

SEN. SKOWRONSKI: None. What percentage of people vaccinate their dogs for rabies on a voluntary basis, would you estimate?

MR. GOLET: I would say about 40% of the people, 40 to 50% of the people do, the responsible dog owners that license probably -- any time a dog usually goes to a vet, and these are the type of people who see to it that this is done, automatically the dog is possibly inoculated, so there is a good --

SEN. SKOWRONSKI: What's the cost of such a vaccination?

MR. GOLET: I would not be able to establish that. I think that you'll find that there's a variation in cost in different areas.

SEN. SKOWRONSKI: And is it a one shot deal, you just take your dog --

MR. GOLET: Well, they have vaccines. At one time vaccines were good for only two years, but I understand now that they have vaccines perfected that will immunize a dog for up to three years.

SEN. SKOWRONSKI: So you can get one vaccination that would be good for three years.

MR. GOLET: It'll hold you for three years.

SEN. SKOWRONSKI: Three years.

MR. GOLET: And then they have to renew it again.

SEN. SKOWRONSKI: Okay, thank you.

REP. BERTINUSON: Just one question, Lou. Is it, as far as registrar of licensing, is it still true that only about half, you'd estimate about half.

MR. GOLET: I would like to believe that we register 50% of the dog population, that is dogs of eligible age, 6 months of age, and I doubt that sometimes when I see the statistics.

REP. BERTINUSON: Okay, thank you. Are there other questions?

MR. GOLET: Thank you.

REP. BERTINUSON: The next speaker is Hugo John, Dean of the College of Agriculture at the University of Connecticut.

MR. HUGO JOHN: Good morning. I'm Hugo John, Dean and Director of the College of Agriculture and Natural Resources at the University of Connecticut. I'm here on behalf of the university to speak in favor of proposed Committee Bill 5247, An Act Concerning Technical Assistance for Woodland Management.

I think that most of you are aware that this act covers a large portion of the state in terms of the 1.8 million acres of forest woodlands we have in the state, and it's divided among 66,000 owners. There is a great need to provide an educational program such as proposed in this legislation, education to meet the landowner's objectives

MR. JOHN: (continued)

and even more basic than that, very often, of making them aware of what can be accomplished by utilizing this resource.

Recent information indicates that over 60% of the owners in the State of Connecticut do not know who to go to for information regarding what to do about their lands, the management of their lands. This bill is aimed at providing that kind of information, desperately needed, we do not now have a program of forest land, forest woodland owner education within cooperative extension except that we've been able to put together with special funds from -- on a temporary basis.

We have also indicated that, and I will leave with the committee copies of some changes in this legislation proposed changes in the legislation that is identified primarily to change the definition in Section I. Current definition as laid out in Section I is based upon stocking, the number of trees per acre, and we are proposing a change in that to change to classification of land on a productivity or a potential productivity, then there is no question as to whether land qualifies for such assistance.

Minor changes are also included in Section III of the bill, but primarily we support the bill as it is. I think that it's one that can return a great deal to this state. A conservative estimate indicates that over a five year period the cooperative extension service could, if given this legislation, could give leadership to a program which would stimulate the management of an additional 360,000 acres, that's 20% of the forest lands, which I think is a fairly good return on our investment. Thank you.

REP. BERTINUSON: Thank you Dean John. You do have some proposed language changes that you'll leave with us?

MR. JOHN: Yes.

REP. BERTINUSON: Are there questions? Thank you very much, and the next speaker is Rep. Otto Neumann.

REP. NEUMANN: Thank you, Madam Chairman and members of the committee. I have comments in writing. I'll leave them. Let me just recap it this way. I'm here on, speaking to

REP. NEUMANN: (continued)

Raised Committee Bill 131 on the cleanup fund, with the suggestion that there be some exemption for municipalities. As drafted in the bill the language is a little broader than I had originally thought of when I wrote to the committee. This is a complete exemption from reimbursement by a municipality. We've been thinking in terms of a municipality who had acted properly, not any municipality itself.

The situation involves the landfill in East Granby, one of the towns in my district which was operated, best as I know, in accordance with all of the procedures of the department, and there is a possibility that its contaminants that they didn't even know was in there that are causing the problem, and the question is, is that in actuality the responsibility of the taxpayers and the citizens of East Granby when the town acted in good faith in handling the dump.

There are officials from East Granby who will testify later if you have some specific technical questions which obviously I am not at home with. I urge you to consider this as an issue because it really is a public issue of whether or not a town is responsible for the costs of cleanup if indeed the town has done everything right up until that point in time, and there still is a problem. Isn't that really -- the situation that one was meant to apply to where there is no record. Thank you.

REP. BERTINUSON: Thank you. Are there questions? Thank you. And the next speaker is Commissioner Stanley Pac, and company, I believe.

COMMISSIONER STANLEY PAC: Chairman Bertinuson, and Skowronski and members of the committee, my name is Stanley J. Pac, and I'm the Commissioner of the Department of Environmental Protection.

The first bill I'd like to speak on is Senate Bill 71, An Act Concerning Procedures for Issuance of Water Pollution Control Permits. This bill would give the department a statutory basis for criterion guidelines governing the issuance and reissuance of water pollution permits. Now we presently have these guidelines in effect, but they're

COMM. PAC: (continued)

at a policy level, and codification is necessary if we're to comply with federal regulations and if we are to retain the delegation of the NTDAS program. This is the National Pollutant Discharge Among Nations System. We have to get on a statutory or regulatory basis. That system, the NTDAS system controls all of the permits that are currently issued to industry and I would term this bill as our highest priority bill in this session of the legislature.

In the first section, what we're doing is amending the definition section, 22A-423. We're adding the term, "best management practices". What this means is management and technological practices that would reduce the amount of waste that would be discharged. That's a definition.

The next section is the 22A-430 section, and that's the heart of our whole permit program. This is the one that carries the guideline and I'll read them to you.

First, the treatment system, and we're talking about pre-treatment by industry. The treatment system must be consistent with treatment that is technically feasible. We don't want them to do the impossible. Second, the system uses practicable water conservation measures and best management practices to reduce waste.

Three, the discharge meets air guidelines necessary to comply with federal clean water act. Four, the discharge in combination with other discharges for which a permit has been obtained, does not cause pollution of the waters of the state. That about covers the main substance of the bill.

Additionally there's a requirement that an application be surfaced 180 days prior to expiration, as the feds now require, and it sets up an appeals process that would be followed. Basically this is what it would do. It's an extremely important bill. We have to have it on line or we endanger our whole permit program.

REP. BERTINUSON: Yes, Commissioner, what would happen if we did not meet the federal requirements? What would happen to the permitting system? Would it then revert to --

COMM. PAC: They might retain the delegation or take back the

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COMM. PAC: (continued)

delegation. We've received word from the feds. There's a letter written about a year ago and they gave us sufficient time to get a statutory or regulatory base under it, however, they have the authority to take back this delegation.

What that would mean is, that any time an industry would renew their permit, they would have to go through the federal process or a new permit. I don't have to tell you how cumbersome that would be. It would have a traumatic effect on the

REP. BERTINUSON: Could you, at least in general, point out what is different in here from what now appears in the guidelines?

COMM. PAC: Basically it's the same thing as we're using now. Except we do it on a policy basis. What we're trying to do -- several years ago the courts in a decision involving the health department upheld the appellate. In that case, what they claim was the Department of Health, or Department of Mental Health it was, I believe, had some guidelines that were not adopted by regulation and the court held that in order to be consistent with all people that are affected, it should have been adopted by regulation or statutorially, and this is why these practices, these criteria must be adopted, either way, statutorially or regulatory.

REP. BERTINUSON: Now, the guidelines that you refer to, are they in writing anywhere, assembled together?

COMM. PAC: You have most of them in the statute right there. We would fill it out. The bill also gives us additional authority to go ahead with regulations which we would adopt and they would be more cumbersome, more detail, etc. But basically this would give us the foundation for going ahead with the regulations.

REP. BERTINUSON: But presently, you say it's a policy, but I'm not clear if you have a written policy or a written guideline --

COMM. PAC: We have a combination of written. It's scattered all over the place, but we have it. It's a policy of working it out with the applicants. In some cases, I would

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COMM. PAC: (continued)

say it's done on a case by case basis. So, there's a question of consistency. Why is it on a case by case basis, because well you have a diversity in the kind of industries you're working with. Now, of course, it would have to be more consistent with the adoption regulatory or statutory adoption, at that moment it will be rather even as far as it involves the industry.

REP. BERTINUSON: Okay, thank you.

SEN. SKOWRONSKI: Commissioner, how long have you had these policies in effect?

COMM. PAC: Since the water pollution program began and the state water pollution act began in 67 when we funded with \$250 million, the feds just got into it in 1972 and so this is the way it has been done. I must say that I did raise the question when I first became commissioner, I was aware of some of the decisions along the lines, but it was the thinking on the part of feds and some of our own people that it wasn't necessary. There was a great deal of case of case criteria that were being use that were peculiar to the industry that's involved. One may be in the electroplating, another has a different process so it was because of these factors that we did not go ahead and now we have no recourse but to adopt them and come up with some kind of uniform standards as best as we can.

SEN. SKOWRONSKI: So you're saying these criteria you have in the bill which are the same as the policies you've been using --

COMM. PAC: Basically, yes.

SEN. SKOWRONSKI: -- you've been using those for quite a while, or at least 10 years.

COMM. PAC: I might say that the bill is essential to us. I would have, maybe some portions of the deadlines that we have here are negotiable. We can discuss those aspects.

SEN. SKOWRONSKI: You may have pressed the right button, there, commissioner. And finally, did you try to do this by regulation, or is this your first crack at it?

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COMM. PAC: We've going --

SEN. SKOWRONSKI: By statute.

COMM. PAC: We're going statutory-wise because we do need a basis for going out with the regulations, our ADs have rules that as it stands right now, we don't have a proper statutory base for going ahead with the regulations. I thought different, but there are different opinions. So that would give us that basis, and occasionally it would give us a broad criteria outline which would be more detailed in the regulations.

SEN. SKOWRONSKI: So you plan to flush this out with regulations.

COMM. PAC: Correct.

REP. BERTINUSON: What is the procedure now for renewal of a permit. They're renewed every five years, is that right?

COMM. PAC: That's one of the problems. As a matter of fact, and I'll go back, I'm familiar with the old statute. 21-54i is the statute that governs the reissuance of permits and in the rather famous case involving UTC, they raised that issue. We had combined the reissuance with 25-54k and j and UTC was correct in deciding that this was not a proper citation to use for a reissuance of a permit. The statutes were rather ambiguous, but 25-44i was a proper vehicle. This indeed will be tied into 25-44i which is now 22-a-430, so, yes, that's the permit process as outlined in 430, however it will be more explicit.

REP. BERTINUSON: Are there any other questions?

COMM. PAC: Senate Bill No. 116, An Act Concerning Low Interest State Loans for Repair of Dams. This is another response in a series of actions to repair our dams. It would make available \$2 million in low interest loans. These loans would be made to investor-owned water companies, the municipal owned water companies and to owners of private dams that provide a benefit to the public.

Now, this loan program would be carried out by the Department of Economic Development. They have a process. There's no use setting up another process in my department when they have this kind of a financial capability. They would provide a loan

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COMM. PAC: (continued)

that would be just one percent above the cost of the state borrowing. So it's a good program and a good way to get out there and repair some of the dams where financing is a problem.

REP. MORDASKY: Commissioner, if a municipality bonded, or borrowed the money, would it be advantageous for them to take one of these loans. I mean, what would be the difference? 1%, 2%.

Cass. 2 COMM. PAC: You should ask that of some of our financial heads, but I happen to be fairly knowledgeable in bonding field and having been a chief executive, I suspect that some of the communities with a high rating, it may not be of that much advantage to them. It will be decidedly of advantage to the investor-owned utilities. I would be of advantage to the owner of a private dam, and to the municipalities, so and so, it all depends on their rating. They may save half a percent, some may save a little more. I can't give you a flat answer to that.

REP. MORDASKY: I was just curious. In other words, it would depend on their rating --

COMM. PAC: Correct.

REP. MORDASKY: -- to see if there's any, and possibly there wouldn't be any advantage.

COMM. PAC: I might add, we have another program that helps municipalities. We're talking about water that is a separate rate fee, in effect, from, that is imposed on the water users so they have a way of recovering these costs. I'm just throwing that out. Municipalities also have dams that involve impoundments having nothing to do with drinking water. We have a program whereby a grant would be given to a town if it provides a benefit to the public and it's based on 25-71 of the statute. And it's on a pro-rata sharing basing, two-thirds or one-third depending on certain factors, and I think Rep. Mordasky is aware of it.

REP. BERTINUSON: Any questions?

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SEN. SKOWRONSKI: This is off the point slightly. You referred to this grant program under 25-71. Is that a grant to a town?

COMM. PAC: That's a municipality alone.

SEN. SKOWRONSKI: Alone, to repair what kind of dam?

COMM. PAC: Dams that provide a benefit to the public, other than drinking water, recreational, boating, fishing, etc. They apply to us, and the benefits are strictly to the municipality. It's a two-third state, one-third local, to the municipality. There are some other beneficiaries, private around there. It may wind up a 40-60, a 50-50, it all depends.

SEN. SKOWRONSKI: And who has to own that dam?

COMM. PAC: The dam has to be owned by the municipality. However, if there is a private owner, the locals have the ability to go through a flood and erosion control board, and at that point they can work it out with the dam owner and if they go through the statutes, they can be eligible for a grant under this program.

SEN. SKOWRONSKI: In other words, say the dam is owned privately, but it has a substantial public benefit to it --

COMM. PAC: Correct.

SEN. SKOWRONSKI: -- they can apply through the local flood control and erosion board and that board would become the applicant on behalf of the private owner and you could qualify for money under this program.

COMM. PAC: Yes. The municipality would have to make some commitment, but that's spelled out.

SEN. SKOWRONSKI: And do you have any money in that program?

COMM. PAC: Yes, we have in the budget. It's tentative. The legislature will have to ask, act on it. We were given all told, about \$4 million, three are for state dams and there's a million for this portion of it, but give or take, I think I believe I have some possibility of going over that, how much, I don't know.

SEN. SKOWRONSKI: So you have some already at the present time in this 25-71 program.

COMM. PAC: Depending on the legislature's action, yes.

SEN. SKOWRONSKI: No, I meant already, apart from what the legislature does this session.

COMM. PAC: I don't have any.

SEN. SKOWRONSKI: You don't have any unless it goes in through this bill.

COMM. PAC: Well, we had it already in the capitol budget.

SEN. SKOWRONSKI: Oh, I see, it's part of the Governor's bond.

COMM. PAC: For budget bonding for dams.

SEN. SKOWRONSKI: And that package includes the money going into that program.

COMM. PAC: I might add that the loan program is backed by the infra-structure report, the administration, and I had a discussion this morning with Howard Rifkin. He was coming down here to testify but when he knew I was coming down, so he said, make a statement on his behalf, and I'm doing that, they're supporting it.

SEN. SKOWRONSKI: Okay, thank you.

REP. BERTINUSON: Any other questions?

COMM. PAC: The next bill is An Act Concerning Municipal Eligibility for a Grant to Provide Potable Drinking Water. I believe you're familiar with the situation. We're a drinking water --

SB131

REP. BERTINUSON: What is the number, please, Commissioner.

COMM. PAC: It's 131. Where the drinking water is contaminated in a town, the town can go ahead and alleviate the situation by either installing a well, or providing some kind of a filtration system, if it's an individual well of some resident. However, we have to try to recover from the sources if they're indigent. There's a process for it and

COMM. PAC: (continued)

the town receives a reimbursement. However, if the town is the cause of that contamination, through a landfill side or any other action, perhaps some garage located that leaked out contaminants, they are excluded. They have to foot the bill themselves. This bill, of course, would include any landfills that might have been the source of that contamination. And it's a good bill. I'd love to see something like that to help out the community.

Obviously, the state, the people of this state have been beneficiaries of these landfills. However, there just isn't enough money. We have the hazardous waste assessment fund all told, it brought in about \$876,000 in the first 18 months, which is considerably below the \$1 million that we had estimated, and the claims on it are enormous in terms of the cleanups that are underway in Torrington, Meriden, etc. and we do not have the money. This bill would cost us several million dollars. I'd love to see some help of this type given to municipalities, but frankly, we don't have the money, and that fund, I'm afraid that we would emasculate it and we wouldn't be able to use it in the areas that we need to.

REP. BERTINUSON: Commissioner, would the situation be the same if it were a municipal land fill privately operated? In that case, would the municipality still be considered to be responsible for it.

COMM. PAC: If the municipality is the owner of the landfill, they're considered the source, yes. Now if it's a private, now obviously, that person is responsible.

REP. BERTINUSON: But if it's a privately operated landfill, it would still be -- perhaps you heard Rep. Neumann's suggestion that if you limited this and said, provided that it had run according to regulations, or met all regulations, it does seem, I can see a municipality that has provided a landfill to its people, and sometimes to other towns, and followed the regulations and the laws as far as the operating and then find that there is leech contaminating the wells, it really doesn't seem as though it's their fault that they should be responsible.

COMM. PAC: I followed the testimony very closely and I'm sympathetic to it. However, that's the situation in virtually every landfill in the state. They were following

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COMM. PAC: (continued)

the guidelines and to give you an example of an area where, we're not talking about landfill, we're talking about solven recovery in Southington. They followed the state of the arc in those years, sixties, early seventies in disposing of the waste. First they burned it, then they landfilled it. Nevertheless, the rest is history. In an action brought in the district court, they are required to clean up the whole thing. It's going to millions of dollars and they made the news recently. And yes, I know, that was the state of arc. They did everything right, however my problem is I have a lot of landfills out there. It would not be limited to Granby. I'd love to help. If you give me the money, if we had the money, that's fine. I don't know where you can get the money. I'm telling you right now, it will cost you considerable amounts of money.

REP. BERTINUSON: I have one more question on the responsibility of providing potable water in the event of contaminant wells. Is it clear that the town has a responsibility to provide potatble water?

COMM. PAC: Where they are the source?

REP. BERTINUSON: In any case.

COMM. PAC: They are required to if --

REP. BERTINUSON: -- if they are the source under your authority.

COMM. PAC: --they may if another source is responsible and is indigent.

REP. BERTINUSON: And then they could apply.

COMM. PAC: And then they could apply to us, yes.

REP. BERTINUSON: Any other questions?

SEN. SKOWRONSKI: Commissioner, on that potable water bill, all it says, is this language that you may give a grant. It doesn't say how much. Do you have regulations developed, or policies, as to how you give grants for potable water under that bill?

COMM. PAC: When you put a "may" in there, of course, we have some regulations on line and this was one of our problems.