

Legislative History for Connecticut Act

Public Act: 00-106

Bill Number: 5580

Senate Pages: 1830, 1912-1913

3

House Pages: 2886-2892

7

Committee: Environment: 637-640, 695-696, 706-712, 747-758

25

Page Total:

35

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
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S-446

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
2000

VOL. 43
PART 6
1733-2082

001830

34

pat

Senate

Thursday, April 27, 2000

480, HB5717 I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

484, HB5580 I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Moving ahead Matters Returned From Committee on
Page 13, Calendar 94, I move to the Foot of the
Calendar.

Calendar 111 I move to the Foot of the Calendar.

131 I move to the Foot of the Calendar.

139 is PR.

147 is to be passed temporarily as is 149.

154 is PR.

156 is PR.

161, PR.

167 is to be passed temporarily.

174 is to be passed temporarily.

179, SB556 I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

182 and 185 I move to the Foot of the Calendar.

001912
116

pat

Senate

Thursday, April 27, 2000

Calendar 480, HB5717.

Calendar Page 12, Calendar 484, Substitute for
HB5580.

Calendar Page 15, Calendar 179, Substitute for
SB5567. SB556

Calendar Page 16, Calendar 226, Substitute for
SB358.

Calendar Page 17, Calendar 230, Substitute for
SB34.

Calendar 255, Substitute for SB239.

Calendar Page 18, Calendar 290, Substitute for
SB463.

Calendar Page 19, Calendar 313, Substitute for
SB594.

Calendar 320, Substitute for SB570.

Calendar Page 20, Calendar 327, Substitute for
SB478.

Calendar Page 22, Calendar 46, SR24.

Calendar Page 23, Calendar 47, SR25.

Calendar 48, SR26.

Calendar 49, SR27.

Calendar 420, HJ127.

Calendar 441, HJ99.

Madam President, that completes the First Consent
Calendar.

001913

117

pat

Senate

Thursday, April 27, 2000

THE CHAIR:

Thank you, Sir. Would you once again announce a roll call vote. The machine will be opened.

THE CLERK:

The Senate is now voting by call on the Consent Calendar. Will all Senators please return to the Chamber.

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Have all members voted? If all members have voted the machine will be locked. The Clerk please announce the tally.

THE CHAIR:

The motion is on adoption of Consent Calendar No. 1.

Total number voting, 35. Those voting "yea", 35; those voting "nay", 0. Those absent and not voting, 1.

THE CHAIR:

The Consent Calendar is adopted.

SEN. JEPSEN:

Madam President, the Clerk is in possession of another agenda.

THE CLERK:

H-827

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
2000

VOL. 43
PART 9
2764-3067

002886

gmh

443

House of Representatives

Tuesday, April 18, 2000

Representative Serra, sir. Were you on your feet?

REP. SERRA: (33RD)

In the positive.

SPEAKER PRO TEMPORE HARTLEY:

Representative Serra in the positive, in the affirmative, please.

The Clerk will please announce the tally.

CLERK:

House Bill Number 5701, as amended by House Amendment Schedule "A"

Total Number Voting	149
Necessary for Passage	75
Those voting Yea	90
Those voting Nay	59
Those absent and not Voting	2

SPEAKER PRO TEMPORE HARTLEY:

The bill passes.

Will the Clerk please return to the call of the Calendar, Calendar 329, please.

CLERK:

On page 29, Calendar 329, Substitute for House Bill Number 5580, AN ACT CONCERNING VIOLATION OF TREE CUTTING PRACTICES. Favorable Report of the Committee on Judiciary.

SPEAKER PRO TEMPORE HARTLEY:

002887

gmh

444

House of Representatives

Tuesday, April 18, 2000

Representative Widlitz.

REP. WIDLITZ: (98TH)

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

SPEAKER PRO TEMPORE HARTLEY:

The motion is on acceptance and passage. Will you remark, Madam?

REP. WIDLITZ: (98TH)

Thank you, Madam Speaker. The current law subjects anyone other than a tree warden or his deputy who willfully removes, prunes, injures or defaces a shrub or ornamental or shade tree in a public area without proper authorization to a fine of up to \$100 per offense.

This bill eliminates the requirement that the violation be willful and changes the procedure for determining the fine to reflect the value of the tree or shrub.

By law, a tree warden may adopt regulations regarding the care and preservation of trees along town road or public grounds within the limits of his town or borough. The bill removes the \$90 cap for violating the regs and instead, requires them to be reasonable.

By law, the effected property owner can use the offender for damages. This bill also gives the tree

002888

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445

House of Representatives

Tuesday, April 18, 2000

authority having jurisdiction this right.

Madam Speaker, the Clerk has an amendment, LCO Number 3879. Will he please call and I be allowed to summarize?

SPEAKER PRO TEMPORE HARTLEY:

The Clerk is in possession of LCO 3879 to be designated House "A". Will the Clerk please call?

CLERK:

LCO Number 3879, designated House "A" offered by Representative Stratton, et al.

SPEAKER PRO TEMPORE HARTLEY:

Representative Widlitz has asked leave to summarize and you may proceed, Madam, without objection.

REP. WIDLITZ: (98TH)

Thank you, Madam Speaker. This amendment does away with the revocation of the developer's permits in the underlying bill.

It also changes replacement costs which could be used in determining an appropriate fine to the appraised value of the shrub or tree.

It also requires the DEP Commissioner to develop regs for determining the appraised value of the shrub or tree.

Until such regs are adopted, the appraisals may be made in accordance with the latest revision of the Guide

002889

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446

House of Representatives

Tuesday, April 18, 2000

For Plant Appraisal as published by the International Society of Arboriculture.

This is the industry guide book which uses for criteria the size, species, condition and location of the trees or shrubs.

The amendment also expands the time a tree must be posted from five days to ten days and restores the appeal period in the underlying bill to ten days.

The amendment to this bill will go a long way to establishing real disincentives for unlawful removing or damaging trees and shrubs within the public way or grounds.

The current maximum fine of \$100 is ludicrous when one considers the value of mature trees and shrubs, some of which cannot be replaced.

I urge adoption, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Widlitz.

Will you remark further on House "A"?

Representative Widlitz, did you move House "A"? The question is adoption.

REP. WIDLITZ: (98TH)

I move House "A".

SPEAKER PRO TEMPORE HARTLEY:

The question is adoption of House "A". Will you

002890

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447

House of Representatives

Tuesday, April 18, 2000

remark further on House Amendment "A"? If not, I will try your minds.

All those in favor, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER PRO TEMPORE HARTLEY:

Those opposed, nay. The ayes have it. The amendment is adopted.

Will you remark further on the bill, as amended?

Representative Belden, you have the floor, sir.

REP. BELDEN: (113TH)

Thank you, Madam Speaker. Madam Speaker, the Clerk has an amendment, LCO Number 3346. If the Clerk would call and I be given permission to summarize.

SPEAKER PRO TEMPORE HARTLEY:

The Clerk is in possession of LCO 3346, to be designated House "B". Would the Clerk please call?

CLERK:

LCO Number 3346, House "B" offered by Representative Belden.

SPEAKER PRO TEMPORE HARTLEY:

Representative Belden has asked leave to summarize.

And without objection, you may proceed, sir.

REP. BELDEN: (113TH)

Yes. Thank you, Madam Speaker. Madam Speaker, in

the first several lines of the file copy it essentially limits who can remove trees without permission of certain officials in public ways.

All public ways may not be owned by a municipality or by the State. They may be owned by private enterprises, parts of trails, easements, etc. So this amendment would, on line 6 insert the words "legal right or". So it would read, "within the limits of public way or grounds without the legal right or the written permission of the town tree warden."

This would make it clear that if, in fact, the property involved was privately held with the ability of the public to use it, that the property owner who had a legal right to cut trees whenever he felt like it or she felt like it, would be able to do it.

I move adoption, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

The question is adoption of House "B" Will you remark further on House "B"?

If not, I will try your minds.

All those in favor of House "B", please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER PRO TEMPORE HARTLEY:

002892

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449

House of Representatives

Tuesday, April 18, 2000

Those opposed, nay. The ayes have it. The amendment is adopted.

Will you remark further on the bill, as amended? If not, staff and guests to the well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by roll call. Members to the Chamber, please.

SPEAKER PRO TEMPORE HARTLEY:

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

The Clerk will announce the tally.

CLERK:

House Bill Number 5580, as amended by House Amendment Schedules "A" and "B"

Total Number Voting	146
Necessary for Passage	74
Those voting Yea	146
Those voting Nay	0
Those absent and not Voting	5

SPEAKER PRO TEMPORE HARTLEY:

The bill, as amended is passed.

JOINT
STANDING
COMMITTEE
HEARINGS

ENVIRONMENT
PART 3
594-898

2000

REP. STRATTON: Thank you very much. Are there questions? Appreciate your testimony. At this point we will move to the public portion of the hearing. And the first person to testify is Bruce Sherman, followed by David Sutherland.

BRUCE SPAMAN: Good afternoon. I'm Bruce Spaman, I'm the tree warden of Guilford, and I appreciate the opportunity to speak before this committee this afternoon. I'm appearing here today to support the significance of bill HB5580 sponsored by Representative Widlitz, and Senator William Aniskovich.

This bill is concerned with the penalties assessed for the wrongful removal of trees from town properties and rights of way. I'm officially appearing before this committee today as a tree warden for the Town of Guilford.

HB5580

But I am also the tree warden for nearby Madison, and the city forester for the City of Middletown. I've been a consulting arborist and a consulting forester for twenty years, representing landowners of municipal, private, corporate, and nonprofit properties.

Over the years I've worked with twenty-five cities and towns in Connecticut. I also serve as a secretary on the board of directors of the Tree Wardens Association of Connecticut.

This timely legislation was brought to the state's in an inequitable and archaic statute regarding the destruction of trees owned by cities and towns throughout the state of Connecticut.

As the current statutes read today, the penalty for any tree removed from town property without authorization, regardless of its size or stature within the community, is punishable by either a \$90 or a \$100 fine.

This is grossly inadequate given the environmental, aesthetic, and societal benefits that trees provide to an appreciative community. Guilford is a community that realizes tree-lined country roads,

stone walls, colonial architecture and seascapes constitute the character of their town.

Shade trees that beautify streets, town greens, city parks, school campuses, open spaces, and watersheds, are part of the fabric that helps create the unique character that defines Guilford and any other community.

Trees are an integral part of the form -- in the formula of a Connecticut community's identity. When 150 or 200 year old tree is destroyed for no good reason, it is as if an historic house had been razed to created a parking lot.

Something is forever lost that cannot be replaced in our lifetimes. Recently a stately sugar maple, maple tree that measured forty-four inches in diameter was prematurely removed from a Guilford country road.

Connecticut statute requires that public trees that are to be removed should be posted for five days before removal to allow for a public hearing for anyone who is opposed to its removal.

This tree was removed by an adjacent landowner on the fourth day, after a request for a public hearing was already recorded with the tree warden. The tree was removed without due process according to state statutes in Guilford ordinances.

The town residents' rights to a public hearing was preempted by this tree's removal. The Guilford tree ordinance clearly states that this tree was to be appraised by a competent tree and plant appraiser, and that the appraised value would be a penalty for the tree's wrongful removal.

This tree was appraised to be worth \$15,000. The attorney for the landowner that removed this tree argued that the penalty should be \$90 or \$100, as per Connecticut state statute.

The town settled for \$2,000. The landowner's attorney stated that this was the nuisance value of this claim, in that the client would grudgingly pay

it. This tree was actually worth \$15,000.

I'm a practicing plant appraiser and will go into court to defend my appraisals. I've also had experience appraising tree values for insurance casualty claims, criminal trespass and vandalism cases. Often these appraisals are tripled for reasons of willful intent and trespass.

Tree appraisal values are set by a nationally recognized methods for either a replacement cost for transplantable sized trees, or by formula method for trees that cannot be feasibly transplanted.

This forty-four inch sugar maple certainly could not be transplanted for \$15,000. This formula method attempts to place a value on a commodity that is not bought or sold.

The tree's appraised value is determined by considering the tree's condition, species, and function in the landscape. I feel that \$15,000 was conservative, considering the cost and effort necessary to ever attempt replacement of this tree.

This is not a problem that is confined to the Town of Guilford. All my municipal clients, and many members of the Tree Wardens Association of Connecticut are concerned about the general attrition of the community forests.

Old age, decay, insects, disease, pollution, and conflicts with infrastructure, are daunting enough for a tree warden to cope with. Indiscriminate tree removal is not tolerable.

Minimal or unenforceable penalties will create an open season on municipal trees that could further decimate our stressed urban and community forests.

While some say that we should tread carefully when creating legislation that will have force for years to come, I say that the statutes we have today are woefully inadequate, and archaic, and should be reconsidered to reflect 21st century values that these trees are afforded by the courts, insurance companies, and the citizens of Connecticut, that

appreciate and care about our community forests.

REP. STRATTON: Thank you very much for your testimony.

BRUCE SPAMAN: Thank you.

REP. STRATTON: Representative Widlitz

REP. WIDLITZ: Good afternoon, Bruce. Thank you for coming here to share Guilford's story which certainly is applicable to many other towns. I couldn't help but think as you were going through the list of things that determine a town's character.

We could add historic train stations to that as well. But that's not a topic for today.

REP. STRATTON: You tried.

REP. WIDLITZ: I tried. One question. There is some written testimony from Scott Cullen, who I believe is not going to appear today, that the reference to which we refer to determine the value of a tree, the guide to professional evaluation of landscape trees.

That the publication, it's the same publication published by International Society of Arboriculture. The name of the book has been changed to the Guide for Plant Appraisal.

BRUCE SPAMAN: Yes, that's the one I have here.

REP. WIDLITZ: Okay. So, we'll I think propose language that will clear that up in the bill. Thank you very much.

HB 5580

BRUCE SPAMAN: Thank you. Any other questions?

REP. STRATTON: (inaudible - microphone off) David Sutherland, followed by (inaudible).

DAVID SUTHERLAND: Good afternoon, my name is David Sutherland. I'm the director of government relations for the Nature Conservancy, Connecticut Chapter. And I'm here today to urge your support

SB 508
HB 5762

REP. STRATTON: Thank you very much, Sally. And you did submit written testimony, right?

SALLY KROPP: Yes, I did.

REP. STRATTON: Thank you. You might be a valuable person in terms of just getting back --

SALLY KROPP: And if you have any questions, please have anyone feel free to call and ask.

REP. STRATTON: Thank you very much.

SALLY KROPP: Thank you.

REP. STRATTON: Karl Reichle, followed by Bruce Lockwood.

KARL REICHLE: Good afternoon, I'm Karl Reichle. I'm president of the Tree Wardens Association of Connecticut. We represent tree wardens from over 85 communities in Connecticut.

I'm here representing the association. We are in full support of Raised Bill HB5580. We strongly believe that nobody should work on municipal trees without the express consent of the local tree warden.

There are some minor items that we feel need to be addressed in the proposed legislation. We certainly believe that the local tree warden, or designee, be responsible for any and all appraisals to be done on any municipally owned trees.

Secondly, we believe that in conjunction with the developer running the risk of losing the development permits, for wilfully damaging a municipally owned tree, that the tree warden may issue fines up to \$1,000, and that the developer must present proof to the agency that revoked the permits that the fines in any civil actions for willful destruction of town owned trees be in place before any work is to resume.

And what we would look to do is have all of the fines go to set up a fund for tree enhancements

from the community that the trees were destroyed on. And lastly, we'd look for to change all references in 23-59 of the state statutes that deal with the tree wardens from "he" to "they" as we do have some women that are local tree wardens.

REP. STRATTON: Thank you.

KARL REICHLE: With that, if you have any questions?

REP. STRATTON: Thank you. And, again thank you for your patience in staying around. Bruce Lockwood, followed by Tom Turick.

BRUCE LOCKWOOD: I want to thank you for inviting me, Representative Stratton, and the rest of the committee. I'm sitting here before you to speak about bill SB441. I sit in a very unique seat, which most towns don't have.

Seven years ago I was appointed to work in the fire marshall's office, and had since become the fire marshall. And seven years ago, I was also appointed the open burning official.

My town does both in the same office. The actual change in 99-225 which put it into our office, that's why it's dated -- my only issue with that language was, the guys that worked for me who also had been appointed open burning officials.

Because there was no limit through DEP how many we could do. We appointed everybody. And your current language addresses the designee. And from our office's standpoint that part's taken care of.

We do have, however, several other issues with the current SB441. We have -- I have spoken with representatives from DEP, CFMA, and the state fire marshall's office. I guess my biggest concern was that one, in December I received a memo from the deputy state fire marshall's office notifying me that I was no longer the open burning official since October.

And I had been operating under those regulations, permits, and etcetera. The adoption of 99-225, my

and sticking around for so long.

TIM CALNEN: My pleasure.

REP. STRATTON: Any questions? Thanks very much.

TIM CALNEN: Thank you.

REP. STRATTON: Ben Timme. Good, I'm mispronouncing a name of somebody who's not here. I get away with it. Andrea Sandar.

ANDREA SANDAR: Thank you for inviting me. I'm here to make comments about bill HB5580. And I appreciate my compliments to the committee for proposing this bill. I have a question, actually, I want to start with.

I -- about the wording. I filed a protest within the five-day period for four to five large trees that were marked in our public park in New Canaan, Connecticut. And I filed it with the first selectman and the head of public works, who supervise both the town tree warden, and the parks director.

In Connecticut the tree warden is not responsible for trees in a park. The parks director is. So, I actually had applied to the correct people, because they supervise both of these individuals.

Basically, the town wanted to widen the entrance way to two entrances to the park. There were large pillars that restricted two-lane traffic. So they wanted to push them aside so that they could have in-going and out-going cars. It was only one lane, restricting traffic.

And, in order to push the two large pillars to the side, they had to take out four to five very large trees in very good condition that formed a canopy over the entrance to the park.

And I went up and took a look at it, and noticed that -- I mean if they were going to be lifting these heavy pillars up, they could easily push them forward about two or three feet and then move them.

out to the side.

Because the trees in question were not in the way of a two-lane road. They were just in the way of the pillars going out to the side. And these pillars were set back from the road about fifteen feet.

There would be no problem moving them forward and out. So it was a solution to avoid having the trees cut down needlessly at an extra expense. So I filed a protest so I could bring my great idea to the town to avoid having this happen.

And the first selectman told the public works director to take them down before I was ever heard.

So, my question -- I called Fred Borman at the DEP, and he told me that I could sue the town and the first selectman, who told the public works director to ignore my protests and go ahead and do this.

And I hired an attorney. And I asked him, what would happen if I did this? He wrote up an opinion and said basically, nothing, because there was no penalty. No remuneration.

So my question was, why -- to the lawyer was, why have a law if there's no penalty if it's broken? And I wondered what provisions you're making in this bill if the town violates the state law regarding town trees in this law.

There's no penalty, no remuneration. To me, it's even more egregious because it's a municipality that's doing it rather than like a resident. And in this instance we needlessly cut down the trees and incurred an extra expense.

The tree warden in my town, I will say, is very shy. And he basically does whatever the first selectman and public works director tells him. Although I know he has a lot of powers, he just -- he will not enforce them. So maybe it's a special case. I don't know if you want to wait till I finish to make any comments, if any.

I think the law's a good beginning. But I don't think it goes far enough in the language. I suggest doubling the waiting period from five days to ten days. Cause I'm not sure how old this law is. The original law.

It probably was enacted when towns were smaller, residents tend to know the rules better. There were less rules to know. And life was a lot slower and less hectic. Residents would actually notice a red band around a tree, whereas today the chance is less likely as they charge back and forth on their way to work or picking up their kids.

And also, with complicated and varied schedules today, people who might be interested in a particular tree being taken down may not happen to drive by during that five-day period.

Or they could have been on vacation. And it was gone by the time they came back. May -- perhaps putting a notice also in the newspaper, as well, might remedy that. Also, residents don't know what these red bands mean.

On some construction sites the bands mean that trees are to be saved. So it's confusing. And this may be an opportunity to clear this up and devise a clear way to inform the public.

The sign that you're required to put up also is so small that you basically can't see it unless you're standing about two feet from the tree. If you had a very large sign, tree to be removed, I'm sure you would get more public comment.

In fact, a couple of years ago there were a few hundred year old trees on Tomature Road next to my house that were tagged to be removed. And nobody was, you know, so this property could move his driveway, add an addition to his house, and sell it for more money.

He was moving. And no one noticed, not even neighbors, who I know who had moved to this road specifically because of these trees and the tree-lined look to the road. So, I put a big sign up

that said, these trees to be removed, to see what would happen.

And what, people driving by on the road each day literally got out of their cars and became furious about it. And the residents also, the neighbors also got involved very passionately.

Only because the trees were marked clearly. And the town kept taking my signs down telling me that it was illegal. And it was illegal to really let the residents know what was going on. The law changed to allow larger signs would change this, and residents would also have a right to voice their opinion.

Also, I suggest that you use fair market value for replacement value, not the ISA guide to professional evaluation of landscape trees. This guide is an average cost in the U.S. and does not reflect the replacement cost of trees in Connecticut. A 200-year old tree, the one that I believe was cut down in Guilford was assessed at \$15,000.

Whereas, recently in New Canaan there was a tree in extremely good shape, and it was only about 50 to 60 years old. It was a maple, sugar maple. And it was assessed at \$25,000 for a replacement cost.

SEN. DAILY: Your trees cost much more than our's.

ANDREA SANDAR: Right. So you, I mean, regardless you can't replace a 200-year old tree for any amount of money. And part of the penalty of this act as a deterrent, because once a tree like that is gone, it's too late.

And I understand the argument about the condition of the tree also has to be taken into consideration. But the likelihood of finding a tree in the same exact condition, you know, would be virtually impossible.

Even if the tree was in perfect condition, I don't think those ISA standards would come close to meeting the replacement cost in, you know, say

Fairfield county, Connecticut, where a nine-inch sugar maple will call you \$9,000 to replace.

Also, the fine is not only lower than the actual replacement cost for a perfect tree, it doesn't take into consideration sentimental value, aesthetic value of a large tree, and the environmental benefits.

A beautiful large tree can make a neighborhood or part of town. Large trees logically provide the greatest amount of economic benefits. Sugar maples especially are like huge air conditioners in the summer, because they throw off so much water through the leaves, 300 to 400 gallons of water a day.

They can literally reduce temperatures in the surrounding areas about sixteen degrees. So I don't know how you put a value on personal discomfort, or the fact that you've lost a lot of economic environmental benefits. Larger trees obviously provide more benefits than smaller trees.

It's like saying a human being is worth something like a \$1.25 because that's their worth in terms of their chemical makeup. But to replace one person is not -- even one who is not in perfect physical shape would be difficult at any price.

I think, I know as legislators you understand that penalties for breaking laws also act as deterrents. And this bill, the Connecticut General Statute 23-65 Section 5, sublease B, as it exists today, with \$100 as remuneration has not been proven to be a deterrent to unlawful cutting.

The state urban forester, Bob Ricard, has told me that it's actually an epidemic across the state of Connecticut. It's increasing with development. I'm here to ask legislators to tailor their opinions on the vote on this to the context of what's happening.

In reality the property owners across the state of Connecticut, rather than in the context of what they feel is reasonable for violators of this law.

And what they believe is reasonable for the destruction of trees and public property.

Is it not reasonable to place the burden -- is it not unreasonable to place the burden of the town to replace what was illegally destroyed on their property. When is it alright for someone to violate a law and not pay to replace what was destroyed?

And why is the environment valued so little compared with real property value? Established businesses like insurance companies, which are clearly not environmental groups, will value these trees at replacement value if you have a car accident in front of your house and the care mows down your tree, the insurance company will pay you a replacement value.

If someone comes onto your property and cuts down your evergreen tree and carts it off to use it as a Christmas tree, the insurance company will pay a replacement value. I think the law should match what general business practice is.

Also, the fine, the current fine as I said before is not sufficient enough to deter needless destruction of public property. Trees are not considered real property under the law.

They are not protected by the police. This law, and this fine is the only thing that protects them.

Last year in New Canaan a resident called the police because somebody was cutting all her trees down on her property.

And despite her protests. And the police told her it was -- they weren't even going to come up there. It didn't matter that the people even trespassing. It wasn't their responsibility and they were right. They told her to go to a civil court judge and get an injunction.

But the tree cutting machines that they have now are so fast, by the time she got into the car, drove down to the judge, got the injunction, and came back, they would have been gone anyway.

So, this law will fill a gap in protection for trees, both as a deterrent, because some trees can't be replaced. And for any, at any cost for remuneration after the fact.

Also there was a, in terms of public trees, some neighbors in New Canaan called the police because a contractor who was doing work on the middle school was destroying literally all the large specimen, public specimen trees around the school.

And the police also did nothing. They weren't required to. So, this law, and in fact, we went up and kind of showed them this law that we would, the neighbors even thought to threaten to sue this contractor.

And they just laughed at them. Because, you know, basically it really has no deterrent factor. And lastly, with the land and home prices at record levels in Connecticut, a developer or residential - - a resident building say a \$4 million home who might have to pay \$100 for negligently cutting down a \$10,000 tree improperly, may not find this much of a deterrent for the improper removal.

I just thank you again for putting this bill forward. And if you have any more questions for me, please ask.

REP. STRATTON: Thank you very much, Andrea. And thank you for your earlier communications on the subject, too. Are there any questions? Thank you. And I think you have the honor of closing the public hearing, thanks.

ANDREA SANDAR: Thank you.

REP. STRATTON: At this point, we will close the vote on the consent calendar from the Environment Committee meeting, and we will adjourn the public hearing and wish you all a very nice weekend.

(Whereupon, the Public Hearing was Adjourned.)

000747

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ANNEFINAN

PAGE 01

March 2, 2000

Attn: Representative Pam Widlitz

I am writing in response to Raised Bill No. 5580 LCO No. 1551, an Act Concerning Violation of Tree Cutting Practices.

As a board member of the Darien Garden Club, New Canaan Environmental Group and S.A.F.E. (Seeking Alternatives For the Environment), I am all too familiar with the value of trees. Having just attended a conference in Washington D.C., with numerous members of Congress including Secretary of Agriculture, Dan Glickman, I can assure you, they too know the value of trees.

Our garden club in Darien will be presenting a conservation exhibit on Trees at our show in May at the Town Hall. It will provide information on medicinal purposes, their contribution to air quality, water management and habitat. To value trees at anything less than their replacement value is unjustly. To value trees at their market value is more realistic. The benefit of trees in protecting our air quality is statistically staggering. The benefit of trees in protecting storm runoff which would otherwise contribute to non-point source water pollution is also of great benefit. The economics of trees exist, not to mention their beauty and habitat. If I were to lose the 250 year old oak that resides by my home, I would not live to see another on my property ever, and neither would my grandchildren.

I urge you to preserve these gifts of nature in an appropriate manner that protects their age and contribution to our environment.



Anne Finan
74 Dogwood Lane
New Canaan, CT 06840

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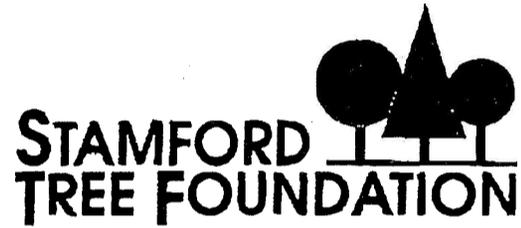
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EASTERN LAND MANAGEMENT INC - 203 240 0206

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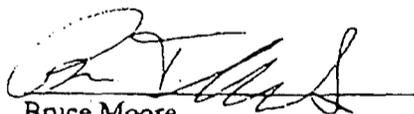
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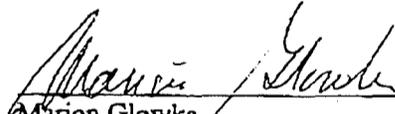
	Distribution	Fax #	# of pages including this cover
TO:	Representative Pat Widlitz	860-240-0206	1
FROM:	Board of Trustees Stamford Tree Foundation		
DATE:	03/02/00		
RE:	<u>Raised Bill 5580</u>		

The Stamford Tree Foundation is a 501(c)(3), not for profit organization which acts as an advocate for the public and private sector urban forest in the City of Stamford.

The Stamford Tree Foundation supports the substance of the proposed changes as clearly in the public interest and consistent with the intended purpose (i.e. to establish more realistic deterrents for wrongfully cutting trees).

By resolution of the Board of Trustees at a special meeting held Friday, March 3, 2000 at Stamford, CT, the Stamford Tree Foundation urges the legislature to enact the substance of the proposed changes.


Bruce Moore
President


Marion Glowka
Secretary

000749



CONNECTICUT FOREST and PARK ASSOCIATION
Middlefield, 16 Meriden Road, Rockfall, CT 06481-2961
Telephone 860) 346-2372; FAX (860) 347-7463

**TESTIMONY OF JOHN E. HIBBARD,
EXECUTIVE DIRECTOR OF THE CONNECTICUT FOREST
AND PARK ASSOCIATION, FOR THE PUBLIC HEARING
OF THE COMMITTEE ON THE ENVIRONMENT, FRIDAY, MARCH 3, 2000**

**R.B. 5580, AN ACT CONCERNING VIOLATION OF TREE CUTTING
PRACTICES**

The Connecticut Forest and Park Association supports the proposal as contained in Raised Bill 5580.

We have had contact in recent years regarding the matter and we feel that it is timely to take corrective action. Most of the problems that come to our attention are those relating to trees being cut in subdivisions and developments that were designated as trees not to be cut in approved plans by municipal approving authorities.

We believe that the lack of fines equal to the replacement value of trees cut leads to continued abuses and should be corrected.

We urge favorable action on this proposal and we would suggest that the committee add a section to the bill calling for a review of the other sections of statute relating to cutting of trees that are under the jurisdiction of various municipal agencies and the Department of Transportation.

I appreciate this opportunity to present these thoughts to the committee.

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Good afternoon, I'm Karl Reichle President of the Tree Wardens Association of Connecticut.

The Association in full support of raised bill #5580 LCO no. 1551.

We strongly believe that no one should work on a Town owned tree without the consent of the Local Tree Warden.

There are some minor items that we feel need to be addressed in the proposed legislation:

- (1) The local Tree Warden or their designee be responsible for all tree appraisals to be performed on municipally owned trees when damage has occurred.
- (2) We believe that in conjunction with a developer losing their permits for willfully damaging a municipally owned tree, that a Tree Warden may issue fines up to 1,000.00 dollars, and that the developer must present proof to the revoking authority that the fines and any civil damages have been paid before work is resumed.
- (3) All fines that are collected would go to the community in which damages were done. They would be placed in a fund for tree enhancement.
- (4) Change all references in 23-59 from "He" to They

The Tree Wardens Association of Connecticut is very willing to work with any person or group to help facilitate these small changes to the proposed bill no. 5580

I can be reached at (860) 648-6366 or (860) 289-8436.
Karl E. Reichle, President of the Tree Wardens Association of Connecticut

000751

State of Connecticut General Assembly
February Session 2000
Raised Bill No. 5580; LCO No. 1551
An Act Concerning Violation Of Tree Cutting Practices.

Testimony to the Committee on Environment
Bruce Spaman, Tree Warden, Guilford, Connecticut

I am appearing here today to support the significance of the bill 5580 sponsored by Representative Patricia Widlitz and Senator William A. Aniskovich. This bill is concerned with penalties assessed for the wrongful removal of trees from town properties and rights-of-way.

I am officially appearing before this committee today as the Tree Warden for the Town of Guilford. But I am also the Tree Warden of nearby Madison and the City Forester for City of Middletown. I have been a Consulting Arborist and Consulting Forester for 20 years representing landowners of municipal, private, corporate and non-profit properties. Over these years I have worked with 25 cities and towns in Connecticut. I also serve as the Secretary on the board of directors of the Tree Warden's Association of Connecticut.

This timely legislation has brought to the State's attention an inequitable and archaic statute regarding the destruction of trees owned by Cities and Towns throughout the State of Connecticut. As the current statutes read today, the penalty for any tree removed from town property without authorization, regardless of its size or stature within the community, is punishable by either a \$90 or \$100 fine. This is grossly inadequate given the environmental, aesthetic, and societal benefits that trees provide to an appreciative community. Guilford is a community that realizes tree-lined country roads, stone walls, colonial architecture and seascapes constitute the character of their Town. Shade trees that beautify streets, town greens, city parks, school campuses, open spaces, and watersheds are part of the fabric that helps create the unique character that defines Guilford...or any community. Trees are an integral part in the formula of a Connecticut community's identity. When a 150 or 200 year old tree is destroyed for no good reason, it's as if an historic house has been razed to create a parking lot. Something is forever lost that cannot be replaced in our lifetimes.

Recently, a stately Sugar Maple tree that measured 44 inches in diameter was prematurely removed from a Guilford country road. Connecticut Statute requires that public trees that are to be removed should be posted for 5 days before removal to allow for a public hearing for anyone who is opposed to its removal. This tree was removed by an adjacent landowner on the 4th day, after a request for a public hearing was recorded with the Tree Warden. This tree was removed without due process according to State Statutes and Guilford Ordinances. The town resident's right to a Public Hearing was preempted by this tree's removal.

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The Guilford tree ordinance clearly states that this tree was to be appraised by a competent tree and plant appraiser and that the appraised value would be a penalty for the tree's wrongful removal. This tree was appraised to be worth \$15,000.00. The attorney for the landowner that removed this tree argued that the penalty should be \$90 or \$100 as per Connecticut Statute. The Town settled for \$2,000.00. The landowner's attorney stated that this was the "nuisance value" of this claim and that his client would grudgingly pay it.

This tree was actually worth \$15,000. I am a practicing plant appraiser and have gone to court to defend my appraisals. I have also had experience appraising tree values for insurance casualty claims, criminal trespass and vandalism cases. Often these appraisals are tripled for reasons of willful intent or trespass.

Tree appraisal values are set by nationally recognized methods for either a replacement cost for transplantable-size trees or by formula method for trees that cannot be feasibly transplanted. This 44 inch Sugar Maple certainly could not be transplanted for \$15,000. This formula method attempts to place a value on a commodity that is not bought or sold. The tree's appraised value was determined by considering the tree's condition, species, and function in the landscape. I feel that \$15,000 was conservative considering the cost and effort necessary to ever attempt the replacement of this tree.

This is not a problem that is confined to the Town of Guilford. All of my municipal clients and many members of the Tree Warden's Association of Connecticut are concerned about the general attrition of their Community Forests. Old age, decay, insects, disease, pollution, and conflicts with infrastructure are daunting enough for Tree Wardens to cope with. Indiscriminate tree removal is not tolerable. Minimal or unenforceable penalties will create an 'open season' on municipal trees that could further decimate our stressed Urban and Community forests.

While some say that we should tread carefully when creating legislation that will have force for years to come, I say that the statutes we have today are woefully inadequate and archaic and should be reconsidered to reflect the twenty-first century values that these trees are afforded by the courts, insurance companies and the citizens of Connecticut that appreciate and care about our Community Forests.

Respectfully Submitted:



Bruce Spaman
Ct Licensed Arborist #61770, CT Certified Forester #F107
Tree Warden: Guilford, Madison

000753

P 03

Scott Cullen
P.O. Box 31152
Greenwich, CT 06831-0852

914-244-3471 203-629-5318 Fax 914-244-3471
e-mail dscottcul@worldnet.att.net

FAX MEMO

	Distribution	Fax #	# of pages including this cover
TO:	Hon. Pat WidlE	860-240-8517 0206	2
FROM:	Scott Cullen		
DATE:	3/2/00		
RE:	<u>Raised Bill No. 5580</u>		

FOR THE RECORD

My name is Scott Cullen. I am a Trustee of the Stamford Tree Foundation, a member of the Connecticut Tree Protective Association, a Licensed Arborist and a Licensed Real Estate Broker in the State of Connecticut. I have a graduate degree in Real Estate Development and Investment and extensive training in real estate appraisal. I have done extensive research writing on tree value.

The proposed changes to CGS 23-65(1)(b) allowing for fines as determined using any of the replacement cost approaches set forth in the latest edition of the publication now known as *The Guide For Plant Appraisal* published by ISA and authored by the Council of Tree and Landscape Appraisers is clearly in the public interest and consistent with the stated purpose (i.e. "to establish more realistic deterrents for wrongfully cutting down trees...").

My research and my experience in Connecticut courts has found that statutes and case law which treated cut trees as no more than a commodity with a worth based on useful timber or cordwood may have been useful in our agrarian past but are completely inadequate to protect our trees today. The public trees protected by this bill have value far in excess of the commodity value. These public trees are environmentally essential natural resources¹; amenities adding to quality of life in our communities; and a measurable contributor to private real property value and the real property tax base. There are reams of scientific literature to support these values.

Given the high value of land, the high returns on development and the high costs of labor, neither commodity value based damages nor low statutory fines which equate to a few hours labor and equipment expense - if that - provide any meaningful deterrent to wrongful or improper cutting. It

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P 04

is cheaper to pay these low penalties than to incur expense or inconvenience to save trees or ensure proper and responsible practice!

"Replacement Cost" as a measure of damages is employed by well known and responsible public agencies including the NYC Department of Parks (for park and street trees) and the NYC Department of Environmental Protection (for trees in the watersheds).

Professionally conducted appraisals using replacement cost approaches consider a wide range of factors and can be applied fairly to both the public interest and offenders. The consideration of equity and of various patterns of fact is properly left to the courts. Establishment of accepted appraisal methods in statute allows the courts to consider these factors without arbitrary, statutory limits.

I urge the legislature to enact the substance of this change. I have provided technical comment to legislative staff and would be pleased to meet with or provide backup material to committee.

Sincerely,



Scott Cullen

¹ The Supreme Court of Connecticut has recognized trees as a "natural resource" under CGS 22a-19 and concluded that "...natural resources must be viewed 'in terms of values beyond the limited economic product value...'" PAIGE v. TOWN PLANNING AND ZONING COMMISSION OF THE TOWN OF FAIRFIELD, 235 Conn. 448 (1995).

000755



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STUART WREDE

29 February 2000

Committee on the Environment
General Assembly
State Capital
Hartford

Dear Committee Members:

I write in support of Raised Bill No. 5580 dealing with violation of tree cutting practices. Out town recently witnessed the willful and unlawful destruction of a tree valued at well over ten times the maximum fine authorized under current law. A fine much less than the value of many trees now commonly found along the state's public ways and grounds is not a deterrent to arboricide. Since trees of great age, and therefore of great value, once cut can only be replaced by fifty to a hundred years of growth, protection of these trees by a substantial fine and the possible loss of the offending party's development rights is essential.

The Guilford Preservation Alliance has taken the lead in establishing scenic road designations and in tree planting in our town. We are particularly concerned about the protection of our sylvan heritage, and, therefore, urge the adoption of bill 5580.

Sincerely,

Robert B. Gordon
President

000756

MAR-01-2000 23:16

ALLEN STEVENS

P.01

Jane Muschamp
585 Old Stamford Road
New Canaan, CT 06840
March 1, 2000

VIA FAX

ATTENTION: Emily Stone (Please forward this to the proper channels.)

Comments on Raised Bill no. 5580 "An Act Concerning Violation of Tree Cutting Practices"

To: Committee on the Environment, General Assembly, or to whom it may concern
From: Jane Muschamp

I support passage of Raised Bill number 5580 (LCO #1551) "An Act Concerning Violation of Tree Cutting Practices" which was referred to the Committee on Environment. It is long overdue to recognize the numerous benefits of shrubs and trees to our environment and our communities, and to afford them better protection.

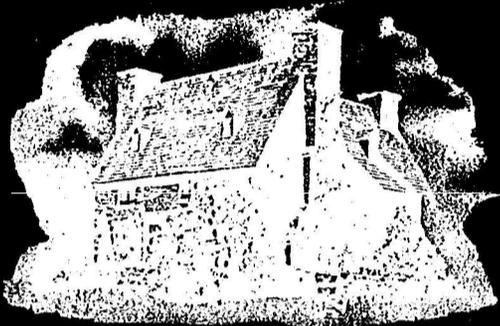
I would change only one part, and that is in Section 2, Section 23-59, line 24: the period of posted notice prior to removing or pruning a tree should be TEN, not five, days. Five days is too little time for people unfamiliar with the appeal process to figure out the process and submit a "stay of execution" for a particular tree; plus someone may not pass that particular tree or shrub everyday, and may not see the notice until several days after posting. Lines 23-25 should therefore read: "Unless the condition of such tree or shrub constitutes an immediate public hazard, he shall, at least TEN days before such removal or pruning, post thereon a suitable notice stating his intention to remove or prune such tree or shrub."

I hope this bill passes with the above-mentioned modification.



TOTAL P.01

000757



THE OLD STONE HOUSE

TOWN OF GUILFORD

31 Park Street
GUILFORD, CONNECTICUT 06437
SETTLED IN 1639

TELEPHONE 453-8015
FAX 453-8467

Date: February 28, 2000
To: The Honorable Patricia Widlitz
From: Jerry Silbert, Chairman, Conservation Commission
Re: An Act Concerning Violation Of Tree Cutting Practices.

Dear Pat,

House Bill No. 5580 "An Act Conserving Violation Of Tree Cutting Practices" is an excellent and much needed correction to legislation that was ambiguous and an ineffective deterrent to wrongfully cutting down trees on a public right of way.

1. The proposed legislation removes the requirement that the wrongful act be willful. Trying to prove someone acted willfully is fraught with difficulty. They can always say "I didn't mean it," or "I didn't know I wasn't supposed to..."
2. The present maximum fine of \$100 for wrongfully cutting down a tree is a woefully inadequate deterrent. The proposed legislation is realistic and tailored to the damage done as it allows a penalty up to the replacement cost of the tree or shrub.
3. The proposed legislation removes the ambiguity from the option for civil action by allowing the authority having jurisdiction (not only the property owner) to sue. Often a tree may be under the jurisdiction of, for example, a town, but technically be on the property of the person who cut it down.
4. By changing the language to a "reasonable" fine in Section 23-59 the proposed legislation avoids internal contradictions and inadequate deterrents for wrongfully cutting down or damaging trees or shrubs.

You and Senator Aniskovich are to be congratulated for clarifying and promoting the true intention of the law to protect trees and shrubs within the limits of a public right of way.

Sincerely,


Jerry Silbert
Chairman, Conservation Commission
Guilford, Connecticut

000758



THE OLD STONE HOUSE

TOWN OF GUILFORD

31 Park Street
GUILFORD, CONNECTICUT 06437
SETTLED IN 1639

TELEPHONE 453 8015
FAX 453 8467

Samuel D. Bartlett
31 Park Street
Guilford, CT 06437

March 2, 2000

To the Environment Committee:

I wholeheartedly support the passage of Bill No. 5580 an Act Concerning the Violation of Tree Cutting Practices. This bill will give towns the ability to charge transgressors for the value of the tree removed, rather than fining a straight fee of \$90 allowed under the current statutes, which many old trees exceed in value.

Recently in our town the tree removal statutes became an issue when two developers removed a 125 to 150-year old sugar maple a day before the required five-day posting period ran out. That was the same day a resident requested a public hearing on the removal of the tree, but it was too late, the damage had been done. Our tree warden estimated the value of the tree to be about \$15,000, but since regulations concerning the town's authority in the matter were not strong, town counsel advised us to settle with the developers on \$2,000.

I believe that had this proposed bill been in place at the time, the town probably could have collected the entire \$15,000 replacement value for the tree. Guilford is a town that takes pride in its history and the aesthetic quality of its neighborhoods, of which trees play an integral part. But unless the statutes are strengthened, the town has very little control or retribution in the matter. I hope that this bill passes, then if our town has to handle a similar situation in the future the penalty will fit the crime.

Sincerely,

Samuel D. Bartlett
First Selectman