

Legislative History for Connecticut Act

**PA 14-125**

HB5220

House	5971-5981	11
Senate	3461, 3476, 3480-3481	4
Judiciary	1296-1298	<u>3</u>
		<b>18</b>

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**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
2014**

**VOL.57  
PART 18  
5882 – 6232**

SPEAKER SHARKEY:

The bill as amended passes.

Will the Clerk please call Calendar 375.

THE CLERK:

On page 39, House Calendar 375, Favorable Report of the Joint Standing Committee on Insurance and Real Estate, substitute House Bill 5220, AN ACT CONCERNING A PROPERTY OWNER'S LIABILITY FOR THE EXPRESS -- EXPENSES OF REMOVING A FALLEN TREE OR LIMB.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

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

SPEAKER SHARKEY:

The question is on acceptance of the Joint Committee's Favorable Report and passage of the bill. Will you remark, sir?

REP. FOX (146th):

Thank you, Mr. Speaker. This bill addresses the situations where a landowner notices that a neighbor's trees are either diseased or somehow likely to fall. Ad when they give written notice to that -- that

neighbor that the tree is diseased or likely to fall, by certified mail, and if that neighbor fails to take steps to trim or remove the tree within 30 calendar days, then what this bill says is that the neighbor would be liable for the expense of -- of removing the tree should that tree fall on -- tree or branch fall on the property. And I would urge passage of the bill.

SPEAKER SHARKEY:

Question before the Chamber is adoption of the bill before us -- passage of the bill before us. Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. I rise in support of the bill that's before us. I want to take this opportunity, again, to thank Representative Fox as well as Senator Coleman and Senator Kissel for allowing this bill to come up again. And certainly, I'd like to acknowledge and thank Representative Camillo for bringing this bill and these issues before this legislative body.

This is a bill that was in existence last session and, unfortunately, -- I believe it was in the Senate. It didn't get called. Certainly, it did pass the

House and we have it here again. And again, I just wanted to highlight the good work of the Judiciary Committee in bringing it out and Representative Camillo continuously fighting to see this through.

Again, it sets out, as Representative Fox had eloquently already detailed, specific criterias that need to be met. It's certainly a nice even balance between the property owner that the tree falls on, but also the tree owner, and I think this is an important bill. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, madam. Would you care to remark further on the bill that's before us? Representative Camillo..

REP. CAMILLO (151st):

Thank -- thank you, Mr. Speaker. I, too, rise in support of this bill. I want to thank Chairman Fox and ranking member Rebimbas and the Judiciary Committee for getting it to us. It has -- as Representative Rebimbas said, it did pass last year and ended up dying on the Calendar.

This stems from several constituents over there contacting me about trees that were either dead, dying, or diseased and leaning over towards someone's

property. And then, despite being notified, the neighbor ignored it and the tree fell.

And if the tree doesn't strike a house, then they are -- where the insurance would kick in, then they are responsible for the cleanup, which can be several thousands of dollars.

So this is a -- a very fair bill and it just takes a little bit of a courtesy between neighbors. But it's a good bill and, again, I -- I thank the -- the Judiciary Committee for its -- for getting it here. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, sir.

Would you care to remark? Would you care to remark further on the bill before us?

Representative Smith.

REP. SMITH (108th):

Mr. Speaker, thank you. Just a quick question to the proponent, please.

SPEAKER SHARKEY:

Please proceed, sir.

REP. SMITH (108th):

The -- the person who gets notice to remove the tree and then fails to do so, are they also liable for

any damages that may occur to the property of the adjoining neighbor? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I think, as Representative Camillo stated, it would be the -- the cost of removing the tree is what this is -- or the branch is what this bill contemplates. And the -- in the event of other property damage, I would expect that that would be covered by insurance.

SPEAKER SHARKEY:

Representative Smith.

REP. SMITH (108th):

Thank you, Mr. Speaker, and thank the Chairman.

SPEAKER SHARKEY:

Thank you, sir.

Would you care to remark? Would you care to remark further on the bill before us?

Representative Candelaria.

REP. CANDELARIA (95th):

Thank you, Mr. Speaker. Mr. Speaker, a question to the proponent of the bill.

SPEAKER SHARKEY:

Please proceed, sir.

REP. CANDELARIA (95th):

If -- if you send notice, do you have to send notice to the homeowner on file or would it be to the person that's residing in the house? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I believe the notice should go to the owner of the property.

SPEAKER SHARKEY:

Representative Candelaria.

REP. CANDELARIA (95th):

Through you, Mr. Speaker, if -- if the notice goes to the homeowner and the homeowner claims that they never received the notice, but you have acknowledged that the owner received, would that be sufficient to hold the homeowner liable for the removal of the tree? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, the letter would have to go out by certified mail. So as in many of our statutes, we require notice by certified mail. If the -- if the one who is making a claim is in receipt of the -- the green card that is returned when you send a letter by certified mail, that should be sufficient.

I mean, the homeowner who is contesting the notice could certainly make a claim that they -- they didn't actually sign the green card or they didn't actually somehow receive notice, but it would be presumed that that owner did receive notice if the green card is returned.

SPEAKER SHARKEY:

Representative Candelaria.

REP. CANDELARIA (95th):

Through you, Mr. Speaker, so if the homeowner does not claim the certified letter, what -- what recourse would that -- the adjoining property owner will have to ensure that the homeowner is notified? Is there another means? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, as happens at times, the -- the -- when -- when you send a certified letter to somebody, they don't sign it or they don't claim it, you could attempt to notify them by -- by service of process with a marshal, would be one way, where the marshal could -- or -- or a constable or an indifferent person could provide in-hand service, which will be a way of providing notice.

SPEAKER SHARKEY:

Representative Candelaria.

REP. CANDELARIA (95th):

Through you, Mr. Speaker, so assuming that the homeowner does not acknowledge receipt of the certified mail and the tree happens to fall in my property and I remove it, can I bill the cost of the removal to the homeowner where the tree is located? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, you could, and if you could meet the -- you could, provided you could meet the notice provision in some way. Then, I think you could perhaps make a claim under this bill.

SPEAKER SHARKEY:

Representative Candelaria.

REP. CANDELARIA (95th):

I thank the gentleman for his answers. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, sir. Would you care to remark further on the bill before us? Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. Just one question to the proponent, just for clarification purposes. If, under the terms of Section 1, a tree falls into the neighbor's property and there is the liability for the cleanup of that wood -- for the removal of that wood, can you clarify that that person who paid for it will, indeed, own the wood? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox..

REP. FOX (146th):

Through you, Mr. Speaker, I think the -- the bill -- the objective of the bill is to make the person -- the adjoining property owner who is responsible for the maintenance of the tree to be responsible for

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cleaning up the tree. So the -- whatever the property owner is cleaning would -- would then be theirs.

SPEAKER SHARKEY:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. I -- I -- that's what I would think, too, but I just wanted to clarify for the record. Thank you.

SPEAKER SHARKEY:

Thank you, sir.

Would you care to remark further on the bill before us? Would you care to remark further?

If not, staff and guests to the Well of the House, members take your seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by roll.

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

SPEAKER SHARKEY:

Have all the members voted? Have all the members voted?

Will the members please check the board to make sure your vote is properly cast.

If all the members have voted, the machine will be locked and the Clerk will take a tally.

The Clerk please announce the tally.

THE CLERK:

House Bill 5220.

Total number voting 141

Necessary for passage 71

Those voting Yea 133

Those voting Nay 8

Absent and not voting 10

SPEAKER SHARKEY:

The bill passes.

Mr. Clerk, if you can.

THE CLERK:

I can.

SPEAKER SHARKEY:

Would you please call Calendar 287.

THE CLERK:

Calendar 287, on page nine, Favorable Report of the Joint Standing Committee on Public Health, substitute House Bill 5147, AN ACT CONCERNING NEWBORN

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CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
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THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

The second item, Madam President, Calendar 569, House Bill 5040, move to place on the Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President. Third item, Calendar 566, House Bill 5535, move to place on the Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President. Moving now to Calendar Page 27, Calendar 574, House Bill 5564, move to place on the Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

And also, Calendar Page 27, Calendar 578, House Bill 5220, move to place on the Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President. Moving to Calendar Page 28, where there are four items. The first, Calendar

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On Page 27, Calendar 574, House Bill 5564.

House Bill 578, House Bill 5220.

On Page 28, Calendar 580, House Bill 5310.

Calendar 584, House Bill 5334.

Calendar 585, House Bill 5586.

Calendar 583, House Bill 5289.

On Page 29, Calendar 586, House Bill 5402.

Calendar 589, House Bill 5550.

Calendar 590, House Bill 5262.

Calendar 587, House Bill 5377.

On Page 30, Calendar 593, House Bill 5526.

Calendar 592, House Bill 5476.

On Page 33, Calendar 215, Senate Bill 243.

On Page 39, Calendar 387, Senate Bill 432.

On Page 40, Calendar 475, House Joint Resolution  
Number 20.

Calendar 476, House Joint Resolution Number 26.

Calendar 532, House Joint Resolution Number 42.

THE CHAIR:

Mr. Clerk, can you please check on Consent Calendar  
House Bill 5593. I don't see if you called that, on  
the top.

THE CLERK:

That's on the previously adopted Senate Agenda House  
Bill 5593.

THE CHAIR:

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SENATOR LOONEY:

If we might pause for just a moment to verify a couple of additional items.

Madam President, to verify an additional item, I believe it was placed on the Consent Calendar and Calendar Page 30, on Calendar Page 30, Calendar 592, Substitute for House Bill 5476.

THE CHAIR:

It is, sir.

SENATOR LOONEY:

It is on? Okay. Thank you. Thank you, Madam President. If the Clerk would now, finally, Agenda Number 4, Madam President, Agenda Number 4 one additional item ask for suspension to place up on Agenda Number 4 and that is, ask for suspension to place on the Consent Calendar an item from Agenda Number 4.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Madam President, and that item is Substitute House Bill Number 5566 from Senate Agenda Number 4.

Thank you, Madam President. If the Clerk would now, if we might call for a vote on the Consent Calendar.

THE CHAIR:

Mr. Clerk. Will you please call for a Roll Call Vote on the Consent Calendar. The machine will be opened.

THE CLERK:

An immediate Roll Call has been ordered in the Senate.

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An immediate Roll Call on Consent Calendar Number 2 has been ordered in the Senate.

THE CHAIR:

If all members have voted, all members have voted, the machine will be closed. Mr. Clerk will you please call the tally.

THE CLERK:

Consent Calendar Number 2.

Total number voting	36
Necessary for adoption	19
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

The Consent Calendar passes. Senator Looney.

SENATOR LOONEY:

Thank you, Madam President. Two additional items to take up before the, our final vote on the implementer. If we might stand for just, for just a moment.

The first item to mark Go is, Calendar, to remove from the Consent Calendar, Calendar Page 22, Calendar 536, House Bill 5546. If that item might be marked Go.

And one additional item, Madam President, and that was from Calendar, or rather from Agenda Number 4, ask for suspension to take it up for purposes of marking it Go, that is House Bill, Substitute for House Bill 5417. Thank you, Madam President.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR LOONEY:

**JOINT  
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*Testimony of Eric Hammerling, Executive Director, Connecticut Forest & Park Association*

Public Hearing Subject Matter	Position
<b>RAISED BILL 5220: AN ACT CONCERNING A PROPERTY OWNER'S LIABILITY FOR THE EXPENSES OF REMOVING A FALLEN TREE OR LIMB.</b>	Oppose

Co-Chairs Coleman, Fox and Members of the Judiciary Committee:

The Connecticut Forest & Park Association (CFPA) is the first conservation organization established in Connecticut (1895). CFPA has offered testimony before the Legislature on issues such as sustainable forestry, state parks and forests, trail recreation, natural resource protection, and land conservation for over 115 years.

Today, I am here to testify in opposition to Raised Bill 5220. There are several reasons to oppose this bill:

1. This bill is unnecessary. Municipal tree wardens, the front lines in every community on tree management issues, already advise landowners to work together with an arborist to conduct tree risk management if circumstances require. You don't need to legislate this.
2. This bill is biased because it would provide unfair leverage to neighbors able to afford an arborist determination, and work against landowners who can't afford to either hire an arborist to give a second opinion, or to pay the expenses associated with tree or limb removal.
3. The language in Raised Bill 5220 is too loose, in particular the determination by the arborist of whether a tree or limb is "likely to fall." This determination is certainly subjective and debatable amongst arborists, and there is no option available to the private landowner with the tree/limb on their property to contest the finding of the arborist hired by the adjoining landowner.
4. Raised Bill 5220 is unfairly stacked against a landowner who may own forest land involving many boundaries with neighbors. Removal of trees and limbs can be quite expensive, and the liability associated with these trees can compel a landowner with a large forested property to remove trees (that provide considerable societal benefits) prematurely.

For the most part, neighbor-to-neighbor squabbles over boundary trees can and should be worked out by neighbors in an amicable fashion that fits the local conditions, not in a way that can quickly become litigious and drive wedges between neighbors. Again, I urge you to oppose Raised Bill 5220.

Thank you for the opportunity to testify. I would be glad to respond to any questions you may have



**State of Connecticut**

**HOUSE OF REPRESENTATIVES  
STATE CAPITOL**

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**RANKING MEMBER**  
EXECUTIVE AND LEGISLATIVE NOMINATIONS

**MEMBER**  
COMMERCE COMMITTEE  
INSURANCE COMMITTEE

**Testimony**

**In Support Of**

**HB 5220**

**AN ACT CONCERNING A PROPERTY OWNER'S LIABILITY FOR THE EXPENSES OF  
REMOVING A FALLEN TREE OR LIMB.**

Dear Sen. Coleman, Rep. Fox, Sen. Kissel, and Rep. Rebimbas:

I am writing to you today in support of **HB 5220, AN ACT CONCERNING A PROPERTY OWNER'S LIABILITY FOR THE EXPENSES OF REMOVING A FALLEN TREE OR LIMB.**

I introduced this legislation last year, but unfortunately it died on the House Floor after it passed out of your committee. I appreciated your support last year as well as this year for taking this proposed legislation seriously. This issue becomes a matter of fairness and courtesy that often develops into feuds between neighbors that ends up with the wrong party having to pay for removal of a tree that was diseased and threatening to fall for considerable time.

I have heard from many constituents who have had to pay for fallen trees that belong to their neighbors, many of whom were asked to correct the problem, whether that be tree trimming, or outright removal of a tree that was dead or dying

We made sure the bill is narrowly tailored and that certain conditions need to be met, namely a **licensed Arborist's determination that the tree is diseased, that proper notice was given to the homeowner who owns the tree in question and that the owner of the tree in question failed to remove the tree or limbs after receiving the proper notice.**

The above three conditions are fair and reasonable things to be asked by the neighbor who is in danger of having to foot the bill for a condition that is easily remedied by the property owner who owns the diseased or dead tree

Thank you again for your time and consideration.

Sincerely,

Fred Camillo  
State Representative

Please visit my website at [www.repfredcamillo.com](http://www.repfredcamillo.com)



**South Central Connecticut Regional Water Authority**  
90 Sargent Drive, New Haven, Connecticut 06511-5966 203-562-4020  
<http://www.rwater.com>

Testimony to the Judiciary Committee

February 24, 2014

**HB 5220 - AN ACT CONCERNING A PROPERTY OWNER'S LIABILITY FOR THE EXPENSES OF REMOVING A FALLEN TREE OR LIMB**

*The South Central Connecticut Regional Water Authority (RWA) is a non-profit, public corporation and political subdivision of the state. Our mission is to provide high quality water at a reasonable cost while promoting the preservation of watershed land and aquifers. We serve some 430,000 customers in the region. The source of this water is a system of watershed and aquifer areas that cover about 120 square miles within 24 municipalities. Much of our 27,000 acres of land is managed for watershed protection, timber resource conservation, wildlife habitat, open space, education, and research.*

The South Central Connecticut Regional Water Authority, (RWA), appreciates the opportunity to provide comments to the Judiciary Committee in **OPPOSITION to Raised House Bill 5220 - AN ACT CONCERNING A PROPERTY OWNER'S LIABILITY FOR THE EXPENSES OF REMOVING A FALLEN TREE OR LIMB.**

The language in the proposed bill seems to be vague and uncertain. As such, HB 5220 should be revised to focus on trees that pose a hazard to adjacent property and the identification of hazardous trees must be made by a licensed Arborist.

In addition, forest, farm, or open space land should be exempt, at least if such forest, farm, or open space land use predates the current use of the abutting property.

Lastly, the State Vegetation Management Task Force recommendations should guide any new legislation about hazardous trees.

Thank you for considering the South Central Connecticut Regional Water Authority's comments. If you have additional questions please contact, Lori Vitagliano, RWA Government Relations Specialist at 203-401-2720 or [lvitagliano@rwater.com](mailto:lvitagliano@rwater.com)