



General Assembly

**Substitute Bill No. 5334**

February Session, 2026



**AN ACT CONCERNING RIPARIAN AREAS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (13) of section 22a-38 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective October*  
3 *1, 2026*):

4 (13) "Regulated activity" means any operation within or use of a  
5 wetland or watercourse involving removal or deposition of material, or  
6 any obstruction, construction, alteration or pollution, of such wetlands  
7 or watercourses, or the removal of natural vegetative cover in the  
8 riparian area, but shall not include the specified activities in section 22a-  
9 40, as amended by this act;

10 Sec. 2. Subdivision (18) of section 22a-38 of the general statutes is  
11 repealed and the following is substituted in lieu thereof (*Effective October*  
12 *1, 2026*):

13 (18) "Prudent" means economically and otherwise reasonable in light  
14 of the social benefits to be derived from the proposed regulated activity,  
15 provided cost may be considered in deciding what is prudent and  
16 further provided a mere showing of expense will not necessarily mean  
17 an alternative is imprudent;

18 (19) "Riparian area" means the land that borders a watercourse;

19 (20) "Natural vegetative cover" means naturally occurring and  
20 adapted shrubs, trees and other plants. "Natural vegetative cover" does  
21 not include any lawn or invasive plant included on the list of plants  
22 considered to be invasive or potentially invasive pursuant to section  
23 22a-381a;

24 (21) "Water-dependent uses" means any use or facility that requires  
25 direct access to an inland watercourse and that cannot be reasonably  
26 located inland, including, but not limited to, marinas, recreational and  
27 commercial fishing and boating facilities, finfish and shellfish  
28 processing plants, waterfront dock and port facilities, shipyards and  
29 boatbuilding facilities, water-based recreational uses, navigation aides,  
30 basins and channels, industrial uses dependent upon water-borne  
31 transportation or requiring large volumes of cooling or processed water  
32 and uses that provide general public access to inland watercourses.

33 Sec. 3. Subdivision (1) of subsection (a) of section 22a-40 of the general  
34 statutes is repealed and the following is substituted in lieu thereof  
35 (*Effective October 1, 2026*):

36 (1) Grazing, farming, nurseries, gardening and harvesting of crops  
37 and farm ponds of three acres or less essential to the farming operation,  
38 and activities conducted by, or under the authority of, the Department  
39 of Energy and Environmental Protection for the purposes of wetland or  
40 watercourse restoration or enhancement, conservation of soil or natural  
41 vegetative cover, including the revegetation of riparian areas with  
42 native vegetation and the removal of invasive species, or mosquito  
43 control. The provisions of this subdivision shall not be construed to  
44 include road construction or the erection of buildings not directly  
45 related to the farming operation, relocation of watercourses with  
46 continual flow, filling or reclamation of wetlands or watercourses with  
47 continual flow, clear cutting of timber except for the expansion of  
48 agricultural crop land, the mining of top soil, peat, sand, gravel or  
49 similar material from wetlands or watercourses for the purposes of sale,

50 Road construction or the erection of buildings directly related to the  
51 farming operation shall include the removal of vegetation and trees  
52 necessary for road construction or the erection of buildings. For the  
53 purposes of this subdivision, "filling" does not include the placement  
54 and installation of materials necessary for road construction or the  
55 erection of buildings directly related to the farming operation, provided  
56 such filling is a component of a conservation plan approved by the local  
57 conservation district;

58       Sec. 4. Subdivisions (3) and (4) of subsection (a) of section 22a-40 of  
59 the general statutes are repealed and the following is substituted in lieu  
60 thereof (*Effective October 1, 2026*):

61       (3) Boat anchorage or mooring, provided the removal of natural  
62 vegetative cover shall be allowed if it unreasonably impedes access to  
63 water for water-dependent uses;

64       (4) Uses incidental to the enjoyment and maintenance of residential  
65 property, such property defined as equal to or smaller than the largest  
66 minimum residential lot site permitted anywhere in the municipality,  
67 provided in any town, where there are no zoning regulations  
68 establishing minimum residential lot sites, the largest minimum lot site  
69 shall be two acres. Such incidental uses shall include maintenance of  
70 existing structures and landscaping but shall not include (A) removal or  
71 deposition of significant amounts of material from or onto a wetland or  
72 watercourse or diversion or alteration of a watercourse, or (B) removal  
73 of natural vegetative cover within ten feet of any watercourse;

74       Sec. 5. Subdivision (6) of subsection (a) of section 22a-40 of the general  
75 statutes is repealed and the following is substituted in lieu thereof  
76 (*Effective October 1, 2026*):

77       (6) Maintenance relating to any drainage pipe [which existed before  
78 the effective date of any municipal regulations adopted pursuant to  
79 section 22a-42a or July 1, 1974, whichever is earlier] or culvert, provided  
80 such pipe or culvert is on property which is zoned as residential but  
81 which does not contain hydrophytic vegetation. For purposes of this

82 subdivision, "maintenance" means the removal of accumulated leaves,  
83 soil, and other debris whether by hand or machine, while the pipe or  
84 culvert remains in place; and

85 Sec. 6. Subdivision (1) of subsection (b) of section 22a-40 of the general  
86 statutes is repealed and the following is substituted in lieu thereof  
87 (*Effective October 1, 2026*):

88 (1) Conservation of soil, vegetation or natural vegetative cover,  
89 including the revegetation of riparian areas with native vegetation and  
90 the removal of invasive species, water, fish, shellfish and wildlife;

91 Sec. 7. Section 22a-41 of the general statutes is repealed and the  
92 following is substituted in lieu thereof (*Effective October 1, 2026*):

93 (a) In carrying out the purposes and policies of sections 22a-36 to 22a-  
94 45a, inclusive, including matters relating to regulating, licensing and  
95 enforcing of the provisions thereof, the commissioner shall take into  
96 consideration all relevant facts and circumstances, including but not  
97 limited to:

98 (1) The environmental impact of the proposed regulated activity on  
99 wetlands or watercourses;

100 (2) The applicant's purpose for, and any feasible and prudent  
101 alternatives to, the proposed regulated activity which alternatives  
102 would cause less or no environmental impact to wetlands or  
103 watercourses;

104 (3) The relationship between the short-term and long-term impacts of  
105 the proposed regulated activity on wetlands or watercourses and the  
106 maintenance and enhancement of long-term productivity of such  
107 wetlands or watercourses;

108 (4) Irreversible and irretrievable loss of wetland or watercourse  
109 resources which would be caused by the proposed regulated activity,  
110 including the extent to which such activity would foreclose a future  
111 ability to protect, enhance or restore such resources, and any mitigation

112 measures which may be considered as a condition of issuing a permit  
113 for such activity including, but not limited to, measures to (A) prevent  
114 or minimize pollution or other environmental damage, (B) maintain or  
115 enhance existing environmental quality, or (C) in the following order of  
116 priority: Restore, enhance and create productive wetland or  
117 watercourse resources;

118 (5) The character and degree of injury to, or interference with, safety,  
119 health or the reasonable use of property which is caused or threatened  
120 by the proposed regulated activity; [and]

121 (6) Impacts of the proposed regulated activity on wetlands or  
122 watercourses outside the area for which the activity is proposed and  
123 future activities associated with, or reasonably related to, the proposed  
124 regulated activity which are made inevitable by the proposed regulated  
125 activity and which may have an impact on wetlands or watercourses;

126 (7) Impacts of the proposed regulated activity on public drinking  
127 water supply areas, as delineated by the Public Water Supply  
128 Watershed Map maintained by the Department of Public Health but not  
129 including aquifer protection areas regulated under chapter 446i;

130 (8) Impacts of proposed regulated activity on cold water habitat  
131 watercourses, as delineated on the Cold Water Stream Habitat Map  
132 maintained by the Department of Energy and Environmental  
133 Protection;

134 (9) Impacts of the proposed regulated activity on watercourses that  
135 would decrease resilience to severe storms and extreme weather events  
136 or increase water temperatures or drought extremes, including, but not  
137 limited to, through the removal of natural vegetative cover; and

138 (10) Impacts of the removal of natural vegetated cover, including on  
139 the protection of watercourses and wetlands by filtering, absorbing,  
140 reducing or otherwise mitigating pollutants such as nutrients and  
141 sediment and regulating temperature.

142 (b) (1) In the case of an application which received a public hearing  
143 pursuant to (A) subsection (k) of section 22a-39, or (B) a finding by the  
144 inland wetlands agency that the proposed activity may have a  
145 significant impact on wetlands or watercourses, a permit shall not be  
146 issued unless the commissioner finds on the basis of the record that a  
147 feasible and prudent alternative does not exist. In making his finding,  
148 the commissioner shall consider the facts and circumstances set forth in  
149 subsection (a) of this section. The finding and the reasons therefor shall  
150 be stated on the record in writing.

151 (2) In the case of an application which is denied on the basis of a  
152 finding that there may be feasible and prudent alternatives to the  
153 proposed regulated activity which have less adverse impact on  
154 wetlands or watercourses, the commissioner or the inland wetlands  
155 agency, as the case may be, shall propose on the record in writing the  
156 types of alternatives which the applicant may investigate, provided this  
157 subdivision shall not be construed to shift the burden from the applicant  
158 to prove that he is entitled to the permit or to present alternatives to the  
159 proposed regulated activity.

160 (c) For purposes of this section, (1) "wetlands or watercourses"  
161 includes aquatic, plant or animal life and habitats in wetlands or  
162 watercourses, and (2) "habitats" means areas or environments in which  
163 an organism or biological population normally lives or occurs.

164 (d) A municipal inland wetlands agency shall not deny or condition  
165 an application for a regulated activity in an area outside wetlands or  
166 watercourses on the basis of an impact or effect on aquatic, plant, or  
167 animal life unless such activity will likely impact or affect the physical  
168 characteristics of such wetlands or watercourses, provided a municipal  
169 inland wetlands agency may reasonably consider that adverse impacts  
170 or affects to such physical characteristics will likely result from the  
171 removal of natural vegetative cover or an increase in impervious  
172 coverage.

173 Sec. 8. Subdivision (1) of subsection (d) of section 22a-42a of the

174 general statutes is repealed and the following is substituted in lieu  
175 thereof (*Effective October 1, 2026*):

176 (d) (1) In granting, denying or limiting any permit for a regulated  
177 activity the inland wetlands agency, or its agent, shall consider the  
178 factors set forth in section 22a-41, as amended by this act, and such  
179 agency, or its agent, shall state upon the record the reason for its  
180 decision. In granting a permit the inland wetlands agency, or its agent,  
181 may grant the application as filed or grant it upon other terms,  
182 conditions, limitations or modifications of the regulated activity which  
183 are designed to carry out the policy of sections 22a-36 to 22a-45,  
184 inclusive, provided such applicant demonstrates that the proposed  
185 activity will not have an adverse impact on any wetland or watercourse.  
186 Such terms may include any reasonable measures which would mitigate  
187 the impacts of the regulated activity and which would (A) prevent or  
188 minimize pollution or other environmental damage, (B) maintain or  
189 enhance existing environmental quality, or (C) in the following order of  
190 priority: Restore, enhance and create productive wetland or  
191 watercourse resources. Such terms may include restrictions as to the  
192 time of year in which a regulated activity may be conducted, provided  
193 the inland wetlands agency, or its agent, determines that such  
194 restrictions are necessary to carry out the policy of sections 22a-36 to  
195 22a-45, inclusive. No person shall conduct any regulated activity within  
196 an inland wetland or watercourse which requires zoning or subdivision  
197 approval without first having obtained a valid certificate of zoning or  
198 subdivision approval, special permit, special exception or variance or  
199 other documentation establishing that the proposal complies with the  
200 zoning or subdivision requirements adopted by the municipality  
201 pursuant to chapters 124 to 126, inclusive, or any special act. The agency  
202 may suspend or revoke a permit if it finds after giving notice to the  
203 permittee of the facts or conduct which warrant the intended action and  
204 after a hearing at which the permittee is given an opportunity to show  
205 compliance with the requirements for retention of the permit, that the  
206 applicant has not complied with the conditions or limitations set forth  
207 in the permit or has exceeded the scope of the work as set forth in the

208 application. The applicant shall be notified of the agency's decision by  
209 certified mail within fifteen days of the date of the decision and the  
210 agency shall cause notice of their order in issuance, denial, revocation  
211 or suspension of a permit to be published in a newspaper having a  
212 general circulation in the town wherein the wetland or watercourse lies.  
213 In any case in which such notice is not published within such fifteen-  
214 day period, the applicant may provide for the publication of such notice  
215 within ten days thereafter.

216 Sec. 9. Subdivision (6) of section 22a-38 of the general statutes is  
217 repealed and the following is substituted in lieu thereof (*Effective October*  
218 *1, 2026*):

219 (6) "Material" means any substance, solid or liquid, organic or  
220 inorganic, including, but not limited to, vegetation, soil, sediment,  
221 aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste;

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2026</i>	22a-38(13)
Sec. 2	<i>October 1, 2026</i>	22a-38(18)
Sec. 3	<i>October 1, 2026</i>	22a-40(a)(1)
Sec. 4	<i>October 1, 2026</i>	22a-40(a)(3) and (4)
Sec. 5	<i>October 1, 2026</i>	22a-40(a)(6)
Sec. 6	<i>October 1, 2026</i>	22a-40(b)(1)
Sec. 7	<i>October 1, 2026</i>	22a-41
Sec. 8	<i>October 1, 2026</i>	22a-42a(d)(1)
Sec. 9	<i>October 1, 2026</i>	22a-38(6)

**ENV** Joint Favorable Subst.