



General Assembly

Amendment

February Session, 2026

LCO No. 5343



Offered by:

REP. PARKER, 101st Dist.

REP. MUSHINSKY, 85th Dist.

To: Subst. House Bill No. 5334

File No. 192

Cal. No. 158

"AN ACT CONCERNING RIPARIAN AREAS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subdivision (18) of section 22a-38 of the general statutes is
4 repealed and the following is substituted in lieu thereof (*Effective October*
5 *1, 2026*):

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

11 (19) "Natural vegetative cover" means naturally occurring and
12 adapted shrubs, trees and other plants. "Natural vegetative cover" does
13 not include any lawn or invasive plant included on the list of plants

14 considered to be invasive or potentially invasive pursuant to section
15 22a-381a.

16 Sec. 2. Subdivision (1) of subsection (a) of section 22a-40 of the general
17 statutes is repealed and the following is substituted in lieu thereof
18 (*Effective October 1, 2026*):

19 (1) Grazing, farming, nurseries, gardening and harvesting of crops
20 and farm ponds of three acres or less essential to the farming operation,
21 and activities conducted by, or under the authority of, the Department
22 of Energy and Environmental Protection for the purposes of wetland or
23 watercourse restoration or enhancement, conservation of soil or
24 noninvasive vegetation, including the revegetation of land directly
25 adjacent to a watercourse not separated from the watercourse by
26 development or impervious surface and the removal of invasive plants,
27 or mosquito control. The provisions of this subdivision shall not be
28 construed to include road construction or the erection of buildings not
29 directly related to the farming operation, relocation of watercourses
30 with continual flow, filling or reclamation of wetlands or watercourses
31 with continual flow, clear cutting of timber except for the expansion of
32 agricultural crop land, the mining of top soil, peat, sand, gravel or
33 similar material from wetlands or watercourses for the purposes of sale;

34 Sec. 3. Subdivision (6) of subsection (a) of section 22a-40 of the general
35 statutes is repealed and the following is substituted in lieu thereof
36 (*Effective October 1, 2026*):

37 (6) Maintenance relating to any drainage pipe [which existed before
38 the effective date of any municipal regulations adopted pursuant to
39 section 22a-42a or July 1, 1974, whichever is earlier] or culvert, provided
40 such pipe or culvert is on property which is zoned as residential but
41 which does not contain hydrophytic vegetation. For purposes of this
42 subdivision, "maintenance" means the removal of accumulated leaves,
43 soil, and other debris whether by hand or machine, while the pipe or
44 culvert remains in place; and

45 Sec. 4. Subdivision (1) of subsection (b) of section 22a-40 of the general
46 statutes is repealed and the following is substituted in lieu thereof
47 (*Effective October 1, 2026*):

48 (1) Conservation of soil, vegetation or natural vegetative cover,
49 including the revegetation of areas with native vegetation and the
50 removal of invasive species, water, fish, shellfish and wildlife;

51 Sec. 5. Section 22a-41 of the general statutes is repealed and the
52 following is substituted in lieu thereof (*Effective October 1, 2027*):

53 (a) In carrying out the purposes and policies of sections 22a-36 to 22a-
54 45a, inclusive, including matters relating to regulating, licensing and
55 enforcing of the provisions thereof, the commissioner shall take into
56 consideration all relevant facts and circumstances, including but not
57 limited to:

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

60 (2) The applicant's purpose for, and any feasible and prudent
61 alternatives to, the proposed regulated activity which alternatives
62 would cause less or no environmental impact to wetlands or
63 watercourses;

64 (3) The relationship between the short-term and long-term impacts of
65 the proposed regulated activity on wetlands or watercourses and the
66 maintenance and enhancement of long-term productivity of such
67 wetlands or watercourses;

68 (4) Irreversible and irretrievable loss of wetland or watercourse
69 resources which would be caused by the proposed regulated activity,
70 including the extent to which such activity would foreclose a future
71 ability to protect, enhance or restore such resources, and any mitigation
72 measures which may be considered as a condition of issuing a permit
73 for such activity including, but not limited to, measures to (A) prevent
74 or minimize pollution or other environmental damage, (B) maintain or

75 enhance existing environmental quality, or (C) in the following order of
76 priority: Restore, enhance and create productive wetland or
77 watercourse resources;

78 (5) The character and degree of injury to, or interference with, safety,
79 health or the reasonable use of property which is caused or threatened
80 by the proposed regulated activity; and

81 (6) Impacts of the proposed regulated activity on wetlands or
82 watercourses outside the area for which the activity is proposed and
83 future activities associated with, or reasonably related to, the proposed
84 regulated activity which are made inevitable by the proposed regulated
85 activity and which may have an impact on wetlands or watercourses.

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

95 (2) In the case of an application which is denied on the basis of a
96 finding that there may be feasible and prudent alternatives to the
97 proposed regulated activity which have less adverse impact on
98 wetlands or watercourses, the commissioner or the inland wetlands
99 agency, as the case may be, shall propose on the record in writing the
100 types of alternatives which the applicant may investigate, provided this
101 subdivision shall not be construed to shift the burden from the applicant
102 to prove that he is entitled to the permit or to present alternatives to the
103 proposed regulated activity.

104 (c) For purposes of this section, (1) "wetlands or watercourses"
105 includes aquatic, plant or animal life and habitats in wetlands or

106 watercourses, and (2) "habitats" means areas or environments in which
107 an organism or biological population normally lives or occurs.

108 (d) A municipal inland wetlands agency shall not deny or condition
109 an application for a regulated activity in an area outside wetlands or
110 watercourses on the basis of an impact or effect on aquatic, plant, or
111 animal life unless such activity will likely impact or affect the physical
112 characteristics of such wetlands or watercourses.

113 (e) A municipal inland wetlands agency may presume that adverse
114 impacts to the physical characteristics of a watercourse are likely to
115 result from the removal of more than thirty per cent of the existing
116 natural vegetative cover within the riparian area for any application for
117 a proposed regulated activity. Such presumption may be rebutted by
118 clear and convincing evidence presented to the agency by the applicant
119 that such removal will not adversely impact such physical
120 characteristics. Such presumption may be used as a basis for imposing
121 reasonable conditions to avoid or minimize impacts, but shall not, by
122 itself, be sufficient grounds for denial of an application. The provisions
123 of this subsection shall not apply to the establishment, repair or
124 maintenance of any public road or utility. For purposes of this
125 subsection, "riparian area" means the area adjacent to a watercourse that
126 is within ten feet of such watercourse and that is not separated from
127 such watercourse by development or impervious surface.

128 Sec. 6. (NEW) (*Effective from passage*) Not later than July 1, 2026, the
129 Commissioner of Energy and Environmental Protection, in consultation
130 with The University of Connecticut, shall convene an advisory group to
131 inform the implementation of the provisions of sections 1 to 5, inclusive,
132 of this act. Such advisory group shall consist of the members of the
133 vegetated riparian buffers working group, established pursuant to
134 special act 25-12, a representative of the Office of Responsible Growth
135 within the Office of Policy and Management, a representative of the
136 Department of Housing and any additional members the commissioner
137 may deem necessary. The commissioner, or the commissioner's
138 designee, shall convene the advisory group within the Department of

- 139 Energy and Environmental Protection. The advisory group may:
- 140 (1) Identify and evaluate anticipated challenges, barriers and
141 inconsistencies that municipal inland wetlands agencies may encounter
142 in implementing the provisions of sections 1 to 5, inclusive, of this act,
143 as well as how to enable such commissions to better recognize that
144 conducting forestry is as of right;
- 145 (2) Develop and recommend best management practices for the
146 removal of invasive plants within the riparian area;
- 147 (3) Develop guidance to assist municipal inland wetlands agencies in:
- 148 (A) Determining how such adverse impacts may be reasonably
149 presumed to result from the removal of more than thirty per cent of
150 existing natural vegetative cover within riparian areas, which may
151 include impacts to:
- 152 (i) Public drinking water supply watersheds;
- 153 (ii) Cold water habitat watercourses and other ecologically sensitive
154 aquatic habitats;
- 155 (iii) Headwaters and upstream source areas;
- 156 (iv) Watercourse resilience to extreme weather events and
157 temperature increases, including the loss of shading and thermal
158 buffering functions;
- 159 (v) Slope stability, channel stability and erosion potential adjacent to
160 watercourses; and
- 161 (vi) The functions of natural vegetative cover, including erosion
162 control, pollutant filtration, nutrient and sediment retention and
163 temperature regulation; and
- 164 (B) Identifying the types of evidence, information, analysis and
165 documentation that an applicant may be required to provide to avoid,

166 minimize or rebut such presumed adverse impacts;

167 (4) Recommend reasonable conditions for permits issued under
 168 section 22a-41 of the general statutes, as amended by this act, to avoid
 169 or minimize adverse impacts to the physical characteristics of the
 170 watercourse associated with the removal of natural vegetative cover
 171 within the riparian area, including, but not limited to, conditions
 172 requiring the retention or maintenance of natural vegetative cover
 173 within such area, and the replacement of removed vegetation with
 174 appropriate, noninvasive plantings and limitations on the location,
 175 distribution and configuration of vegetation removal within the riparian
 176 area;

177 (5) Develop recommendations for establishing the removal of natural
 178 vegetative cover as a regulated activity under the Inland Wetlands and
 179 Watercourses Act, and with consideration of any identified potential
 180 economic impacts, including, but not limited to, any impacts on state
 181 policies concerning the development of housing; and

182 (6) Develop recommendations for further improving riparian buffer
 183 protections."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2026</i>	22a-38(18)
Sec. 2	<i>October 1, 2026</i>	22a-40(a)(1)
Sec. 3	<i>October 1, 2026</i>	22a-40(a)(6)
Sec. 4	<i>October 1, 2026</i>	22a-40(b)(1)
Sec. 5	<i>October 1, 2027</i>	22a-41
Sec. 6	<i>from passage</i>	New section