OLR Bill Analysis

sHB 6484 (as amended by House "A" and "B")*

AN ACT CONCERNING RECOMMENDATIONS BY THE DEPARTMENT OF TRANSPORTATION.

SUMMARY

This bill makes numerous changes to transportation-related statutes. Among other things, it:

1. requires all motor vehicle occupants to wear seat belts, not just drivers, front seat passengers, and certain back seat passengers (§§ 17 & 18);

2. establishes the Office of Innovative Finance and Project Delivery within the Department of Transportation (DOT) (§ 503);

3. makes permanent DOT's authority to use consultants for projects using an alternative delivery method, subject to certain conditions in existing law (§ 8);

4. prohibits crossing a bridge with a vehicle that exceeds the posted weight limit and establishes a fine for doing so, increases the fine for driving under bridges while exceeding the posted clearance, and clarifies the liability of overweight trucks for damage to bridges (§§ 2 & 3); and

5. establishes marking requirements for meteorological evaluation towers ((METs), § 537).

* House Amendment "A" (1) eliminates a provision related to motor bus certificates; (2) modifies the fine for overweight vehicles; (3) prohibits e-cigarette use at bus and rail stations; and (4) adds provisions on the eastern Connecticut transportation study, the Office of Innovative Finance and Project Delivery, street racing, road and bridge naming, VIN marking, parkway use pilot program, security

services at Bradley Airport, MET marking, and ATV seizure.

*House Amendment "B" makes a technical change to the street racing provision.

EFFECTIVE DATE: Upon passage, unless otherwise noted below.

§ 1 — STATE PROPERTIES REVIEW BOARD THRESHOLD

Increases, from $5,000 to $10,000, the threshold under which certain DOT property transactions do not require State Properties Review Board approval

By law, the State Properties Review Board must review and approve (1) matters dealing with the initial acquisition of any existing mass transit system or the purchase or sale of real property (i.e., land and buildings and any estate, interest, or right in land) in connection with state highways or mass transit and (2) all surplus property sales or exchanges by DOT.

However, by law, acquisitions and administrative settlements related to these properties that involve sums of money that fall below a certain threshold must be reported to the board but do not require the board's review and approval. The bill increases this threshold from $5,000 to $10,000.

§§ 2 & 3 — OVERWEIGHT VEHICLES ON BRIDGES

Prohibits crossing a bridge with a vehicle that exceeds the posted weight limit; increases the fine for driving under bridges while exceeding the posted clearance and extends the fine to vehicles exceeding the weight limit; and clarifies the applicability of a statute on the liability of overweight trucks for damage to bridges

Existing law prohibits driving over, on, through, or under any bridge or structure if the vehicle's height or load exceeds the height of the posted clearance or load shown on a sign. The bill additionally prohibits doing so when the weight of the vehicle or the vehicle and load exceeds the posted weight limit.

The bill also (1) increases the penalties for violating the height or load limits and (2) extends the same penalties to violations of its weight limit. Currently, a violation of the height or load limit is an infraction, subject to a $50 fine plus surcharges and payable by mail (see BACKGROUND).

Under the bill, a first violation is punishable by a fine of up to $1,000 and a subsequent offense is punishable by a fine of up to $2,500.

The bill also clarifies the application of a law that makes vehicle owners liable for damage to bridges caused by overweight vehicles. It specifies that the law applies when the vehicle has a gross weight that exceeds the posted weight limit, rather than the stated maximum safe load. It also deletes an obsolete reference to reckless driving, which is primarily a speed-related offense addressed in the motor vehicle statutes (CGS § 14-222).

EFFECTIVE DATE: October 1, 2021, for the overweight vehicle prohibition and the penalty increase.

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§§ 4 & 5 — CHANGES TO CONSULTANT DEADLINES

Moves up the deadline for consultant prequalification applications from November 15 to October 15 and reduces the frequency of consultant performance evaluations from once every six months to once a year

Consultant Prequalification (§ 4)

By law, consultants who wish to provide services to DOT in any year must prequalify by submitting information, in the preceding calendar year, on their qualifications. The bill moves up the deadline for these prequalification submissions from November 15 to October 15 of the preceding calendar year.

As under existing law, the DOT commissioner must annually publish notice sometime between September 1 and October 1 that entities wishing to provide consultant services must submit prequalification applications to the department. Annually by January 1, the commissioner must review and determine which consultants are qualified to perform services.

Consultant Evaluation (§ 5)

The law requires DOT to conduct performance evaluations of all consultants who have active agreements with the department. The bill

reduces the required frequency of these evaluations from once every six months to at least annually.

§§ 6 & 7 — DELETED BY HOUSE AMENDMENT "A"

§ 8 — USE OF CONSULTANTS FOR PROJECTS USING ALTERNATIVE DELIVERY METHODS

Makes permanent DOT's authority to use consultants for projects using alternative delivery methods, subject to certain conditions in existing law

The law allows DOT to use the "construction manager at risk" (CMAR) or "design-build" processes (see BACKGROUND) as alternatives to the traditional "design-bid-build" construction process. This authorization is subject to certain conditions, including limits on the department's use of consultants for these projects. Generally, the law seeks to have DOT gradually reduce the use of these consultants and, where possible, have its own employees perform development and inspection work.

More specifically, the law requires that DOT use its employees to perform all development and inspection work after the first two alternative delivery projects are performed. The administrative services commissioner must place positions required for this work on continuous recruitment, and employees may be appointed to durational positions to reduce the need for consultants to perform inspection or development work, including employees who have met engineering education and training requirements, but not taken an examination.

Regardless of these restrictions on consultants, current law establishes a "transition period" during which DOT may continue using consultants to complete projects using alternative delivery methods. This period expires (1) January 1, 2022, or (2) January 1, 2025, if the governor certifies that the continued use of consultants is necessary to complete alternative delivery projects.

The bill eliminates the expiration date and transition period language, making this authority to use consultants permanent.

Existing law's capacity building requirements and restrictions on consultant use continue to apply, including requirements for DOT to:

1. make reasonable efforts to (a) use DOT employees, if available, for development and inspection work and (b) reduce, and eliminate where possible, dependency on outside consultants;

2. establish a program to train DOT employees to support alternative delivery methods; and

3. annually report to the governor on progress made in training employees on the alternative delivery methods, improving the diversity of employees' technical expertise, and building internal project delivery capacity.

§ 9 — TAXI CERTIFICATE HEARINGS

Eliminates the three-month waiting period for hearings on taxi certificate applications

By law, DOT authorizes taxi services by issuing certificates of convenience and necessity allow them to accept and solicit rides within a specified territory. The law sets a number of applicant qualification and procedural requirements, including that the department hold a hearing on certificate applications. Current law requires the department to wait at least three months after receiving a certificate application before holding a hearing. The bill eliminates this waiting period, allowing DOT to hold hearings at any time after receiving an application.

The law, unchanged by the bill, requires DOT, upon receiving a certificate application, to schedule a hearing and promptly give notice of it to the applicant, the chief elected official of each municipality in the proposed territory, and any common carriers operating within the territory.

§ 10 — STAGNANT LIVERY PERMITS

Establishes a process for revoking stagnant livery service permits

The bill sets conditions under which DOT may, without a hearing, revoke a stagnant livery service permit (e.g., limousines).

Specifically, it allows DOT to revoke a livery permit without a hearing if:

1. DOT sends a revocation notice to the holder at the address the department has on file and (a) the notice is returned undeliverable or could not be delivered or (b) the permit holder fails to respond within the timeframe in the notice;

2. DOT conducts a physical inspection of the address it has on file for the permit holder and determines that no livery service operates at the address; and

3. no motor vehicle is registered to the permit holder with the Department of Motor Vehicles (DMV) for use under the permit.

EFFECTIVE DATE: October 1, 2021

§§ 11-13 & 22 — HOUSEHOLD GOODS CARRIER CERTIFICATES

Eliminates requirements that DOT, before permitting an applicant to operate a moving company, (1) hold a hearing and (2) consider highway condition

The bill eliminates the requirement that the DOT commissioner, before issuing a household goods carrier (i.e., moving company) certificate, hold a hearing on the application. It also eliminates the requirement that the commissioner, in determining whether to issue a certificate, consider the condition of the involved highways and how the issuance will affect highway condition and public safety.

Existing law, unchanged by the bill, requires the commissioner to consider the following when issuing a certificate:

1. the applicant's suitability, or the suitability of management if the applicant is a corporation;

2. the applicant's financial responsibility, financial stability, and ability to efficiently perform the service;

3. the applicant's criminal history; and

4. existing motor transportation facilities and the effect on them of

granting a certificate.

The bill also eliminates obsolete language referring to recommendations the commissioner must take into consideration.

EFFECTIVE DATE: October 1, 2021

§§ 14 & 502 — SMOKING PROHIBITION AT RAIL PLATFORMS AND BUS SHELTERS

Prohibits smoking in any area of a platform or shelter at bus and rail facilities, not just in those that are partially-enclosed

The bill prohibits smoking and using e-cigarettes in any area of a platform or shelter at a rail, busway, or bus station that is owned or leased and operated by the state or any political subdivision. Current law prohibits smoking (but not e-cigarette use) only in partially enclosed shelters on these rail platforms or in bus shelters.

EFFECTIVE DATE: October 1, 2021

§ 15 — PORTLAND STREET RAIL CROSSING IN MIDDLETOWN

Allows all vehicles to use the Portland Street rail crossing in Middletown

The bill allows all vehicles, not just emergency vehicles, to use an at-grade crossing at the east end of Portland Street and Bridge Street in Middletown.

§ 16 — AMENDMENTS TO NEGOTIATED CONTRACTS

Specifies that an amendment to a negotiated contract is considered a new and separate contract and is subject to a three-year books and record retention requirement

By law, state contracting agencies may audit the books and records of a contractor or subcontractor under any negotiated contract or subcontract to the extent that the books and records relate to the performance of the contract or subcontract. The contractor must maintain the books and records for three years from the date of final payment under the prime contract and the subcontractor must maintain them for three years from the expiration of the subcontract.

The bill specifies that, if a state contracting agency enters into an amendment to any negotiated contract or subcontract, the amendment must be considered a new and separate negotiated contract for the

purposes of the above provisions. The contractor or subcontractor must maintain its books and records related to performing the amendment for at least three years after the date of final payment under the amendment, or the date the amendment expires, whichever is later.

By law, a "state contracting agency," with certain exceptions, is an executive branch agency, board, commission, department, office, institution, or council.

§§ 17 & 18 — BACK SEAT PASSENGER SEAT BELT USE

Requires, with some exceptions, all motor vehicle occupants to wear seat belts, not just drivers, front seat passengers, and certain back seat passengers

The bill requires all occupants in a motor vehicle or fire-fighting apparatus to wear a seat belt while the vehicle is moving. Current law requires only the driver, front seat passenger, and certain back seat passengers (i.e., passengers under age 16 and passengers of drivers under age 18) to do so.

The bill makes the failure to wear a seat belt by any back seat passenger age 16 or older a secondary offense, prohibiting officers from stopping a vehicle unless another offense has occurred. Under current law, back seat passengers of drivers under age 18 who fail to wear a seat belt commit a primary offense, which allows a law enforcement officer to stop the vehicle solely for that offense. As under existing law, a driver or front seat passenger who fails to wear a seat belt commits a primary offense.

The bill exempts bus passengers from the seat belt use requirement. As under existing law, the following are also exempt:

1. children under age 8, who must instead be secured in an appropriate car seat or booster seat;

2. any person with a physical disability or impairment that would prevent restraint in a seat belt;

3. authorized emergency vehicles (other than firefighting

apparatus) responding to an emergency call;

4. a motor vehicle operated by a rural letter carrier of the U.S. postal service while performing official duties; and

5. a person delivering newspapers.

As under existing law, failure to wear a seat belt is not probable cause for law enforcement to search a vehicle and its contents. Violators commit an infraction (see BACKGROUND) and are subject to existing fines of (1) $50 if the vehicle driver is age 18 or older or (2) $75 if the vehicle driver is under age 18.

EFFECTIVE DATE: October 1, 2021

§ 19 — SERVICE SIGNS ON LIMITED ACCESS HIGHWAYS

Combines two limited access highway sign programs into one Specific Service Sign program, in conformance with federal regulations, and requires DOT to adopt implementing regulations

DOT currently administers two programs for signs on limited access highways: (1) the Specific Information Signs on Limited Access Highways Program (i.e., food, gas, lodging, and camping logo signs), which is established in state law (see below), and (2) the Tourist Attraction Guide Sign Program for Limited Access Highways (see BACKGROUND).

The bill appears to combine these programs into one statutory Specific Service Sign program to conform with the federal Manual on Uniform Traffic Control Devices (see BACKGROUND). It allows the DOT commissioner to enter into an agreement with a qualifying person or company for the erection, maintenance, and removal of a specific service sign within the rights-of-way of state-maintained limited-access highways, other than parkways. It requires DOT to adopt regulations on:

1. specific service sign design and installation requirements,

2. the minimum qualifications and application process for a person or company to get a specific service sign,

3. the financial responsibility of the person or company, and

4. terms for specific service sign removal or agreement revocation.

The bill repeals the current specific information sign program and the corresponding authority to adopt regulations. In doing so, it eliminates the statutory requirements that people or companies seeking to erect signs (1) obtain encroachment permits from DOT and (2) file with the commissioner a bond or recognizance with the state. It also eliminates a statutory requirement that a person or company be reimbursed for a portion of the sign's costs by subsequent permittees on the same sign.

§ 20 — DISTRIBUTION OF SURPLUS RAIL MATERIAL

Modifies the process for distributing surplus rail material to freight railroad companies

By law, DOT must offer rail and other track material to freight railroad companies for upgrading state-owned rights-of-way before directly or indirectly selling, transferring, or otherwise disposing of this material. The bill also (1) requires DOT to do so before it salvages this material and (2) specifies that this requirement applies to material that is surplus and includes rail sections up to 200 feet in length, ties, and tie plates.

The bill also modifies the process for notifying and selecting recipients, requires that material be made available for inspection, and modifies the process for distributing material to selected recipients. It also allows DOT to enter into agreements with salvage companies for salvaging or disposing of surplus rail material that is not distributed to freight rail companies.

EFFECTIVE DATE: October 1, 2021

Notification and Selection of Recipients

The bill establishes a more specific process for notifying and selecting freight railroad companies to receive the material. It requires DOT to offer surplus material in writing and send the offer by first class mail or e-mail. Within 30 days after receiving an offer, an interested freight railroad company must submit, in a manner the

commissioner prescribes, a notice of interest and a statement on why it needs the material and how it intends to use it. If more than one company submits a notice, the commissioner may choose a company based on the prior distribution of surplus material and the best intended use of the material on state property, as determined by the commissioner. The commissioner must notify the company it has selected by first class mail or e-mail.

As under current law, DOT must offer any remaining material to freight rail companies to upgrade other rail lines in the state. The bill requires DOT to do so using the process outlined above.

Availability for Inspection

The bill requires that DOT make surplus rail material available for inspection at a designated location in a rail yard or along a siding track in the state. The bill does not specify when DOT must make the material available.

Distribution of Material

The bill also modifies the process for distributing the surplus material to selected companies. Under current law, DOT must transfer the material to the recipient's designated material site and charge the recipient for doing so. The amount depends on whether the property will be used to upgrade a state-owned right-of-way. If it is, the charge cannot exceed the value, as scrap, of the materials replaced by those the commissioner transfers. If the transferred materials are used to upgrade non state-owned rights-of-way, the charge cannot exceed the value, as scrap, of the materials transferred.

The bill instead requires selected freight railroad companies to:

1. arrange and pay for handling and delivering the material from a specific location in a rail yard or along a siding track;

2. accept the material in "as-is" condition;

3. acknowledge that the commissioner assumes no responsibility for the material's quality or fitness; and

4. install the material in accordance with the statement of intended use that it submitted to DOT, unless the commissioner approves a different use in writing.

The bill prohibits the selected company from salvaging the surplus material and obtaining reimbursement for the handling and delivery costs but allows it to salvage any material the surplus material replaces in order to offset the costs.

Under the bill, the selected company must accept delivery of the surplus material within 30 days after receiving notice of selection. If the company does not do so, DOT may (1) select another company that sent a notice of interest or (2) salvage or dispose of the material.

§ 21 — METRO NORTH BRANCH LINE REPORTS

Requires DOT to report on the status of installing side rail on the New Canaan line and increasing direct service to New York on the Danbury line

By January 1, 2022, the bill requires DOT to report to the Transportation Committee on the status of (1) installing a side rail on the New Canaan branch line and (2) increasing direct service to New York on the Danbury branch line.

§ 501 — EASTERN CONNECTICUT TRANSPORTATION STUDY

Requires the DOT commissioner to conduct a feasibility study on rail and ground transportation in eastern Connecticut

The bill requires the DOT commissioner to study the feasibility of (1) extending the Shore Line East rail line to Rhode Island, (2) establishing a new passenger rail service from New London to Norwich, (3) establishing new passenger train stations in Groton and Stonington, and (4) extending ground transportation systems in the eastern region of the state and connecting the systems to the rail lines. The bill explicitly allows him to seek and use available federal funds for the study.

By January 1, 2023, the commissioner must report the study's results to the Transportation Committee.

§ 503 — OFFICE OF INNOVATIVE FINANCE AND PROJECT DELIVERY

Establishes the Office of Innovative Finance and Project Delivery within DOT

The bill establishes the Office of Innovative Finance and Project Delivery within DOT and requires the DOT commissioner to assign personnel to the office as needed to fulfill the bill's requirements. It charges the office with the following:

1. evaluating opportunities to use innovative financing and risk management to deliver transportation projects,

2. focusing on effective and accelerated delivery of transportation projects to assure the development and maintenance of a safe and efficient transportation system, and

3. recommending public-private partnerships (P3) opportunities to the commissioner.

§ 504 — STREET RACING

Modifies the definition of illegal street racing, specifying that it means driving on a public road for any race, contest, or demonstration of speed or skill

Current law prohibits driving a motor vehicle on a public road for purposes of betting, racing, or making a speed record. It also prohibits (1) possessing a motor vehicle under circumstances showing an intent to use it in one of these prohibited races or events; (2) acting as a starter, timekeeper, judge, or spectator at such a race or event; or (3) betting on the race's or event's outcome. The bill instead makes these prohibitions specifically apply to races, contests, or demonstrations of speed or skill (i.e., street racing). (Existing law prohibits driving a motor vehicle in any race, contest, or demonstration of speed or skill as a public exhibition except in specific circumstances (CGS § 14-164a).)

By law and under the bill, a first offense for driving a motor vehicle on a public road for any race, contest, or demonstration of speed or skill is punishable by a fine of $150 to $600, up to one year in prison, or both; and any subsequent offense is punishable by a fine of $300 to $1,000, up to one year in prison, or both. Additionally, anyone convicted of this must attend an operator's retraining program (CGS § 14-111g(a)). Also, a court may (1) order the motor vehicle driven by the

offender to be impounded for up to 30 days if it is registered to the offender or (2) if the vehicle is registered to someone else, fine the offender up to $2,000 for a first offense and up to $3,000 for any subsequent offense. By law, the impounded vehicle's owner is responsible for all fees or costs resulting from the impoundment.

By law and under the bill, a first offense for the other prohibited conduct (e.g., possessing a vehicle with intent to race, acting as a starter or spectator, or betting on a race) is punishable by a fine of $75 to $600, up to one year in prison, or both; and any subsequent offense is punishable by a fine of $100 to $1,000, up to one year in prison, or both.

EFFECTIVE DATE: October 1, 2021

§§ 505-533 — BRIDGE AND ROAD NAMING

Names various roads and bridges

The bill names 29 roads and bridges.

§ 534 — VEHICLE IDENTIFICATION NUMBER (VIN) MARKING

Modifies DMV's authorization to adopt regulations on marking VINs on vehicle component parts

By law, new or used dealers selling motorcycles must offer buyers the service of marking the motorcycle's VIN on its component parts. The law allows the DMV commissioner to adopt regulations providing (1) standards for marking motor vehicle and motorcycle component parts in a secure manner, (2) standards for telephone or online access to a secure database of vehicles, including motorcycles and parts that have been marked and registered in the database, and (3) for the lawful marking of replacement parts by licensed repairers.

The bill specifies that the standards the DMV may adopt on marking component parts in a secure manner may include the use of a "covert application," which means a latent brushed chemical that embeds the marking over a vinyl stencil so that when such stencil is removed, the marking is only visible with the assistance of an ultraviolet light. The bill also specifies that "component parts" include a motor vehicle's hood, trunk, wheels and door or a motorcycle's

frame or steering column.

EFFECTIVE DATE: July 1, 2022

§ 535 — NONPROFIT VEHICLES ON PARKWAYS PILOT PROGRAM

Requires DOT to establish a pilot program to allow vehicles owned by or under contract with a nonprofit organization and transporting people with a disability or who are elderly to use the Merritt and Wilbur Cross parkways, subject to certain requirements

Existing law, with specific exceptions, generally prohibits commercial vehicles from using the Merritt and Wilbur Cross parkways (CGS § 13a-26; Conn. Agencies Regs. § 14-298-1 et seq.). Notwithstanding this prohibition, the bill requires the DOT commissioner to establish a pilot program to allow service vehicles and motor vehicles with a combination registration and owned by or under contract with a nonprofit organization to be used on the parkways, provided specific conditions are met. (It is not clear what constitutes a "service vehicle" as neither existing law nor the bill defines the term).

Specifically, the bill requires the following:

1. the service vehicles must not be more than seven feet high, six feet wide, and 19 feet long;

2. the nonprofit must be located within one mile of either parkway and provide transportation services to people in the state with disabilities or who are elderly; and

3. the service vehicles and motor vehicles must have obtained a permit from the Office of State Traffic Administration (OSTA) to use the parkways in accordance with the above regulations.

The bill requires that the pilot program begin by January 1, 2022, and end on January 1, 2024. It limits OSTA to issuing no more than two permits per nonprofit location.

By February 1, 2024, the commissioner must submit a report to the Transportation Committee on the program's implementation, the

number of permits issued under the program, and any recommendations for legislation on the use of the parkways.

EFFECTIVE DATE: October 1, 2021

§ 536 — SECURITY SERVICES AT BRADLEY INTERNATIONAL AIRPORT

Updates a special act regarding payments for state police security services at Bradley International Airport

The bill updates a 2009 special act provision on state police security services at Bradley International Airport that required DOT to enter into a memorandum of understanding providing that call costs incurred by the Department of Public Safety for state police security services be paid from the Bradley Enterprise Fund. However, federal airport revenue diversion laws allow airport funds to only pay for security services required under federal law.

The bill (1) updates agency references to the Connecticut Airport Authority (CAA) and the Department of Emergency Services and Public Protection; (2) requires CAA to enter into a contract, rather than a memorandum of understanding, for these security services; (3) extends the date by which they must enter into the contract to December 1, 2021; and (4) requires payments under the contract to be made in compliance with all applicable federal laws, regulations, and guidelines. This conforms to current agency practice.

§ 537 — METEOROLOGICAL EVALUATION TOWER MARKING

Establishes marking requirements for meteorological evaluation towers and civil penalties for those who fail to comply with them

Overview

The bill establishes marking requirements for "meteorological evaluation towers" (METs) that are 50 to 200 feet above ground level. These towers are not subject to the Federal Aviation Administration's (FAA) air hazard evaluation process, or any compulsory marking, because they are below the height threshold (see BACKGROUND). The bill's marking requirements correspond to FAA guidance on the voluntary marking of METs.

Under the bill, anyone who owns, operates, or erects an MET and does not mark or erect it as the bill requires is subject to the following civil penalties: (1) up to $500 if the violation does not result in physical injury, (2) up to $1,000 if it results in physical injury to another person, (3) up to $5,000 if its results in serious physical injury to another person, and (4) up to $10,000 if it results in another person's death (see BACKGROUND).

METs Defined

Under the bill, an MET is a structure that (1) is self-standing or supported by guy wires or anchors; (2) is six feet or less in diameter at the base; and (3) has accessory facilities on which an antenna, sensor, camera, meteorological instrument, or other equipment is mounted to document whether a site has enough wind resources to operate a wind turbine generator.

METs do not include (1) structures adjacent to a building, including a barn, electric utility substation, or a residence's curtilage; (2) a tower regulated by the Federal Communications Commission (FCC); or (3) a tower used primarily to support telecommunications equipment or provide commercial mobile radio service or commercial mobile data service, as defined under FCC regulations.

MET Marking Requirements

Under the bill, METs must:

1. be painted in equal, alternating bands of aviation orange and white, beginning with orange at the top of the tower;

2. have aviation orange marker balls installed and displayed in accordance with FAA regulations and advisory circulars; and

3. not be supported by guy wires, unless the wires have, at each anchor point, a seven-foot-long safety sleeve that extends from the anchor point along each attached wire.

These marking requirements correspond to those recommended in the FAA's Obstruction Lighting and Marking advisory circular

(70/7460-1L).

EFFECTIVE DATE: October 1, 2021

§ 538 — ALL-TERRAIN VEHICLE (ATV) SEIZURE BY MUNICIPAL ORDINANCE

Allows all municipalities that regulate ATV use by ordinance, rather than just municipalities with populations of 20,000 or more that do so, to provide for their seizure and forfeiture by ordinance

This bill allows all municipalities that regulate all-terrain vehicle (ATV) use by ordinance, rather than just municipalities with populations of 20,000 or more that do so, to provide for their seizure and forfeiture by ordinance as well (see BACKGROUND). Under existing law, unchanged by the bill, only municipalities that meet this population threshold may provide for the seizure and forfeiture of ATVs (CGS § 14-390m).

By law, if a municipality confiscates an ATV used in violation of an ordinance, it must sell it at a municipally conducted public auction. The sale proceeds must be paid to the municipal treasurer for deposit into the municipality's general fund.

Existing law's forfeiture provisions are subject to any bona fide lien, lease, or security interest (including a lien for towing and storing a vehicle). The law protects an owner or lienholder's interest when forfeiture is due to someone else's act or omission if the owner or lienholder did not know, and could not have reasonably known, that the ATV was used or was intended to be used in violation of a municipal ordinance.

EFFECTIVE DATE: October 1, 2021

BACKGROUND

Related Bill

sHB 5423 (File 409), favorably reported by the Transportation Committee, contains a substantially similar provisions on an Eastern Connecticut transportation study.

HB 5726 (File 411), passed by the House of Representatives, contains

an identical provision on ATV seizure.

sHB 6066 (File 412), favorably reported by the Transportation Committee, contains a substantially similar provision on street racing.

sHB 6426 (File 87), favorably reported by the Transportation Committee, contains identical provisions regarding Bradley Airport security services and METs (§§ 1 & 3).

Infractions

Infractions are punishable by fines, usually set by Superior Court judges, of between $35 and $90, plus a $20 or $35 surcharge and an additional fee based on the amount of the fine. There may be other added charges depending on the type of infraction. For example, certain motor vehicle infractions trigger a Transportation Fund surcharge of 50% of the fine. With the various additional charges, the total amount due can be over $300 but often is less than $100.

An infraction is not a crime, and violators can pay the fine by mail without making a court appearance.

Alternative Delivery Methods

By law, the DOT commissioner may designate certain projects to be built using alternatives to the traditional "design-bid-build" construction process, specifically, the "construction manager at risk" (CMAR) with a guaranteed maximum price and "design-build" processes.

"Design-bid-build," "construction-manager-at-risk," and "design-build" use different approaches to design and build construction projects. The methods differ chiefly in how they assign responsibility for design and construction services, as follows:

1. In design-bid-build, the most traditional method, the owner has separate contracts with the designer and the builder, and the project design is completed before bids are solicited for a construction contract.

2. In CMAR, the owner generally contracts with a single construction manager, who works with the designer and then provides labor, materials, and project management during construction. The CMAR method typically guarantees the maximum cost of the work.

3. In the design-build approach, the owner contracts with a single entity that both designs and builds the project.

Manual on Uniform Traffic Control Devices (MUTCD)

The MUTCD is a handbook published by the Federal Highway Administration that specifies standards and guidance for the design, installation, and use of traffic control devices (e.g., signs, traffic signals, and road markings). Federal regulations make the MUTCD the national standard for all traffic control devices installed on any street, highway, or bicycle trail open for public travel. The regulations also require state regulations and manuals on traffic control devices to substantially conform to the MUTCD and give states two years to adopt changes to the MUTCD (23 C.F.R. § 655.603).

Connecticut has incorporated the MUTCD into its traffic control device regulations by reference (e.g., Conn. Agencies Regs. § 14-298-500).

Tourist Attraction Guide Sign Program for Limited Access Highways

DOT currently administers a program that allows qualifying attractions to be included on an "attractions" sign near highway exits. Qualifying attractions are those (1) with a primary purpose of satisfying the needs of visitors from outside the immediate area for recreational, educational, scientific, environmental, natural, cultural, historical, or entertainment activities and (2) meeting other designated criteria (e.g., operating hours). This program is administered separately from the Specific Information Signs program.

FAA Air Hazard Review

FAA regulations require anyone proposing to construct or alter a

structure greater than 200 feet high to file notice with the FAA. The FAA reviews notices to determine if the proposed construction is hazardous to air navigation and, if applicable, determine appropriate mitigation measures, such as marking and lighting requirements (14 C.F.R. § 77.5 et seq.). Although METs, as defined in the bill, are not required to be reported to the FAA, agency policy recommends the voluntary markings, according to its guidance (76 Fed. Reg. 36983).

Injury and Serious Physical Injury

By law, "physical injury" is impairment of physical condition or pain. "Serious physical injury" is physical injury that creates a substantial risk of death or that causes serious (1) disfigurement, (2) impairment of health, or (3) loss or impairment of a bodily organ's function (CGS § 53a-3).

Regulating Dirt Bikes, Mini Motorcycles, ATVs, and Snowmobiles by Ordinance

By law, municipalities may adopt ordinances on the operation and use of (1) dirt bikes and mini motorcycles on public property, including hours of use, and (2) ATVs and snowmobiles, including hours and zones of use. An ordinance may set fines of up to:

1. $1,000 for a first violation,
2. $1,500 for a second violation, and
3. $2,000 for subsequent violations (CGS §§ 14-390 & -390m).

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute
Yea 33 Nay 2 (03/24/2021)