



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2 repealed and the following is substituted in lieu thereof (*Effective October*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11 repealed and the following is substituted in lieu thereof (*Effective October*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34 statutes is repealed and the following is substituted in lieu thereof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.

APP Joint Favorable