



General Assembly

Substitute Bill No. 31

February Session, 2000

An Act Concerning Agreement State Status With The Nuclear Regulatory Commission.

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

1 Section 1. Section 22a-152 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) The Governor, on behalf of this state, is authorized to enter into
4 agreements with the government of the United States providing for
5 discontinuance of certain of the programs of the government of the
6 United States with respect to sources of ionizing radiation and the
7 assumption thereof by this state, as provided for in the Atomic Energy
8 Act of 1954, as amended.

9 (b) The Commissioner of Environmental Protection shall adopt
10 regulations, in accordance with the provisions of chapter 54, to
11 establish a fee-based program for the control of radiation hazards
12 sufficient to protect the public health, safety and welfare and secure
13 agreement state status from the United States Nuclear Regulatory
14 Commission. Such regulations shall ensure that the Connecticut
15 agreement state program, upon receiving full authorization from the
16 government of the United States in accordance with subsection (a) of
17 this section, is funded to cover all costs to the state associated with the
18 administration of such program.

19 (c) There is established an agreement state management account,
20 which shall be a separate, nonlapsing account within the General Fund
21 and which shall contain all fees collected pursuant to the provisions of
22 subsection (b) of this section. All moneys within the account shall be
23 invested by the State Treasurer in accordance with established
24 investment practices and all interest earned by such investments shall
25 be returned to the account. Moneys in the account shall be expended
26 by the Commissioner of Environmental Protection, with the approval
27 of the Secretary of the Office of Policy and Management, only to pay
28 for costs to state agencies to implement, administer and maintain
29 agreement state status with the United States Nuclear Regulatory
30 Commission.

31 Sec. 2. Section 22a-157 of the general statutes is repealed and the
32 following is substituted in lieu thereof:

33 (a) No person shall use, manufacture, produce, transport, transfer,
34 receive, acquire, own or possess any source of ionizing radiation,
35 unless exempt, licensed or registered in accordance with the provisions
36 of sections 22a-151 to 22a-158, inclusive.

37 (b) Any person who, through negligent or reckless conduct, causes
38 pollution or contamination or potential pollution or contamination of
39 any land, water or air resources of the state through a discharge that is
40 not authorized by regulation or license or through the spillage,
41 uncontrolled loss, leakage or leaching of radioactive material or
42 radioactive waste, shall be liable for all costs and expenses incurred by
43 the commissioner in containing, removing, cleaning, mitigating or
44 preventing such pollution or contamination or potential pollution or
45 contamination. Nothing in this section shall preclude the
46 commissioner from seeking such additional compensation that a court
47 may award, including punitive damages. Upon the request of the
48 commissioner, the Attorney General shall bring a civil action to
49 recover all such costs and expenses.

50 (c) Any person who contains or removes or otherwise cleans

51 radioactive material or radioactive wastes, or mitigates the effects of
52 radioactive material or radioactive wastes resulting from a discharge
53 that is not authorized by regulation or license, or through the spillage,
54 uncontrolled loss, leakage or leaching of radioactive material shall be
55 entitled to reimbursement from any responsible person for the
56 reasonable costs expended for such containment, removal, cleaning or
57 mitigation, if such radioactive material or radioactive waste pollution
58 or contamination resulted from the negligent or reckless conduct of
59 such responsible person. When such pollution or contamination results
60 from the joint negligence of more than one party or person, each shall
61 be jointly and severally liable.

62 Sec. 3. Subsection (a) of section 22a-6 of the general statutes is
63 repealed and the following is substituted in lieu thereof:

64 (a) The commissioner may: (1) Adopt, amend or repeal, in
65 accordance with the provisions of chapter 54, such environmental
66 standards, criteria and regulations, and such procedural regulations as
67 are necessary and proper to carry out his functions, powers and duties;
68 (2) enter into contracts with any person, firm, corporation or
69 association to do all things necessary or convenient to carry out the
70 functions, powers and duties of the department; (3) initiate and receive
71 complaints as to any actual or suspected violation of any statute,
72 regulation, permit or order administered, adopted or issued by him.
73 The commissioner shall have the power to hold hearings, administer
74 oaths, take testimony and subpoena witnesses and evidence, enter
75 orders and institute legal proceedings including, but not limited to,
76 suits for injunctions, for the enforcement of any statute, regulation,
77 order or permit administered, adopted or issued by him; (4) in
78 accordance with regulations adopted by him, require, issue, renew,
79 revoke, modify or deny permits, under such conditions as he may
80 prescribe, governing all sources of pollution in Connecticut within his
81 jurisdiction; (5) in accordance with constitutional limitations, enter at
82 all reasonable times, without liability, upon any public or private
83 property, except a private residence, for the purpose of inspection and
84 investigation to ascertain possible violations of any statute, regulation,

85 order or permit administered, adopted or issued by him and the
86 owner, managing agent or occupant of any such property shall permit
87 such entry, and no action for trespass shall lie against the
88 commissioner for such entry, or he may apply to any court having
89 criminal jurisdiction for a warrant to inspect such premises to
90 determine compliance with any statute, regulation, order or permit
91 administered, adopted or enforced by him, provided any information
92 relating to secret processes or methods of manufacture or production
93 ascertained by the commissioner during, or as a result of, any
94 inspection, investigation, hearing or otherwise shall be kept
95 confidential and shall not be disclosed except that, notwithstanding the
96 provisions of subdivision (5) of subsection (b) of section 1-210, such
97 information may be disclosed by the commissioner to the United States
98 Environmental Protection Agency pursuant to the federal Freedom of
99 Information Act of 1976, (5 USC 552) and regulations adopted
100 thereunder or, if such information is submitted after June 4, 1986, to
101 any person pursuant to the federal Clean Water Act (33 USC 1251 et
102 seq.); (6) undertake any studies, inquiries, surveys or analyses he may
103 deem relevant, through the personnel of the department or in
104 cooperation with any public or private agency, to accomplish the
105 functions, powers and duties of the commissioner; (7) require the
106 posting of sufficient performance bond or other security to assure
107 compliance with any permit or order; (8) provide by notice printed on
108 any form that any false statement made thereon or pursuant thereto is
109 punishable as a criminal offense under section 53a-157b; (9) construct
110 or repair or contract for the construction or repair of any dam or flood
111 and erosion control system under his control and management, make
112 or contract for the making of any alteration, repair or addition to any
113 other real asset under his control and management, including rented
114 or leased premises, involving an expenditure of five hundred thousand
115 dollars or less, and, with prior approval of the Commissioner of Public
116 Works, make or contract for the making of any alteration, repair or
117 addition to such other real asset under his control and management
118 involving an expenditure of more than five hundred thousand dollars
119 but not more than one million dollars; (10) by regulations adopted in

120 accordance with the provisions of chapter 54 require the payment of a
121 fee sufficient to cover the reasonable cost of the search, duplication and
122 review of records requested under the Freedom of Information Act, as
123 defined in section 1-200, and the reasonable cost of reviewing and
124 acting upon an application for and monitoring compliance with the
125 terms and conditions of any state or federal permit, license,
126 registration, order, certificate or approval required pursuant to
127 subsection (i) of section 22a-39, subsections (c) and (d) of section 22a-
128 96, subsections (h), (i) and (k) of section 22a-424, and sections 22a-6d,
129 22a-32, 22a-134a, 22a-134e, 22a-135, 22a-148, 22a-149, 22a-150, 22a-154,
130 22a-174, 22a-174a, 22a-208, 22a-208a, 22a-209, 22a-342, 22a-345, 22a-361,
131 22a-363c, 22a-368, 22a-372, 22a-379, 22a-403, 22a-409, 22a-416, 22a-428
132 to 22a-432, inclusive, 22a-449 and 22a-454 to 22a-454c, inclusive, and
133 Section 401 of the federal Clean Water Act, (33 USC 1341). Such costs
134 may include, but are not limited to the costs of (A) public notice, (B)
135 reviews, inspections and testing incidental to the issuance of and
136 monitoring of compliance with such permits, licenses, orders,
137 certificates and approvals, and (C) surveying and staking boundary
138 lines. The applicant shall pay the fee established in accordance with the
139 provisions of this section prior to the final decision of the
140 commissioner on the application. The commissioner may postpone
141 review of an application until receipt of the payment. Payment of a fee
142 for monitoring compliance with the terms or conditions of a permit
143 shall be at such time as the commissioner deems necessary and is
144 required for an approval to remain valid; and (11) by regulations
145 adopted in accordance with the provisions of chapter 54, require the
146 payment of a fee sufficient to cover the reasonable cost of responding
147 to requests for information concerning the status of real estate with
148 regard to compliance with environmental statutes, regulations, permits
149 or orders. Such fee shall be paid by the person requesting such
150 information at the time of the request. Funds not exceeding two
151 hundred thousand dollars received by the commissioner pursuant to
152 subsection (g) of section 22a-174, during the fiscal year ending June 30,
153 1985, shall be deposited in the General Fund and credited to the
154 appropriations of the Department of Environmental Protection in

155 accordance with the provisions of section 4-86, and such funds shall
156 not lapse until June 30, 1986. In any action brought against any
157 employee of the department acting within his scope of delegated
158 authority in performing any of the above-listed duties, the employee
159 shall be represented by the Attorney General.

160 Sec. 4. Subsection (a) of section 22a-6a of the general statutes is
161 repealed and the following is substituted in lieu thereof:

162 (a) Any person who knowingly or negligently violates any
163 provision of section 14-100b or 14-164c, subdivision (3) of subsection
164 (b) of section 15-121, section 15-171, 15-172, 15-175, 22a-5, 22a-6 or 22a-
165 7, chapter 440, chapter 441, section 22a-69 or 22a-74, subsection (b) of
166 section 22a-134p, section 22a-148, 22a-149, 22a-150, 22a-154, 22a-162,
167 22a-171, 22a-174, 22a-175, 22a-177, 22a-178, 22a-181, 22a-183, 22a-184,
168 22a-190, 22a-208, 22a-208a, 22a-209, 22a-213, 22a-220, 22a-225, 22a-231,
169 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a, 22a-358, 22a-359,
170 22a-361, 22a-362, 22a-365 to 22a-379, inclusive, 22a-401 to 22a-411,
171 inclusive, 22a-416, 22a-417, 22a-424 to 22a-433, inclusive, 22a-447, 22a-
172 449, 22a-450, 22a-451, 22a-454, 22a-458, 22a-461, 22a-462 or 22a-471, or
173 any regulation, order or permit adopted or issued thereunder by the
174 Commissioner of Environmental Protection shall be liable to the state
175 for the reasonable costs and expenses of the state in detecting,
176 investigating, controlling and abating such violation. Such person shall
177 also be liable to the state for the reasonable costs and expenses of the
178 state in restoring the air, waters, lands and other natural resources of
179 the state, including plant, wild animal and aquatic life to their former
180 condition insofar as practicable and reasonable, or, if restoration is not
181 practicable or reasonable, for any damage, temporary or permanent,
182 caused by such violation to the air, waters, lands or other natural
183 resources of the state, including plant, wild animal and aquatic life and
184 to the public trust therein. Institution of a suit to recover for such
185 damage, costs and expenses shall not preclude the application of any
186 other remedies.

187 Sec. 5. Subsection (a) of section 22a-6b of the general statutes is

188 repealed and the following is substituted in lieu thereof:

189 (a) The Commissioner of Environmental Protection shall adopt
190 regulations, in accordance with the provisions of chapter 54, to
191 establish a schedule setting forth the amounts, or the ranges of
192 amounts, or a method for calculating the amount of the civil penalties
193 which may become due under this section. Such schedule or method
194 may be amended from time to time in the same manner as for
195 adoption provided any such regulations which become effective after
196 July 1, 1993, shall only apply to violations which occur after said date.
197 The civil penalties established for each violation shall be of such
198 amount as to insure immediate and continued compliance with
199 applicable laws, regulations, orders and permits. Such civil penalties
200 shall not exceed the following amounts:

201 (1) For failure to file any registration, other than a registration for a
202 general permit, for failure to file any plan, report or record, or any
203 application for a permit, for failure to obtain any certification, for
204 failure to display any registration, permit or order, or file any other
205 information required pursuant to any provision of section 14-100b or
206 14-164c, subdivision (3) of subsection (b) of section 15-121, section 15-
207 171, 15-172, 15-175, 22a-5, 22a-6, 22a-7, 22a-32, 22a-39 or 22a-42a, 22a-
208 45a, chapter 441, sections 22a-134 to 22a-134d, inclusive, subsection (b)
209 of section 22a-134p, section 22a-148, 22a-149, 22a-150, 22a-154, 22a-157,
210 as amended by this act, 22a-158, 22a-171, 22a-174, 22a-175, 22a-177,
211 22a-178, 22a-181, 22a-183, 22a-184, 22a-208, 22a-208a, 22a-209, 22a-213,
212 22a-220, 22a-231, 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a,
213 22a-354p, 22a-358, 22a-359, 22a-361, 22a-362, 22a-368, 22a-401 to 22a-
214 405, inclusive, 22a-411, 22a-416, 22a-417, 22a-424 to 22a-433, inclusive,
215 22a-447, 22a-449, 22a-450, 22a-451, 22a-454, 22a-458, 22a-461, 22a-462 or
216 22a-471, or any regulation, order, registration or permit adopted or
217 issued thereunder by the commissioner, and for other violations of
218 similar character as set forth in such schedule or schedules, no more
219 than one thousand dollars for said violation and in addition no more
220 than one hundred dollars for each day during which such violation
221 continues;

222 (2) For deposit, placement, removal, disposal, discharge or emission
223 of any material or substance or electromagnetic radiation or the
224 causing of, engaging in or maintaining of any condition or activity in
225 violation of any provision of section 14-100b or 14-164c, subdivision (3)
226 of subsection (b) of section 15-121, section 15-171, 15-172, 15-175, 22a-5,
227 22a-6, 22a-7, 22a-32, 22a-39 or 22a-42a, 22a-45a, chapter 441, sections
228 22a-134 to 22a-134d, inclusive, section 22a-69 or 22a-74, subsection (b)
229 of section 22a-134p, section 22a-162, 22a-171, 22a-174, 22a-175, 22a-177,
230 22a-178, 22a-181, 22a-183, 22a-184, 22a-190, 22a-208, 22a-208a, 22a-209,
231 22a-213, 22a-220, 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a,
232 22a-354p, 22a-358, 22a-359, 22a-361, 22a-362, 22a-368, 22a-401 to 22a-
233 405, inclusive, 22a-411, 22a-416, 22a-417, 22a-424 to 22a-433, inclusive,
234 22a-447, 22a-449, 22a-450, 22a-451, 22a-454, 22a-458, 22a-461, 22a-462 or
235 22a-471, or any regulation, order or permit adopted thereunder by the
236 commissioner, and for other violations of similar character as set forth
237 in such schedule or schedules, no more than twenty-five thousand
238 dollars for said violation for each day during which such violation
239 continues;

240 (3) For violation of the terms of any final order of the commissioner,
241 except final orders under subsection (d) of this section and emergency
242 orders and cease and desist orders as set forth in subdivision (4) of this
243 subsection, for violation of the terms of any permit issued by the
244 commissioner, and for other violations of similar character as set forth
245 in such schedule or schedules, no more than twenty-five thousand
246 dollars for said violation for each day during which such violation
247 continues;

248 (4) For violation of any emergency order or cease and desist order of
249 the commissioner, and for other violations of similar character as set
250 forth in such schedule or schedules, no more than twenty-five
251 thousand dollars for said violation for each day during which such
252 violation continues;

253 (5) For failure to make an immediate report required pursuant to
254 subdivision (3) of subsection (a) of section 22a-135, or a report required

255 by the department pursuant to subsection (b) of section 22a-135, no
256 more than twenty-five thousand dollars per violation per day;

257 (6) For violation of any provision of the state's hazardous waste
258 program, no more than twenty-five thousand dollars per violation per
259 day;

260 (7) For wilful violation of any condition imposed pursuant to
261 section 26-313 which leads to the destruction of, or harm to, any rare,
262 threatened or endangered species, no more than ten thousand dollars
263 per violation per day;

264 (8) For violation of any provision of sections 22a-608 to 22a-611,
265 inclusive, no more than the amount established by Section 325 of the
266 Emergency Planning and Community Right-To-Know Act of 1986 (42
267 USC 11001 et seq.) for a violation of Section 302, 304 or 311 to 313,
268 inclusive, of said act.

ENV Committee Vote: Yea 24 Nay 0 JFS C/R FIN
FIN Committee Vote: Yea 45 Nay 0 JF
APP Committee Vote: Yea 41 Nay 0 JF