



# House of Representatives

General Assembly

**File No. 637**

*January Session, 2001*

House Bill No. 6685

*House of Representatives, May 7, 2001*

The Committee on Appropriations reported through REP. DYSON of the 94th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **AN ACT CONCERNING THE EMERGENCY SPILL RESPONSE ACCOUNT.**

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

1 Section 1. Section 22a-451 of the general statutes is repealed and the  
2 following is substituted in lieu thereof:

3 (a) Any person, firm or corporation which directly or indirectly  
4 causes pollution and contamination of any land or waters of the state  
5 or directly or indirectly causes an emergency through the maintenance,  
6 discharge, spillage, uncontrolled loss, seepage or filtration of oil or  
7 petroleum or chemical liquids or solid, liquid or gaseous products or  
8 hazardous wastes or which owns any hazardous wastes deemed by  
9 the commissioner to be a potential threat to human health or the  
10 environment and removed by the commissioner shall be liable for all  
11 costs and expenses incurred in investigating, containing, removing,  
12 monitoring or mitigating such pollution and contamination,  
13 emergency or hazardous waste, and legal expenses and court costs

14 incurred in such recovery, provided, if such pollution or  
15 contamination or emergency was negligently caused, such person, firm  
16 or corporation may, at the discretion of the court, be liable for damages  
17 equal to one and one-half times the cost and expenses incurred and  
18 provided further if such pollution or contamination or emergency was  
19 wilfully caused, such person, firm or corporation may, at the discretion  
20 of the court, be liable for damages equal to two times the cost and  
21 expenses incurred. The costs and expenses of investigating, containing,  
22 removing, monitoring or mitigating such pollution, contamination,  
23 emergency or hazardous waste shall include, but not be limited to, the  
24 administrative cost of such action calculated at ten per cent of the  
25 actual cost plus the interest on the actual cost at a rate of ten per cent  
26 per year thirty days from the date such costs and expenses were  
27 sought from the party responsible for such pollution, contamination or  
28 emergency. The costs of recovering any legal expenses and court costs  
29 shall be calculated at five per cent of the actual costs, plus interest at a  
30 rate of ten per cent per year thirty days from the date such costs were  
31 sought from the party responsible for such pollution, contamination or  
32 emergency. Upon request of the commissioner, the Attorney General  
33 shall bring a civil action to recover all such costs and expenses.

34 (b) If the person, firm or corporation which causes any discharge,  
35 spillage, uncontrolled loss, seepage or filtration does not act  
36 immediately to contain and remove or mitigate the effects of such  
37 discharge, spillage, loss, seepage or filtration to the satisfaction of the  
38 commissioner, or if such person, firm or corporation is unknown, and  
39 such discharge, spillage, loss, seepage or filtration is not being  
40 contained, removed or mitigated by the federal government, a state  
41 agency, a municipality or a regional or interstate authority, the  
42 commissioner may contract with any person issued a permit pursuant  
43 to section 22a-454 to contain and remove or mitigate the effects of such  
44 discharge, spillage, loss, seepage or filtration. The commissioner may  
45 contract with any person issued a permit pursuant to said section 22a-  
46 454 to remove any hazardous waste that [he] the commissioner deems

47 to be a potential threat to human health or the environment.

48 (c) Whenever the commissioner incurs contractual obligations  
49 pursuant to subsection (b) of this section and the responsible person,  
50 firm or corporation or the federal government does not assume such  
51 contractual obligations, the commissioner shall request the Attorney  
52 General to bring a civil action pursuant to subsection (a) of this section  
53 to recover the costs and expenses of such contractual obligations. If the  
54 responsible person, firm or corporation is unknown, the commissioner  
55 shall request the federal government to assume such contractual  
56 obligations to the extent provided for by the federal Water Pollution  
57 Control Act.

58 (d) There is established an account to be known as the emergency  
59 spill response account, for the purpose of providing money for (1)  
60 costs associated with the implementation of section 22a-449 and  
61 chapter 441; (2) the containment and removal or mitigation of the  
62 discharge, spillage, uncontrolled loss, seepage or filtration of oil or  
63 petroleum or chemical liquids or solid, liquid or gaseous products or  
64 hazardous wastes including the state share of payments of the costs of  
65 remedial action pursuant to the federal Comprehensive Environmental  
66 Response, Compensation, and Liability Act of 1980 (42 USC 9601 et  
67 seq.), as amended; (3) provision of potable drinking water pursuant to  
68 section 22a-471; (4) completion of the inventory required by section  
69 22a-8a; (5) the removal of hazardous wastes that the commissioner  
70 deems to be a potential threat to human health or the environment; (6)  
71 (A) the provision of short-term potable drinking water pursuant to  
72 subdivision (1) of subsection (a) of section 22a-471 and the preparation  
73 of an engineering report pursuant to subdivision (2) of subsection (a)  
74 of said section when pollution of the groundwaters by pesticides has  
75 occurred or can reasonably be expected to occur; (B) the study required  
76 by special act 86-44\* and (C) as funds allow, education of the public on  
77 the proper use and disposal of pesticides and the prevention of  
78 pesticide contamination in drinking water supplies; (7) loans and lines

79 of credit made in accordance with the provisions of section 32-23z; (8)  
80 the accomplishment of the purposes of sections 22a-133b to 22a-133g,  
81 inclusive, and sections 22a-134 to 22a-134d, inclusive, including  
82 staffing, and section 22a-133k; (9) development and implementation by  
83 the commissioner of a state-wide aquifer protection program pursuant  
84 to the provisions of sections 19a-37, 22-6c, 22a-354c, 22a-354e, 22a-354g  
85 to 22a-354bb, inclusive, 25-32d, 25-33h, 25-33n and subsection (a) of  
86 section 25-84, including, but not limited to, development of state  
87 regulations for land uses in aquifer protection areas, technical  
88 assistance and educational programs; (10) research on toxic substance  
89 contamination, including research by the Environmental Research  
90 Institute and the Institute of Water Resources at The University of  
91 Connecticut and by the Connecticut Agricultural Experiment Station;  
92 (11) the costs of the commissioner in performing or approving level A  
93 mapping of aquifer protection areas pursuant to this title; and (12)  
94 inventory and evaluation of the farm resource management  
95 requirements of farms in aquifer areas by the eight county soil and  
96 water conservation districts. [The emergency spill response account  
97 shall be an account of the General Fund. On July 1, 1995, any balance  
98 remaining in said account shall be transferred to the resources of the  
99 General Fund, except that beginning July 1, 1996, any amount  
100 appropriated for emergency spill response up to one million dollars  
101 shall not lapse on June thirtieth of the ending fiscal year, but shall  
102 continue to be available for expenditure for such purpose in the next  
103 succeeding fiscal year.] The emergency spill response account shall be  
104 an account of the Environmental Quality Fund. On the effective date of  
105 this act, any balance remaining in said account shall be transferred to  
106 the resources of the Environmental Quality Fund. No expenditures  
107 shall be made from the amount transferred until on or after July 1,  
108 2001.

109 (e) The Commissioner of Environmental Protection shall, annually,  
110 in accordance with section 4-77, submit to the Secretary of the Office of  
111 Policy and Management an operating budget for the emergency spill

112 response account that provides for the operation of programs funded  
113 from such account. Such annual operating budget shall include an  
114 estimate of revenues from all other sources to meet the estimated  
115 expenditures of the account for such fiscal year. Within thirty days  
116 prior to the first day of such fiscal year the Secretary of the Office of  
117 Policy and Management shall approve said operating budget, with  
118 such changes, amendments, additions and deletions as shall be agreed  
119 upon prior to that date by the Commissioner of Environmental  
120 Protection and the Secretary of the Office of Policy and Management.

121       Sec. 2. This act shall take effect from its passage.

<b>ENV</b>	<i>Joint Favorable C/R</i>	APP
<b>APP</b>	<i>Joint Favorable</i>	

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** Implements Provisions in the Budget

**Affected Agencies:** Department of Environmental Protection,  
Office of Policy and Management

**Municipal Impact:** None

**Explanation**

**State Impact:**

The bill implements provisions in sHB 6668, the Appropriations Act as favorably reported by the Appropriations Committee. It transfers the Emergency Spill Response account of the Department of Environmental Protection (DEP) from the General Fund to the Environmental Quality Fund. The General Fund appropriation (\$7,755,870 in FY 02 and \$8,041,225 in FY 03) is eliminated for the Emergency Spill Response account of the DEP in sHB 6668. Replacement funding is provided under Sec. 54 and Sec. 55 of the bill. These sections require the Comptroller to deposit \$6 million from the tax on petroleum products gross earnings on June 29, 2001 and \$8 million in both FY 02 and FY 03 into a new separate, non-lapsing account within the Environmental Quality Fund, a non-appropriated fund. Additional funding is necessary over the amount removed from the DEP budget due to greater spill remediation/clean-up costs and for fringe benefit costs for personnel paid from special fund dollars. A

corresponding reduction was taken in the General Fund for fringe benefits. The Emergency Spill Response account was previously a separate non-appropriated account. The account was put on the General Fund per PA 95-208 because the fund's stagnant revenues could not support expenditures.

The Emergency Spill Response account is used to fund DEP clean-up and remediation, potable water, engineering plans, other activities related to emergency spill response and the 69 employees (including fringe benefits) who work on these programs.

The bill also requires the DEP to submit a budget to the Office of Policy and Management for the account each year. Agency expenditures and revenues, General Fund and non-appropriated special funds are currently reviewed by OPM each year.

**OLR BILL ANALYSIS**

HB 6685

**AN ACT CONCERNING THE EMERGENCY SPILL RESPONSE ACCOUNT.****SUMMARY:**

This bill transfers the emergency spill response account from the General Fund to the Environmental Quality Fund as of the bill's date of passage. (The account funds various activities in connection with petroleum and hazardous waste spills.) It bars any use of the transferred money until July 1, 2001. It repeals a provision under which up to \$1 million of the amount appropriated to the account does not lapse.

The bill requires the environmental protection commissioner to submit an annual operating budget for the account to the Office of Policy and Management secretary. The budget must cover the programs funded by the account and include an estimate of the revenue from all sources to pay its estimated expenditure for the fiscal year. The secretary must approve the budget, including any changes that he and the commissioner agree to, by June 1.

EFFECTIVE DATE: Upon passage

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Change of Reference

Yea 27 Nay 0

Appropriations Committee

Joint Favorable Report

Yea 47 Nay 0

