



General Assembly

February Session, 2002

Raised Bill No. 373

LCO No. 1466

Referred to Committee on Environment

Introduced by:
(ENV)

***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 Section 22a-152 of the general statutes is repealed and the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 (*Effective October 1, 2002*):

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. For purposes of this section, "agreement state" shall have
15 the same meaning as in 42 USC Section 2021b, as amended. The fees

16 collected pursuant to such regulations shall cover all costs to the state
17 associated with the administration of such radiation hazard control
18 program.

19 (c) There is established within the Environmental Quality Fund
20 established pursuant to section 22a-27g an account to be known as the
21 "ionizing radiation management account". Notwithstanding the
22 provisions of section 22a-27g, any moneys collected in accordance with
23 subsection (b) of this section and sections 22a-148 to 22a-154, inclusive,
24 shall be deposited in the Environmental Quality Fund and credited to
25 the ionizing radiation management account. Any balance remaining in
26 the account at the end of any fiscal year shall be carried forward in the
27 account for the fiscal year next succeeding. The account shall be used
28 by the Commissioner of Environmental Protection solely for the
29 purpose of covering direct and indirect costs of administering an
30 ionizing radiation program set forth in the Atomic Energy Act of 1954,
31 as amended, and sections 22a-148 to 22a-158, inclusive.

32 Sec. 2. Section 22a-157 of the general statutes is repealed and the
33 following is substituted in lieu thereof (*Effective October 1, 2002*):

34 (a) No person shall use, manufacture, produce, transport, transfer,
35 receive, acquire, own or possess any source of ionizing radiation,
36 unless exempt, licensed or registered in accordance with the provisions
37 of sections [22a-151] 22a-148 to 22a-158, inclusive.

38 (b) Any person who through negligent or reckless conduct causes
39 pollution or contamination or potential pollution or contamination of
40 any land, water or air resources of the state through a discharge,
41 spillage, uncontrolled loss, leakage or leaching of radioactive material
42 or radioactive waste without a license, shall be liable for all costs and
43 expenses incurred by the Commissioner of Environmental Protection
44 in containing, removing, cleaning, mitigating or preventing such
45 pollution or contamination or potential pollution or contamination.
46 Nothing in this subsection shall preclude the commissioner from
47 seeking additional compensation that a court may award, including

48 punitive damages. Upon the request of the commissioner, the Attorney
49 General shall bring a civil action to recover all such costs and expenses.

50 (c) Any person who contains or removes or otherwise cleans
51 radioactive material or radioactive waste pollution or contamination,
52 or mitigates the effects of radioactive material or radioactive wastes
53 resulting from a discharge, spillage, uncontrolled loss, leakage or
54 leaching of radioactive material or radioactive waste without a license
55 shall be entitled to reimbursement from any person responsible for
56 such pollution or contamination for the reasonable costs expended for
57 such containment, removal, cleaning or mitigation, if such pollution or
58 contamination resulted from the negligent or reckless conduct of such
59 responsible person. When such pollution or contamination results
60 from the negligence of more than one party or person, each shall be
61 held jointly and severally liable for such costs.

62 Sec. 3. Subsection (a) of section 22a-6 of the general statutes is
63 repealed and the following is substituted in lieu thereof (*Effective*
64 *October 1, 2002*):

65 (a) The commissioner may: (1) Adopt, amend or repeal, in
66 accordance with the provisions of chapter 54, such environmental
67 standards, criteria and regulations, and such procedural regulations as
68 are necessary and proper to carry out his functions, powers and duties;
69 (2) enter into contracts with any person, firm, corporation or
70 association to do all things necessary or convenient to carry out the
71 functions, powers and duties of the department; (3) initiate and receive
72 complaints as to any actual or suspected violation of any statute,
73 regulation, permit or order administered, adopted or issued by him.
74 The commissioner shall have the power to hold hearings, administer
75 oaths, take testimony and subpoena witnesses and evidence, enter
76 orders and institute legal proceedings including, but not limited to,
77 suits for injunctions, for the enforcement of any statute, regulation,
78 order or permit administered, adopted or issued by him; (4) in
79 accordance with regulations adopted by him, require, issue, renew,

80 revoke, modify or deny permits, under such conditions as he may
81 prescribe, governing all sources of pollution in Connecticut within his
82 jurisdiction; (5) in accordance with constitutional limitations, enter at
83 all reasonable times, without liability, upon any public or private
84 property, except a private residence, for the purpose of inspection and
85 investigation to ascertain possible violations of any statute, regulation,
86 order or permit administered, adopted or issued by him and the
87 owner, managing agent or occupant of any such property shall permit
88 such entry, and no action for trespass shall lie against the
89 commissioner for such entry, or he may apply to any court having
90 criminal jurisdiction for a warrant to inspect such premises to
91 determine compliance with any statute, regulation, order or permit
92 administered, adopted or enforced by him, provided any information
93 relating to secret processes or methods of manufacture or production
94 ascertained by the commissioner during, or as a result of, any
95 inspection, investigation, hearing or otherwise shall be kept
96 confidential and shall not be disclosed except that, notwithstanding the
97 provisions of subdivision (5) of subsection (b) of section 1-210, such
98 information may be disclosed by the commissioner to the United States
99 Environmental Protection Agency pursuant to the federal Freedom of
100 Information Act of 1976, (5 USC 552) and regulations adopted
101 thereunder or, if such information is submitted after June 4, 1986, to
102 any person pursuant to the federal Clean Water Act (33 USC 1251 et
103 seq.); (6) undertake any studies, inquiries, surveys or analyses he may
104 deem relevant, through the personnel of the department or in
105 cooperation with any public or private agency, to accomplish the
106 functions, powers and duties of the commissioner; (7) require the
107 posting of sufficient performance bond or other security to assure
108 compliance with any permit or order; (8) provide by notice printed on
109 any form that any false statement made thereon or pursuant thereto is
110 punishable as a criminal offense under section 53a-157b; (9) construct
111 or repair or contract for the construction or repair of any dam or flood
112 and erosion control system under his control and management, make
113 or contract for the making of any alteration, repair or addition to any

114 other real asset under his control and management, including rented
115 or leased premises, involving an expenditure of five hundred thousand
116 dollars or less, and, with prior approval of the Commissioner of Public
117 Works, make or contract for the making of any alteration, repair or
118 addition to such other real asset under his control and management
119 involving an expenditure of more than five hundred thousand dollars
120 but not more than one million dollars; (10) by regulations adopted in
121 accordance with the provisions of chapter 54 require the payment of a
122 fee sufficient to cover the reasonable cost of the search, duplication and
123 review of records requested under the Freedom of Information Act, as
124 defined in section 1-200, as amended, and the reasonable cost of
125 reviewing and acting upon an application for and monitoring
126 compliance with the terms and conditions of any state or federal
127 permit, license, registration, order, certificate or approval required
128 pursuant to subsection (i) of section 22a-39, subsections (c) and (d) of
129 section 22a-96, subsections (h), (i) and (k) of section 22a-424, and
130 sections 22a-6d, 22a-32, 22a-134a, as amended, 22a-134e, as amended,
131 22a-135, 22a-148, 22a-149, 22a-150, 22a-154, 22a-174, as amended, 22a-
132 174a, 22a-208, 22a-208a, 22a-209, 22a-342, 22a-345, 22a-361, 22a-363c,
133 22a-368, 22a-372, 22a-379, 22a-403, 22a-409, 22a-416, 22a-428 to 22a-432,
134 inclusive, 22a-449 and 22a-454 to 22a-454c, inclusive, and Section 401 of
135 the federal Clean Water Act, (33 USC 1341). Such costs may include,
136 but are not limited to the costs of (A) public notice, (B) reviews,
137 inspections and testing incidental to the issuance of and monitoring of
138 compliance with such permits, licenses, orders, certificates and
139 approvals, and (C) surveying and staking boundary lines. The
140 applicant shall pay the fee established in accordance with the
141 provisions of this section prior to the final decision of the
142 commissioner on the application. The commissioner may postpone
143 review of an application until receipt of the payment. Payment of a fee
144 for monitoring compliance with the terms or conditions of a permit
145 shall be at such time as the commissioner deems necessary and is
146 required for an approval to remain valid; and (11) by regulations
147 adopted in accordance with the provisions of chapter 54, require the

148 payment of a fee sufficient to cover the reasonable cost of responding
149 to requests for information concerning the status of real estate with
150 regard to compliance with environmental statutes, regulations, permits
151 or orders. Such fee shall be paid by the person requesting such
152 information at the time of the request. Funds not exceeding two
153 hundred thousand dollars received by the commissioner pursuant to
154 subsection (g) of section 22a-174, during the fiscal year ending June 30,
155 1985, shall be deposited in the General Fund and credited to the
156 appropriations of the Department of Environmental Protection in
157 accordance with the provisions of section 4-86, and such funds shall
158 not lapse until June 30, 1986. In any action brought against any
159 employee of the department acting within his scope of delegated
160 authority in performing any of the above-listed duties, the employee
161 shall be represented by the Attorney General.

162 Sec. 4. Subsection (a) of section 22a-6a of the general statutes is
163 repealed and the following is substituted in lieu thereof (*Effective*
164 *October 1, 2002*):

165 (a) Any person who knowingly or negligently violates any
166 provision of section 14-100b or 14-164c, as amended, subdivision (3) of
167 subsection (b) of section 15-121, section 15-171, 15-172, 15-175, 22a-5,
168 22a-6 or 22a-7, chapter 440, chapter 441, section 22a-69 or 22a-74,
169 subsection (b) of section 22a-134p, section 22a-148, 22a-149, 22a-150,
170 22a-154, 22a-162, 22a-171, 22a-174, as amended, 22a-175, 22a-177, 22a-
171 178, 22a-181, 22a-183, 22a-184, 22a-190, 22a-208, 22a-208a, 22a-209, 22a-
172 213, 22a-220, 22a-225, 22a-231, 22a-336, 22a-342, 22a-345, 22a-346, 22a-
173 347, 22a-349a, 22a-358, 22a-359, 22a-361, 22a-362, 22a-365 to 22a-379,
174 inclusive, 22a-401 to 22a-411, inclusive, 22a-416, 22a-417, 22a-424 to
175 22a-433, inclusive, 22a-447, 22a-449, 22a-450, 22a-451, as amended, 22a-
176 454, 22a-458, 22a-461, 22a-462 or 22a-471, or any regulation, order or
177 permit adopted or issued thereunder by the Commissioner of
178 Environmental Protection shall be liable to the state for the reasonable
179 costs and expenses of the state in detecting, investigating, controlling
180 and abating such violation. Such person shall also be liable to the state

181 for the reasonable costs and expenses of the state in restoring the air,
182 waters, lands and other natural resources of the state, including plant,
183 wild animal and aquatic life to their former condition insofar as
184 practicable and reasonable, or, if restoration is not practicable or
185 reasonable, for any damage, temporary or permanent, caused by such
186 violation to the air, waters, lands or other natural resources of the state,
187 including plant, wild animal and aquatic life and to the public trust
188 therein. Institution of a suit to recover for such damage, costs and
189 expenses shall not preclude the application of any other remedies.

190 Sec. 5. Subsection (a) of section 22a-6b of the general statutes is
191 repealed and the following is substituted in lieu thereof (*Effective*
192 *October 1, 2002*):

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

205 (1) For failure to file any registration, other than a registration for a
206 general permit, for failure to file any plan, report or record, or any
207 application for a permit, for failure to obtain any certification, for
208 failure to display any registration, permit or order, or file any other
209 information required pursuant to any provision of section 14-100b or
210 14-164c, as amended, subdivision (3) of subsection (b) of section 15-
211 121, section 15-171, 15-172, 15-175, 22a-5, 22a-6, 22a-7, 22a-32, 22a-39 or
212 22a-42a, 22a-45a, chapter 441, sections 22a-134 to 22a-134d, inclusive,

213 as amended, subsection (b) of section 22a-134p, section 22a-148, 22a-
214 149, 22a-150, 22a-154, 22a-157, 22a-158, 22a-171, 22a-174, as amended,
215 22a-175, 22a-177, 22a-178, 22a-181, 22a-183, 22a-184, 22a-208, 22a-208a,
216 22a-209, 22a-213, 22a-220, 22a-231, 22a-336, 22a-342, 22a-345, 22a-346,
217 22a-347, 22a-349a, 22a-354p, 22a-358, 22a-359, 22a-361, 22a-362, 22a-
218 368, 22a-401 to 22a-405, inclusive, 22a-411, 22a-416, 22a-417, 22a-424 to
219 22a-433, inclusive, 22a-447, 22a-449, 22a-450, 22a-451, 22a-454, 22a-458,
220 22a-461, 22a-462 or 22a-471, or any regulation, order, registration,
221 license or permit adopted or issued thereunder by the commissioner,
222 and for other violations of similar character as set forth in such
223 schedule or schedules, no more than one thousand dollars for said
224 violation and in addition no more than one hundred dollars for each
225 day during which such violation continues;

226 (2) For deposit, placement, removal, disposal, discharge or emission
227 of any material or substance or electromagnetic radiation or the
228 causing of, engaging in or maintaining of any condition or activity in
229 violation of any provision of section 14-100b or 14-164c, as amended,
230 subdivision (3) of subsection (b) of section 15-121, section 15-171, 15-
231 172, 15-175, 22a-5, 22a-6, 22a-7, 22a-32, 22a-39 or 22a-42a, 22a-45a,
232 chapter 441, sections 22a-134 to 22a-134d, inclusive, as amended,
233 section 22a-69 or 22a-74, subsection (b) of section 22a-134p, section 22a-
234 148, 22a-149, 22a-150, 22a-154, 22a-157, 22a-158, 22a-162, 22a-171, 22a-
235 174, as amended, 22a-175, 22a-177, 22a-178, 22a-181, 22a-183, 22a-184,
236 22a-190, 22a-208, 22a-208a, 22a-209, 22a-213, 22a-220, 22a-336, 22a-342,
237 22a-345, 22a-346, 22a-347, 22a-349a, 22a-354p, 22a-358, 22a-359, 22a-
238 361, 22a-362, 22a-368, 22a-401 to 22a-405, inclusive, 22a-411, 22a-416,
239 22a-417, 22a-424 to 22a-433, inclusive, 22a-447, 22a-449, 22a-450, 22a-
240 451, as amended, 22a-454, 22a-458, 22a-461, 22a-462 or 22a-471, or any
241 regulation, order, registration, license or permit adopted thereunder by
242 the commissioner, and for other violations of similar character as set
243 forth in such schedule or schedules, no more than twenty-five
244 thousand dollars for said violation for each day during which such
245 violation continues;

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

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

259 (5) For failure to make an immediate report required pursuant to
260 subdivision (3) of subsection (a) of section 22a-135, or a report required
261 by the department pursuant to subsection (b) of section 22a-135, no
262 more than twenty-five thousand dollars per violation per day;

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

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

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

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>October 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>

Statement of Purpose:

To provide authority for the Governor to enter into an agreement with the United States Nuclear Regulatory Commission (NRC) for the discontinuance of, or delegation to, the state of certain NRC programs, and to establish a fee structure to ensure the self-sufficiency of the state program.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]