



General Assembly

Substitute Bill No. 373

February Session, 2002

**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 Section 22a-152 of the general statutes is repealed and the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 paying the 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 Section 22a-157 of the general statutes is repealed and the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
56 pursuant to state or federal law for such pollution or contamination for
57 the reasonable costs expended for such containment, removal, cleaning
58 or mitigation, if such pollution or contamination resulted from the
59 negligent or reckless conduct of such responsible person. When such
60 pollution or contamination results from the negligence of more than
61 one party or person, each shall be held jointly and severally liable for
62 such costs.

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64 repealed and the following is substituted in lieu thereof (*Effective*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

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

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

121 but not more than one million dollars; (10) by regulations adopted in
122 accordance with the provisions of chapter 54 require the payment of a
123 fee sufficient to cover the reasonable cost of the search, duplication and
124 review of records requested under the Freedom of Information Act, as
125 defined in section 1-200, as amended, and the reasonable cost of
126 reviewing and acting upon an application for and monitoring
127 compliance with the terms and conditions of any state or federal
128 permit, license, registration, order, certificate or approval required
129 pursuant to subsection (i) of section 22a-39, subsections (c) and (d) of
130 section 22a-96, subsections (h), (i) and (k) of section 22a-424, and
131 sections 22a-6d, 22a-32, 22a-134a, as amended, 22a-134e, as amended,
132 22a-135, 22a-148, 22a-149, 22a-150, 22a-154, 22a-174, as amended, 22a-
133 174a, 22a-208, 22a-208a, 22a-209, 22a-342, 22a-345, 22a-361, 22a-363c,
134 22a-368, 22a-372, 22a-379, 22a-403, 22a-409, 22a-416, 22a-428 to 22a-432,
135 inclusive, 22a-449 and 22a-454 to 22a-454c, inclusive, and Section 401 of
136 the federal Clean Water Act, (33 USC 1341). Such costs may include,
137 but are not limited to the costs of (A) public notice, (B) reviews,
138 inspections and testing incidental to the issuance of and monitoring of
139 compliance with such permits, licenses, orders, certificates and
140 approvals, and (C) surveying and staking boundary lines. The
141 applicant shall pay the fee established in accordance with the
142 provisions of this section prior to the final decision of the
143 commissioner on the application. The commissioner may postpone
144 review of an application until receipt of the payment. Payment of a fee
145 for monitoring compliance with the terms or conditions of a permit
146 shall be at such time as the commissioner deems necessary and is
147 required for an approval to remain valid; and (11) by regulations
148 adopted in accordance with the provisions of chapter 54, require the
149 payment of a fee sufficient to cover the reasonable cost of responding
150 to requests for information concerning the status of real estate with
151 regard to compliance with environmental statutes, regulations, permits
152 or orders. Such fee shall be paid by the person requesting such
153 information at the time of the request. Funds not exceeding two
154 hundred thousand dollars received by the commissioner pursuant to
155 subsection (g) of section 22a-174, during the fiscal year ending June 30,

156 1985, shall be deposited in the General Fund and credited to the
157 appropriations of the Department of Environmental Protection in
158 accordance with the provisions of section 4-86, and such funds shall
159 not lapse until June 30, 1986. In any action brought against any
160 employee of the department acting within his scope of delegated
161 authority in performing any of the above-listed duties, the employee
162 shall be represented by the Attorney General.

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

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

190 expenses shall not preclude the application of any other remedies.

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

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

206 (1) For failure to file any registration, other than a registration for a
207 general permit, for failure to file any plan, report or record, or any
208 application for a permit, for failure to obtain any certification, for
209 failure to display any registration, permit or order, or file any other
210 information required pursuant to any provision of section 14-100b or
211 14-164c, as amended, subdivision (3) of subsection (b) of section 15-
212 121, section 15-171, 15-172, 15-175, 22a-5, 22a-6, 22a-7, 22a-32, 22a-39 or
213 22a-42a, 22a-45a, chapter 441, sections 22a-134 to 22a-134d, inclusive,
214 as amended, subsection (b) of section 22a-134p, section 22a-148, 22a-
215 149, 22a-150, 22a-154, 22a-157, 22a-158, 22a-171, 22a-174, as amended,
216 22a-175, 22a-177, 22a-178, 22a-181, 22a-183, 22a-184, 22a-208, 22a-208a,
217 22a-209, 22a-213, 22a-220, 22a-231, 22a-336, 22a-342, 22a-345, 22a-346,
218 22a-347, 22a-349a, 22a-354p, 22a-358, 22a-359, 22a-361, 22a-362, 22a-
219 368, 22a-401 to 22a-405, inclusive, 22a-411, 22a-416, 22a-417, 22a-424 to
220 22a-433, inclusive, 22a-447, 22a-449, 22a-450, 22a-451, 22a-454, 22a-458,
221 22a-461, 22a-462 or 22a-471, or any regulation, order, registration,
222 license or permit adopted or issued thereunder by the commissioner,

223 and for other violations of similar character as set forth in such
224 schedule or schedules, no more than one thousand dollars for said
225 violation and in addition no more than one hundred dollars for each
226 day during which such violation continues;

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

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

255 (4) For violation of any emergency order or cease and desist order of

256 the commissioner, and for other violations of similar character as set
257 forth in such schedule or schedules, no more than twenty-five
258 thousand dollars for said violation for each day during which such
259 violation continues;

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

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

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

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

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

Statement of Legislative Commissioners:

In section 1, "covering" was changed to "paying the" and in section 2(c), the reference to state or federal law was added for clarity.

ENV Joint Favorable Subst.-LCO