



General Assembly

Amendment

February Session, 2002

LCO No. 5119

HB0571805119HD0

Offered by:

REP. STRATTON, 17th Dist.

To: Subst. House Bill No. 5718

File No. 267

Cal. No. 166

**"AN ACT CONCERNING THIRD-PARTY LIABILITY FOR
CONTAMINATED PROPERTY AND MINOR REVISIONS TO
ENVIRONMENTAL STATUTES."**

1 Strike section 1 in its entirety and renumber the remaining sections
2 accordingly

3 After line 49, insert the following and renumber the remaining
4 sections accordingly:

5 "Sec. 3. Subdivision (1) of section 22a-134 of the general statutes, as
6 amended by section 15 of public act 01-204 and section 73 of public act
7 01-9 of the June special session, is repealed and the following is
8 substituted in lieu thereof (*Effective October 1, 2002*):

9 (1) "Transfer of establishment" means any transaction or proceeding
10 through which an establishment undergoes a change in ownership, but
11 does not mean (A) conveyance or extinguishment of an easement, (B)
12 conveyance of an establishment through a foreclosure, as defined in
13 subsection (b) of section 22a-452f, or any other conveyance of an

14 establishment by a committee appointed by a court for the purpose of
15 selling the establishment pursuant to an order of the court, (C)
16 conveyance of a deed in lieu of foreclosure to a lender, as defined in
17 and that qualifies for the secured lender exemption pursuant to
18 subsection (b) of section 22a-452f, (D) conveyance of a security interest,
19 as defined in subdivision (7) of subsection (b) of section 22a-452f, (E)
20 termination of a lease and conveyance, assignment or execution of a
21 lease for a period less than ninety-nine years including conveyance,
22 assignment or execution of a lease with options or similar terms that
23 will extend the period of the leasehold to ninety-nine years, or from
24 the commencement of the leasehold, ninety-nine years, including
25 conveyance, assignment or execution of a lease with options or similar
26 terms that will extend the period of the leasehold to ninety-nine years,
27 or from the commence of the leasehold (F) any change in ownership
28 approved by the Probate Court, (G) devolution of title to a surviving
29 joint tenant, or to a trustee, executor, or administrator under the terms
30 of a testamentary trust or will, or by intestate succession, (H) corporate
31 reorganization not substantially affecting the ownership of the
32 establishment, (I) the issuance of stock or other securities of an entity
33 which owns or operates an establishment, (J) the transfer of stock,
34 securities or other ownership interests representing less than forty per
35 cent of the ownership of the entity that owns or operates the
36 establishment, (K) any conveyance of an interest in an establishment
37 where the transferor is the sibling, spouse, child, parent, grandparent,
38 child of a sibling or sibling of a parent of the transferee, or an attorney
39 appointed as a committee of a sale by a court to effect an order of a
40 court including, but not limited to, a sale of property in a foreclosure
41 or a partition auction, (L) conveyance of an interest in an establishment
42 to a trustee of an inter vivos trust created by the transferor solely for
43 the benefit of one or more of the sibling, spouse, child, parent,
44 grandchild, child of a sibling or sibling of a parent of the transferor,
45 (M) any conveyance of a portion of a parcel upon which portion no
46 establishment is or has been located and upon which there has not
47 occurred a discharge, spillage, uncontrolled loss, seepage or filtration
48 of hazardous waste, provided either the area of such portion is not

49 greater than fifty per cent of the area of such parcel or written notice of
50 such proposed conveyance and an environmental condition
51 assessment form for such parcel is provided to the commissioner sixty
52 days prior to such conveyance, (N) conveyance of a service station, as
53 defined in subdivision (5) of this section, (O) any conveyance of an
54 establishment which, prior to July 1, 1997, had been developed solely
55 for residential use and such use has not changed, (P) any conveyance
56 of an establishment to any entity created or operating under chapter
57 130 or 132, or to an urban rehabilitation agency, as defined in section
58 8-292, or to a municipality under section 32-224, or to the Connecticut
59 Development Authority or any subsidiary of the authority, (Q) any
60 conveyance of a parcel in connection with the acquisition of properties
61 to effectuate the development of the overall project, as defined in
62 section 32-651, (R) the conversion of a general or limited partnership to
63 a limited liability company under section 34-199, (S) the transfer of
64 general partnership property held in the names of all of its general
65 partners to a general partnership which includes as general partners
66 immediately after the transfer all of the same persons as were general
67 partners immediately prior to the transfer, (T) the transfer of general
68 partnership property held in the names of all of its general partners to
69 a limited liability company which includes as members immediately
70 after the transfer all of the same persons as were general partners
71 immediately prior to the transfer, or (U) acquisition of an
72 establishment by any governmental or quasi-governmental
73 condemning authority."

74 In line 63, strike "a small or large" and insert in lieu thereof "any real
75 property or business operation that would qualify as an establishment
76 solely as a result of the activities of a universal waste handler or a
77 universal waste transfer facility, provided such activities are in
78 compliance with by regulations adopted by the commissioner under
79 subsection (c) of section 22a-449. For purposes of this subdivision,
80 "universal waste handler" and "universal waste transfer facility" shall
81 have the same meaning as in the regulations adopted by the
82 commissioner under subsection (c) of section 22a-449 as of the effective

83 date of this section."

84 Strike lines 64 to 67, inclusive, in their entirety

85 In line 68, strike "month."

86 Change the effective date of section 4 to "Effective from passage"

87 Strike lines 118 to 124, inclusive, and insert the following in lieu
88 thereof:

89 "(e) No water company acting in compliance with the provisions of
90 this section shall be liable in damages except with respect to wilful or
91 wanton conduct for injury or property damage to any person who
92 enters upon its lands or waters under the provisions of this section.
93 The provisions of this subsection shall apply to any water company
94 that sold land to this state pursuant to section 27 of public act 01-7 of
95 the June special session, as amended by section 15 of public act 01-9 of
96 the June special session."

97 In line 143, after "Protection", insert "after providing an opportunity
98 for public notice and comment in the manner provided in subsection
99 (j) of section 22a-134a of the general statutes and the regulations
100 adopted pursuant to section 22a-133k of the general statutes,"

101 After line 167, insert the following:

102 "Sec. 8. Section 27 of public act 01-7 of the June special session, as
103 amended by section 15 of public act 01-9 of the June special session is
104 amended by adding subsections (f) and (g) as follows (*Effective July 1,*
105 *2002*):

106 (NEW) (f) Notwithstanding any provision of the general statutes,
107 special police officers for utility companies, appointed by the
108 Commissioner of Public Safety pursuant to section 29-19, and
109 conservation officers, special conservation officers and patrolmen,
110 appointed by the Commissioner of Environmental Protection pursuant
111 to section 26-5, shall have jurisdiction over any land subject to the

112 terms of any such contract and all such conservation officers shall have
113 the same authority to make arrests on such lands as they have under
114 section 29-18 for lands owned by the Department of Environmental
115 Protection.

116 (NEW) (g) Notwithstanding any provision of the general statutes,
117 the Department of Environmental Protection shall deposit the revenue
118 derived from the management of such land subject to the terms of any
119 such contract, including silviculture operations, in a separate,
120 nonlapsing account. Any balance remaining in the account at the end
121 of any fiscal year shall be carried forward in the account for the fiscal
122 year next succeeding. The Department of Environmental Protection
123 shall authorize the utilization of funds from such account for
124 maintenance and improvement projects on such lands. Funding
125 priorities shall be established jointly with the Commissioner of
126 Environmental Protection, the BHC Company and the Nature
127 Conservancy, which priorities shall be consistent with the Natural
128 Resources Management Agreement for such lands.

129 Sec. 9. Subsection (h) of section 22a-6 of the general statutes is
130 repealed and the following is substituted in lieu thereof (*Effective*
131 *October 1, 2002*):

132 (h) The commissioner may propose to adopt regulations pertaining
133 to activities for which the federal government has adopted standards
134 or procedures. All provisions of such proposed regulations which
135 differ from [the applicable] federal standards or procedures shall be
136 clearly distinguishable from such standards or procedures either on
137 the face of the proposed regulation or through supplemental
138 documentation accompanying the proposed regulation at the time of
139 the [public hearing on] notice concerning such proposed regulation
140 required under chapter 54 and shall be publicly available at the time of
141 the notice concerning the proposed regulation required under chapter
142 54. An explanation for all such provisions shall be included in the
143 regulation-making record required under chapter 54. This subsection
144 shall apply to any regulation for which a notice of intent to adopt is

145 published on and after July 1, 1999.

146 Sec. 10. Subsection (a) of section 4 of substitute house bill 5539 of the
147 current session, as amended, is repealed and the following is
148 substituted in lieu thereof (*Effective from passage*):

149 (a) On and after January 1, 2003, no person shall offer any mercury-
150 added product for sale or distribute for promotional purposes in this
151 state unless the manufacturer or its designated industrial trade group
152 gives prior notification in writing to the commissioner or the regional,
153 multi-state clearinghouse described in section 3 of this act as provided
154 in this section. Such notification, in a form prescribed by the
155 commissioner, shall at a minimum include (1) a brief description of the
156 product or category of products to be offered for sale or distributed; (2)
157 an identification of each product by its mercury content in one of the
158 following ranges: Less than zero to five milligrams, greater than five
159 milligrams to ten milligrams, greater than ten milligrams to fifty
160 milligrams, greater than fifty milligrams to one hundred milligrams,
161 greater than one hundred milligrams to one thousand milligrams and
162 greater than one thousand milligrams; (3) [the actual total amount of
163 mercury in each product] the total amount of mercury sold in the
164 previous year for each product or product category; and (4) the name
165 and address of the manufacturer and the position, address and phone
166 number of a contact person at the manufacturer. The manufacturer or
167 its designated industrial trade group shall revise the information in the
168 notification whenever there is significant change in the information or
169 when requested by the commissioner or the regional, multi-state
170 clearinghouse.

171 Sec. 11. Subdivision (6) of section 2 of substitute house bill 5539 of
172 the current session, as amended, is repealed and the following is
173 substituted in lieu thereof (*Effective from passage*):

174 (6) "Mercury-added novelty" means a mercury-added product
175 intended mainly for personal or household enjoyment or adornment,
176 including, but not limited to, products intended for use as practical

177 jokes, figurines, adornments, toys, games, cards, ornaments, yard
178 statuettes and figures, candles, jewelry, holiday decorations, footwear,
179 other items of apparel or similar products. A product is not a
180 "mercury-added novelty" solely on the basis that it includes a
181 removable button cell battery containing mercury. "Mercury-added
182 novelty" does not mean an electronic product used for entertainment
183 or other purposes that may use a mercury-containing lamp or
184 mercury-containing battery."