



# House of Representatives

General Assembly

**File No. 435**

January Session, 2003

House Bill No. 6393

*House of Representatives, April 17, 2003*

The Committee on Environment reported through REP. WIDLITZ of the 98th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **AN ACT CONCERNING THE CONTROL AND SECURITY OF RADIOACTIVE MATERIAL IN CONNECTICUT.**

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

1 Section 1. Section 22a-151 of the general statutes is amended by  
2 adding subdivision (9) as follows (*Effective October 1, 2003*):

3 (NEW) (9) "Commissioner" means the Commissioner of  
4 Environmental Protection or a designee or agent of the Commissioner  
5 of Environmental Protection.

6 Sec. 2. Section 22a-153 of the general statutes is repealed and the  
7 following is substituted in lieu thereof (*Effective October 1, 2003*):

8 (a) The [Commissioner of Environmental Protection] commissioner  
9 shall supervise and regulate in the interest of the public health and  
10 safety the use of ionizing radiation within the state.

11 (b) [Said] The commissioner may employ, subject to the provisions

12 of chapter 67, and prescribe the powers and duties of such persons as  
13 may be necessary to carry out the provisions of sections 22a-151 to 22a-  
14 158, inclusive, as amended by this act.

15 (c) [Said] The commissioner shall [make such regulations] adopt  
16 regulations in accordance with the provisions of chapter 54 as may be  
17 necessary to carry out the provisions of [said] sections 22a-151 to 22a-  
18 158, inclusive, as amended by this act, for the control and security of  
19 radiation hazards. Such regulations may include, but are not limited  
20 to:

21 (1) Regulations necessary to secure agreement state status from the  
22 Nuclear Regulatory Commission pursuant to Section 274 of the Atomic  
23 Energy Act of 1954, 42 USC 2021, as amended;

24 (2) Regulations relating to the operation of sources of ionizing  
25 radiation;

26 (3) Regulations relating to the production, transportation, storage,  
27 possession, management, treatment or disposal of radioactive  
28 materials from sources of ionizing radiation;

29 (4) The establishment of fees for the licensure of sources of ionizing  
30 radiation pursuant to section 22a-154, as amended by this act, which  
31 fees, in conjunction with the fees collected pursuant to section 22a-148,  
32 shall be sufficient for the administration of an ionizing radiation  
33 program, as set forth in the federal Atomic Energy Act of 1954, as  
34 amended, and for the implementation and enforcement of regulations  
35 adopted pursuant to this subsection.

36 (d) The Governor or the commissioner is authorized to employ such  
37 consultants, experts and technicians as [he shall deem] necessary for  
38 the purpose of conducting investigations and reporting [to him] on  
39 matters connected with the implementation of the provisions of said  
40 sections.

41 (e) There is established within the Environmental Quality Fund  
42 established under section 22a-27g an account to be known as the

43 "ionizing radiation management account". Notwithstanding the  
44 provisions of section 22a-27g, any moneys collected in accordance with  
45 section 22a-148 or 22a-150, or any regulations adopted in accordance  
46 with subsection (c) of this section, shall be deposited in the  
47 Environmental Quality Fund and credited to the ionizing radiation  
48 management account. Any balance remaining in the account at the end  
49 of any fiscal year shall be carried forward in the account for the fiscal  
50 year next succeeding. Said account may also receive moneys from  
51 other sources. The account shall be available to the commissioner to  
52 implement, administer and enforce (1) the ionizing radiation program  
53 set forth in the federal Atomic Energy Act of 1954, as amended, or (2)  
54 the provisions of sections 22a-148 to 22a-158, inclusive, as amended by  
55 this act or any regulations or guidelines adopted pursuant to said  
56 sections. Nothing in this subsection shall prevent the commissioner  
57 from obtaining or using funds from sources other than the ionizing  
58 radiation management account for the purposes of implanting an  
59 ionization radiation program.

60 (f) The commissioner may establish radiation exposure guidelines  
61 for emergency responders and the public for the management of  
62 terrorist events involving radioactive materials. Any such guidelines  
63 may be based upon the recommendations of the federal government  
64 and the National Council on Radiation Protection and Measurements.

65 Sec. 3. Subsection (a) of section 22a-154 of the general statutes is  
66 repealed and the following is substituted in lieu thereof (*Effective*  
67 *October 1, 2003*):

68 (a) The Commissioner of Environmental Protection may [provide by  
69 regulation for] adopt regulations, in accordance with the provisions of  
70 chapter 54, for the general or specific licensing of by-product, source,  
71 special nuclear materials and other sources of ionizing radiation, or  
72 devices or equipment utilizing such materials. [and for amendment,  
73 suspension, or revocation of licenses issued pursuant thereto.] The  
74 commissioner may issue, deny, renew, modify, suspend or revoke  
75 such licenses and may include such terms and conditions in such

76 licenses that the commissioner deems necessary.

77 Sec. 4. Section 22a-155 of the general statutes is repealed and the  
78 following is substituted in lieu thereof (*Effective October 1, 2003*):

79 [(a) In any proceeding under sections 22a-151 to 22a-158, inclusive,  
80 or any other applicable statute (1) for the issuance or modification of  
81 rules and regulations relating to control of sources of ionizing  
82 radiation; or (2) for granting, suspending, revoking or amending any  
83 license; or (3) for determining compliance with or granting exceptions  
84 from rules and regulations of the Commissioner of Environmental  
85 Protection, the commissioner or his representative designated in  
86 writing shall hold a hearing upon the request of any person whose  
87 interest may be affected by the proceeding, and shall admit any such  
88 person as a party to such proceeding. Thirty days published notice  
89 shall be given of any such hearing.

90 (b) Any final order entered in any proceeding under subsection (a)  
91 above shall be subject to judicial review by the Superior Court in the  
92 manner prescribed in section 25-36.]

93 (a) The commissioner may issue, modify or revoke orders to correct  
94 or abate violations of sections 22a-148 to 22a-150, inclusive, section 22a-  
95 153, as amended by this act, 22a-154, as amended by this act, 22a-157,  
96 as amended by this act, or 22a-158, or any regulation adopted or  
97 license issued pursuant to said sections, and may include other  
98 remedial measures as necessary to correct or abate such violations.  
99 Such orders may be issued to any person who violates any provision of  
100 said sections, or any regulation adopted or permit issued pursuant to  
101 said sections or to the owner of any land on which the violation occurs,  
102 regardless of whether the owner of the land participated in the  
103 violation. If two or more persons are issued an order pursuant to this  
104 section for the same violation, such persons shall be jointly and  
105 severally liable for complying with such order.

106 (b) Each order issued under this section shall be served by certified  
107 mail, return receipt requested, or by service by a state marshal or

108 indifferent person. If a state marshal or indifferent person serves the  
109 order, a true copy of the order shall be served, and the original, with a  
110 return of such service endorsed thereon, shall be filed with the  
111 commissioner. The order shall be deemed to be issued upon service or  
112 upon deposit in the mail. Any order issued pursuant to this section  
113 shall state the basis on which it is issued and shall specify a reasonable  
114 time for compliance.

115 (c) Unless a person aggrieved by an order files a written request for  
116 a hearing before the commissioner not later than thirty days after the  
117 date of issuance, such order shall become final. If requested, the  
118 commissioner shall hold a hearing as soon thereafter as practicable. A  
119 request for a hearing shall be a condition precedent to any appeal. The  
120 commissioner may, after the hearing or at any time after the issuance  
121 of the order, modify such order by agreement or extend the time  
122 schedule contained in the order if the commissioner deems such  
123 modification or extension advisable or necessary and any such  
124 modification or extension shall be deemed to be a revision of an  
125 existing order and shall not constitute a new order. There shall be no  
126 hearing subsequent to or any appeal from any such modification or  
127 extension.

128 (d) After the hearing, the commissioner shall consider all  
129 supporting and rebutting evidence and may affirm, modify or revoke  
130 such order and shall notify the recipient of the order of such action by  
131 certified mail, return receipt requested.

132 (e) When the commissioner issues a final order pursuant to this  
133 section, the commissioner shall cause a certified copy or notice thereof  
134 to be filed on the land records in the municipality in which the land is  
135 located, and such certified copy or notice shall constitute a notice to the  
136 owner's heirs, successors and assigns. When the order has been fully  
137 complied with or revoked, the commissioner shall issue a certificate  
138 acknowledging such compliance or revocation, which certificate the  
139 commissioner shall cause to be recorded on the land records in the  
140 municipality in which the order was previously recorded.

141 (f) A final order of the commissioner shall be subject to appeal as set  
142 forth in sections 4-183 and 4-184, except that any such appeal shall be  
143 taken to the superior court for the judicial district of New Britain.

144 Sec. 5. Section 22a-156 of the general statutes is repealed and the  
145 following is substituted in lieu thereof (*Effective October 1, 2003*):

146 Whenever, in the judgment of the [Commissioner of Environmental  
147 Protection] commissioner, any person has engaged in or is about to  
148 engage in any acts or practices which constitute, or will constitute, a  
149 violation of any provision of sections [22a-151 to 22a-158, inclusive, or  
150 any other applicable statute] 22a-148 to 22a-150, inclusive, sections 22a-  
151 153 to 22a-155, inclusive, as amended by this act, section 22a-157, as  
152 amended by this act, or 22a-158, as amended by this act, or any rule,  
153 regulation, license or order issued [thereunder] pursuant to said  
154 sections, at the request of the Commissioner of Environmental  
155 Protection, the Attorney General may [make application to the  
156 appropriate court] bring an action in the superior court for the judicial  
157 district of Hartford for an order enjoining such acts or practices, to  
158 order remedial measures to control or abate pollution, or for an order  
159 directing compliance and, upon a showing by the commissioner that  
160 such person has engaged or is about to engage in any such acts or  
161 practices, a permanent or temporary injunction, restraining order or  
162 other order may be granted.

163 Sec. 6. (NEW) (*Effective October 1, 2003*) (a) Any person who violates  
164 any provision of sections 22a-148 to 22a-150, inclusive, sections 22a-153  
165 to 22a-155, inclusive, section 22a-157 or 22a-158 of the general statutes,  
166 as amended by this act, or any regulation adopted or license or order  
167 issued pursuant to said sections, or any owner of land who permits  
168 such violations to occur on such owner's land, shall be assessed a civil  
169 penalty of not more than ten thousand dollars per day for each offense.  
170 Each violation shall be a separate and distinct offense and, in the case  
171 of a continuing violation, each day's continuance thereof shall be  
172 deemed a separate and distinct offense. If two or more persons are  
173 responsible for such violation, such persons shall be jointly and

174 severally liable under this section. The Attorney General, upon request  
175 of the Commissioner of Environmental Protection, shall institute a civil  
176 action in the superior court for the judicial district of Hartford to  
177 recover such penalty.

178 (b) Any person who, with criminal negligence, violates any  
179 provision of sections 22a-148 to 22a-150, inclusive, sections 22a-153 to  
180 22a-155, inclusive, section 22a-157 or 22a-158 of the general statutes, as  
181 amended by this act, or any regulation adopted or license or order  
182 issued pursuant to said sections shall be fined not more than twenty-  
183 five thousand dollars per day of violation or be imprisoned not more  
184 than one year, or both. A subsequent conviction for any such violation  
185 shall carry a fine of not more than fifty thousand dollars per day for  
186 each day of violation or imprisonment for not more than two years, or  
187 both. For the purposes of this subsection, "person" includes, but is not  
188 limited to, any responsible corporate officer or municipal official.

189 (c) Any person who knowingly violates any provision of sections  
190 22a-148 to 22a-150, inclusive, sections 22a-153 to 22a-155, inclusive,  
191 section 22a-157 or 22a-158 of the general statutes, as amended by this  
192 act, or any regulation adopted or license or order issued pursuant to  
193 said sections shall be fined not more than fifty thousand dollars per  
194 day for each day of violation or be imprisoned not more than three  
195 years, or both. A subsequent conviction for any such violations shall  
196 carry a fine of not more than one hundred thousand dollars per day for  
197 each day of violation or imprisonment for not more than ten years, or  
198 both. For the purposes of this subsection, "person" includes, but is not  
199 limited to, any responsible corporate officer or municipal official.

200 (d) Any person who knowingly makes a false statement,  
201 representation or certification in an application, record, report, plan or  
202 other document filed or required to be maintained under sections 22a-  
203 148 to 22a-150, inclusive, sections 22a-153 to 22a-155, inclusive, section  
204 22a-157 or 22a-158 of the general statutes, as amended by this act, or  
205 any regulation adopted or license or order issued pursuant to said  
206 sections, or who falsifies, tampers with, or knowingly renders

207 inaccurate any monitoring device or method required to be maintained  
208 under said sections, or any regulation adopted or permit or license  
209 issued pursuant to said sections, shall, upon conviction, be fined not  
210 more than twenty-five thousand dollars for each violation or  
211 imprisoned not more than two years for each violation, or both. For the  
212 purposes of this subsection, "person" includes, but is not limited to,  
213 any responsible corporate officer or municipal official.

214 Sec. 7. Section 22a-157 of the general statutes is repealed and the  
215 following is substituted in lieu thereof (*Effective October 1, 2003*):

216 No person shall use, manufacture, produce, transport, transfer,  
217 receive, acquire, own or possess any source of ionizing radiation,  
218 unless exempt, licensed or registered in accordance with the provisions  
219 of sections [22a-151] 22a-148 to 22a-158, inclusive, as amended by this  
220 act.

221 Sec. 8. (NEW) (*Effective October 1, 2003*) (a) If a person who causes or  
222 is responsible for any discharge, spillage, uncontrolled loss, leakage,  
223 seepage or filtration of radioactive material or radioactive waste does  
224 not act immediately to contain and remove or mitigate the effects of  
225 such discharge, spillage, loss, leakage, seepage or filtration to the  
226 satisfaction of the Commissioner of Environmental Protection, or if  
227 such person is unknown, and such discharge, spillage, loss, leakage,  
228 seepage or filtration is not being contained, removed or mitigated by  
229 the federal government, a state agency, a municipality or a regional or  
230 interstate authority, the commissioner may investigate, contain and  
231 remove, mitigate, monitor or prevent the effects of such discharge,  
232 spillage, loss, leakage, seepage or filtration. The commissioner may  
233 enter into a contract with any person for the purpose of carrying out  
234 the provisions of this subsection.

235 (b) Any person who causes or is responsible for pollution or  
236 contamination or potential pollution or contamination of any land,  
237 water or air resources of the state through a discharge, spillage,  
238 uncontrolled loss, leakage or leaching of radioactive material or  
239 radioactive waste, shall be liable for all costs and expenses incurred by

240 the commissioner in investigating, containing, removing, cleaning,  
241 monitoring, mitigating or preventing such pollution or contamination  
242 or potential pollution or contamination and legal expenses and court  
243 costs incurred in such recovery. Nothing in this subsection shall  
244 preclude the commissioner from seeking additional compensation or  
245 such other relief that a court may award, including punitive damages.  
246 When such pollution or contamination results from the actions or  
247 inaction of more than one person, each person shall be held jointly and  
248 severally liable for such costs. Upon request of the commissioner, the  
249 Attorney General shall bring a civil action to recover all such costs and  
250 expenses from the person who causes or is responsible for such  
251 pollution or contamination.

252 (c) Any person who contains or removes or otherwise cleans  
253 radioactive material or radioactive waste pollution or contamination,  
254 or mitigates the effects of radioactive material or radioactive wastes  
255 resulting from a discharge, spillage, uncontrolled loss, leakage or  
256 leaching of radioactive material or radioactive waste not authorized by  
257 regulation, permit or license shall be entitled to reimbursement from  
258 any person responsible for such pollution or contamination for the  
259 reasonable costs expended for such containment, removal, cleaning or  
260 mitigation, if such pollution or contamination resulted from the  
261 negligent or reckless conduct, or intentional act of such responsible  
262 person. When such pollution or contamination results from the  
263 negligence of more than one person, each person shall be held jointly  
264 and severally liable for such costs.

265 (d) Whenever the commissioner incurs contractual obligations in  
266 carrying out the duties of subsection (a) of this section and the  
267 responsible person does not assume such contractual obligations, the  
268 commissioner shall request the Attorney General to bring a civil action  
269 pursuant to subsection (a) of this section to recover the costs and  
270 expenses of such contractual obligations. If the responsible person,  
271 firm or corporation is unknown, the commissioner shall request the  
272 federal government to assume such contractual obligations to the  
273 extent provided for by federal law.

274 Sec. 9. Subsection (a) of section 22a-6a of the general statutes is  
 275 repealed and the following is substituted in lieu thereof (*Effective*  
 276 *October 1, 2003*):

277 (a) Any person who knowingly or negligently violates any  
 278 provision of section 14-100b or 14-164c, subdivision (3) of subsection  
 279 (b) of section 15-121, section 15-171, 15-172, 15-175, 22a-5, 22a-6 or 22a-  
 280 7, chapter 440, chapter 441, section 22a-69 or 22a-74, subsection (b) of  
 281 section 22a-134p, section 22a-148 to 22a-150, inclusive, 22a-153, 22a-  
 282 154, as amended by this act, 22a-157, 22a-158, as amended by this act,  
 283 22a-162, 22a-171, 22a-174, 22a-175, 22a-177, 22a-178, 22a-181, 22a-183,  
 284 22a-184, 22a-190, 22a-208, 22a-208a, 22a-209, 22a-213, 22a-220, 22a-225,  
 285 22a-231, 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a, 22a-358,  
 286 22a-359, 22a-361, 22a-362, 22a-365 to 22a-379, inclusive, 22a-401 to 22a-  
 287 411, inclusive, 22a-416, 22a-417, 22a-424 to 22a-433, inclusive, 22a-447,  
 288 22a-449, 22a-450, 22a-451, 22a-454, 22a-458, 22a-461, 22a-462 or 22a-471,  
 289 or any regulation, order or permit adopted or issued thereunder by the  
 290 Commissioner of Environmental Protection shall be liable to the state  
 291 for the reasonable costs and expenses of the state in detecting,  
 292 investigating, controlling and abating such violation. Such person shall  
 293 also be liable to the state for the reasonable costs and expenses of the  
 294 state in restoring the air, waters, lands and other natural resources of  
 295 the state, including plant, wild animal and aquatic life to their former  
 296 condition insofar as practicable and reasonable, or, if restoration is not  
 297 practicable or reasonable, for any damage, temporary or permanent,  
 298 caused by such violation to the air, waters, lands or other natural  
 299 resources of the state, including plant, wild animal and aquatic life and  
 300 to the public trust therein. Institution of a suit to recover for such  
 301 damage, costs and expenses shall not preclude the application of any  
 302 other remedies.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>

Sec. 5	<i>October 1, 2003</i>
Sec. 6	<i>October 1, 2003</i>
Sec. 7	<i>October 1, 2003</i>
Sec. 8	<i>October 1, 2003</i>
Sec. 9	<i>October 1, 2003</i>

**ENV**      *Joint Favorable*

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:**

<b>Agency Affected</b>	<b>Fund-Type</b>	<b>FY 04 \$</b>	<b>FY 05 \$</b>
Department of Environmental Protection	Environmental Quality - Revenue Gain	See Below	See Below
Attorney General	GF - Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The development and implementation of a fee-based program for the control of radiation hazards to secure “agreement state status” with the United States Nuclear Regulatory Commission will be fully paid for by the regulated community through fees. These fees will be deposited into a separate account in the Environmental Quality Fund for the Department of Environmental Protection (DEP) to develop and administer the program. It is anticipated that the program will be implemented over a 3-5 year period. The revenue will be derived from fees for approximately 250-300 licenses and 250-300 registrants in the state. Three million in revenue will be needed to cover the start-up period of the program and \$1.2 million a year (in current dollars) will be needed to fully operate the program. The DEP will need 12-14 employees, consisting of radiation control physicists and clericals. The DEP and the regulated community will determine the specific fees to support the program.

Any increase in revenue due to the civil penalties established in the bill is anticipated to be minimal. The potential workload increase to the Office of the Attorney General is anticipated to be minimal and

could be absorbed within normal budgetary resources.

**OLR Bill Analysis**

HB 6393

**AN ACT CONCERNING THE CONTROL AND SECURITY OF RADIOACTIVE MATERIAL IN CONNECTICUT****SUMMARY:**

This bill requires the environmental protection commissioner to adopt regulations needed for the state to enter into “agreement state status” with the federal Nuclear Regulatory Commission (NRC). This allows the Department of Environmental Protection (DEP) to replace the NRC as the regulatory agency overseeing licensing and safety of certain radioactive materials in Connecticut. The NRC will continue to regulate state nuclear power plants.

The 1954 federal Atomic Energy Act permits the NRC to transfer to a state regulatory authority over certain radioactive material if the governor signs a letter of intent and the state can show that its regulatory program is (1) compatible with NRC’s regulations, (2) adequate to protect public health and safety, and (3) self-supporting. The bill authorizes the commissioner to adopt the necessary regulations and creates fees needed to administer the program and implement and enforce the regulations.

The bill specifically authorizes the commissioner to:

1. adopt regulations for the control and security of radiation hazards, the operation of ionizing radiation sources, and the production, transportation, storage, possession, management, treatment and disposal of radioactive materials;
2. set licensing fees for ionizing radiation sources, deposit those fees in an account the bill creates, and use them to administer a regulatory program;
3. deny, renew, modify, suspend, or revoke licenses for radioactive material;
4. issue, modify, or revoke orders to correct and abate violations

- of laws, licenses and regulations concerning radioactive material;
5. investigate, contain, remove, mitigate, monitor and prevent discharges of radioactive material or radioactive waste;
  6. order the containment and clean-up of discharges of radioactive material and contract for its remediation;
  7. contract for the remediation of a discharge of radioactive material or radioactive waste;
  8. establish radiation exposure guidelines for emergency responders and the public in case of a terrorist event; and
  9. employ experts and consultants necessary to conduct investigations and report on matters concerning implementation of the program.

By law, anyone using, producing, manufacturing, transporting, transferring, receiving, owning, acquiring, or possessing any ionizing radiation sources must be licensed, registered, or exempt. The bill specifically extends this requirement to (1) persons, firms, corporations, towns, cities, and boroughs operating any ionizing radiation source; (2) hospitals using naturally occurring radioactive material or radioactive isotopes; and (3) health professionals using x-ray machines.

It imposes penalties on people who violate laws and regulations concerning radioactive sources and material; makes such responsible parties liable for the costs of the clean-up, legal expenses and court costs; and for the costs of restoring the air, waters, land, and other natural resources of the state. It entitles people who clean up discharges to reimbursement from the responsible parties if the contamination was intentionally, negligently, or recklessly caused.

The bill repeals a requirement that the commissioner hold a hearing at the request of anyone affected by certain proceedings.

EFFECTIVE DATE: October 1, 2003

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**REGULATIONS AND LICENSING**

By law, the commissioner has broad authority to adopt regulations for the control of radiation and radioactive materials. The bill specifically authorizes him to adopt regulations for the operation of sources of ionizing radiation such as gamma rays, x-rays, and beta particles; neutrons, protons, high-speed electrons, and other atomic and nuclear particles; and the production, transportation, storage, possession, management, treatment, and disposal of radioactive materials from such sources. By law, the commissioner may require general or specific licensing or licenses for by-product, source, or spent nuclear materials and other sources of ionizing radiation, and devices and equipment that use such materials. The law allows him to amend, suspend, or revoke such licenses. The bill authorizes him to deny, renew, and modify such licenses, and to set such licensing terms and conditions he believes necessary.

**LICENSING FEES AND THE IONIZING RADIATION MANAGEMENT ACCOUNT**

The bill authorizes the commissioner to set licensing fees for ionizing radiation sources and to use such fees, together with other fees the law allows, to pay for the administration of the ionizing radiation program and to implement and enforce regulations he adopts. He must deposit the fees in an Ionizing Radiation Management Account the bill creates within DEP's Environmental Quality Fund. The commissioner must use this account to implement, administer, and enforce the ionizing radiation program and laws, regulations, or guidelines concerning radiation and radioactive materials. The account may receive money from other sources besides licensing fees, and the commissioner may also use those funds to implement the program. Any money remaining in the account at the end of a fiscal year must be carried forward to next fiscal year.

**TERRORIST EVENTS**

The bill authorizes the commissioner to set radiation exposure guidelines for emergency responders and the public related to terrorist events involving radioactive materials. He may base such guidelines on recommendations of the federal government and the National Council on Radiation Protection and Measurements.

**ORDERS TO ABATE AND CORRECT VIOLATIONS**

The bill authorizes the commissioner to issue, modify, or revoke orders to correct or abate violations of laws, regulations, and licenses concerning radiation sources and radioactive materials. He may include other remedial measures as needed to correct such violations. He may issue such orders to people who (1) violate the law, regulations or permits, or (2) own the land on which the violation occurs, regardless of whether they took part in the violation. Two or more people receiving such an order for the same violation will be held jointly and severally liable.

### ***Order and Hearing Procedure***

The bill requires that orders the commissioner issues be delivered by certified mail, return receipt requested, or by a state marshal or indifferent person. If a state marshal or indifferent person serves the order, they must serve a true copy, and the original, with a return of service endorsed on it, must be filed with the commissioner. The order is deemed issued upon service or deposit in the mail. Any order must state the basis on which it is issued and specify a reasonable time for compliance.

An order is considered final unless a person aggrieved by the order asks in writing for a hearing before the commissioner within 30 days of the date the order is issued. The commissioner must hold a hearing as soon after such a request as practicable. An aggrieved party cannot appeal an order unless he first requests a hearing.

After a hearing, or after he issues an order, the commissioner may modify an order or extend the order's time schedule if he believes it advisable or necessary. Such a modification is considered a revision of an existing order and not a new order. There can be no hearing or appeal from such a modification or extension. Following a hearing, the commissioner must consider all supporting and rebutting evidence and may affirm, modify, or revoke his order. He must notify the recipient of the order of his action by certified mail, return receipt requested.

After the commissioner issues a final order, he must file a certified copy or notice of the order on the land records in the town where the land is located, to serve as notice to the owner's heirs, successors, and assigns. The commissioner must similarly file another such certificate

in the same town's land records when the order has been fully complied with or revoked. A final order is subject to appeal, which must be brought in New Britain Superior Court.

### ***Hearing Requirement Repealed***

The bill repeals a requirement that the commissioner hold a hearing at the request of any person whose interests may be affected in proceedings (1) for the issuance or modification of rules and regulations pertaining to control of ionizing radiation sources; (2) granting, suspending, revoking or amending a license; and (3) for determining compliance with, or granting exceptions from, DEP rules and regulations.

### **REMEDIES AVAILABLE TO THE COMMISSIONER**

Current law authorizes the commissioner, when he believes anyone has violated or is about to violate a law, regulation, or order pertaining to radioactive materials or radiation sources, to ask the attorney general to bring a civil action to enjoin the violation or direct compliance with the law, regulation or order. The bill authorizes the commissioner to make a similar request when he believes someone has violated or is about to violate the provisions of a license. The bill also (1) requires that the attorney general file all such actions, including those the law already authorizes, in Hartford Superior Court, and (2) authorizes the attorney general to ask a court for an order to remediate, control, or abate the pollution.

It authorizes the commissioner to investigate, contain and remove, mitigate, monitor or prevent the effects of the discharge of radioactive material or radioactive water if (1) the person responsible for the discharge does not act immediately to contain and mitigate the effects of the leak to the commissioner's satisfaction, or (2) the responsible party is unknown, and the discharge is not being contained, removed or mitigated by the federal government, a state agency, a municipality, or regional or interstate authority. The bill authorizes the commissioner to enter into a contract with a third party to carry out the remediation.

### ***Liability of Responsible Parties***

The bill makes the party responsible for the pollution or potential pollution liable for all costs and expenses the commissioner incurs in

investigating, containing, removing, cleaning, monitoring, mitigating, or preventing the pollution and the legal expenses and court costs the commissioner incurs. The bill authorizes the commissioner to seek additional compensation from the responsible party, including punitive damages. If more than one person causes the pollution or contamination, they will be held jointly and severally liable. The commissioner may ask the attorney general to bring a civil action to recover all such costs and expenses.

Under the bill anyone who knowingly or negligently violates its provisions is liable to the state for the reasonable costs of detecting, investigating, controlling and abating the violation, and for restoring the air, water, lands, and other natural resources to their former condition as far as is practical and reasonable. If restoration is not practicable and reasonable, the person is liable for any temporary or permanent damage the violation causes to the air, waters, lands, or other natural resources.

### ***Remediation***

The bill entitles people who remediate unauthorized discharges of radioactive material or radioactive waste to reimbursement from the responsible party if pollution resulted from intentional, negligent, or reckless conduct. Where pollution results from the negligence of more than one person, each person will be held jointly and severally liable.

The bill authorizes the commissioner to incur contractual obligations to remediate discharges, and to ask the attorney general to bring a civil action to recover his costs and expenses if the responsible person does not fulfill his contractual duties. If the responsible person firm or corporation is unknown, the commissioner must ask the federal government to assume the obligation to the extent federal law requires.

### **PENALTIES FOR ILLEGAL DISCHARGE**

The bill subjects anyone who violates any of the laws governing radiation and radioactive materials, or any regulation, license, or order issued under those laws, to a fine of up to \$10,000 a day for each offense. The fine also applies to any landowner who allows such a violation to occur on his property. Each violation is considered a separate and distinct offense, and each day of a continuing violation is

also a separate and distinct offense. If two or more people are responsible they must be held jointly and severally liable. The bill authorizes the attorney general, at the commissioner's request, to begin a civil action in Hartford Superior Court to recover the penalty.

It subjects anyone who, with criminal negligence, violates those laws, orders, or licenses, or regulations to a fine of up to \$25,000 a day and up to one year in prison. A subsequent conviction is punishable by up to \$50,000 a day for each day of the violation and up to two years in prison. These penalties explicitly apply to responsible corporate officers or municipal officials.

It subjects anyone who knowingly violates these laws, orders or regulations, or licenses to a fine of up to \$50,000 a day for each day of the violation and up to three years in prison. A subsequent conviction is punishable by a fine of up to \$100,000 a day for each day of violation and up to 10 years in prison. These penalties explicitly apply to responsible corporate officers or municipal officials.

By law, anyone who intentionally makes a false written statement under oath or on a form that states false statements are punishable is guilty of a class A misdemeanor, and subject to a \$2,000 fine and up to one year in prison. The bill subjects anyone who knowingly makes a false statement, representation, or certification in an application, record, report, plan, or other document filed or required to be maintained under laws governing radiation and radioactive materials, or any regulation, license or order, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method the law requires be maintained, to a fine of up to \$25,000 and up to two years in prison for each violation. These penalties apply to responsible corporate officers or municipal officials.

## **BACKGROUND**

### ***Licensees***

DEP estimates there are between 200 and 250 NRC licenses in Connecticut. They include universities, research facilities, industries, doctors' offices, hospitals and pharmaceutical companies.

## **COMMITTEE ACTION**

Environment Committee

Joint Favorable Report  
Yea 27 Nay 0