



General Assembly

January Session, 2003

Raised Bill No. 6393

LCO No. 2876

Referred to Committee on Environment

Introduced by:
(ENV)

***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 Section 22a-153 of the general statutes is repealed and the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>

Statement of Purpose:

To authorize the Governor to enter into an agreement with the United States Nuclear Regulatory Commission for the delegation to the state of certain Nuclear Regulatory Commission programs to enhance the control and security of radioactive materials.

[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.]