



General Assembly

January Session, 2003

Amendment

LCO No. 6152

SB0115706152SD0

Offered by:

SEN. WILLIAMS, 29th Dist.

To: Subst. Senate Bill No. 1157

File No. 452

Cal. No. 303

"AN ACT CONCERNING MINOR REVISIONS TO THE ENVIRONMENTAL PROTECTION PROVISIONS."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 23-61b of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2003*):

5 (a) No person shall advertise, solicit or contract to do arboriculture
6 within this state at any time without a license issued in accordance
7 with the provisions of this section, except that any person may
8 improve or protect any tree on such person's own premises or on the
9 property of such person's employer without securing such a license
10 provided such activity does not violate the provisions of chapter 441,
11 subsection (a) of section 23-61a or this section. Application for
12 examination for such license shall be made to the Commissioner of
13 Environmental Protection and shall contain such information
14 regarding the applicant's qualifications and proposed operations and

15 other relevant matters as the commissioner may require and shall be
16 accompanied by a fee of twenty-five dollars which shall not be
17 returnable.

18 (b) The commissioner shall require the applicant to show upon
19 examination that the applicant possesses adequate knowledge
20 concerning the proper methods of arboriculture and the dangers
21 involved and the precautions to be taken in connection with these
22 operations, together with knowledge concerning the proper use and
23 application of pesticides and the danger involved and precautions to
24 be taken in connection with their application. If the applicant is other
25 than an individual, the applicant shall designate an officer, member or
26 technician of the organization to take the examination, which designee
27 shall be subject to approval of the commissioner except that any
28 person who uses pesticides in arboriculture shall be licensed to do
29 arboriculture or shall be a licensed commercial applicator under
30 chapter 441. If the extent of the applicant's operations warrant, the
31 commissioner may require more than one such member or technician
32 to be examined. If the commissioner finds the applicant qualified, the
33 commissioner shall issue a license to perform arboriculture within this
34 state. A license shall be valid for a period of five years. The
35 commissioner may issue licenses so that one-fifth of the licenses expire
36 each year. The commissioner may issue licenses for less than five years
37 and prorate the registration fee accordingly. If the commissioner finds
38 that the applicant is not qualified, or if the commissioner refuses to
39 issue a license for any other reason, the commissioner shall so inform
40 the applicant in writing, giving reasons for such refusal.

41 (c) The commissioner may issue a license without examination to
42 any nonresident who is licensed in another state under a law that
43 provides substantially similar qualifications for licensure and which
44 grants similar privileges of licensure without examination to residents
45 of this state licensed under the provisions of this section.

46 (d) Each licensee shall pay a license [renewal] fee of one hundred
47 fifty dollars for each initial license or renewal. All examination and

48 license renewal fees shall be deposited as provided in section 4-32, and
49 any expenses incurred by the commissioner in making examinations,
50 issuing certificates, inspecting tree work or performing any duties of
51 the commissioner shall be charged against appropriations of the
52 General Fund.

53 (e) Each licensee shall maintain and, upon request, furnish such
54 records concerning licensed activities as the commissioner may
55 require.

56 (f) The commissioner may suspend for not more than ten days and,
57 after notice and hearing as provided in any regulations established by
58 the commissioner, may suspend for additional periods, or the
59 commissioner may revoke, any license issued under this section if the
60 commissioner finds that the licensee is no longer qualified or has
61 violated any provision of section 23-61a or this section, or any
62 regulation adopted thereunder.

63 (g) The Commissioner of Environmental Protection, in consultation
64 with the board, shall establish standards for examining applicants and
65 reexamining applicators with respect to the proper use and application
66 of pesticides and [agricultural] arboriculture methods. Such standards
67 shall provide that in order to be certified, an individual shall be
68 competent with respect to the use and handling of pesticides or the use
69 and handling of the pesticide or class of pesticides covered by such
70 individual's application or certification and in the proper and safe
71 application of recognized arboricultural methods.

72 (h) Any licensed arborist shall be considered to be a certified
73 applicator under section 22a-54 with respect to the use of pesticides.

74 (i) Any person who is a certified applicator, as defined in section
75 22a-54, who is also applying for or renewing a license as an arborist
76 under this section shall not be required to pay a license fee under this
77 section, provided all fees required by section 22a-54 have been paid in
78 full.

79 Sec. 502. (NEW) (*Effective October 1, 2003*) As used in this section and
80 sections 503 to 510, inclusive, of this act:

81 (1) "Arborist business" means any business which wholly or in part
82 holds itself out for hire to perform arboriculture.

83 (2) "Place of business" means any physical location at or through
84 which the functional operations of business regularly occur, including,
85 but not limited to, financial transactions, arrangement of contracts,
86 assignment of contracts, assignment of work and recordkeeping,
87 excluding buildings or locations used solely for storage of equipment
88 or supplies or telephone answering service.

89 (3) "Arboriculture" means any work done for hire to improve the
90 condition of fruit, shade or ornamental trees by feeding or fertilizing,
91 or by pruning, trimming, bracing, treating cavities or other methods of
92 improving tree conditions, or protecting trees from damage from
93 insects or diseases or curing these conditions by spraying or any other
94 method.

95 (4) "Person" means any individual, firm, partnership, association,
96 syndicate, company, trust, corporation, limited liability company,
97 municipality, agency or political or administrative subdivision of the
98 state, or other legal entity of any kind.

99 (5) "Commissioner" means the Commissioner of Environmental
100 Protection or an authorized agent of the commissioner.

101 (6) "Pesticide" means any substance or mixture of substances
102 intended for preventing, destroying, repelling or mitigating any pest,
103 or any substance or mixture of substances intended for use as a plant
104 regulator, defoliant or desiccant.

105 Sec. 503. (NEW) (*Effective October 1, 2003*) (a) No person shall engage
106 in the operation of an arborist business without first obtaining a
107 certificate of registration from the commissioner.

108 (b) Application for a certificate of registration shall be made on such

109 form as the commissioner may prescribe and with such information as
110 the commissioner deems necessary to fulfill the purposes of sections
111 502 to 510, inclusive, of this act. Such information may include, but is
112 not limited to: (1) The name and residential address of the individual
113 submitting an application on behalf of an arborist business; (2) the
114 name, address and telephone number of the arborist business; (3) the
115 name and license number of any licensed arborist employed by the
116 arborist business; (4) the type of business; and (5) the name, address
117 and telephone number of a person who will serve as a point of contact
118 for the commissioner regarding the arborist business. The owner or
119 operator of an arborist business shall notify the commissioner of any
120 change in the information contained in an application or in the status
121 of the business as an arborist business. The notification shall be
122 submitted, in writing, not more than thirty days after the change.

123 (c) An application for a certificate of registration or for renewal of a
124 certificate of registration shall be accompanied by payment of a fee of
125 sixty dollars. An application for a certificate of registration or for
126 renewal of a certificate of registration shall not be deemed to be
127 complete and shall not be acted upon by the commissioner until the
128 required fee, as determined by the commissioner, is paid in full. A
129 certificate of registration issued by the commissioner shall expire on
130 the thirty-first day of August next succeeding its issuance. A person
131 with an arborist business with more than one place of business in the
132 state or who operates under more than one name shall register and
133 pay the application fee for each place of business and for each business
134 name. Funds received by the commissioner in accordance with the
135 provisions of this section shall be deposited in the emergency spill
136 response fund established under section 22a-451 of the general
137 statutes, as amended by this act. The commissioner may expend from
138 the amount collected for such fees any amount necessary to pay the
139 administrative expenses related to registration and collection of fees,
140 provided the amount expended in any fiscal year for such purposes
141 shall not exceed ten per cent of the amount collected in such year.

142 (d) Any arborist business registered under this section shall display

143 the registration number assigned to it by the commissioner on the
144 body of any motor vehicle used by it in the course of business, in any
145 newspaper advertisement for the business, on any billboard
146 advertisement for the business, and in any advertisement for the
147 business placed in the generally circulated telephone directory. Any
148 such arborist business shall further include the number in any written
149 contract it enters regarding the performance of arboriculture.

150 (e) Any person who complies with the arborist business registration
151 requirements of this section shall not be required to register such
152 business under section 22a-66c of the general statutes.

153 Sec. 504. (NEW) (*Effective October 1, 2003*) (a) The commissioner
154 shall, after review of a complete application received pursuant to
155 section 503 of this act, issue, with or without conditions, or deny a
156 certificate of registration for a arborist business. Any denial of a
157 certificate of registration shall briefly state the reasons for such denial.
158 Any person aggrieved by a decision to deny a certificate may, not later
159 than thirty days after the date such decision is deposited in the mail,
160 request a hearing before the commissioner. Such hearing shall be held
161 in accordance with the provisions of chapter 54 of the general statutes.

162 (b) The commissioner may revoke or suspend a registration in
163 accordance with the provisions of section 4-182 of the general statutes.

164 Sec. 505. (NEW) (*Effective October 1, 2003*) (a) It shall be unlawful for
165 any person to:

166 (1) Violate any provision of sections 503 to 507, inclusive, of this act,
167 chapter 441 of the general statutes, or any regulation, permit,
168 certificate, registration or order adopted, administered or issued
169 pursuant to said chapters;

170 (2) Include false or misleading information in an application or fail
171 to notify the commissioner of a change as required by section 503 of
172 this act;

173 (3) Include false or misleading information in records required to be
174 maintained pursuant to section 507 of this act, fail to maintain such
175 records, or fail to provide the commissioner with the records required
176 by said section;

177 (4) Use a pesticide in a manner inconsistent with the registered
178 labeling or with state or federal restrictions on the use of such
179 pesticide;

180 (5) Apply pesticides generally known in the trade to be ineffective
181 or improper for the intended use;

182 (6) Operate faulty or unsafe equipment which may result in
183 improper pesticide application or harm to the environment, the worker
184 or others;

185 (7) Apply a pesticide or perform arboriculture in a faulty, careless or
186 negligent manner;

187 (8) Aid or abet a licensed or unlicensed person to evade the
188 provisions of sections 503 to 507, inclusive, of this act, chapter 441 of
189 the general statutes, or any regulation, permit, certificate, registration
190 or order adopted, administered or issued pursuant to said chapters;

191 (9) Make a false or misleading statement during an inspection or
192 investigation concerning an infestation of pests, an accident in
193 applying a pesticide, misuse of a pesticide, or violation of a statute,
194 regulation, certificate, registration or order;

195 (10) Perform arboriculture in a manner that does not meet generally
196 accepted industry standards;

197 (11) Perform work, whether or not for compensation, in a category
198 for which the arborist is not certified; and

199 (12) Possess a certificate of registration if such person has been
200 convicted of a felony, as defined in section 53a-25 of the general
201 statutes.

202 (b) The grounds for denial, revocation or suspension of a certificate
203 of registration shall include, but not be limited to, the acts or omissions
204 set forth in subsection (a) of this section. Any arborist business whose
205 certificate of registration is denied, suspended or revoked shall not be
206 eligible for a new certificate of registration until such time has elapsed
207 from the date of denial, suspension or revocation as has been
208 established by the commissioner.

209 (c) A new certificate or renewal of a certificate shall not be issued to
210 an arborist business unless the applicant has submitted the summary
211 required pursuant to subsection (d) of section 22a-58 of the general
212 statutes for the previous calendar year.

213 Sec. 506. (NEW) (*Effective October 1, 2003*) Each arborist business
214 shall employ at each place of business not less than one arborist
215 licensed pursuant to section 23-61b of the general statutes, as amended
216 by this act.

217 Sec. 507. (NEW) (*Effective October 1, 2003*) (a) An arborist business
218 shall maintain records of pesticide applications for not less than five
219 years from the date such record is made or amended, whichever is
220 later. An arborist business shall maintain records of arboriculture, not
221 involving the use of pesticides, for two years from the date such record
222 is made or amended, whichever is later. The records maintained
223 pursuant to this section shall include:

224 (1) For each application of a pesticide made on behalf of the
225 business: (A) The name and certification number of the commercial
226 supervisor and the commercial operator; (B) the kind and amount of
227 pesticide used and the amount of acreage treated, if applicable; (C) the
228 date and place of application; (D) the pest treated for; and (E) the crop
229 or site treated;

230 (2) A list of the names and corresponding United States
231 Environmental Protection Agency registration numbers of any
232 pesticide applied by the business;

233 (3) The names and applicator certification numbers of all certified
234 commercial pesticide applicators, operator or supervisory, who are
235 employees or agents of the business, and a list of the types of
236 applications which each is performing; and

237 (4) For each site where arboriculture not involving the use of
238 pesticides was performed: (A) The type of work performed, including
239 but not limited to, pruning, trimming, cabling, bracing, fertilizing or
240 treating cavities; (B) the date and place of work; (C) the name and
241 license number of the licensed arborist supervising the work; and (D)
242 the names of any unlicensed or licensed persons performing the work
243 under the supervision of the licensed arborist.

244 (b) Information required under subdivision (2) of subsection (a) of
245 this section may be kept separately from the records required by
246 subdivision (1) of said subsection or may be integrated with such
247 records by including on the record of each pesticide application the full
248 name and United States Environmental Protection Agency registration
249 number of the pesticide used.

250 (c) All records and information required to be kept pursuant to this
251 section shall be kept at the registrant's place of business and may be
252 inspected by the commissioner in accordance with section 22a-59 of the
253 general statutes, as amended by this act, and shall be made available
254 upon request by the commissioner. If the registrant's place of business
255 is outside of the state, the records and information shall be made
256 available to the commissioner at a location in the state not more than
257 ten days after receipt of a request for inspection from the
258 commissioner.

259 (d) An arborist business shall, upon written request, provide a
260 customer with a copy of the record which is required to be kept
261 pursuant to this section and which pertains to arboriculture performed
262 for that customer.

263 Sec. 508. (NEW) (*Effective October 1, 2003*) Any person who violates
264 any provision of sections 503 to 507, inclusive, of this act, shall be

265 assessed a civil penalty of not more than five thousand dollars per day
266 for each day a violation continues. The Attorney General, upon
267 complaint of the commissioner, shall institute a civil action in the
268 superior court for the judicial district of Hartford to recover such
269 penalty.

270 Sec. 509. (NEW) (*Effective October 1, 2003*) In any proceeding
271 regarding denial, suspension or revocation of a certificate of
272 registration, and any proceeding pursuant to section 23-61m of the
273 general statutes, the action, omission or failure to act of any officer,
274 agent or other person acting for or employed by the arborist business
275 shall also be deemed to be the action, omission or failure to act of the
276 arborist business as well as that of the person employed.

277 Sec. 510. (NEW) (*Effective October 1, 2003*) The Commissioner of
278 Environmental Protection may adopt regulations, in accordance with
279 the provisions of chapter 54 of the general statutes, that are necessary
280 to carry out the purposes of sections 23-61a of the general statutes, 23-
281 61b of the general statutes, as amended by this act, and sections 502 to
282 509, inclusive, of this act.

283 Sec. 511. Section 22a-59 of the general statutes is repealed and the
284 following is substituted in lieu thereof (*Effective October 1, 2003*):

285 (a) For purposes of enforcing the provisions of this chapter,
286 subsection (a) of section 23-61a and sections 23-61b, as amended by
287 this act, [and] 23-61f, and sections 503 to 510, inclusive, of this act,
288 officers or employees duly designated by the commissioner are
289 authorized to enter at reasonable times, any establishment or other
290 place where pesticides or devices are being or have been used, or
291 where pesticides or devices are held for use, distribution or sale in
292 order to: (1) Observe the application of pesticides; (2) determine if the
293 applicator is or should be certified; (3) determine if the applicator has
294 obtained a proper permit to apply restricted use pesticides; (4) inspect
295 equipment or devices used to apply pesticides; (5) inspect or
296 investigate the validity of damage claims; (6) inspect or obtain samples

297 in any place where pesticides or devices have been used or are held for
298 use, storage, distribution or sale; (7) obtain samples of any pesticides or
299 devices packaged, labeled and released for shipment and samples of
300 any containers or labeling for such pesticides or devices, and (8) obtain
301 samples of any pesticides or devices that have been used and obtain
302 samples of any containers or labeling for such pesticides or devices.
303 Before undertaking such inspection, the officers or employees shall
304 present to the owner, operator, or agent in charge of the establishment
305 or other place where pesticides or devices are held for distribution or
306 sale, appropriate credentials and a written statement as to the reason
307 for the inspection, including a statement as to whether a violation of
308 the law is suspected. If no violation is suspected, an alternate and
309 sufficient reason shall be given in writing. Each such inspection shall
310 be commenced and completed with reasonable promptness. If the
311 officer or employee obtains any samples, prior to leaving the premises,
312 he shall give to the owner, operator, or agent in charge a receipt
313 describing the samples obtained and, if requested, a portion of each
314 such sample equal in volume or weight to the portion retained. If an
315 analysis is made of such samples, the laboratories of the Connecticut
316 Agricultural Experiment Station may be used and a copy of the results
317 of such analysis shall be furnished promptly to the owner, operator, or
318 agents in charge and the commissioner.

319 (b) For purposes of enforcing the provisions of this part, subsection
320 (a) of section 23-61a, and sections 23-61b, as amended by this act, [and]
321 23-61f, and sections 503 to 510, inclusive, of this act, and upon a
322 showing to an officer or court of competent jurisdiction that there is
323 reason to believe that the provisions of this chapter and said sections
324 have been violated, officers or employees duly designated by the
325 commissioner are empowered to obtain and to execute warrants
326 authorizing: (1) Entry for the purpose of this section; (2) inspection and
327 reproduction of all records showing the quantity, date of shipment,
328 and the name of consignor and consignee of any pesticide or device
329 found in the establishment which is adulterated, misbranded, not
330 registered, in the case of a pesticide, or otherwise in violation of this

331 part and said sections and in the event of the inability of any person to
332 produce records containing such information, all other records and
333 information relating to such delivery, movement, or holding of the
334 pesticide or device; and (3) the seizure of any pesticide or device which
335 is in violation of this part and said sections.

336 Sec. 512. Section 22a-66e of the general statutes is repealed and the
337 following is substituted in lieu thereof (*Effective October 1, 2003*):

338 [(a) The grounds for denial, revocation or suspension of a
339 registration shall include, but not be limited to]

340 (a) The following shall be unlawful:

341 (1) Violation of any provision of this chapter, [as amended] sections
342 503 to 510, inclusive, of this act, or any regulation, permit, certificate,
343 registration or order adopted, administered or issued pursuant thereto;

344 (2) Inclusion of false or misleading information in an application or
345 failure to notify the commissioner of a change as required by section
346 22a-66c;

347 (3) Inclusion of false or misleading information in records required
348 to be maintained pursuant to section 22a-66g, the failure to maintain
349 such records, or the failure to provide the commissioner with the
350 records required by said section;

351 (4) Use of a pesticide in a manner inconsistent with the registered
352 labeling or with state or federal restrictions on the use of such
353 pesticide;

354 (5) Application of pesticides generally known in the trade to be
355 ineffective or improper for the intended use;

356 (6) Operation of faulty or unsafe equipment which may result in
357 improper application or harm to the environment, the applicator or
358 others from the pesticide;

359 (7) Application of a pesticide in a faulty, careless or negligent
360 manner;

361 (8) Aiding or abetting a certified or uncertified person to evade the
362 provisions of this chapter, as amended, or any regulation, permit,
363 certificate, registration or order adopted, administered or issued
364 pursuant thereto;

365 (9) The making of a false or misleading statement during an
366 inspection or investigation concerning an infestation of pests, an
367 accident in applying a pesticide, misuse of a pesticide, or violation of a
368 statute, regulation, certificate, registration or order;

369 (10) The performance of work, whether or not for compensation, in
370 a category for which the applicator is not certified; and

371 (11) The conviction of the applicant or pesticide application business
372 of a felony as defined in section 53a-25.

373 (b) The grounds for denial, revocation or suspension of a
374 registration shall include, but not be limited to, the prohibited acts or
375 omissions set forth in subsection (a) of this section. Any pesticide
376 application business whose certificate of registration is denied,
377 suspended or revoked shall not be eligible for a new certificate until
378 such time has elapsed from the date of the denial, suspension or
379 revocation as has been established by the commissioner.

380 (c) A new certificate or renewal of a certificate shall not be issued to
381 a commercial applicator unless the applicant has submitted the
382 summary required pursuant to subsection (d) of section 22a-58, for the
383 previous calendar year.

384 Sec. 513. Subsection (d) of section 22a-451 of the general statutes is
385 repealed and the following is substituted in lieu thereof (*Effective*
386 *October 1, 2003*):

387 (d) There is established an account to be known as the emergency
388 spill response account, for the purpose of providing money for (1)

389 costs associated with the implementation of section 22a-449 and
390 chapter 441; (2) the containment and removal or mitigation of the
391 discharge, spillage, uncontrolled loss, seepage or filtration of oil or
392 petroleum or chemical liquids or solid, liquid or gaseous products or
393 hazardous wastes including the state share of payments of the costs of
394 remedial action pursuant to the federal Comprehensive Environmental
395 Response, Compensation, and Liability Act of 1980 (42 USC 9601 et
396 seq.), as amended; (3) provision of potable drinking water pursuant to
397 section 22a-471; (4) completion of the inventory required by section
398 22a-8a; (5) the removal of hazardous wastes that the commissioner
399 deems to be a potential threat to human health or the environment; (6)
400 (A) the provision of short-term potable drinking water pursuant to
401 subdivision (1) of subsection (a) of section 22a-471 and the preparation
402 of an engineering report pursuant to subdivision (2) of subsection (a)
403 of said section when pollution of the groundwaters by pesticides has
404 occurred or can reasonably be expected to occur; (B) the study required
405 by special act 86-44* and (C) as funds allow, education of the public on
406 the proper use and disposal of pesticides and the prevention of
407 pesticide contamination in drinking water supplies; (7) loans and lines
408 of credit made in accordance with the provisions of section 32-23z; (8)
409 the accomplishment of the purposes of sections 22a-133b to 22a-133g,
410 inclusive, and sections 22a-134 to 22a-134d, inclusive, including
411 staffing, and section 22a-133k; (9) development and implementation by
412 the commissioner of a state-wide aquifer protection program pursuant
413 to the provisions of sections 19a-37, 22-6c, 22a-354c, 22a-354e, 22a-354g
414 to 22a-354bb, inclusive, 25-32d, 25-33h, 25-33n and subsection (a) of
415 section 25-84, including, but not limited to, development of state
416 regulations for land uses in aquifer protection areas, technical
417 assistance and educational programs; (10) research on toxic substance
418 contamination, including research by the Environmental Research
419 Institute and the Institute of Water Resources at The University of
420 Connecticut and by the Connecticut Agricultural Experiment Station;
421 (11) the costs of the commissioner in performing or approving level A
422 mapping of aquifer protection areas pursuant to this title; [and] (12)
423 inventory and evaluation of the farm resource management

424 requirements of farms in aquifer areas by the eight county soil and
425 water conservation districts; and (13) costs associated with the
426 administrative expenses related to the registration of arborist
427 businesses, as provided by section 503 of this act. The emergency spill
428 response account shall be an account of the Environmental Quality
429 Fund. On July 1, 2001, any balance remaining in said account shall be
430 transferred to the resources of the Environmental Quality Fund. No
431 expenditures shall be made from the amount transferred until on or
432 after July 1, 2001."