



General Assembly

February Session, 2004

**Raised Bill No. 464**

LCO No. 1896

\*01896\_\_\_\_\_ENV\*

Referred to Committee on Environment

Introduced by:  
(ENV)

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

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, 2004*):

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 Section 22a-153 of the general statutes is repealed and the  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, 2004*):

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 as amended, shall be sufficient for the administration of an ionizing  
33 radiation program, as set forth in the federal Atomic Energy Act of  
34 1954, as amended, and for the implementation and enforcement of  
35 regulations 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, as amended, or 22a-150, or any regulations adopted in  
46 accordance 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 implementing 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, 2004*):

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, 2004*):

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, as  
95 amended, section 22a-153, as amended by this act, 22a-154, as  
96 amended by this act, 22a-157, as amended by this act, or 22a-158, or  
97 any regulation adopted or license issued pursuant to said sections, and  
98 may include in such orders remedial measures as necessary to correct  
99 or abate such violations. Such orders may be issued to any person who  
100 violates any provision of said sections, or any regulation adopted or  
101 permit issued pursuant to said sections or to the owner of any land on  
102 which the violation occurs, regardless of whether the owner of the land  
103 participated in the violation. If two or more persons are issued an  
104 order pursuant to this section for the same violation, such persons  
105 shall be jointly and 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, 2004*):

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, as amended,  
151 sections 22a-153 to 22a-155, inclusive, as amended by this act, section  
152 22a-157, as amended by this act, or 22a-158, as amended by this act, or  
153 any rule, regulation, license or order issued [thereunder] pursuant to  
154 said 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, 2004*) (a) Any person who violates  
164 any provision of sections 22a-148 to 22a-150, inclusive, as amended,  
165 sections 22a-153 to 22a-155, inclusive, section 22a-157 or 22a-158 of the  
166 general statutes, as amended by this act, or any regulation adopted or  
167 license or order issued pursuant to said sections, or any owner of land  
168 who permits such violations to occur on such owner's land, shall be  
169 assessed a civil penalty of not more than ten thousand dollars per day  
170 for each offense. Each violation shall be a separate and distinct offense  
171 and, in the case of a continuing violation, each day's continuance  
172 thereof shall be deemed a separate and distinct offense. If two or more

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

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

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

202 (d) Any person who knowingly makes a false statement,  
203 representation or certification in an application, record, report, plan or  
204 other document filed or required to be maintained under sections 22a-

205 148 to 22a-150, inclusive, as amended, sections 22a-153 to 22a-155,  
206 inclusive, section 22a-157 or 22a-158 of the general statutes, as  
207 amended by this act, or any regulation adopted or license or order  
208 issued pursuant to said sections, or who falsifies, tampers with, or  
209 knowingly renders inaccurate any monitoring device or method  
210 required to be maintained under said sections, or any regulation  
211 adopted or permit or license issued pursuant to said sections, shall,  
212 upon conviction, be fined not more than twenty-five thousand dollars  
213 for each violation or imprisoned not more than two years for each  
214 violation, or both. For the purposes of this subsection, "person"  
215 includes, but is not limited to, any responsible corporate officer or  
216 municipal official.

217 Sec. 7. Section 22a-157 of the general statutes is repealed and the  
218 following is substituted in lieu thereof (*Effective October 1, 2004*):

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

224 Sec. 8. (NEW) (*Effective October 1, 2004*) (a) If a person who causes or  
225 is responsible for any discharge, spillage, uncontrolled loss, leakage,  
226 seepage or filtration of radioactive material or radioactive waste does  
227 not act immediately to contain and remove or mitigate the effects of  
228 such discharge, spillage, loss, leakage, seepage or filtration to the  
229 satisfaction of the Commissioner of Environmental Protection, or if  
230 such person is unknown, and such discharge, spillage, loss, leakage,  
231 seepage or filtration is not being contained, removed or mitigated by  
232 the federal government, a state agency, a municipality or a regional or  
233 interstate authority, the commissioner may investigate, contain and  
234 remove, mitigate, monitor or prevent the effects of such discharge,  
235 spillage, loss, leakage, seepage or filtration. The commissioner may  
236 enter into a contract with any person for the purpose of carrying out

237 the provisions of this subsection.

238 (b) Any person who causes or is responsible for pollution or  
239 contamination or potential pollution or contamination of any land,  
240 water or air resources of the state through a discharge, spillage,  
241 uncontrolled loss, leakage or leaching of radioactive material or  
242 radioactive waste, shall be liable for all costs and expenses incurred by  
243 the commissioner in investigating, containing, removing, cleaning,  
244 monitoring, mitigating or preventing such pollution or contamination  
245 or potential pollution or contamination and legal expenses and court  
246 costs incurred in such recovery. Nothing in this subsection shall  
247 preclude the commissioner from seeking additional compensation or  
248 such other relief that a court may award, including punitive damages.  
249 When such pollution or contamination results from the actions or  
250 inaction of more than one person, each person shall be held jointly and  
251 severally liable for such costs. Upon request of the commissioner, the  
252 Attorney General shall bring a civil action to recover all such costs and  
253 expenses from the person who causes or is responsible for such  
254 pollution or contamination.

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

268 (d) Whenever the commissioner incurs contractual obligations in

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

277 Sec. 9. Subsection (a) of section 22a-6a of the general statutes is  
278 repealed and the following is substituted in lieu thereof (*Effective*  
279 *October 1, 2004*):

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

302 practicable or reasonable, for any damage, temporary or permanent,  
303 caused by such violation to the air, waters, lands or other natural  
304 resources of the state, including plant, wild animal and aquatic life and  
305 to the public trust therein. Institution of a suit to recover for such  
306 damage, costs and expenses shall not preclude the application of any  
307 other remedies.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>October 1, 2004</i>
Sec. 7	<i>October 1, 2004</i>
Sec. 8	<i>October 1, 2004</i>
Sec. 9	<i>October 1, 2004</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.]*