



General Assembly

**Substitute Bill No. 464**

February Session, 2004

\* SB00464ENVJUD030804 \*

**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 subdivisions (9) and (10) 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 (NEW) (10) "Radioactive materials" means any solid, liquid or gas  
7 that emits ionizing radiation spontaneously.

8 Sec. 2. Section 22a-153 of the general statutes is repealed and the  
9 following is substituted in lieu thereof (*Effective October 1, 2004*):

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

13 (b) [Said] The commissioner may employ, subject to the provisions  
14 of chapter 67, and prescribe the powers and duties of such persons as  
15 may be necessary to carry out the provisions of sections 22a-151 to 22a-  
16 158, inclusive, as amended by this act.

17 (c) [Said] The commissioner shall [make such regulations as may be  
18 necessary to carry out the provisions of said sections] adopt  
19 regulations, in accordance with the provisions of chapter 54, regarding  
20 sources of ionizing radiation and radioactive materials, including, but  
21 not limited to:

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

25 (2) Regulations relating to the construction, operation, control,  
26 tracking, security and decommissioning of sources of ionizing  
27 radiation, including, but not limited to, any modification or alteration  
28 of such sources;

29 (3) Regulations relating to the production, transportation, use,  
30 storage, possession, management, treatment, disposal or remediation  
31 of radioactive materials;

32 (4) Regulations relating to planning for and responding to terrorist  
33 or other emergency events, or the potential for such events, that  
34 involve or may include radioactive materials;

35 (5) Regulations as may be necessary to carry out the provisions of  
36 sections 22a-151 to 22a-158, inclusive, as amended by this act; and

37 (6) Regulations establishing fees for the licensure of sources of  
38 ionizing radiation, which fees, in conjunction with the fees collected  
39 pursuant to section 22a-148, as amended, shall be sufficient for the  
40 administration, implementation and enforcement of an ionizing  
41 radiation program.

42 (d) The Governor or the commissioner is authorized to employ such  
43 consultants, experts and technicians as [he shall deem] necessary for  
44 the purpose of conducting investigations and reporting [to him] on  
45 matters connected with the implementation of the provisions of [said  
46 sections] sections 22a-148 to 22a-158, inclusive, as amended by this act.

47 (e) There is established within the Environmental Quality Fund  
48 established under section 22a-27g an account to be known as the  
49 "ionizing radiation management account". Notwithstanding the  
50 provisions of section 22a-27g, any moneys collected in accordance with  
51 section 22a-148, as amended, or 22a-150, or any regulations adopted in  
52 accordance with subsection (c) of this section, shall be deposited in the  
53 Environmental Quality Fund and credited to the ionizing radiation  
54 management account. Any balance remaining in the account at the end  
55 of any fiscal year shall be carried forward in the account for the fiscal  
56 year next succeeding. Said account may also receive moneys from  
57 other sources. The account shall be available to the commissioner to  
58 implement, administer and enforce (1) the ionizing radiation program,  
59 or (2) the provisions of sections 22a-148 to 22a-158, inclusive, as  
60 amended by this act, or any regulations or guidelines adopted  
61 pursuant to said sections. Nothing in this subsection shall prevent the  
62 commissioner from obtaining or using funds from sources other than  
63 the ionizing radiation management account for the purposes of  
64 implementing, administering, and enforcing an ionization radiation  
65 program.

66 (f) The commissioner may establish radiation exposure guidelines  
67 for emergency responders and the public for the management of  
68 terrorist events or other emergencies involving radioactive materials.  
69 Any such guidelines may be based upon the recommendations of the  
70 federal government and the National Council on Radiation Protection  
71 and Measurements.

72 Sec. 3. Subsection (a) of section 22a-154 of the general statutes is  
73 repealed and the following is substituted in lieu thereof (*Effective*  
74 *October 1, 2004*):

75 (a) The Commissioner of Environmental Protection may [provide by  
76 regulation for] adopt regulations, in accordance with the provisions of  
77 chapter 54, for the general or specific licensing [of by-product, source,  
78 special nuclear materials and other] sources of ionizing radiation. [, or  
79 devices or equipment utilizing such materials, and for amendment,

80 suspension, or revocation of licenses issued pursuant thereto.] The  
81 commissioner may issue, deny, renew, modify, suspend or revoke  
82 such licenses and may include such terms and conditions in such  
83 licenses that the commissioner deems necessary.

84 Sec. 4. Section 22a-155 of the general statutes is repealed and the  
85 following is substituted in lieu thereof (*Effective October 1, 2004*):

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

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

100 (a) The commissioner may issue, modify or revoke orders to correct  
101 or abate (1) pollution or a potential source of pollution from ionizing  
102 radiation or radioactive materials, or (2) violations of sections 22a-148  
103 to 22a-150, inclusive, as amended, section 22a-153, as amended by this  
104 act, 22a-154, as amended by this act, 22a-157, as amended by this act,  
105 or 22a-158, or any regulation adopted or license issued pursuant to  
106 said sections. Such orders may include steps necessary to correct or  
107 abate pollution or a potential source of pollution, any violation or  
108 other measures the commissioner deems necessary. Such orders may  
109 be issued to any person who violates any provision of said sections, or  
110 any regulation adopted or registration or license issued pursuant to  
111 said sections or to the owner of any land on which the violation occurs,

112 regardless of whether the owner of the land participated in the  
113 violation. If two or more persons are issued an order pursuant to this  
114 section for the same violation, such persons shall be jointly and  
115 severally liable for complying with such order.

116 (b) Each order issued under this section shall be served by certified  
117 mail, return receipt requested, or by service by a state marshal or  
118 indifferent person. If a state marshal or indifferent person serves the  
119 order, a true copy of the order shall be served, and the original, with a  
120 return of such service endorsed thereon, shall be filed with the  
121 commissioner. The order shall be deemed to be issued upon service or  
122 upon deposit in the mail. Any order issued pursuant to this section  
123 shall state the basis on which it is issued and shall specify a reasonable  
124 time for compliance.

125 (c) Unless a person aggrieved by an order files a written request for  
126 a hearing before the commissioner not later than thirty days after the  
127 date of issuance, such order shall become final. If requested, the  
128 commissioner shall hold a hearing as soon thereafter as practicable. A  
129 request for a hearing shall be a condition precedent to any appeal. The  
130 commissioner may, after the hearing or at any time after the issuance  
131 of the order, modify such order by agreement or extend the time  
132 schedule contained in the order if the commissioner deems such  
133 modification or extension advisable or necessary and any such  
134 modification or extension shall be deemed to be a revision of an  
135 existing order and shall not constitute a new order. There shall be no  
136 hearing subsequent to, or any appeal from, any such modification or  
137 extension.

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

142 (e) When the commissioner issues a final order pursuant to this  
143 section, the commissioner shall cause a certified copy or notice thereof

144 to be filed on the land records in the municipality in which the land is  
145 located, and such certified copy or notice shall constitute a notice to the  
146 owner's heirs, successors and assigns. When the order has been fully  
147 complied with or revoked, the commissioner shall issue a certificate  
148 acknowledging such compliance or revocation, which certificate the  
149 commissioner shall cause to be recorded on the land records in the  
150 municipality in which the order was previously recorded.

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

154 Sec. 5. Section 22a-156 of the general statutes is repealed and the  
155 following is substituted in lieu thereof (*Effective October 1, 2004*):

156 Whenever, in the judgment of the [Commissioner of Environmental  
157 Protection] commissioner, any person has engaged in or is about to  
158 engage in (1) any acts or practices which constitute, or will constitute, a  
159 violation of any provision of sections [22a-151 to 22a-158, inclusive, or  
160 any other applicable statute] 22a-148 to 22a-150, inclusive, as amended,  
161 sections 22a-153 to 22a-155, inclusive, as amended by this act, section  
162 22a-157, as amended by this act, or 22a-158, or any rule, regulation  
163 adopted or, license or order issued [thereunder, at the request of the  
164 Commissioner of Environmental Protection] pursuant to said sections,  
165 or (2) any action or omission in which a person has established,  
166 created, or maintained or will establish, create, or maintain and  
167 exposure hazard or source of pollution from ionizing radiation or  
168 radioactive material, upon the request of the commissioner, the  
169 Attorney General [may make application to the appropriate court]  
170 shall bring an action in the superior court for the judicial district of  
171 Hartford for an order enjoining such acts, [or] practices, or omissions  
172 to order remedial measures to control or abate a hazard or pollution,  
173 or for an order directing compliance and, upon a showing by the  
174 commissioner that such person has engaged or is about to engage in  
175 any such acts or practices or omissions, a permanent or temporary  
176 injunction, restraining order or other order may be granted. Any such

177 action brought by the Attorney General pursuant to this section shall  
178 have precedence in the order of trial as provided for in section 52-191.

179       Sec. 6. (NEW) (*Effective October 1, 2004*) (a) Any person who violates  
180 any provision of sections 22a-148 to 22a-150, inclusive, as amended,  
181 sections 22a-153 to 22a-155, inclusive, section 22a-157 or 22a-158 of the  
182 general statutes, as amended by this act, or any regulation adopted or  
183 license or order issued pursuant to said sections, or any owner of land  
184 who permits such violations to occur on such owner's land, shall be  
185 assessed a civil penalty of not more than ten thousand dollars per day  
186 for each offense. Each violation shall be a separate and distinct offense  
187 and, in the case of a continuing violation, each day's continuance  
188 thereof shall be deemed a separate and distinct offense. If two or more  
189 persons are responsible for such violation, such persons shall be jointly  
190 and severally liable under this section. The Attorney General, upon  
191 request of the Commissioner of Environmental Protection, shall  
192 institute a civil action in the superior court for the judicial district of  
193 Hartford to recover such penalty. Any such action brought by the  
194 Attorney General pursuant to this section shall have precedence in the  
195 order of trial as provided for in section 52-191.

196       (b) Any person who, with criminal negligence, violates any  
197 provision of sections 22a-148 to 22a-150, inclusive, as amended,  
198 sections 22a-153 to 22a-155, inclusive, section 22a-157 or 22a-158 of the  
199 general statutes, as amended by this act, or any regulation adopted or  
200 license or order issued pursuant to said sections shall be fined not  
201 more than twenty-five thousand dollars per day for each violation or  
202 be imprisoned not more than one year, or both. A subsequent  
203 conviction for any such violation shall carry a fine of not more than  
204 fifty thousand dollars per day for each day of violation or  
205 imprisonment for not more than two years, or both. Each violation  
206 shall be a separate and distinct offense, and, in the case of a continuing  
207 violation, each day a violation continues shall be deemed to be a  
208 separate and distinct offense. For the purposes of this subsection,  
209 "person" includes, but is not limited to, any responsible corporate  
210 officer or municipal official.

211 (c) Any person who knowingly violates any provision of sections  
212 22a-148 to 22a-150, inclusive, as amended, sections 22a-153 to 22a-155,  
213 inclusive, section 22a-157 or 22a-158 of the general statutes, as  
214 amended by this act, or any regulation adopted or license or order  
215 issued pursuant to said sections shall be fined not more than fifty  
216 thousand dollars per day for each day of violation or be imprisoned  
217 not more than three years, or both. A subsequent conviction for any  
218 such violations shall carry a fine of not more than one hundred  
219 thousand dollars per day for each day of violation or imprisonment for  
220 not more than ten years, or both. Each violation shall be a separate and  
221 distinct offense, and, in the case of a continuing violation, each day a  
222 violation continues shall be deemed to be a separate and distinct  
223 offense. For the purposes of this subsection, "person" includes, but is  
224 not limited to, any responsible corporate officer or municipal official.

225 (d) Any person who knowingly makes a false statement,  
226 representation or certification in an application, record, report, plan or  
227 other document filed or required to be maintained under sections 22a-  
228 148 to 22a-150, inclusive, as amended, sections 22a-153 to 22a-155,  
229 inclusive, section 22a-157 or 22a-158 of the general statutes, as  
230 amended by this act, or any regulation adopted or license or order  
231 issued pursuant to said sections, or who falsifies, tampers with, or  
232 knowingly renders inaccurate any monitoring device or method  
233 required to be maintained under said sections, or any regulation  
234 adopted or registration, license or order issued pursuant to said  
235 sections, shall, upon conviction, be fined not more than twenty-five  
236 thousand dollars per day for each violation or imprisoned not more  
237 than two years for each violation, or both. Each violation shall be a  
238 separate and distinct offense, and, in the case of a continuing violation,  
239 each day a violation continues shall be deemed to be a separate and  
240 distinct offense. For the purposes of this subsection, "person" includes,  
241 but is not limited to, any responsible corporate officer or municipal  
242 official.

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

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

250 Sec. 8. (NEW) (*Effective October 1, 2004*) (a) If a person who causes or  
251 is responsible for any discharge, spillage, uncontrolled loss, release,  
252 leakage, seepage or filtration of radioactive material or radioactive  
253 waste, or for any exposure hazard or potential exposure hazard from  
254 radioactive materials, radioactive waste, or a source of ionizing  
255 radiation, does not act immediately to prevent, contain and remove or  
256 mitigate the effects of such hazard, discharge, spillage, loss, release,  
257 leakage, seepage or filtration to the satisfaction of the Commissioner of  
258 Environmental Protection, or if such person is unknown, and such  
259 discharge, spillage, loss, leakage, seepage or filtration is not being  
260 contained, removed or mitigated by the federal government, a state  
261 agency, a municipality or a regional or interstate authority, the  
262 commissioner may investigate, contain and remove, mitigate, monitor  
263 or prevent the effects of such hazard, discharge, spillage, loss, leakage,  
264 seepage or filtration. The commissioner may enter into a contract with  
265 any person for the purpose of carrying out the provisions of this  
266 subsection.

267 (b) Any person who causes or is responsible for pollution or  
268 contamination or potential pollution or contamination of any land,  
269 water or air resources of the state through a discharge, spillage,  
270 uncontrolled loss, leakage or leaching of radioactive material or  
271 radioactive waste, or who causes or is responsible for any exposure  
272 hazard or potential exposure hazard from radioactive materials,  
273 radioactive waste, or a source of ionizing radiation shall be liable for  
274 all costs and expenses incurred by the commissioner in investigating,  
275 containing, removing, cleaning, monitoring, mitigating or preventing  
276 such pollution or contamination or potential pollution or  
277 contamination and legal expenses and court costs incurred in such  
278 recovery. Nothing in this subsection shall preclude the commissioner

279 from seeking additional compensation or such other relief that a court  
280 may award, including punitive damages. When such hazard, pollution  
281 or contamination results from the actions or inaction of more than one  
282 person, each person shall be held jointly and severally liable for such  
283 costs. Upon request of the commissioner, the Attorney General shall  
284 bring a civil action to recover all such costs and expenses from the  
285 person who causes or is responsible for such hazard, pollution or  
286 contamination.

287 (c) Any person who contains or removes or otherwise cleans  
288 radioactive material or radioactive waste pollution or contamination,  
289 or mitigates the effects of radioactive material or radioactive wastes  
290 resulting from a discharge, spillage, uncontrolled loss, leakage or  
291 leaching of radioactive material or radioactive waste not authorized by  
292 regulation, registration or license shall be entitled to reimbursement  
293 from any person responsible for such pollution or contamination for  
294 the reasonable costs expended for such containment, removal, cleaning  
295 or mitigation, if such pollution or contamination resulted from the  
296 negligent or reckless conduct, or intentional act of such responsible  
297 person. When such pollution or contamination results from the  
298 negligence of more than one person, each person shall be held jointly  
299 and severally liable for such costs.

300 (d) Whenever the commissioner incurs contractual obligations in  
301 carrying out the duties of subsection (a) of this section and the person  
302 responsible for the pollution or contamination does not assume such  
303 contractual obligations, the commissioner shall request the Attorney  
304 General to bring a civil action pursuant to subsection (a) of this section  
305 to recover the costs and expenses of such contractual obligations. If the  
306 responsible person, firm or corporation is unknown, the commissioner  
307 shall request the federal government to assume such contractual  
308 obligations to the extent provided for by federal law.

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

312 (a) Any person who knowingly or negligently violates any  
313 provision of section 14-100b or 14-164c, as amended, subdivision (3) of  
314 subsection (b) of section 15-121, section 15-171, 15-172, 15-175, 22a-5,  
315 22a-6, as amended, or 22a-7, chapter 440, chapter 441, section 22a-69 or  
316 22a-74, subsection (b) of section 22a-134p, section 22a-148 to 22a-150,  
317 inclusive, as amended, 22a-153, 22a-154, as amended by this act, 22a-  
318 157, as amended by this act, 22a-158, 22a-162, 22a-171, 22a-174, as  
319 amended, 22a-175, 22a-177, 22a-178, 22a-181, 22a-183, 22a-184, 22a-190,  
320 22a-208, 22a-208a, 22a-209, 22a-213, 22a-220, 22a-225, 22a-231, 22a-336,  
321 22a-342, as amended, 22a-345, 22a-346, 22a-347, 22a-349a, 22a-358, 22a-  
322 359, 22a-361, as amended, 22a-362, 22a-365 to 22a-379, inclusive, as  
323 amended, 22a-401 to 22a-411, inclusive, as amended, 22a-416, 22a-417,  
324 22a-424 to 22a-433, inclusive, 22a-447, 22a-449, as amended, 22a-450,  
325 22a-451, 22a-454, as amended, 22a-458, 22a-461, 22a-462 or 22a-471, or  
326 any regulation, order or permit adopted or issued thereunder by the  
327 Commissioner of Environmental Protection shall be liable to the state  
328 for the reasonable costs and expenses of the state in detecting,  
329 investigating, controlling and abating such violation. Such person shall  
330 also be liable to the state for the reasonable costs and expenses of the  
331 state in restoring the air, waters, lands and other natural resources of  
332 the state, including plant, wild animal and aquatic life to their former  
333 condition insofar as practicable and reasonable, or, if restoration is not  
334 practicable or reasonable, for any damage, temporary or permanent,  
335 caused by such violation to the air, waters, lands or other natural  
336 resources of the state, including plant, wild animal and aquatic life and  
337 to the public trust therein. Institution of a suit to recover for such  
338 damage, costs and expenses shall not preclude the application of any  
339 other remedies.

340 Sec. 10. Section 22a-152 of the general statutes is repealed and the  
341 following is substituted in lieu thereof (*Effective October 1, 2004*):

342 The Governor, or the Commissioner of Environmental Protection,  
343 on behalf of this state, is authorized to enter into agreements with the  
344 government of the United States providing for discontinuance of  
345 certain of the programs of the government of the United States with

346 respect to sources of ionizing radiation and the assumption thereof by  
347 this state, as provided for in the Atomic Energy Act of 1954, as  
348 amended.

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>
Sec. 10	<i>October 1, 2004</i>

**ENV**

**Joint Favorable Subst. C/R**

**JUD**