



General Assembly

Amendment

February Session, 2004

LCO No. 5137

HB0564305137SR0

Offered by:
SEN. MCKINNEY, 28th Dist.

To: Subst. House Bill No. 5643 File No. 693 Cal. No. 526

**"AN ACT CONCERNING A MARINE PROTECTION AREA AND
THE RECOMMENDATIONS OF THE LONG ISLAND SOUND TASK
FORCE."**

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

3 "Sec. 501. Section 22a-151 of the general statutes is amended by
4 adding subdivisions (9) and (10) as follows (*Effective October 1, 2004*):

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

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

10 Sec. 502. Section 22a-153 of the general statutes is repealed and the
11 following is substituted in lieu thereof (*Effective October 1, 2004*):

12 (a) The [Commissioner of Environmental Protection] commissioner

13 shall supervise and regulate in the interest of the public health and
14 safety the use of ionizing radiation within the state.

15 (b) [Said] The commissioner may employ, subject to the provisions
16 of chapter 67, and prescribe the powers and duties of such persons as
17 may be necessary to carry out the provisions of sections 22a-151 to 22a-
18 158, inclusive, as amended by this act.

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

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

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

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

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

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

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

43 radiation program.

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

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

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

74 Sec. 503. Subsection (a) of section 22a-154 of the general statutes is

75 repealed and the following is substituted in lieu thereof (*Effective*
76 *October 1, 2004*):

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

83 commissioner may issue, deny, renew, modify, suspend or revoke
84 such licenses and may include such terms and conditions in such
85 licenses that the commissioner deems necessary.

86 Sec. 504. Section 22a-155 of the general statutes is repealed and the
87 following is substituted in lieu thereof (*Effective October 1, 2004*):

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

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

102 (a) The commissioner may issue, modify or revoke orders to correct
103 or abate (1) pollution or a potential source of pollution from ionizing
104 radiation or radioactive materials, or (2) violations of sections 22a-148
105 to 22a-150, inclusive, as amended, section 22a-153, as amended by this
106 act, 22a-154, as amended by this act, 22a-157, as amended by this act,

107 or 22a-158, or any regulation adopted or license issued pursuant to
108 said sections. Such orders may include steps necessary to correct or
109 abate pollution or a potential source of pollution or any violation, or
110 other measures the commissioner deems necessary. Such orders may
111 be issued to any person who violates any provision of said sections, or
112 any regulation adopted or registration or license issued pursuant to
113 said sections or to the owner of any land on which the violation occurs,
114 regardless of whether the owner of the land participated in the
115 violation. If two or more persons are issued an order pursuant to this
116 section for the same violation, such persons shall be jointly and
117 severally liable for complying with such order.

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

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

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

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

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

157 Sec. 505. Section 22a-156 of the general statutes is repealed and the
158 following is substituted in lieu thereof (*Effective October 1, 2004*):

159 Whenever, in the judgment of the [Commissioner of Environmental
160 Protection] commissioner, any person has engaged in or is about to
161 engage in (1) any acts or practices which constitute, or will constitute, a
162 violation of any provision of sections [22a-151 to 22a-158, inclusive, or
163 any other applicable statute] 22a-148 to 22a-150, inclusive, as amended,
164 sections 22a-153 to 22a-155, inclusive, as amended by this act, section
165 22a-157, as amended by this act, or 22a-158, or any rule, regulation
166 adopted or, license or order issued [thereunder, at the request of the
167 Commissioner of Environmental Protection] pursuant to said sections,
168 or (2) any act or omission in which a person has established, created, or
169 maintained or will establish, create, or maintain an exposure hazard or
170 source of pollution from ionizing radiation or radioactive material,
171 upon the request of the commissioner, the Attorney General [may

172 make application to the appropriate court] shall bring an action in the
173 superior court for the judicial district of Hartford for an order
174 enjoining such acts, [or] practices, or omissions to order remedial
175 measures to control or abate a hazard or pollution, or for an order
176 directing compliance and, upon a showing by the commissioner that
177 such person has engaged or is about to engage in any such acts or
178 practices or omissions, a permanent or temporary injunction,
179 restraining order or other order may be granted. Any such action
180 brought by the Attorney General pursuant to this section shall have
181 precedence in the order of trial as provided for in section 52-191.

182 Sec. 506. (NEW) (*Effective October 1, 2004*) (a) Any person who
183 violates any provision of sections 22a-148 to 22a-150, inclusive, of the
184 general statutes, as amended, sections 22a-153 to 22a-155, inclusive,
185 section 22a-157 or 22a-158 of the general statutes, as amended by this
186 act, or any regulation adopted or license or order issued pursuant to
187 said sections, or any owner of land who permits such violations to
188 occur on such owner's land, shall be assessed a civil penalty of not
189 more than ten thousand dollars per day for each offense. Each
190 violation shall be a separate and distinct offense and, in the case of a
191 continuing violation, each day's continuance thereof shall be deemed a
192 separate and distinct offense. If two or more persons are responsible
193 for such violation, such persons shall be jointly and severally liable
194 under this section. The Attorney General, upon request of the
195 Commissioner of Environmental Protection, shall institute a civil
196 action in the superior court for the judicial district of Hartford to
197 recover such penalty. Any such action brought by the Attorney
198 General pursuant to this section shall have precedence in the order of
199 trial as provided for in section 52-191 of the general statutes.

200 (b) Any person who, with criminal negligence, violates any
201 provision of sections 22a-148 to 22a-150, inclusive, of the general
202 statutes, as amended, sections 22a-153 to 22a-155, inclusive, section
203 22a-157 or 22a-158 of the general statutes, as amended by this act, or
204 any regulation adopted or license or order issued pursuant to said
205 sections shall be fined not more than twenty-five thousand dollars per

206 day for each violation or be imprisoned not more than one year, or
207 both. A subsequent conviction for any such violation shall carry a fine
208 of not more than fifty thousand dollars per day for each day of
209 violation or imprisonment for not more than two years, or both. Each
210 violation shall be a separate and distinct offense, and, in the case of a
211 continuing violation, each day a violation continues shall be deemed to
212 be a separate and distinct offense. For the purposes of this subsection,
213 "person" includes, but is not limited to, any responsible corporate
214 officer or municipal official.

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

230 (d) Any person who knowingly makes a false statement,
231 representation or certification in an application, record, report, plan or
232 other document filed or required to be maintained under sections 22a-
233 148 to 22a-150, inclusive, of the general statutes, as amended, sections
234 22a-153 to 22a-155, inclusive, section 22a-157 or 22a-158 of the general
235 statutes, as amended by this act, or any regulation adopted or license
236 or order issued pursuant to said sections, or who falsifies, tampers
237 with, or knowingly renders inaccurate any monitoring device or
238 method required to be maintained under said sections, or any
239 regulation adopted or registration, license or order issued pursuant to

240 said sections, shall, upon conviction, be fined not more than twenty-
241 five thousand dollars per day for each violation or imprisoned not
242 more than two years for each violation, or both. Each violation shall be
243 a separate and distinct offense, and, in the case of a continuing
244 violation, each day a violation continues shall be deemed to be a
245 separate and distinct offense. For the purposes of this subsection,
246 "person" includes, but is not limited to, any responsible corporate
247 officer or municipal official.

248 Sec. 507. Section 22a-157 of the general statutes is repealed and the
249 following is substituted in lieu thereof (*Effective October 1, 2004*):

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

255 Sec. 508. (NEW) (*Effective October 1, 2004*) (a) If a person who causes
256 or is responsible for any discharge, spillage, uncontrolled loss, release,
257 leakage, seepage or filtration of radioactive material or radioactive
258 waste, or for any exposure hazard or potential exposure hazard from
259 radioactive materials, radioactive waste, or a source of ionizing
260 radiation, does not act immediately to prevent, contain and remove or
261 mitigate the effects of such hazard, discharge, spillage, loss, release,
262 leakage, seepage or filtration to the satisfaction of the Commissioner of
263 Environmental Protection, or if such person is unknown, and such
264 discharge, spillage, loss, leakage, seepage or filtration is not being
265 contained, removed or mitigated by the federal government, a state
266 agency, a municipality or a regional or interstate authority, the
267 commissioner may investigate, contain and remove, mitigate, monitor
268 or prevent the effects of such hazard, discharge, spillage, loss, leakage,
269 seepage or filtration. The commissioner may enter into a contract with
270 any person for the purpose of carrying out the provisions of this
271 subsection.

272 (b) Any person who causes or is responsible for pollution or
273 contamination or potential pollution or contamination of any land,
274 water or air resources of the state through a discharge, spillage,
275 uncontrolled loss, leakage or leaching of radioactive material or
276 radioactive waste, or who causes or is responsible for any exposure
277 hazard or potential exposure hazard from radioactive materials,
278 radioactive waste, or a source of ionizing radiation shall be liable for
279 all costs and expenses incurred by the commissioner in investigating,
280 containing, removing, cleaning, monitoring, mitigating or preventing
281 such pollution or contamination or potential pollution or
282 contamination and legal expenses and court costs incurred in such
283 recovery. Nothing in this subsection shall preclude the commissioner
284 from seeking additional compensation or such other relief that a court
285 may award, including punitive damages. When such hazard, pollution
286 or contamination results from the actions or inaction of more than one
287 person, each person shall be held jointly and severally liable for such
288 costs. Upon request of the commissioner, the Attorney General shall
289 bring a civil action to recover all such costs and expenses from the
290 person who causes or is responsible for such hazard, pollution or
291 contamination.

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

305 (d) Whenever the commissioner incurs contractual obligations in

306 carrying out the duties of subsection (a) of this section and the person
307 responsible for the pollution or contamination does not assume such
308 contractual obligations, the commissioner shall request the Attorney
309 General to bring a civil action pursuant to subsection (a) of this section
310 to recover the costs and expenses of such contractual obligations. If the
311 responsible person, firm or corporation is unknown, the commissioner
312 shall request the federal government to assume such contractual
313 obligations to the extent provided for by federal law.

314 Sec. 509. Subsection (a) of section 22a-6a of the general statutes is
315 repealed and the following is substituted in lieu thereof (*Effective*
316 *October 1, 2004*):

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

340 caused by such violation to the air, waters, lands or other natural
341 resources of the state, including plant, wild animal and aquatic life and
342 to the public trust therein. Institution of a suit to recover for such
343 damage, costs and expenses shall not preclude the application of any
344 other remedies.

345 Sec. 510. Section 22a-152 of the general statutes is repealed and the
346 following is substituted in lieu thereof (*Effective October 1, 2004*):

347 The Governor, or the Commissioner of Environmental Protection,
348 on behalf of this state, is authorized to enter into agreements with the
349 government of the United States providing for discontinuance of
350 certain of the programs of the government of the United States with
351 respect to sources of ionizing radiation and the assumption thereof by
352 this state, as provided for in the Atomic Energy Act of 1954, as
353 amended."