



House of Representatives

General Assembly

File No. 599

January Session, 2005

Substitute House Bill No. 6803

House of Representatives, May 2, 2005

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING REVISIONS TO CERTAIN WASTE MANAGEMENT PROGRAMS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (1) of section 22a-134 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2005*):

4 (1) "Transfer of establishment" means any transaction or proceeding
5 through which an establishment undergoes a change in ownership, but
6 does not mean:

7 (A) [conveyance] Conveyance or extinguishment of an easement; []

8 (B) [conveyance] Conveyance of an establishment through a
9 foreclosure, as defined in subsection (b) of section 22a-452f or
10 foreclosure of a municipal tax lien; []

11 (C) [conveyance] Conveyance of a deed in lieu of foreclosure to a

12 lender, as defined in and that qualifies for the secured lender
13 exemption pursuant to subsection (b) of section 22a-452f; [.]

14 (D) [conveyance] Conveyance of a security interest, as defined in
15 subdivision (7) of subsection (b) of section 22a-452f; [.]

16 (E) [termination] Termination of a lease and conveyance,
17 assignment or execution of a lease for a period less than ninety-nine
18 years including conveyance, assignment or execution of a lease with
19 options or similar terms that will extend the period of the leasehold to
20 ninety-nine years, or from the commencement of the leasehold, ninety-
21 nine years, including conveyance, assignment or execution of a lease
22 with options or similar terms that will extend the period of the
23 leasehold to ninety-nine years, or from the commencement of the
24 leasehold; [.]

25 (F) [any] Any change in ownership approved by the Probate Court;
26 [.]

27 (G) [devolution] Devolution of title to a surviving joint tenant, or to
28 a trustee, executor or administrator under the terms of a testamentary
29 trust or will, or by intestate succession; [.]

30 (H) [corporate] Corporate reorganization not substantially affecting
31 the ownership of the establishment; [.]

32 (I) [the] The issuance of stock or other securities of an entity which
33 owns or operates an establishment; [.]

34 (J) [the] The transfer of stock, securities or other ownership interests
35 representing less than forty per cent of the ownership of the entity that
36 owns or operates the establishment; [.]

37 (K) [any] Any conveyance of an interest in an establishment where
38 the transferor is the sibling, spouse, child, parent, grandparent, child of
39 a sibling or sibling of a parent of the transferee; [.]

40 (L) [conveyance] Conveyance of an interest in an establishment to a

41 trustee of an inter vivos trust created by the transferor solely for the
42 benefit of one or more sibling, spouse, child, parent, grandchild, child
43 of a sibling or sibling of a parent of the transferor; []

44 (M) [any] Any conveyance of a portion of a parcel upon which
45 portion no establishment is or has been located and upon which there
46 has not occurred a discharge, spillage, uncontrolled loss, seepage or
47 filtration of hazardous waste, provided either the area of such portion
48 is not greater than fifty per cent of the area of such parcel or written
49 notice of such proposed conveyance and an environmental condition
50 assessment form for such parcel is provided to the commissioner sixty
51 days prior to such conveyance; []

52 (N) [conveyance] Conveyance of a service station, as defined in
53 subdivision (5) of this section; []

54 (O) [any] Any conveyance of an establishment which, prior to July
55 1, 1997, had been developed solely for residential use and such use has
56 not changed; []

57 (P) [any] Any conveyance of an establishment to any entity created
58 or operating under chapter 130 or 132, or to an urban rehabilitation
59 agency, as defined in section 8-292, or to a municipality under section
60 32-224, or to the Connecticut Development Authority or any
61 subsidiary of the authority; []

62 (Q) [any] Any conveyance of a parcel in connection with the
63 acquisition of properties to effectuate the development of the overall
64 project, as defined in section 32-651; []

65 (R) [the] The conversion of a general or limited partnership to a
66 limited liability company under section 34-199; []

67 (S) [the] The transfer of general partnership property held in the
68 names of all of its general partners to a general partnership which
69 includes as general partners immediately after the transfer all of the
70 same persons as were general partners immediately prior to the
71 transfer; []

72 (T) [the] The transfer of general partnership property held in the
73 names of all of its general partners to a limited liability company
74 which includes as members immediately after the transfer all of the
75 same persons as were general partners immediately prior to the
76 transfer; [, or]

77 (U) [acquisition] Acquisition of an establishment by any
78 governmental or quasi-governmental condemning authority; or

79 (V) Conveyance of any real property or business operation that (i)
80 generates more than one hundred kilograms of universal waste in a
81 calendar month, (ii) stores, handles or transports universal waste
82 generated at a different location, or (iii) undertakes activities at a
83 universal waste transfer facility, except that any such real property or
84 business operation qualifies as a transfer of establishment if it
85 otherwise qualifies as an establishment, if there has been a discharge,
86 spillage, uncontrolled loss, seepage or filtration of a universal waste or
87 a constituent of universal waste that is a hazardous substance at or
88 from such real property or business operation, or if universal waste is
89 recycled, treated, except for treatment of a universal waste pursuant to
90 40 CFR 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or
91 disposed of at such real property or business operation.

92 Sec. 2. Subdivisions (10) and (11) of section 22a-134 of the general
93 statutes are repealed and the following is substituted in lieu thereof
94 (*Effective October 1, 2005*):

95 (10) "Form I" means a written certification by the transferor of an
96 establishment on a form prescribed and provided by the commissioner
97 that: (A) No discharge, spillage, uncontrolled loss, seepage or filtration
98 of hazardous waste or a hazardous substance has occurred at the
99 establishment which certification is based on an investigation of the
100 parcel in accordance with prevailing standards and guidelines, or (B)
101 no discharge spillage, uncontrolled loss, seepage or filtration of
102 hazardous waste has occurred at the establishment based upon an
103 investigation of the parcel in accordance with the prevailing standards
104 and guidelines and the commissioner has determined, in writing, or a

105 licensed environmental professional has verified, in writing, that any
106 discharge, spillage, uncontrolled loss, seepage or filtration of a
107 hazardous substance has been remediated in accordance with the
108 remediation standards and that since any such written approval or
109 verification, including any approval or verification for a portion of an
110 establishment, no discharge, spillage, uncontrolled loss, seepage or
111 filtration of hazardous waste or hazardous substances has occurred at
112 any portion of the establishment;

113 (11) "Form II" means a written certification by the transferor of an
114 establishment on a form prescribed and provided by the commissioner
115 that the parcel has been investigated in accordance with prevailing
116 standards and guidelines and that (A) any pollution caused by a
117 discharge, spillage, uncontrolled loss, seepage or filtration of
118 hazardous waste or a hazardous substance which has occurred from
119 the establishment has been remediated in accordance with the
120 remediation standards and that the remediation has been approved in
121 writing by the commissioner or has been verified pursuant to section
122 22a-133x or section 22a-134a in writing attached to such form by a
123 licensed environmental professional to have been performed in
124 accordance with the remediation standards and that since any such
125 written approval or verification, including any approval or verification
126 for a portion of an establishment, no discharge, spillage, uncontrolled
127 loss, seepage or filtration of hazardous waste or hazardous substances
128 has occurred at any portion of the establishment, (B) the commissioner
129 has determined in writing or a licensed environmental professional has
130 verified pursuant to section 22a-133x or section 22a-134a, as amended
131 by this act, in writing, attached to the form that no remediation is
132 necessary to achieve compliance with the remediation standards, or
133 (C) a Form IV verification was previously submitted to the
134 commissioner and, since the date of the submission of the Form IV, no
135 discharge, spillage, uncontrolled loss, seepage or filtration of
136 hazardous waste or a hazardous substance has occurred at the
137 establishment, which certification is based on an investigation of the
138 parcel in accordance with prevailing standards and guidelines.

139 Sec. 3. Section 22a-134 of the general statutes is amended by adding
140 subdivisions (26) and (27) as follows (*Effective October 1, 2005*):

141 (NEW) (26) "Universal waste" means batteries, pesticides,
142 thermostats, lamps and used electronics regulated as a universal waste
143 under regulations adopted pursuant to subsection (c) of section 22a-
144 449. "Universal waste" does not mean (A) batteries, pesticides,
145 thermostats and lamps that are not covered under 40 CFR Part 273, or
146 (B) used electronics that are not regulated as a universal waste under
147 regulations adopted pursuant to subsection (c) of section 22a-449.

148 (NEW) (27) "Universal waste transfer facility" means any facility
149 related to transportation, including loading docks, parking areas,
150 storage areas and other similar areas where shipments of universal
151 waste are held during the normal course of transportation for ten days
152 or less.

153 Sec. 4. Subsections (g) and (h) of section 22a-134a of the general
154 statutes are repealed and the following is substituted in lieu thereof
155 (*Effective October 1, 2005*):

156 (g) (1) If the commissioner notifies the certifying party to a Form III
157 or Form IV that a licensed environmental professional may verify the
158 remediation, such certifying party shall, on or before thirty days of the
159 receipt of such notice or such later date as may be approved in writing
160 by the commissioner, submit a schedule for [investigating and
161 remediating the establishment] the investigation of the parcel and
162 remediation of the establishment. Such schedule shall, unless a later
163 date is specified in writing by the commissioner, provide that the
164 investigation shall be completed within two years of the date of receipt
165 of such notice and that remediation shall be initiated within three years
166 of the date of receipt of such notice. The schedule shall also include a
167 schedule for providing public notice of the remediation prior to the
168 initiation of such remediation in accordance with subsection (i) of this
169 section. The commissioner shall notify such certifying party if the
170 commissioner determines that the commissioner's review and written
171 approval is necessary. Such certifying party shall investigate the parcel

172 and remediate the establishment in accordance with the proposed
173 schedule or the schedule specified by the commissioner. [Such
174 certifying party shall submit to the commissioner an independent
175 verification by a licensed environmental professional that the
176 establishment has been remediated in accordance with the remediation
177 standards, and as applicable, a Form IV verification.] When
178 remediation of the entire establishment is complete, the certifying
179 party shall submit to the commissioner a final verification by a licensed
180 environmental professional. Any such final verification may include
181 and rely upon a verification for a portion of the establishment
182 submitted pursuant to subdivision (2) of this subsection.

183 (2) If a certifying party completes the remediation of a portion of an
184 establishment, such party may submit a verification by a licensed
185 environmental professional for any such portion of an establishment.
186 The certifying party shall be deemed to have satisfied the requirements
187 of this subsection for that portion of the establishment covered by any
188 such verification, but shall be responsible for investigation and
189 remediation of the remainder of the establishment not covered by such
190 verification. If any portion of an establishment for which a verification
191 is submitted pursuant to this subdivision is transferred, conveyed or
192 undergoes a change in ownership before remediation of the entire
193 establishment is complete, the certifying party shall provide notice to
194 the commissioner of such transfer, conveyance or change in
195 ownership. Such notice shall be provided to the commissioner within
196 thirty days of any such transfer, conveyance or change in ownership.

197 (h) (1) If the commissioner notifies the certifying party to a Form III
198 or Form IV that the commissioner's review and written approval of the
199 investigation of the parcel and remediation of the establishment is
200 required, such certifying party shall, on or before thirty days of the
201 receipt of such notice or such later date as may be approved in writing
202 by the commissioner, submit for the commissioner's review and
203 written approval a proposed schedule for: [(1)] (A) Investigating the
204 parcel and remediating the establishment; [(2)] (B) submitting to the
205 commissioner scopes of work, technical plans, technical reports and

206 progress reports related to such investigation and remediation; and
207 [(3)] (C) providing public notice of the remediation prior to the
208 initiation of such remediation in accordance with subsection (i) of this
209 section. Upon the commissioner's approval of such schedule, such
210 certifying party shall, in accordance with the approved schedule,
211 submit scopes of work, technical plans, technical reports and progress
212 reports to the commissioner for the commissioner's review and written
213 approval. Such certifying party shall perform all actions identified in
214 the approved scopes of work, technical plans, technical reports and
215 progress reports in accordance with the approved schedule. The
216 commissioner may approve in writing any modification proposed in
217 writing by such certifying party to such schedule or investigation and
218 remediation. The commissioner may, at any time, notify such
219 certifying party in writing that the commissioner's review and written
220 approval is not required and that a licensed environmental
221 professional may verify that the remediation has been performed in
222 accordance with the remediation standards.

223 (2) A certifying party may complete the remediation of a portion of
224 an establishment and request that the commissioner determine that the
225 requirements of this subsection have been satisfied for any such
226 portion of the establishment. If the commissioner determines that any
227 such remediation is complete, the certifying party shall be deemed to
228 have satisfied the requirements of this subsection for any such portion
229 of an establishment. Any determination by the commissioner that
230 remediation at the entire establishment has been completed may
231 include and rely upon any determination made pursuant to this
232 subdivision that remediation is complete at a portion of an
233 establishment. If any portion of an establishment for which the
234 commissioner determines that remediation is complete pursuant to
235 this subdivision is transferred, conveyed or undergoes a change in
236 ownership before remediation of the entire establishment is complete,
237 the certifying party shall provide notice to the commissioner of such
238 transfer, conveyance or change in ownership. Such notice shall be
239 provided to the commissioner within thirty days of any such transfer,
240 conveyance or change in ownership.

241 Sec. 5. Subsection (l) of section 22a-134a of the general statutes is
242 repealed and the following is substituted in lieu thereof (*Effective*
243 *October 1, 2005*):

244 (l) Notwithstanding any other provisions of this section, no person
245 shall be required to comply with the provisions of sections 22a-134 to
246 22a-134e, inclusive, as amended by; this act, when transferring real
247 property (1) (A) for which a Form I or Form II has been filed for the
248 transfer of the parcel on or after October 1, 1995, and for which no
249 discharge, spillage, uncontrolled loss, seepage or filtration of
250 hazardous waste or hazardous substances has occurred at any portion
251 of the establishment since the Form I or Form II was filed, or (B) for
252 which parcel a Form III or Form IV has been filed and which has been
253 remediated and such remediation has been approved, in writing, by
254 the commissioner or has been verified in writing in accordance with
255 this section by a licensed environmental professional that an
256 investigation has been performed in accordance with prevailing
257 standards and guidelines and that the remediation has been performed
258 in accordance with the remediation standards, and that since any such
259 written approval or verification, including any approval or verification
260 for a portion of an establishment, no discharge, spillage, uncontrolled
261 loss, seepage or filtration of hazardous waste or hazardous substances
262 has occurred at any portion of the establishment, and (2) at which no
263 activities described in subdivision (3) of section 22a-134 have been
264 conducted since the date of such approval or verification or the date on
265 which the Form I or Form II was filed.

266 Sec. 6. Subsections (e) and (f) of section 22a-133v of the general
267 statutes are repealed and the following is substituted in lieu thereof
268 (*Effective October 1, 2005*):

269 (e) The board shall authorize the commissioner to issue a license
270 under subsection (d) of section 22a-133m, sections 22a-184 to 22a-184e,
271 inclusive, this section and section 22a-133w to any person who
272 demonstrates to the satisfaction of the board that such person: (1) (A)
273 Has for a minimum of eight years engaged in the investigation and

274 remediation of releases of hazardous waste or petroleum products into
275 soil or groundwater, including a minimum of four years in responsible
276 charge of investigation and remediation of the release of hazardous
277 waste or petroleum products into soil or groundwater, and holds a
278 bachelor's or advanced degree from an accredited college or university
279 in a related science or related engineering field or is a professional
280 engineer licensed in accordance with chapter 391, or (B) has for a
281 minimum of fourteen years engaged in the investigation and
282 remediation of releases of hazardous waste or petroleum products into
283 soil or groundwater, including a minimum of seven years in
284 responsible charge of investigation and remediation of hazardous
285 waste or petroleum products into soil or groundwater; (2) has
286 successfully passed a written examination, or a written and oral
287 examination, prescribed by the board and approved by the
288 commissioner, which shall test the applicant's knowledge of the
289 physical and environmental sciences applicable to an investigation of a
290 polluted site and remediation conducted in accordance with
291 regulations adopted by the commissioner under section 22a-133k and
292 any other applicable guidelines or regulations as may be adopted by
293 the commissioner; and (3) has paid an examination fee of one hundred
294 eighty-eight dollars to the commissioner. In considering whether a
295 degree held by an applicant for such license qualifies for the
296 educational requirements under this section, the board may consider
297 all undergraduate, graduate, postgraduate and other courses
298 completed by the applicant.

299 (f) The board shall authorize the commissioner to issue a license to
300 any applicant who, in the opinion of the board, has satisfactorily met
301 the requirements of this section. The issuance of a license by the
302 commissioner shall be evidence that the person named therein is
303 entitled to all the rights and privileges of a licensed environmental
304 professional while such license remains unrevoked or unexpired. A
305 licensed environmental professional shall pay to the commissioner an
306 annual fee of three hundred thirty-eight dollars, due and payable on
307 July first of every year beginning with July first of the calendar year
308 immediately following the year of license issuance. The commissioner,

309 with the advice and assistance of the board, may adopt regulations in
310 accordance with the provisions of chapter 54, pertaining to the design
311 and use of seals by licensees under this section and governing the
312 license issuance and renewal process, including, but not limited to,
313 procedures for allowing the renewal of licenses when an application is
314 submitted not later than six months after the expiration of the license
315 without the applicant having to take the examination required under
316 subsection (e) of this section.

317 Sec. 7. Section 22a-463 of the general statutes is repealed and the
318 following is substituted in lieu thereof (*Effective October 1, 2005*):

319 As used in sections 22a-463 to 22a-469, inclusive:

320 [(a)] (1) "Commissioner" means the Commissioner of Environmental
321 Protection.

322 [(b)] (2) "PCB" means the class of organic compounds known as
323 polychlorinated biphenyls or terphenyls and includes any of several
324 compounds produced by replacing two or more hydrogen atoms on
325 the biphenyl or terphenyl molecule with chlorine.

326 [(c)] (3) "Incidental amounts of PCB" means amounts of the
327 compound PCB in an item, product or material which are beyond the
328 control of the person manufacturing, selling for use, or using such
329 item, product or material.

330 (4) "Dispose" means to intentionally or unintentionally discard,
331 throw away or otherwise complete or terminate the useful life of PCBs
332 and items containing PCBs. "Dispose" includes spills, leaks and other
333 uncontrolled discharges of PCBs, as well as actions relating to
334 containing, transporting, destroying, degrading, decontaminating or
335 confining PCBs and items containing PCBs.

336 Sec. 8. Section 22a-467 of the general statutes is repealed and the
337 following is substituted in lieu thereof (*Effective October 1, 2005*):

338 No person shall dispose of the compound PCB or any item, product

339 or material containing the compound PCB except in accordance with a
340 permit issued pursuant to section 22a-208a, 22a-430 or 22a-454.
341 Notwithstanding the provisions of this section, a person or
342 municipality may dispose of the compound PCB, or the item, product
343 or material containing the compound PCB, in accordance with a
344 written approval by the commissioner if such disposal (1) results in
345 destruction of the compound PCB; or (2) is not inconsistent with the
346 provisions of Part 761 of Title 40 of the Code of Federal Regulations.
347 The commissioner may include in any such approval such conditions
348 as he deems appropriate to protect the environment and human
349 health. For purposes of this section, person includes any responsible
350 corporate officer or municipal official. [and "dispose" means to
351 incinerate or treat the compound PCB or any item, product or material
352 containing the compound PCB, or to discharge, deposit, inject, dump
353 or place the compound PCB or any item, product or material
354 containing the compound PCB into or on land or water so that such
355 compound, item, product or material enters the environment, is
356 emitted into the air, or is discharged into any waters, including
357 groundwaters.]

358 Sec. 9. Subdivisions (1) to (4), inclusive, of section 22a-255h of the
359 general statutes are repealed and the following is substituted in lieu
360 thereof (*Effective October 1, 2005*):

361 As used in sections 22a-255g to 22a-255m, inclusive:

362 (1) "Package" means any container, produced either domestically or
363 in a foreign country, used for the marketing, protecting or handling of
364 a product and includes a unit package, an intermediate package and a
365 shipping container, as defined in the American Society of Testing and
366 Materials specification D966. "Package" also means any unsealed
367 receptacle such as a carrying case, crate, cup, pail, rigid foil or other
368 tray, wrapper or wrapping film, bag or tub. [but shall not include any
369 glass, ceramic or metal receptacle which is intended to be reusable or
370 refillable.]

371 (2) "Distributor" means any person who takes title or delivery from

372 the manufacturer of a package, packaging component or product,
373 produced either domestically or in a foreign country, to use for
374 promotional purposes or to sell.

375 (3) "Packaging component" means any part of a package, produced
376 either domestically or in a foreign country, including, but not limited
377 to, any interior or exterior blocking, bracing, cushioning,
378 weatherproofing, exterior strapping, coating, closure, ink, label, dye,
379 pigment, adhesive, stabilizer or other additive. Tin-plated steel that
380 meets specification A623 of the American Society of Testing and
381 Materials shall be considered as a single packaging component.
382 [Electrolytic galvanized steel that meets specification A879 of the
383 American Society of Testing and Materials and hot-dipped coated
384 galvanized steel that meets specification A525 of the American Society
385 of Testing and Materials shall be treated in the same manner as tin-
386 plated steel] Electro-galvanized coated steel and hot dipped coated
387 galvanized steel that meets the American Society of Testing and
388 Materials specifications A653, A924, A879 and A591 shall be treated in
389 the same manner as tin-plated steel.

390 (4) "Commissioner" means the Commissioner of Environmental
391 Protection or an authorized agent or designee of the commissioner.

392 Sec. 10. Subdivisions (12) to (14), inclusive, of section 22a-255h of the
393 general statutes are repealed and the following is substituted in lieu
394 thereof (*Effective October 1, 2005*):

395 (12) "Manufacturer" means any person [, firm, association,
396 partnership or corporation] producing a package or packaging
397 component as defined in subdivision (3) of this section, as amended by
398 this act.

399 (13) "Manufacturing" means the physical or chemical modification
400 of a material to produce packaging or packaging components.

401 (14) "Supplier" means any person, firm, association, partnership or
402 corporation which sells, offers for sale or offers for promotional

403 purposes packages or packaging components which will be used by
404 any other person [, firm, association, partnership or corporation] to
405 package a product.

406 Sec. 11. Subsection (a) of section 22a-255i of the general statutes is
407 repealed and the following is substituted in lieu thereof (*Effective*
408 *October 1, 2005*):

409 (a) As soon as feasible, but not later than October 1, 1992, no
410 package or packaging component shall be offered for sale or
411 promotional purposes in this state, by its manufacturer or distributor,
412 if it is composed of any lead, cadmium, mercury or hexavalent
413 chromium which has been intentionally introduced during
414 manufacturing or distribution, as opposed to the incidental presence of
415 any of these substances.

416 Sec. 12. Section 22a-255j of the general statutes is repealed and the
417 following is substituted in lieu thereof (*Effective October 1, 2005*):

418 All packages and packaging components shall be subject to sections
419 22a-255g to 22a-255m, inclusive, as amended by this act, except the
420 following:

421 (1) A package or packaging component which was manufactured
422 prior to October 1, 1990, and displays a code indicating the date it was
423 manufactured;

424 (2) A package or packaging component that would not exceed any
425 maximum concentration set forth in subsection (c) of section 22a-255i
426 but for the addition or use of recycled materials; provided the
427 provisions of sections 22a-255g to 22a-255m, inclusive, as amended by
428 this act, shall apply to such packages on and after January 1, [2000]
429 2010;

430 (3) A package or packaging component to which lead, cadmium,
431 mercury or hexavalent chromium have been added in the
432 manufacturing or distribution process in order to comply with health
433 or safety requirements of federal law, provided the manufacturer of

434 such a package or packaging component has demonstrated to the
435 commissioner that such package or packaging component is entitled to
436 an exemption under this subdivision and the commissioner grants
437 such exemption. The exemption shall be effective for up to two years
438 and may be extended if circumstances warrant an extension. An
439 extension may be granted for up to two years;

440 (4) Any alcoholic liquor bottled prior to October 1, 1992;

441 (5) A package or packaging component to which lead, cadmium,
442 mercury or hexavalent chromium have been added in the
443 manufacturing, forming, printing or distribution process for which
444 there is no feasible alternative to the use of lead, cadmium, mercury or
445 hexavalent chromium provided the manufacturer of such a package or
446 packaging component has demonstrated to the commissioner that such
447 package or packaging component is entitled to an exemption under
448 this subdivision and the commissioner grants such exemption. The
449 exemption shall be effective for two years and may be extended if
450 circumstances warrant an extension. An extension may be granted for
451 up to two years. For purposes of this subdivision, a use for which there
452 is no feasible alternative is one which is essential to the protection, safe
453 handling or function of the package's contents and for which [there is
454 no substitute] technical constraints preclude the substitution of other
455 materials. For purposes of this subdivision, a use for which there is no
456 feasible alternative shall not include the use of any lead, cadmium,
457 mercury or hexavalent chromium for the purpose of marketing;

458 (6) A package or packaging component that is reused but exceeds
459 contaminant levels set forth in subsection (c) of section 22a-255i,
460 provided (A) the product being conveyed by such package or
461 packaging component is regulated under federal or state health or
462 safety requirements; (B) the transportation of such package or
463 packaging component is regulated under federal or state
464 transportation requirements; (C) the disposal of the package or
465 packaging component is performed according to federal or state
466 radioactive or hazardous waste disposal requirements; and (D) the

467 manufacturer of such package or packaging component has
468 demonstrated to the commissioner that such package or packaging
469 component is entitled to an exemption under this subdivision and the
470 commissioner grants such exemption. Any exemption granted under
471 this subdivision shall expire on January 1, [2000] 2010;

472 (7) A package or packaging component which is reusable and has a
473 controlled distribution and reuse but which exceeds the contaminant
474 levels set forth in subsection (c) of section 22a-255i, provided the
475 manufacturer or distributor of such package or packaging component
476 petitions the commissioner for an exemption and the commissioner
477 grants such exemption. A manufacturer or distributor petitioning the
478 commissioner for such an exemption shall (A) satisfactorily
479 demonstrate that the environmental benefit of the reusable packaging
480 or packaging component is significantly greater as compared to the
481 same package or packaging component manufactured in compliance
482 with the contaminant levels set forth in subsection (c) of section 22a-
483 255i, and (B) submit a written plan including, at a minimum, the
484 following elements: (i) A means of identifying in a permanent and
485 visible manner those reusable packages or packaging components
486 containing regulated metals for which the exemption is sought; (ii) a
487 method of regulatory and financial accountability such that a specified
488 percentage of such reusable packaging or packaging components
489 manufactured and distributed to other persons are not discarded by
490 those persons after use, but are returned to the manufacturer or his
491 designee; (iii) a system of inventory and record maintenance to
492 account for the reusable packaging or packaging components placed in
493 and removed from service; (iv) a means of transforming returned
494 packaging or packaging components that are no longer reusable into
495 recycled materials for manufacturing or into manufacturing wastes
496 which are subject to existing federal or state laws or regulations to
497 ensure that these wastes do not enter the commercial or municipal
498 waste stream; and (v) a system for annually reporting to the
499 commissioner any changes to the system or changes regarding the
500 manufacturer's designee. Any exemption granted under this
501 subdivision shall expire on January 1, [2000] 2010;

502 (8) A glass or ceramic package or packaging component that has a
503 vitriified label which, when prepared according to the American
504 Society for Testing and Materials specification C1606-04 and when
505 tested in accordance with the Toxicity Characteristic Leaching
506 Procedures of the United States Environmental Protection Agency Test
507 Method and Publication SW 846, third edition, "Test Methods for
508 Evaluating Solid Waste", does not exceed one part per million for
509 cadmium, five parts per million for hexavalent chromium and five
510 parts per million for lead.

511 Sec. 13. Subsection (a) of section 22a-255m of the general statutes is
512 repealed and the following is substituted in lieu thereof (*Effective*
513 *October 1, 2005*):

514 (a) The [department] commissioner may, in consultation with the
515 [Source Reduction Council of the Council of Northeastern Governors]
516 other member states of the Toxics in Packaging Clearinghouse, review
517 the effectiveness of sections 22a-255g to 22a-255m, inclusive, as
518 amended by this act, and provide a report based on such review to the
519 Governor and the General Assembly. The report may describe
520 substitutes which manufacturers and distributors of packages and
521 packaging components have used in place of lead, mercury, cadmium
522 and hexavalent chromium, and may contain recommendations
523 concerning (1) other toxic substances contained in packaging that
524 should be added to those regulated under the provisions of sections
525 22a-255g to 22a-255m, inclusive, as amended by this act, in order to
526 further reduce the toxicity of packaging waste, and (2) the advisability
527 of retaining the exemption provided in subdivision (2) of section 22a-
528 255j, as amended by this act.

529 Sec. 14. Subsection (b) of section 22a-449 of the general statutes is
530 repealed and the following is substituted in lieu thereof (*Effective*
531 *October 1, 2005*):

532 (b) The commissioner may: (1) License terminals in the state for the
533 loading or unloading of oil or petroleum or chemical liquids or solid,
534 liquid or gaseous products or hazardous wastes and shall adopt, in

535 accordance with chapter 54, reasonable regulations in connection
536 therewith for the purposes of identifying terminals subject to licensure
537 and protecting the public health and safety and for preventing the
538 discharge, spillage, uncontrolled loss, seepage or filtration of oil or
539 petroleum or chemical liquids or solid, liquid or gaseous products or
540 hazardous wastes. Each license issued under this section shall be valid
541 for a period of not more than [three years commencing July first] ten
542 years from the date of issuance, unless sooner revoked by the
543 commissioner, and there shall be charged for each such license or
544 renewal thereof fees established by regulation sufficient to cover the
545 reasonable cost to the state of inspecting and licensing such terminals;
546 (2) provide by regulations for the establishment and maintenance in
547 operating condition and position of suitable equipment to contain as
548 far as possible the discharge, spillage, uncontrolled loss, seepage or
549 filtration of any oil or petroleum or chemical liquids or solid, liquid or
550 gaseous products or hazardous wastes; (3) inspect periodically all
551 hoses, gaskets, tanks, pipelines and other equipment used in
552 connection with the transfer, transportation or storage of oil or
553 petroleum or chemical liquids or solid, liquid or gaseous products or
554 hazardous wastes to make certain that they are in good operating
555 condition, and order the renewal of any such equipment found unfit
556 for further use. No person shall commence operation of any such
557 terminal in this state on or after July 1, 1993, without a license issued
558 by the commissioner. Any person who operates any such terminal
559 without a license issued by the commissioner shall be fined not more
560 than five thousand dollars per day during any period of unlicensed
561 operation.

562 Sec. 15. Section 22a-611 of the general statutes is repealed and the
563 following is substituted in lieu thereof (*Effective October 1, 2005*):

564 The owner or operator of a facility required to complete a toxic
565 release form under Section 313 of the Emergency Planning and
566 Community Right-to-Know Act of 1986 shall annually submit such
567 form to the commission on or before the first of July [1, 1990, and
568 annually thereafter] or a date established by the United States

569 Environmental Protection Agency, whichever comes later.

570 Sec. 16. Subsections (a) to (d), inclusive, of section 22a-208a of the
571 general statutes are repealed and the following is substituted in lieu
572 thereof (*Effective October 1, 2005*):

573 (a) The Commissioner of Environmental Protection may issue, deny,
574 modify, renew, suspend, revoke or transfer a permit, under such
575 conditions as he may prescribe and upon submission of such
576 information as he may require, for the construction, alteration and
577 operation of solid waste facilities, in accordance with the provisions of
578 this chapter and regulations adopted pursuant to this chapter.
579 Notwithstanding the provisions of this section, the commissioner shall
580 not issue (1) a permit for a solid waste land disposal facility on former
581 railroad property until July 1, 1989, unless the commissioner makes a
582 written determination that such facility is necessary to meet the solid
583 waste disposal needs of the state and will not result in a substantial
584 excess capacity of solid waste land disposal areas or disrupt the
585 orderly transportation of or disposal of solid waste in the area affected
586 by the facility, or (2) an operational permit for a resources recovery
587 facility unless the applicant has submitted a plan pursuant to section
588 22a-208g for the disposal or recycling of ash residue expected to be
589 generated at the facility in the first five years of operation. In making a
590 decision to grant or deny a permit to construct a solid waste land
591 disposal facility, including a vertical or horizontal landfill expansion,
592 the commissioner shall consider the character of the neighborhood in
593 which such facility is located and may impose requirements for hours
594 and routes of truck traffic, security and fencing and for measures to
595 prevent the blowing of dust and debris and to minimize insects,
596 rodents and odors. In making a decision to grant or deny a permit to
597 construct or operate a new transfer station, the commissioner shall
598 consider whether such transfer station will result in disproportionately
599 high adverse human health or environmental effects. [The
600 commissioner shall not authorize under a general permit or issue an
601 individual permit under this section to establish or construct a new
602 volume reduction plant or transfer station located, or proposed to be

603 located, within one-quarter mile of a child day care center, as defined
604 in subdivision (1) of subsection (a) of section 19a-77, in a municipality
605 with a population greater than one hundred thousand persons
606 provided such center is operating as of July 8, 1997. The commissioner
607 may modify or renew a permit for an existing volume reduction plant
608 or transfer station, in accordance with the provisions of this chapter,
609 without regard to its location.] In making a decision to grant or deny a
610 permit to construct an ash residue disposal area, the commissioner
611 shall consider any provision which the applicant shall make for a
612 double liner, a leachate collection or detection system and the cost of
613 transportation and disposal of ash residue at the site under
614 consideration.

615 [(b) No solid waste facility shall be built or established and no solid
616 waste facility without a permit to construct shall be altered after July 1,
617 1971, until the plan, design and method of operation of such facility
618 have been filed with the department and approved by the
619 commissioner by the issuance of a permit to construct, provided,
620 nothing in this chapter or chapter 446e shall be construed to limit the
621 right of any local governing body to regulate, through zoning, land
622 usage for solid waste disposal.]

623 (b) No person or municipality shall establish, construct or operate a
624 solid waste facility without a permit issued by the commissioner under
625 this section. An application for such permit shall be submitted on a
626 form prescribed by the commissioner, shall include such information
627 as the commissioner may require, including, but not limited to, a
628 closure plan for such facility, and shall be accompanied by a fee
629 prescribed in regulations adopted in accordance with chapter 54.
630 Notwithstanding any provision, references to a permit to construct or a
631 permit to operate in a regulation adopted pursuant to section 22a-209
632 shall be deemed to mean a permit as required by this subsection. The
633 [commissioner] applicant shall send a written notification of any
634 application for [a] such permit [to construct] to the chief elected official
635 of each municipality in which the proposed facility is to be located,
636 within five business days of the date on which any such application is

637 filed.

638 [(c) No solid waste facility for which a permit to construct is
639 required shall be operated on and after June 16, 1985, except for
640 performance testing approved by the commissioner, unless such
641 facility has been issued a permit to operate. The commissioner may
642 issue such permit upon determination that the facility (1) will be
643 operated in accordance with applicable laws or regulations, (2) has
644 been constructed in accordance with a permit issued pursuant to
645 subsection (b) of this section, and (3) has satisfactorily completed any
646 performance tests required by the commissioner. All operating
647 facilities holding a valid permit to construct on or before June 16, 1985,
648 shall be issued a permit to operate and shall be allowed to continue
649 operations prior to the issuance of such permit to operate. The
650 commissioner shall allow any person who is lawfully disposing of ash
651 residue within a solid waste disposal area on April 1, 1994, to continue
652 disposing of such residue within such area until March 1, 1997, or until
653 the issuance of a final permit to operate a new lined ash landfill in
654 Hartford.]

655 (c) Upon written notice from the commissioner and in accordance
656 with a schedule specified by the commissioner in such written notice,
657 any person or municipality who owns an unpermitted solid waste
658 disposal area shall (1) submit a closure plan for the commissioner's
659 review and written approval, provide public notice of such proposed
660 plan in a manner prescribed by regulations adopted pursuant to
661 section 22a-133k and close and maintain such area after closure in
662 accordance with the approved closure plan, or (2) remediate such
663 disposal area in accordance with a remediation plan approved by the
664 commissioner or verified by a licensed environmental professional
665 pursuant to section 22a-134a, 22a-134x or 22a-133y or pursuant to an
666 order of the commissioner. A fee of three thousand dollars shall
667 accompany any closure plan submitted pursuant to this subsection.
668 The commissioner may require the owner of a solid waste disposal
669 area to post sufficient performance bond or other security to ensure
670 compliance with the approved closure plan. The commissioner may

671 approve a modification to a closure plan for a solid waste disposal
672 area. A fee of five hundred dollars shall accompany the request for
673 such modification. The commissioner may reduce or waive the fees
674 required by this subsection in cases of financial hardship and may
675 modify such fees in regulations adopted in accordance with chapter 54.
676 The commissioner may require a person or municipality to provide
677 public notice of a proposed modification of a closure plan if the
678 modification involves any activity that would disrupt the solid waste
679 or change the use of the solid waste disposal area. Notwithstanding
680 the provisions of this subsection, the commissioner may order a person
681 or municipality who establishes or constructs a solid waste disposal
682 area without first obtaining a permit as required by subsection (b) of
683 this section to remove any solid waste disposed at such area, to
684 remediate any pollution caused by such waste, and to properly dispose
685 of such waste at a lawfully operated solid waste facility.

686 (d) (1) [Except as provided in subdivision (2) of this subsection, no
687 solid waste facility which] No person or municipality who holds a
688 permit [to construct shall be altered on and after June 16, 1985, until
689 the proposed plan, design and] issued under this section shall alter the
690 design or method of operation of the [altered facility have been filed
691 with the commissioner and approved by him by issuance of a modified
692 permit] permitted facility without first obtaining a modified permit.
693 For the purposes of this section and sections 22a-208, 22a-208b, 22a-
694 220a, 22a-225 and 22a-226, "alter" means [(A)] to change to any
695 substantive degree the [approved] design, capacity, volume, process or
696 operation of a solid waste facility [holding a permit to construct,] and
697 includes, but is not limited to, changes in the approved capacity or
698 composition of solid waste disposed of, processed, reduced, stored or
699 recycled at the facility. [, or (B) to change to any substantive degree the
700 existing design, capacity, volume, process or operation of a solid waste
701 facility not holding a permit to construct and includes, but is not
702 limited to, changes in the volume or composition of solid waste
703 disposed, stored, processed, reduced or recycled at the facility.] The
704 commissioner may approve, in writing, a modification of a closure
705 plan for a closed permitted solid waste disposal area without

706 modifying the permit for such area. The commissioner may require a
707 person who, or a municipality that, requests such modification to
708 provide public notice of a proposed modification of a closure plan if
709 the modification involves any activity that would disrupt the solid
710 waste or change the use of the solid waste disposal area. A fee of five
711 hundred dollars shall accompany any request for such modification of
712 a closure plan. The commissioner may reduce or waive such fee in
713 cases of financial hardship and may modify such fee in accordance
714 with regulations adopted in accordance with chapter 54.

715 (2) Changes in design, processes or operations, including the
716 addition of thermal oxidizers or other air pollution control equipment,
717 made to mitigate, correct or abate odors from a solid waste facility that
718 is owned or operated by the Connecticut Resources Recovery
719 Authority and that contracts with more than fifty municipalities, shall
720 not be considered an alteration requiring a modified permit or minor
721 permit amendment under this chapter. In addition, notwithstanding
722 any provision of the general statutes or regulation adopted pursuant to
723 said statutes, any such change shall not be considered a modification
724 or new stationary source requiring a permit to construct or operate
725 under chapter 446c or under any regulation adopted pursuant to
726 chapter 446c, unless such change is a major modification or a major
727 stationary source requiring a permit under the federal Clean Air Act
728 Amendments of 1990. Any person making any such change to an odor
729 control system at such a facility shall, not more than thirty days after
730 making such change, submit a written report to the commissioner fully
731 describing the changes made and the reason for such changes for the
732 commissioner's review and comment. Nothing in this subdivision shall
733 affect the commissioner's authority to take any other action to enforce
734 the requirements of this title.

735 Sec. 17. Section 22a-207 of the general statutes is amended by adding
736 subdivision (25) as follows (*Effective October 1, 2005*):

737 (NEW) (25) "Person" means any individual, partnership, association,
738 firm, limited liability company, corporation or other entity, except a

739 municipality, and includes the federal government, the state or
740 instrumentality of the state, and any officer or governing or managing
741 body of any partnership, association, firm, or corporation, or any
742 member or manager of a limited liability company.

743 Sec. 18. (NEW) (*Effective October 1, 2005*) (a) The Commissioner of
744 Environmental Protection may issue, modify or revoke orders to
745 correct or abate violations of chapter 446m of the general statutes,
746 including, but not limited to, any regulation adopted pursuant to
747 chapter 446m of the general statutes. Any such order may include
748 remedial measures necessary to correct or abate such violations. Such
749 orders may be issued to any person who violates any provision of
750 chapter 446d of the general statutes or any regulation adopted
751 pursuant to chapter 446m of the general statutes.

752 (b) Each order issued under chapter 446m of the general statutes
753 shall be served by certified mail, return receipt requested, or by a state
754 marshal or indifferent person. If a state marshal or indifferent person
755 serves the order, a true copy of the order shall be served, and the
756 original, with a return of such service endorsed thereon, shall be filed
757 with the commissioner. The order shall be deemed to be issued upon
758 service or upon deposit in the mail. Any order issued pursuant to
759 chapter 446d of the general statutes shall state the basis on which it is
760 issued.

761 (c) Unless a person aggrieved by an order files a written request for
762 a hearing before the commissioner not later than thirty days after the
763 date of issuance, such order shall become final. If requested, the
764 commissioner shall hold a hearing as soon thereafter as practicable. A
765 request for a hearing shall be a condition precedent to any appeal. The
766 commissioner may, after the hearing or at any time after the issuance
767 of the order, modify such order by agreement or extend the time
768 schedule therefor if the commissioner deems such modification or
769 extension advisable or necessary, and any such modification or
770 extension shall be deemed to be a revision of an existing order and
771 shall not constitute a new order. There shall be no hearing subsequent

772 to or any appeal from any such modification or extension.

773 (d) After hearing, the commissioner shall consider all supporting
774 and rebutting evidence and affirm, modify or revoke such order in the
775 commissioner's discretion and shall so notify the recipient of the order
776 by certified mail, return receipt requested.

777 (e) The final order of the commissioner shall be subject to appeal as
778 set forth in sections 4-183 and 4-184 of the general statutes, except that
779 any such appeal shall be taken to the superior court for the judicial
780 district of New Britain.

781 Sec. 19. (NEW) (*Effective October 1, 2005*) (a) Whenever, in the
782 judgment of the Commissioner of Environmental Protection, any
783 person has engaged in or is about to engage in any acts, practices or
784 omissions which constitute, or will constitute, a violation of any
785 provision of chapter 446m of the general statutes, or any regulation
786 adopted or order issued pursuant to chapter 446m of the general
787 statutes, at the request of the Commissioner of Environmental
788 Protection, the Attorney General may bring an action in the superior
789 court for the judicial district of New Britain for an order enjoining such
790 acts or practices, an order directing remedial measures, or for an order
791 directing compliance and, upon a showing by the commissioner that
792 such person has engaged in or is about to engage in any such acts,
793 practices or omissions, a permanent or temporary injunction,
794 restraining order or other order may be granted.

795 (b) Any person who violates any provision of chapter 446m of the
796 general statutes, including, but not limited to, any regulation adopted
797 or order issued pursuant to chapter 446m of the general statutes, shall
798 be assessed a civil penalty not to exceed twenty-five thousand dollars
799 per day, to be fixed by the court, for each offense. Each violation shall
800 be a separate and distinct offense and, in the case of a continuing
801 violation, each day's continuance thereof shall be deemed to be a
802 separate and distinct offense. The Attorney General, upon request of
803 the commissioner, shall institute a civil action in the superior court for
804 the judicial district of New Britain to recover such penalty.

805 (c) If two or more persons are responsible for a violation of any
806 provision of chapter 446m of the general statutes, including, but not
807 limited to, any regulation adopted or order issued pursuant to said
808 chapter 446m, such persons shall be jointly and severally liable under
809 this section.

810 (d) Any action brought by the Attorney General pursuant to this
811 section shall have precedence in the order of trial as provided in
812 section 52-191 of the general statutes.

813 Sec. 20. (NEW) (*Effective October 1, 2005*) (a) Any person who, with
814 criminal negligence, violates any provision of chapter 446m of the
815 general statutes, including, but not limited to, any regulation adopted
816 or order issued pursuant to chapter 446m of the general statutes, or
817 who makes any false statement, representation or certification in any
818 application, notification, request for exemption, record, plan, report or
819 other document filed or required to be maintained under chapter 446m
820 of the general statutes, shall be fined not more than twenty-five
821 thousand dollars per day for each day of violation or be imprisoned
822 not more than one year, or both. A subsequent conviction for any such
823 violation shall carry a fine of not more than fifty thousand dollars per
824 day for each day of violation or imprisonment for not more than two
825 years, or both.

826 (b) Any person who knowingly violates any provision of chapter
827 446m of the general statutes, including, but not limited to, any
828 regulation adopted or order issued pursuant to chapter 446m of the
829 general statutes, or who makes any false statement, representation or
830 certification in any application, notification, request for exemption,
831 record, plan, report or other document filed or required to be
832 maintained under chapter 446m of the general statutes, shall be fined
833 not more than fifty thousand dollars per day for each day of violation
834 or be imprisoned not more than three years, or both. A subsequent
835 conviction for any such violation shall carry a fine of not more than
836 fifty thousand dollars per day for each day of violation or
837 imprisonment for not more than ten years, or both.

838 Sec. 21. Section 22a-207b of the general statutes is repealed. (*Effective*
839 *October 1, 2005*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	22a-134(1)
Sec. 2	<i>October 1, 2005</i>	22a-134(10) and (11)
Sec. 3	<i>October 1, 2005</i>	22a-134
Sec. 4	<i>October 1, 2005</i>	22a-134a(g) and (h)
Sec. 5	<i>October 1, 2005</i>	22a-134a(l)
Sec. 6	<i>October 1, 2005</i>	22a-133v(e) and (f)
Sec. 7	<i>October 1, 2005</i>	22a-463
Sec. 8	<i>October 1, 2005</i>	22a-467
Sec. 9	<i>October 1, 2005</i>	22a-255h(1) to (4)
Sec. 10	<i>October 1, 2005</i>	22a-255h(12) to (14)
Sec. 11	<i>October 1, 2005</i>	22a-255i(a)
Sec. 12	<i>October 1, 2005</i>	22a-255j
Sec. 13	<i>October 1, 2005</i>	22a-255m(a)
Sec. 14	<i>October 1, 2005</i>	22a-449(b)
Sec. 15	<i>October 1, 2005</i>	22a-611
Sec. 16	<i>October 1, 2005</i>	22a-208a(a) to (d)
Sec. 17	<i>October 1, 2005</i>	22a-207
Sec. 18	<i>October 1, 2005</i>	New section
Sec. 19	<i>October 1, 2005</i>	New section
Sec. 20	<i>October 1, 2005</i>	New section
Sec. 21	<i>October 1, 2005</i>	Repealer section

Statement of Legislative Commissioners:

In section 1(1)(V), changes were made for purposes of clarity, in section 4(g)(2) "for" was changed to "of"; in section 16(b), "shall" was added in two places for purposes of clarity; in section 16(c) "property" was changed to "properly"; and in section 19(a) "to order" was changed to "an order directing" for consistency.

ENV *Joint Favorable Subst. C/R*

JUD

JUD *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Department of Environmental Protection	GF - Cost	See Below	See Below
Attorney General	GF - Revenue Gain	Potential Significant	Potential Significant

Note: GF=General Fund EQ=Environmental Quality Fund

Municipal Impact:

Municipalities	Effect	FY 06 \$	FY 07 \$
Various Municipalities	STATE MANDATE - Cost	Potential Minimal	Potential Minimal

Explanation

Exempting from the Transfer Act requirements any real property or business operation that deals with universal waste as long as their activities have not caused any discharge, spill, uncontrolled loss, seepage or filtration of universal waste, will have no fiscal impact. No change in the current workload or fees is anticipated for the Department of Environmental Protection (DEP). Additional Transfer Act changes made in the bill concerning verification requirements and clarifying various Form submittals from certifying parties also have no fiscal impact.

The changes made in the definitions relating to PCB's by more broadly defining disposal will enable the DEP to take action before an actual leak, spill or uncontrolled discharge occurs. This could potentially reduce future costs, since action would be taken before an expensive cleanup would be needed.

The bill makes minor changes in the application, licensing and

renewal process for licensed environmental professionals (LEP), which are not anticipated to have a fiscal impact.

Changes made in the toxics in packaging law are mostly technical and have no fiscal impact.

Extending the license period from 3 to 10 years of terminals for loading or unloading of petroleum, chemicals and hazardous wastes allows for the issuance of a general permit. When a general permit is issued, it will offset any revenue decrease to the Environmental Quality (EQ) fund due to the 3 year license going to 10.

The change made in the timing of the submittal of the toxic release form by the owner or operator of a facility will streamline the submittal process and has no fiscal impact.

Changes made in the permitting process for solid waste facilities will not increase the workload of the department from the existing procedure. Any increase in revenue to the EQ Fund due to the fees that are required to accompany a closure plan are anticipated to be offset by the increase in workload. Any municipal applicant would have to submit a closure plan and pay 50% (unless modified due to hardship) of the required fee. The exact impact would vary depending upon the municipality involved and is not known at this time.

The Office of the Attorney General could accommodate potential enforcement measures under the bill within budgeted resources. Any potential revenue resulting from the bill could be significant, given the fine of up to \$25,000 a day for each violation of law, regulation or order governing mercury.

OLR Bill Analysis

sHB 6803

AN ACT CONCERNING REVISIONS TO CERTAIN WASTE MANAGEMENT PROGRAMS**SUMMARY:**

This bill makes several changes in the solid waste laws. It:

1. revises the permitting process for solid waste facilities;
2. requires un-permitted solid waste disposal area owners to submit closure plans to the Department of Environmental Protection (DEP) or remediate the area;
3. imposes specific penalties for violations of laws governing the sale, labeling, and collection of mercury and products containing mercury;
4. authorizes DEP to approve remediation of a portion of land subject to the Hazardous Waste Transfer Act, which regulates conveyances of businesses that handle hazardous waste, before the entire site is cleaned up;
5. exempts from the Transfer Act certain properties or businesses that deal solely with universal waste; and
6. broadens what constitutes PCB disposal.

By law, the DEP commissioner may license terminals that load or unload petroleum, chemicals, and hazardous waste for up to three years, beginning annually on July 1. The bill extends the maximum license period to 10 years from the date the license is issued.

The bill also makes changes in other solid waste laws.

EFFECTIVE DATE: October 1, 2005

SOLID WASTE FACILITY PERMITTING

Under current law, the commissioner regulates solid waste facilities through the issuance of separate permits to (1) construct and (2) operate. She may issue a permit to construct after she approve the facility's plan, design, and method of operation. She may issue a permit to operate after the facility completes performance tests and she makes certain findings. By law, a solid waste facility includes solid waste disposal areas, volume reduction plants, transfer stations, wood-burning facilities, and biomedical waste treatment facilities.

The bill combines these two permits into one and specifies that people and municipalities must obtain one when establishing, building or operating a facility. It requires applicants to submit a closure plan with their permit application. It requires owners of un-permitted solid waste disposal areas, upon written notice from DEP, to (1) submit closure plans with which they must comply or (2) remediate the area. It eliminates provisions authorizing the commissioner to permit or site certain waste facilities, and makes conforming changes.

Construction/Operating Permit

The bill prohibits any person or municipality from establishing, building, or operating a solid waste facility without a permit. It requires applicants to apply for such a permit on a form the commissioner prescribes and to include (1) the information she requires, (2) a closure plan, and (3) a fee set by regulation. It requires the applicant, rather than the commissioner, to notify the chief elected official of the town where the proposed facility will be located. Under the bill, all references in regulation to permits to construct and to operate refer to the new permit the bill creates.

Under the bill, a "person" is an individual, partnership, association, firm, limited liability company, corporation, or other entity, but not a municipality. It includes the federal government, the state or a state instrumentality, and any officer or governing or managing body of any partnership, association, firm or corporation, or any member or manager of a limited liability company.

Modified Permits

Under current law, a solid waste facility holding a permit to construct that seeks to alter its plan, design, or method of operation must obtain

a modified permit from the commissioner. The bill places the responsibility on a person or municipality that holds the permit the bill creates, rather than the facility. It eliminates the requirement with regard to plan alterations. Under the bill, altering means making a substantive change to the facility's design, capacity, volume, process or operation, including changing the approved capacity or composition of solid waste disposed of, processed, reduced, stored or recycled.

Closure Plans/Remediation

Upon written notice from the commissioner and according to a schedule she specifies, a person or town that owns an un-permitted solid waste disposal area must either: (1) (a) submit a closure plan for her review and written approval, (b) notify the public of the closure plan, and (c) close and maintain the solid waste disposal area according to the plan, or (2) remediate the area according to the plan the commissioner approved or a licensed environmental professional (LEP) verified.

A \$3,000 fee must accompany a closure plan, and the commissioner may also require the owner to post a performance bond. By law, a solid waste disposal area is a landfill or other location used for the disposal of more than 10 cubic yards of solid waste.

Closure Plan Modification

The commissioner may approve a modification to an unpermitted solid waste disposal area closure plan. The commissioner may also approve, in writing, the modification of a closure plan for a closed, permitted disposal area without modifying the permit. Requests must be accompanied by a \$500 fee, which the commissioner may reduce or waive in case of financial hardship. She also may modify the fee by regulation. She may require that an owner seeking to modify a closure plan notify the public if the proposed modification would disrupt the solid waste or change the solid waste disposal area's use.

Removal/Remediation

Under the bill, the commissioner also may order a person or town that establishes or builds a solid waste disposal area without a permit to (1) remove the solid waste from the area, (2) remediate any pollution, and (3) properly dispose of the waste at a lawfully operated facility.

By law, the commissioner, in deciding whether to grant a permit for a solid waste facility, must consider the character of the neighborhood, and she may impose traffic, security and fencing requirements and measures to ensure its sanitary operation. The bill makes conforming changes and specifically eliminates laws that:

1. bar her from authorizing construction of a volume reduction plant or transfer station within one-quarter mile of a child day care in cities of more than 100,000 people, if the day care center was operating on July 8, 1997; and
2. authorize her to modify or renew a permit for an existing volume reduction plan or transfer station regardless of its location.

THE TRANSFER ACT

The Transfer Act governs the sale or other conveyance of certain property where hazardous waste was generated, used, or stored. It requires such property to be investigated and pollution properly remediated. The act regulates "establishments," which include certain businesses, and property where (1) more than 100 kilograms (220 pounds) of hazardous waste was generated in a calendar month or (2) hazardous waste was recycled, reclaimed, reused, stored, handled, treated, transported, or disposed of.

The law requires anyone transferring an establishment to complete one or more of four different forms, depending on the presence of hazardous waste or hazardous substances and the status of investigations and remediation.

Generally, a transferor files a Form I if (1) there was no release of a hazardous waste or a hazardous substance or (2) a hazardous substance spill was properly cleaned up, and the remediation (a) approved in writing by the DEP commissioner or (b) verified by a licensed environmental professional (LEP). The bill requires, for a Form I, that an LEP verification be in writing.

A transferor files a Form II when, among other things, a hazardous waste or hazardous substance spill occurred, cleanup was completed and either the DEP commissioner approved it in writing or an LEP verified in writing that it was properly performed.

The bill requires, for both a Form I and a Form II, that the transferor certify that there was not a leak of a hazardous waste or hazardous substance at any part of the establishment since the commissioner's determination or the LEP's verification that the establishment, or any part of it, was properly remediated.

A certifying party files a Form III when (1) a hazardous waste or hazardous substance leak occurred, but is not fully remediated, or (2) he does not know the environmental conditions at the establishment. The certifying party agrees to properly investigate and remediate the parcel. A certifying party files a Form IV when there was a leak, and all remediation actions were completed except for post-remediation monitoring or the recording of an environmental land use restriction.

The bill subjects to the act real property for which a Form I or II has been filed for a transfer that occurred after October 1, 1995, if there was a leak of a hazardous waste or hazardous substance at any part of the establishment since the form was filed. Current law exempts from the act a real estate transfer (1) for which a Form III or IV was filed, (2) which has been properly remediated, and (3) where the remediation was approved by the commissioner or verified by an LEP. The bill applies these conditions to approvals and verifications of any portion of such an establishment. It specifies that these establishments are exempt only if there has been no leak of a hazardous waste or hazardous substance at the establishment, or any portion of it, since the commissioner's determination or LEP's verification.

Certifying Parties and Forms III and IV

By law, a certifying party is, in the case of a Form III or IV, a person associated with the transfer of an establishment who agrees to investigate a parcel (a tract of land that is an establishment or a business that is an establishment) according to prevailing standards, and to properly remediate pollution. By law, the commissioner may (1) review and approve the remediation or (2) accept an LEP's verification of the remediation.

Under current law, if the commissioner informs a certifying party that an LEP may verify the remediation, the certifying party must submit a schedule for investigating and remediating the establishment. The bill (1) specifies that this schedule is for investigating the parcel and

remediating the establishment and (2) requires the certifying party to investigate and remediate the parcel according to the proposed schedule or a schedule the commissioner specifies. Under current law, the certifying party must provide the commissioner with the LEP's independent verification that the establishment has been properly remediated, and a Form IV verification, as applicable. The bill instead requires the certifying party to submit to the commissioner a final LEP verification when the entire site has been remediated. Such a final verification may include and rely on an LEP's verification that a portion of the establishment had been previously remediated (see below).

Remediating and Transferring A Portion of an Establishment

The bill allows the commissioner or an LEP to approve the remediation of a portion of an establishment before the certifying party completes the clean-up of the entire establishment, and authorizes the commissioner to rely on such an approval when determining if the entire establishment has been properly remediated.

Under the bill, a certifying party may satisfy the requirements of Forms III or IV by submitting an LEP's verification for any portion of an establishment for which the certifying party has completed remediation. However, the certifying party must still investigate and remediate the remainder of the establishment. The certifying party must notify the commissioner within 30 days of the transfer, conveyance or change in ownership of any portion of the establishment for which the certifying party has submitted verification.

When the commissioner must review and approve a site investigation and remediation, the bill allows a certifying party to request that the commissioner find that he has properly cleaned up a part of the establishment according to plans and schedules the commissioner has approved for that part. The bill does not require the certifying party to investigate and remediate the remainder of the establishment in this instance. It authorizes the commissioner, when determining if the entire site has been properly remediated, to rely on a previous finding regarding a part of the establishment. As with LEP verification, the certifying party must notify the commissioner within 30 days of the transfer, conveyance, or change in ownership of any part of the establishment for which the certifying party has submitted verification.

Universal Waste Exemption

The bill exempts from the act, under certain conditions, real property or business operations that (1) generate more than 100 kilograms of universal waste in a calendar month; (2) store, handle, or transport universal waste generated elsewhere; or (3) undertake activities at a universal waste transfer facility. Under the bill, universal waste includes batteries, pesticides, thermostats, lamps, and used electronics as defined by state regulation and federal law. Universal waste transfer facilities include loading docks, and parking and storage areas where universal waste shipments are held in the normal course of transport for up to 10 days.

To be exempt, (1) this property or business must not generate, store, handle, or transport any hazardous waste other than universal waste; (2) there must not have been a discharge or spill of universal waste or a hazardous substance; and (3) the business or property must not recycle, treat, or dispose of universal waste, except as federal law allows for batteries and thermostats.

PENALTIES FOR VIOLATING THE MERCURY REDUCTION AND EDUCATION ACT

The bill establishes specific penalties for violations of the laws governing the sale, distribution, labeling, and collection of mercury and products containing mercury. It authorizes the commissioner to issue, modify, or revoke orders to correct or abate the violations, including violations of any regulations she adopts. The orders may include any necessary remedial measures. Under current law, the commissioner has broad authority to initiate and receive complaints about violations of any law she administers and to enter orders and institute legal proceedings to enforce those laws.

Orders and Hearings

The bill requires that the commissioner's orders be delivered by certified mail, return receipt requested, or by a state marshal or indifferent person. If a state marshal or indifferent person serves the order, he must serve a true copy and file the original, with a return of service endorsed on it, with the commissioner. The order is deemed issued upon service or deposit in the mail. Any order must state why it is issued.

An order is considered final unless a person aggrieved by the order asks the commissioner for a hearing within 30 days of the date it is issued. The request must be in writing. The commissioner must hold a hearing as soon as practicable after such a request. An aggrieved party can appeal an order only if he has requested such a hearing.

After a hearing, or after she issues an order, the commissioner may agree to modify an order or extend its time schedule if she believes it advisable or necessary. Such a modification or extension is a revision of the existing order from which there can be no hearing or appeal. Following a hearing, the commissioner must consider all the evidence and affirm, modify, or revoke her order. She must notify the recipient of the order of her decision by certified mail, return receipt requested. A final order is subject to appeal, which must be filed in New Britain Superior Court.

Enforcement by Attorney General

Whenever the commissioner believes anyone is engaged in, or about to engage in, any act, practice or omission that violates or would violate the laws or regulations concerning mercury, she may ask the attorney general to file an action in New Britain Superior Court asking the court to (1) enjoin such acts, (2) order remedial measures, or (3) direct compliance. The court may issue a permanent or temporary injunction or restraining order upon the commissioner's showing that the person is engaged in such acts, practices or omissions.

Penalties

The bill subjects anyone who violates any law, regulation, or order governing mercury to a fine of up to \$25,000 a day for each offense. Each violation is a separate and distinct offense, and each day of a continuing violation is also a separate and distinct offense. If two or more people are responsible for the violations, they must be held jointly and severally liable. The bill requires the attorney general, at the commissioner's request, to file a civil action in New Britain Superior Court to recover the penalty. It requires any such action to take precedence over other actions in the order of trial.

It subjects anyone who, with criminal negligence, violates those laws, orders, or regulations, or who makes any false statement, representation, certification in any application, notification, request for

exemption, record, plan, report or other document filed or required to be maintained, to a fine of up to \$ 25,000 a day and up to one year in prison. A subsequent conviction is punishable by up to \$ 50,000 a day for each day of the violation and up to two years in prison.

By law, anyone who intentionally makes a false written statement under oath or on a form that states false statements are punishable is guilty of a class A misdemeanor, and subject to a \$2,000 fine and up to one year in prison. The bill subjects anyone who knowingly violates these laws, orders or regulations, or who makes any false statement, representation, certification in any application, notification, request for exemption, record, plan, report or other document filed or required to be maintained, to a fine of up to \$ 50,000 a day for each day of the violation and up to three years in prison. A subsequent conviction is punishable by a fine of up to \$ 50,000 a day for each day of violation and up to 10 years in prison.

PCB DISPOSAL

Under current law, it is illegal to dispose of PCB without a permit. The bill (1) makes this ban apply to unintentional and well as intentional discharges; (2) for enforcement purposes, eliminates the requirement that PCBs be found to have entered the environment; and (3) broadens the definition of "disposal" in other ways. Specifically, it defines disposal as intentionally or unintentionally discarding, throwing away, or otherwise completing or terminating the useful life of PCBs and items containing PCBs. Disposal includes spills, leaks, and other uncontrolled PCB discharges, and actions relating to containing, transporting, destroying, degrading, decontaminating, or confining PCBs and items containing PCBs. The law currently defines disposal as incinerating or treating PCBs or items containing PCBs or discharging, depositing, injecting, dumping, or placing PCBs or items containing PCBs into or on land or water so that it enters the environment, is emitted into the air, or is discharged into any waters, including ground waters.

TOXICS IN PACKAGING

The law bars manufacturers and distributors from selling or using for promotional purposes most packages that intentionally contain lead, cadmium, mercury, or hexavalent chromium. Packages and products containing more than specified levels of these metals are also banned

even if the material was not introduced intentionally. The law exempts certain packages.

The bill reestablishes exemptions for certain packages and packaging components that expired January 1, 2000. The new exemption, which expires on January 1, 2010, is for a package or packaging that:

1. exceeds maximum concentration levels of lead, cadmium, mercury, or hexavalent chromium only because of the addition or use of recycled material;
2. is reusable and has a controlled distribution and reuse but which exceeds the incidental concentration levels of lead, cadmium, mercury, or hexavalent chromium, if the manufacturer or distributor petitions the commissioner for an exemption and the commissioner grants it; or
3. exceeds incidental contaminant levels for lead, cadmium, mercury, or hexavalent chromium, if (a) the product, its transportation, or disposal is regulated by specific state or federal regulations, and (b) the commissioner grants an exemption upon the packaging manufacturer showing it is warranted.

The bill also permanently exempts a glass or ceramic package or packaging component that has a vitrified label, that does not exceed one part per million (ppm) for cadmium, five ppm for hexavalent chromium, and five ppm for lead, when prepared according to the American Society for Testing and Materials specification C1606-04 and tested according to the EPA's Toxicity Characteristic Leaching Procedures Test Method and Publication SW 846, third edition, "Test Methods for Evaluating Solid Waste. "

By law, packages or packaging components to which lead, cadmium, mercury, or hexavalent chromium have been added in the manufacturing or distribution process are exempt if (1) there is no feasible alternative, (2) the manufacturer has demonstrated to the commissioner that an exemption is necessary, and (3) the commissioner grants an exemption. The exemption is good for two years and may be extended for another two years. The bill extends this exemption to the addition of these materials in the forming and printing process. It specifies that feasible alternative means in most

cases, that technical constraints preclude the substitution of other materials, rather than one for which no substitute exists. The bill does not exempt any lead, cadmium, mercury, or hexavalent chromium used for marketing purposes.

Minor Changes

The bill authorizes the commissioner, in consultation with other member states of the Toxics in Packaging Clearing House, to review the law's effectiveness and report to the governor and legislature. Under current law, he must consult with the Source Reduction Council of the Council of Northeastern Governors.

By law, electrolytic galvanized steel and hot-dipped coated galvanized steel are each considered as a single packaging component when they meet certain specifications. The bill replaces electrolytic galvanized steel with electro-galvanized coated steel, and modifies the specifications that it and hot dipped coated galvanized steel must meet to be considered a single packaging component.

The bill also:

1. applies the law to reusable or refillable glass, and ceramic or metal receptacles;
2. specifies that it includes packages produced in a foreign country and defines them according to the American Society of Testing and Materials specification D966;
3. specifies that the laws affect packages and packaging components; and
4. makes technical changes.

TOXICS RELEASE FORM

Under current law, the owner or operator of a facility required to complete a toxic release form under the Emergency Planning and Community Right-to-Know Act must submit it to the state Emergency Response Commission annually by July 1. The bill instead requires him to submit the form annually by July 1 or a date established by the EPA, whichever comes later.

LICENSED ENVIRONMENTAL PROFESSIONALS

The bill authorizes the State Board of Examiners of Environmental Professionals, in evaluating whether the degree held by an applicant meets the position's educational requirements, to consider undergraduate, graduate, postgraduate, and other courses he completed. It authorizes the commissioner, with the advice and assistance of the board, to adopt regulations governing the LEP license issuance and renewal process, including procedures that allow for renewal of a license within six months after it expires without requiring the applicant to retake the required test.

BACKGROUND

Universal Wastes

Universal wastes are a type of hazardous waste (1) generated in a wide variety of settings, (2) from a large number of sources, and (3) present in great volume. When disposed of, they are subject to less stringent requirements than other types of hazardous waste.

PCBs

Polychlorinated biphenyls (PCBs) are a man-made chemical that was used primarily in electrical equipment, such as transformers and capacitors. They are suspected human carcinogen and known animal carcinogen. Connecticut banned their manufacture and began regulating them in 1976.

Emergency Planning and Community Right to Know Act

This 1986 federal act establishes requirements for federal, state, and local governments and industry regarding emergency planning and reporting on hazardous and toxic chemicals.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute Change of Reference

Yea 28 Nay 0

Judiciary Committee

Joint Favorable Report
Yea 40 Nay 0