



General Assembly

Amendment

January Session, 2005

LCO No. 7569

SB0114907569SD0

Offered by:

SEN. STILLMAN, 20th Dist.

REP. ROY, 119th Dist.

To: Subst. Senate Bill No. **1149**

File No. 352

Cal. No. 288

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

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- 1 In line 48, strike the brackets around "such"
 - 2 In line 48, strike "dam, dike, reservoir or"
 - 3 In line 49, strike "similar"
 - 4 In line 267, strike "and" and insert a comma in lieu thereof and after
 - 5 "inclusive," insert "22a-207b"
 - 6 After the last section, add the following and renumber sections and
 - 7 internal references accordingly:
 - 8 "Sec. 501. Subdivision (1) of section 22a-134 of the general statutes is
 - 9 repealed and the following is substituted in lieu thereof (*Effective*
 - 10 *October 1, 2005*):
 - 11 (1) "Transfer of establishment" means any transaction or proceeding

12 through which an establishment undergoes a change in ownership, but
13 does not mean:

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

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

18 (C) [conveyance] Conveyance of a deed in lieu of foreclosure to a
19 lender, as defined in and that qualifies for the secured lender
20 exemption pursuant to subsection (b) of section 22a-452f; [.]

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

23 (E) [termination] Termination of a lease and conveyance,
24 assignment or execution of a lease for a period less than ninety-nine
25 years including conveyance, assignment or execution of a lease with
26 options or similar terms that will extend the period of the leasehold to
27 ninety-nine years, or from the commencement of the leasehold, ninety-
28 nine years, including conveyance, assignment or execution of a lease
29 with options or similar terms that will extend the period of the
30 leasehold to ninety-nine years, or from the commencement of the
31 leasehold; [.]

32 (F) [any] Any change in ownership approved by the Probate Court;
33 [.]

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

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

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

41 (J) [~~the~~] The transfer of stock, securities or other ownership interests
42 representing less than forty per cent of the ownership of the entity that
43 owns or operates the establishment; []

44 (K) [any] Any conveyance of an interest in an establishment where
45 the transferor is the sibling, spouse, child, parent, grandparent, child of
46 a sibling or sibling of a parent of the transferee; []

47 (L) [~~conveyance~~] Conveyance of an interest in an establishment to a
48 trustee of an inter vivos trust created by the transferor solely for the
49 benefit of one or more sibling, spouse, child, parent, grandchild, child
50 of a sibling or sibling of a parent of the transferor; []

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

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

61 (O) [any] Any conveyance of an establishment which, prior to July
62 1, 1997, had been developed solely for residential use and such use has
63 not changed; []

64 (P) [any] Any conveyance of an establishment to any entity created
65 or operating under chapter 130 or 132, or to an urban rehabilitation
66 agency, as defined in section 8-292, or to a municipality under section
67 32-224, or to the Connecticut Development Authority or any
68 subsidiary of the authority; []

69 (Q) [any] Any conveyance of a parcel in connection with the
70 acquisition of properties to effectuate the development of the overall

71 project, as defined in section 32-651; [.]

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

74 (S) [the] The transfer of general partnership property held in the
75 names of all of its general partners to a general partnership which
76 includes as general partners immediately after the transfer all of the
77 same persons as were general partners immediately prior to the
78 transfer; [.]

79 (T) [the] The transfer of general partnership property held in the
80 names of all of its general partners to a limited liability company
81 which includes as members immediately after the transfer all of the
82 same persons as were general partners immediately prior to the
83 transfer; [or]

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

86 (V) Conveyance of any real property or business operation that
87 would qualify as an establishment solely as a result of (i) the
88 generation of more than one hundred kilograms of universal waste in
89 a calendar month, (ii) the storage, handling or transportation of
90 universal waste generated at a different location, or (iii) activities
91 undertaken at a universal waste transfer facility, provided any such
92 real property or business operation does not otherwise qualify as an
93 establishment, that there has been no discharge, spillage, uncontrolled
94 loss, seepage or filtration of a universal waste or a constituent of
95 universal waste that is a hazardous substance at or from such real
96 property or business operation and that universal waste is not also
97 recycled, treated, except for treatment of a universal waste pursuant to
98 40 CFR 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or
99 disposed of at such real property or business operation; or

100 (W) Conveyance of a unit in a residential common interest
101 community in accordance with section 502 of this act.

102 Sec. 502. (NEW) (*Effective October 1, 2005*) (a) Notwithstanding the
103 provisions of chapter 445 of the general statutes, a conveyance of a unit
104 in a residential common interest community shall not be subject to the
105 requirements of sections 22a-134 to 22a-133e, inclusive, of the general
106 statutes, as amended by this act, provided the declarant for the
107 residential common interest community of which the unit is a part is a
108 certifying party, as defined in section 22a-134 of the general statutes, as
109 amended by this act, for purposes of remediation of any establishment,
110 as defined in section 22a-134 of the general statutes, as amended by
111 this act, within such community and provides to the Commissioner of
112 Environmental Protection a surety bond or other form of financial
113 assurance acceptable to the commissioner.

114 (b) The surety bond or other form of financial assurance required
115 pursuant to subsection (a) of this section shall (1) identify both the
116 Department of Environmental Protection and the unit owners
117 association for the common interest community as beneficiaries, and
118 (2) be in an amount and in a form approved by the commissioner that
119 is, at all times when the real property comprising the common interest
120 community is an establishment, equal to the cost of remediation of the
121 contaminants on the subject property. In calculating such remediation
122 costs, the amount of the bond or other form of financial assurance may
123 be reduced from time to time as work covered by the bond is
124 completed, may exclude the costs of any improvements to the real
125 estate not required to remediate the contamination, and may exclude
126 the costs of remediation work already completed or on parcels of real
127 estate that may be added to the common interest community by the
128 exercise of development rights pursuant to section 47-229 of the
129 general statutes.

130 (c) Each time a seller conveys to a purchaser a unit in common
131 interest community that is an establishment, the seller shall provide a
132 notice to the purchaser that summarizes (1) the status of the
133 environmental condition of the common interest community, (2) any
134 investigation or remediation activities, and (3) any environmental land
135 use restrictions. Such notice requirement applies to all such

136 conveyances, including those conveyances otherwise excepted from
137 the requirement for delivery of a public offering statement or of a
138 resale certificate under subsection (b) of section 47-262 and section 47-
139 270 of the general statutes.

140 Sec. 503. Subdivisions (10) and (11) of section 22a-134 of the general
141 statutes are repealed and the following is substituted in lieu thereof
142 (*Effective October 1, 2005*):

143 (10) "Form I" means a written certification by the transferor of an
144 establishment on a form prescribed and provided by the commissioner
145 that: (A) No discharge, spillage, uncontrolled loss, seepage or filtration
146 of hazardous waste or a hazardous substance has occurred at the
147 establishment which certification is based on an investigation of the
148 parcel in accordance with prevailing standards and guidelines, or (B)
149 no discharge spillage, uncontrolled loss, seepage or filtration of
150 hazardous waste has occurred at the establishment based upon an
151 investigation of the parcel in accordance with the prevailing standards
152 and guidelines and the commissioner has determined, in writing, or a
153 licensed environmental professional has verified, in writing, that any
154 discharge, spillage, uncontrolled loss, seepage or filtration of a
155 hazardous substance has been remediated in accordance with the
156 remediation standards and that since any such written approval or
157 verification, including any approval or verification for a portion of an
158 establishment, no discharge, spillage, uncontrolled loss, seepage or
159 filtration of hazardous waste or hazardous substances has occurred at
160 any portion of the establishment;

161 (11) "Form II" means a written certification by the transferor of an
162 establishment on a form prescribed and provided by the commissioner
163 that the parcel has been investigated in accordance with prevailing
164 standards and guidelines and that (A) any pollution caused by a
165 discharge, spillage, uncontrolled loss, seepage or filtration of
166 hazardous waste or a hazardous substance which has occurred from
167 the establishment has been remediated in accordance with the
168 remediation standards and that the remediation has been approved in

169 writing by the commissioner or has been verified pursuant to section
170 22a-133x or section 22a-134a in writing attached to such form by a
171 licensed environmental professional to have been performed in
172 accordance with the remediation standards and that since any such
173 written approval or verification, including any approval or verification
174 for a portion of an establishment, no discharge, spillage, uncontrolled
175 loss, seepage or filtration of hazardous waste or hazardous substances
176 has occurred at any portion of the establishment, (B) the commissioner
177 has determined in writing or a licensed environmental professional has
178 verified pursuant to section 22a-133x or section 22a-134a, as amended
179 by this act, in writing, attached to the form that no remediation is
180 necessary to achieve compliance with the remediation standards, or
181 (C) a Form IV verification was previously submitted to the
182 commissioner and, since the date of the submission of the Form IV, no
183 discharge, spillage, uncontrolled loss, seepage or filtration of
184 hazardous waste or a hazardous substance has occurred at the
185 establishment, which certification is based on an investigation of the
186 parcel in accordance with prevailing standards and guidelines.

187 Sec. 504. Section 22a-134 of the general statutes is amended by
188 adding subdivisions (26) and (27) as follows (*Effective October 1, 2005*):

189 (NEW) (26) "Universal waste" means batteries, pesticides,
190 thermostats, lamps and used electronics regulated as a universal waste
191 under regulations adopted pursuant to subsection (c) of section 22a-
192 449. "Universal waste" does not mean (A) batteries, pesticides,
193 thermostats and lamps that are not covered under 40 CFR Part 273, or
194 (B) used electronics that are not regulated as a universal waste under
195 regulations adopted pursuant to subsection (c) of section 22a-449.

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

201 Sec. 505. Subsections (g) and (h) of section 22a-134a of the general
202 statutes are repealed and the following is substituted in lieu thereof
203 (*Effective October 1, 2005*):

204 (g) (1) If the commissioner notifies the certifying party to a Form III
205 or Form IV that a licensed environmental professional may verify the
206 remediation, such certifying party shall, on or before thirty days of the
207 receipt of such notice or such later date as may be approved in writing
208 by the commissioner, submit a schedule for [investigating and
209 remediating the establishment] the investigation of the parcel and
210 remediation of the establishment. Such schedule shall, unless a later
211 date is specified in writing by the commissioner, provide that the
212 investigation shall be completed within two years of the date of receipt
213 of such notice and that remediation shall be initiated within three years
214 of the date of receipt of such notice. The schedule shall also include a
215 schedule for providing public notice of the remediation prior to the
216 initiation of such remediation in accordance with subsection (i) of this
217 section. The commissioner shall notify such certifying party if the
218 commissioner determines that the commissioner's review and written
219 approval is necessary. Such certifying party shall investigate the parcel
220 and remediate the establishment in accordance with the proposed
221 schedule or the schedule specified by the commissioner. [Such
222 certifying party shall submit to the commissioner an independent
223 verification by a licensed environmental professional that the
224 establishment has been remediated in accordance with the remediation
225 standards, and as applicable, a Form IV verification.] When
226 remediation of the entire establishment is complete, the certifying
227 party shall submit to the commissioner a final verification by a licensed
228 environmental professional. Any such final verification may include
229 and rely upon a verification for a portion of the establishment
230 submitted pursuant to subdivision (2) of this subsection.

231 (2) If a certifying party completes the remediation for a portion of an
232 establishment, such party may submit a verification by a licensed
233 environmental professional for any such portion of an establishment.
234 The certifying party shall be deemed to have satisfied the requirements

235 of this subsection for that portion of the establishment covered by any
236 such verification, but shall be responsible for investigation and
237 remediation of the remainder of the establishment not covered by such
238 verification. If any portion of an establishment for which a verification
239 is submitted pursuant to this subdivision is transferred, conveyed or
240 undergoes a change in ownership before remediation of the entire
241 establishment is complete, which portion would not otherwise be
242 subject to the requirements of sections 22a-134 to 22a-134e, inclusive,
243 then the certifying party shall provide notice to the commissioner of
244 such transfer, conveyance or change in ownership not later than thirty
245 days after such transfer, conveyance or change in ownership.

246 (h) (1) If the commissioner notifies the certifying party to a Form III
247 or Form IV that the commissioner's review and written approval of the
248 investigation of the parcel and remediation of the establishment is
249 required, such certifying party shall, on or before thirty days of the
250 receipt of such notice or such later date as may be approved in writing
251 by the commissioner, submit for the commissioner's review and
252 written approval a proposed schedule for: [(1)] (A) Investigating the
253 parcel and remediating the establishment; [(2)] (B) submitting to the
254 commissioner scopes of work, technical plans, technical reports and
255 progress reports related to such investigation and remediation; and
256 [(3)] (C) providing public notice of the remediation prior to the
257 initiation of such remediation in accordance with subsection (i) of this
258 section. Upon the commissioner's approval of such schedule, such
259 certifying party shall, in accordance with the approved schedule,
260 submit scopes of work, technical plans, technical reports and progress
261 reports to the commissioner for the commissioner's review and written
262 approval. Such certifying party shall perform all actions identified in
263 the approved scopes of work, technical plans, technical reports and
264 progress reports in accordance with the approved schedule. The
265 commissioner may approve in writing any modification proposed in
266 writing by such certifying party to such schedule or investigation and
267 remediation. The commissioner may, at any time, notify such
268 certifying party in writing that the commissioner's review and written

269 approval is not required and that a licensed environmental
270 professional may verify that the remediation has been performed in
271 accordance with the remediation standards.

272 (2) A certifying party may complete the remediation of a portion of
273 an establishment and request that the commissioner determine that the
274 requirements of this subsection have been satisfied for any such
275 portion of the establishment. If the commissioner determines that any
276 such remediation is complete, the certifying party shall be deemed to
277 have satisfied the requirements of this subsection for any such portion
278 of an establishment. Any determination by the commissioner that
279 remediation at the entire establishment has been completed may
280 include and rely upon any determination made pursuant to this
281 subdivision that remediation is complete at a portion of an
282 establishment. If any portion of an establishment for which the
283 commissioner determines that remediation is complete pursuant to
284 this subdivision is transferred, conveyed or undergoes a change in
285 ownership before remediation of the entire establishment is complete,
286 which portion would not otherwise be subject to the requirements of
287 sections 22a-134 to 22a-134e, inclusive, then the certifying party shall
288 provide notice to the commissioner of such transfer, conveyance or
289 change in ownership not later than thirty days after such transfer,
290 conveyance or change in ownership.

291 Sec. 506. Subsections (e) and (f) of section 22a-133v of the general
292 statutes are repealed and the following is substituted in lieu thereof
293 (*Effective October 1, 2005*):

294 (e) The board shall authorize the commissioner to issue a license
295 under subsection (d) of section 22a-133m, sections 22a-184 to 22a-184e,
296 inclusive, this section and section 22a-133w to any person who
297 demonstrates to the satisfaction of the board that such person: (1) (A)
298 Has for a minimum of eight years engaged in the investigation and
299 remediation of releases of hazardous waste or petroleum products into
300 soil or groundwater, including a minimum of four years in responsible
301 charge of investigation and remediation of the release of hazardous

302 waste or petroleum products into soil or groundwater, and holds a
303 bachelor's or advanced degree from an accredited college or university
304 in a related science or related engineering field or is a professional
305 engineer licensed in accordance with chapter 391, or (B) has for a
306 minimum of fourteen years engaged in the investigation and
307 remediation of releases of hazardous waste or petroleum products into
308 soil or groundwater, including a minimum of seven years in
309 responsible charge of investigation and remediation of hazardous
310 waste or petroleum products into soil or groundwater; (2) has
311 successfully passed a written examination, or a written and oral
312 examination, prescribed by the board and approved by the
313 commissioner, which shall test the applicant's knowledge of the
314 physical and environmental sciences applicable to an investigation of a
315 polluted site and remediation conducted in accordance with
316 regulations adopted by the commissioner under section 22a-133k and
317 any other applicable guidelines or regulations as may be adopted by
318 the commissioner; and (3) has paid an examination fee of one hundred
319 eighty-eight dollars to the commissioner. In considering whether a
320 degree held by an applicant for such license qualifies for the
321 educational requirements under this section, the board may consider
322 all undergraduate, graduate, postgraduate and other courses
323 completed by the applicant.

324 (f) The board shall authorize the commissioner to issue a license to
325 any applicant who, in the opinion of the board, has satisfactorily met
326 the requirements of this section. The issuance of a license by the
327 commissioner shall be evidence that the person named therein is
328 entitled to all the rights and privileges of a licensed environmental
329 professional while such license remains unrevoked or unexpired. A
330 licensed environmental professional shall pay to the commissioner an
331 annual fee of three hundred thirty-eight dollars, due and payable on
332 July first of every year beginning with July first of the calendar year
333 immediately following the year of license issuance. The commissioner,
334 with the advice and assistance of the board, may adopt regulations in
335 accordance with the provisions of chapter 54, pertaining to the design

336 and use of seals by licensees under this section and governing the
337 license issuance and renewal process, including, but not limited to,
338 procedures for allowing the renewal of licenses when an application is
339 submitted not later than six months after the expiration of the license
340 without the applicant having to take the examination required under
341 subsection (e) of this section.

342 Sec. 507. Subdivisions (1) to (4), inclusive, of section 22a-255h of the
343 general statutes are repealed and the following is substituted in lieu
344 thereof (*Effective October 1, 2005*):

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

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

355 (2) "Distributor" means any person who takes title or delivery from
356 the manufacturer of a package, packaging component or product,
357 produced either domestically or in a foreign country, to use for
358 promotional purposes or to sell.

359 (3) "Packaging component" means any part of a package, produced
360 either domestically or in a foreign country, including, but not limited
361 to, any interior or exterior blocking, bracing, cushioning,
362 weatherproofing, exterior strapping, coating, closure, ink, label, dye,
363 pigment, adhesive, stabilizer or other additive. Tin-plated steel that
364 meets specification A623 of the American Society of Testing and
365 Materials shall be considered as a single packaging component.
366 [Electrolytic galvanized steel that meets specification A879 of the
367 American Society of Testing and Materials and hot-dipped coated

368 galvanized steel that meets specification A525 of the American Society
369 of Testing and Materials shall be treated in the same manner as tin-
370 plated steel] Electro-galvanized coated steel and hot dipped coated
371 galvanized steel that meets the American Society of Testing and
372 Materials specifications A653, A924, A879 and A591 shall be treated in
373 the same manner as tin-plated steel.

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

376 Sec. 508. Subdivisions (12) to (14), inclusive, of section 22a-255h of
377 the general statutes are repealed and the following is substituted in
378 lieu thereof (*Effective October 1, 2005*):

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

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

385 (14) "Supplier" means any person, firm, association, partnership or
386 corporation which sells, offers for sale or offers for promotional
387 purposes packages or packaging components which will be used by
388 any other person [, firm, association, partnership or corporation] to
389 package a product.

390 Sec. 509. Subsection (a) of section 22a-255i of the general statutes is
391 repealed and the following is substituted in lieu thereof (*Effective*
392 *October 1, 2005*):

393 (a) As soon as feasible, but not later than October 1, 1992, no
394 package or packaging component shall be offered for sale or
395 promotional purposes in this state, by its manufacturer or distributor,
396 if it is composed of any lead, cadmium, mercury or hexavalent
397 chromium which has been intentionally introduced during

398 manufacturing or distribution, as opposed to the incidental presence of
399 any of these substances.

400 Sec. 510. Section 22a-255j of the general statutes is repealed and the
401 following is substituted in lieu thereof (*Effective October 1, 2005*):

402 All packages and packaging components shall be subject to sections
403 22a-255g to 22a-255m, inclusive, as amended by this act, except the
404 following:

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

408 (2) A package or packaging component that would not exceed any
409 maximum concentration set forth in subsection (c) of section 22a-255i
410 but for the addition or use of recycled materials; provided the
411 provisions of sections 22a-255g to 22a-255m, inclusive, as amended by
412 this act, shall apply to such packages on and after January 1, [2000]
413 2010;

414 (3) A package or packaging component to which lead, cadmium,
415 mercury or hexavalent chromium have been added in the
416 manufacturing or distribution process in order to comply with health
417 or safety requirements of federal law, provided the manufacturer of
418 such a package or packaging component has demonstrated to the
419 commissioner that such package or packaging component is entitled to
420 an exemption under this subdivision and the commissioner grants
421 such exemption. The exemption shall be effective for up to two years
422 and may be extended if circumstances warrant an extension. An
423 extension may be granted for up to two years;

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

425 (5) A package or packaging component to which lead, cadmium,
426 mercury or hexavalent chromium have been added in the
427 manufacturing, forming, printing or distribution process for which

428 there is no feasible alternative to the use of lead, cadmium, mercury or
429 hexavalent chromium provided the manufacturer of such a package or
430 packaging component has demonstrated to the commissioner that such
431 package or packaging component is entitled to an exemption under
432 this subdivision and the commissioner grants such exemption. The
433 exemption shall be effective for two years and may be extended if
434 circumstances warrant an extension. An extension may be granted for
435 up to two years. For purposes of this subdivision, a use for which there
436 is no feasible alternative is one which is essential to the protection, safe
437 handling or function of the package's contents and for which [there is
438 no substitute] technical constraints preclude the substitution of other
439 materials. For purposes of this subdivision, a use for which there is no
440 feasible alternative shall not include the use of any lead, cadmium,
441 mercury or hexavalent chromium for the purpose of marketing;

442 (6) A package or packaging component that is reused but exceeds
443 contaminant levels set forth in subsection (c) of section 22a-255i,
444 provided (A) the product being conveyed by such package or
445 packaging component is regulated under federal or state health or
446 safety requirements; (B) the transportation of such package or
447 packaging component is regulated under federal or state
448 transportation requirements; (C) the disposal of the package or
449 packaging component is performed according to federal or state
450 radioactive or hazardous waste disposal requirements; and (D) the
451 manufacturer of such package or packaging component has
452 demonstrated to the commissioner that such package or packaging
453 component is entitled to an exemption under this subdivision and the
454 commissioner grants such exemption. Any exemption granted under
455 this subdivision shall expire on January 1, [2000] 2010;

456 (7) A package or packaging component which is reusable and has a
457 controlled distribution and reuse but which exceeds the contaminant
458 levels set forth in subsection (c) of section 22a-255i, provided the
459 manufacturer or distributor of such package or packaging component
460 petitions the commissioner for an exemption and the commissioner
461 grants such exemption. A manufacturer or distributor petitioning the

462 commissioner for such an exemption shall (A) satisfactorily
463 demonstrate that the environmental benefit of the reusable packaging
464 or packaging component is significantly greater as compared to the
465 same package or packaging component manufactured in compliance
466 with the contaminant levels set forth in subsection (c) of section 22a-
467 255i, and (B) submit a written plan including, at a minimum, the
468 following elements: (i) A means of identifying in a permanent and
469 visible manner those reusable packages or packaging components
470 containing regulated metals for which the exemption is sought; (ii) a
471 method of regulatory and financial accountability such that a specified
472 percentage of such reusable packaging or packaging components
473 manufactured and distributed to other persons are not discarded by
474 those persons after use, but are returned to the manufacturer or his
475 designee; (iii) a system of inventory and record maintenance to
476 account for the reusable packaging or packaging components placed in
477 and removed from service; (iv) a means of transforming returned
478 packaging or packaging components that are no longer reusable into
479 recycled materials for manufacturing or into manufacturing wastes
480 which are subject to existing federal or state laws or regulations to
481 ensure that these wastes do not enter the commercial or municipal
482 waste stream; and (v) a system for annually reporting to the
483 commissioner any changes to the system or changes regarding the
484 manufacturer's designee. Any exemption granted under this
485 subdivision shall expire on January 1, [2000] 2010;

486 (8) A glass or ceramic package or packaging component that has a
487 vitrified label which, when prepared according to the American
488 Society for Testing and Materials specification C1606-04 and when
489 tested in accordance with the Toxicity Characteristic Leaching
490 Procedures of the United States Environmental Protection Agency Test
491 Method and Publication SW 846, third edition, "Test Methods for
492 Evaluating Solid Waste", does not exceed one part per million for
493 cadmium, five parts per million for hexavalent chromium and five
494 parts per million for lead.

495 Sec. 511. Subsection (a) of section 22a-255m of the general statutes is

496 repealed and the following is substituted in lieu thereof (*Effective*
497 *October 1, 2005*):

498 (a) The [department] commissioner may, in consultation with the
499 [Source Reduction Council of the Council of Northeastern Governors]
500 other member states of the Toxics in Packaging Clearing House,
501 review the effectiveness of sections 22a-255g to 22a-255m, inclusive, as
502 amended by this act, and provide a report based on such review to the
503 Governor and the General Assembly. The report may describe
504 substitutes which manufacturers and distributors of packages and
505 packaging components have used in place of lead, mercury, cadmium
506 and hexavalent chromium, and may contain recommendations
507 concerning (1) other toxic substances contained in packaging that
508 should be added to those regulated under the provisions of sections
509 22a-255g to 22a-255m, inclusive, as amended by this act, in order to
510 further reduce the toxicity of packaging waste, and (2) the advisability
511 of retaining the exemption provided in subdivision (2) of section 22a-
512 255j, as amended by this act.

513 Sec. 512. Subsection (b) of section 22a-449 of the general statutes is
514 repealed and the following is substituted in lieu thereof (*Effective*
515 *October 1, 2005*):

516 (b) The commissioner may: (1) License terminals in the state for the
517 loading or unloading of oil or petroleum or chemical liquids or solid,
518 liquid or gaseous products or hazardous wastes and shall adopt, in
519 accordance with chapter 54, reasonable regulations in connection
520 therewith for the purposes of identifying terminals subject to licensure
521 and protecting the public health and safety and for preventing the
522 discharge, spillage, uncontrolled loss, seepage or filtration of oil or
523 petroleum or chemical liquids or solid, liquid or gaseous products or
524 hazardous wastes. Each license issued under this section shall be valid
525 for a period of not more than [three years commencing July first] ten
526 years from the date of issuance, unless sooner revoked by the
527 commissioner, and there shall be charged for each such license or
528 renewal thereof fees established by regulation sufficient to cover the

529 reasonable cost to the state of inspecting and licensing such terminals;
530 (2) provide by regulations for the establishment and maintenance in
531 operating condition and position of suitable equipment to contain as
532 far as possible the discharge, spillage, uncontrolled loss, seepage or
533 filtration of any oil or petroleum or chemical liquids or solid, liquid or
534 gaseous products or hazardous wastes; (3) inspect periodically all
535 hoses, gaskets, tanks, pipelines and other equipment used in
536 connection with the transfer, transportation or storage of oil or
537 petroleum or chemical liquids or solid, liquid or gaseous products or
538 hazardous wastes to make certain that they are in good operating
539 condition, and order the renewal of any such equipment found unfit
540 for further use. No person shall commence operation of any such
541 terminal in this state on or after July 1, 1993, without a license issued
542 by the commissioner. Any person who operates any such terminal
543 without a license issued by the commissioner shall be fined not more
544 than five thousand dollars per day during any period of unlicensed
545 operation.

546 Sec. 513. Section 22a-611 of the general statutes is repealed and the
547 following is substituted in lieu thereof (*Effective October 1, 2005*):

548 The owner or operator of a facility required to complete a toxic
549 release form under Section 313 of the Emergency Planning and
550 Community Right-to-Know Act of 1986 shall annually submit such
551 form to the commission on or before the first of July [1, 1990, and
552 annually thereafter] or a date established by the United States
553 Environmental Protection Agency, whichever comes later.

554 Sec. 514. Subsections (a) to (d), inclusive, of section 22a-208a of the
555 general statutes are repealed and the following is substituted in lieu
556 thereof (*Effective October 1, 2005*):

557 (a) The Commissioner of Environmental Protection may issue, deny,
558 modify, renew, suspend, revoke or transfer a permit, under such
559 conditions as he may prescribe and upon submission of such
560 information as he may require, for the construction, alteration and

561 operation of solid waste facilities, in accordance with the provisions of
562 this chapter and regulations adopted pursuant to this chapter.
563 Notwithstanding the provisions of this section, the commissioner shall
564 not issue (1) a permit for a solid waste land disposal facility on former
565 railroad property until July 1, 1989, unless the commissioner makes a
566 written determination that such facility is necessary to meet the solid
567 waste disposal needs of the state and will not result in a substantial
568 excess capacity of solid waste land disposal areas or disrupt the
569 orderly transportation of or disposal of solid waste in the area affected
570 by the facility, or (2) an operational permit for a resources recovery
571 facility unless the applicant has submitted a plan pursuant to section
572 22a-208g for the disposal or recycling of ash residue expected to be
573 generated at the facility in the first five years of operation. In making a
574 decision to grant or deny a permit to construct a solid waste land
575 disposal facility, including a vertical or horizontal landfill expansion,
576 the commissioner shall consider the character of the neighborhood in
577 which such facility is located and may impose requirements for hours
578 and routes of truck traffic, security and fencing and for measures to
579 prevent the blowing of dust and debris and to minimize insects,
580 rodents and odors. In making a decision to grant or deny a permit to
581 construct or operate a new transfer station, the commissioner shall
582 consider whether such transfer station will result in disproportionately
583 high adverse human health or environmental effects. [The
584 commissioner shall not authorize under a general permit or issue an
585 individual permit under this section to establish or construct a new
586 volume reduction plant or transfer station located, or proposed to be
587 located, within one-quarter mile of a child day care center, as defined
588 in subdivision (1) of subsection (a) of section 19a-77, in a municipality
589 with a population greater than one hundred thousand persons
590 provided such center is operating as of July 8, 1997. The commissioner
591 may modify or renew a permit for an existing volume reduction plant
592 or transfer station, in accordance with the provisions of this chapter,
593 without regard to its location.] In making a decision to grant or deny a
594 permit to construct an ash residue disposal area, the commissioner
595 shall consider any provision which the applicant shall make for a

596 double liner, a leachate collection or detection system and the cost of
597 transportation and disposal of ash residue at the site under
598 consideration.

599 [(b) No solid waste facility shall be built or established and no solid
600 waste facility without a permit to construct shall be altered after July 1,
601 1971, until the plan, design and method of operation of such facility
602 have been filed with the department and approved by the
603 commissioner by the issuance of a permit to construct, provided,
604 nothing in this chapter or chapter 446e shall be construed to limit the
605 right of any local governing body to regulate, through zoning, land
606 usage for solid waste disposal.]

607 (b) No person or municipality shall establish, construct or operate a
608 solid waste facility without a permit issued by the commissioner under
609 this section. An application for such permit shall be submitted on a
610 form prescribed by the commissioner, include such information as the
611 commissioner may require, including, but not limited to, a closure plan
612 for such facility, and be accompanied by a fee prescribed in regulations
613 adopted in accordance with chapter 54. References to a permit to
614 construct or a permit to operate in a regulation adopted pursuant to
615 section 22a-209 shall be deemed to mean a permit as required by this
616 subsection. The [commissioner] applicant shall send a written
617 notification of any application for [a] such permit [to construct] to the
618 chief elected official of each municipality in which the proposed
619 facility is to be located, within five business days of the date on which
620 any such application is filed.

621 [(c) No solid waste facility for which a permit to construct is
622 required shall be operated on and after June 16, 1985, except for
623 performance testing approved by the commissioner, unless such
624 facility has been issued a permit to operate. The commissioner may
625 issue such permit upon determination that the facility (1) will be
626 operated in accordance with applicable laws or regulations, (2) has
627 been constructed in accordance with a permit issued pursuant to
628 subsection (b) of this section, and (3) has satisfactorily completed any

629 performance tests required by the commissioner. All operating
630 facilities holding a valid permit to construct on or before June 16, 1985,
631 shall be issued a permit to operate and shall be allowed to continue
632 operations prior to the issuance of such permit to operate. The
633 commissioner shall allow any person who is lawfully disposing of ash
634 residue within a solid waste disposal area on April 1, 1994, to continue
635 disposing of such residue within such area until March 1, 1997, or until
636 the issuance of a final permit to operate a new lined ash landfill in
637 Hartford.]

638 (c) Upon written notice from the commissioner and in accordance
639 with a schedule specified by the commissioner in such written notice,
640 any person or municipality who owns an unpermitted solid waste
641 disposal area shall (1) submit a closure plan for the commissioner's
642 review and written approval, provide public notice of such proposed
643 plan in a manner prescribed by regulations adopted pursuant to
644 section 22a-133k and close and maintain such area after closure in
645 accordance with the approved closure plan, or (2) remediate such
646 disposal area in accordance with a remediation plan approved by the
647 commissioner or verified by a licensed environmental professional
648 pursuant to section 22a-134a, 22a-134x or 22a-133y or pursuant to an
649 order of the commissioner. A fee of three thousand dollars shall
650 accompany any closure plan submitted pursuant to this subsection.
651 The commissioner may require the owner of a solid waste disposal
652 area to post sufficient performance bond or other security to ensure
653 compliance with the approved closure plan. The commissioner may
654 approve a modification to a closure plan for a solid waste disposal
655 area. A fee of five hundred dollars shall accompany the request for
656 such modification. The commissioner may reduce or waive the fees
657 required by this subsection in cases of financial hardship and may
658 modify such fees in regulations adopted in accordance with chapter 54.
659 The commissioner may require a person or municipality to provide
660 public notice of a proposed modification of a closure plan if the
661 modification involves any activity that would disrupt the solid waste
662 or change the use of the solid waste disposal area. Notwithstanding

663 the provisions of this subsection, the commissioner may order a person
664 or municipality who establishes or constructs a solid waste disposal
665 area without first obtaining a permit as required by subsection (b) of
666 this section to remove any solid waste disposed at such area, to
667 remediate any pollution caused by such waste, and to properly
668 dispose of such waste at a lawfully operated solid waste facility.

669 (d) (1) [Except as provided in subdivision (2) of this subsection, no
670 solid waste facility which] No person or municipality who holds a
671 permit [to construct shall be altered on and after June 16, 1985, until
672 the proposed plan, design and] issued under this section shall alter the
673 design or method of operation of the [altered facility have been filed
674 with the commissioner and approved by him by issuance of a modified
675 permit] permitted facility without first obtaining a modified permit.
676 For the purposes of this section and sections 22a-208, 22a-208b, 22a-
677 220a, 22a-225 and 22a-226, "alter" means [(A)] to change to any
678 substantive degree the [approved] design, capacity, volume process or
679 operation of a solid waste facility [holding a permit to construct,] and
680 includes, but is not limited to, changes in the approved capacity or
681 composition of solid waste disposed of, processed, reduced, stored or
682 recycled at the facility. [, or (B) to change to any substantive degree the
683 existing design, capacity, volume, process or operation of a solid waste
684 facility not holding a permit to construct and includes, but is not
685 limited to, changes in the volume or composition of solid waste
686 disposed, stored, processed, reduced or recycled at the facility.] The
687 commissioner may approve, in writing, a modification of a closure
688 plan for a closed permitted solid waste disposal area without
689 modifying the permit for such area. The commissioner may require a
690 person who, or a municipality that, requests such modification to
691 provide public notice of a proposed modification of a closure plan if
692 the modification involves any activity that would disrupt the solid
693 waste or change the use of the solid waste disposal area. A fee of five
694 hundred dollars shall accompany any request for such modification of
695 a closure plan. The commissioner may reduce or waive such fee in
696 cases of financial hardship and may modify such fee in accordance

697 with regulations adopted in accordance with chapter 54.

698 (2) Changes in design, processes or operations, including the
699 addition of thermal oxidizers or other air pollution control equipment,
700 made to mitigate, correct or abate odors from a solid waste facility that
701 is owned or operated by the Connecticut Resources Recovery
702 Authority and that contracts with more than fifty municipalities, shall
703 not be considered an alteration requiring a modified permit or minor
704 permit amendment under this chapter. In addition, notwithstanding
705 any provision of the general statutes or regulation adopted pursuant to
706 said statutes, any such change shall not be considered a modification
707 or new stationary source requiring a permit to construct or operate
708 under chapter 446c or under any regulation adopted pursuant to
709 chapter 446c, unless such change is a major modification or a major
710 stationary source requiring a permit under the federal Clean Air Act
711 Amendments of 1990. Any person making any such change to an odor
712 control system at such a facility shall, not more than thirty days after
713 making such change, submit a written report to the commissioner fully
714 describing the changes made and the reason for such changes for the
715 commissioner's review and comment. Nothing in this subdivision shall
716 affect the commissioner's authority to take any other action to enforce
717 the requirements of this title.

718 Sec. 515. Section 22a-207 of the general statutes is amended by
719 adding subdivisions (25) and (26) as follows (*Effective October 1, 2005*):

720 (NEW) (25) "Person" has the same meaning as in subsection (c) of
721 section 22a-2.

722 (NEW) (26) "Closure plan" means a comprehensive written plan,
723 including maps, prepared by a professional engineer licensed by the
724 state that details the closure of a solid waste disposal area and that
725 addresses final cover design, stormwater controls, landfill gas controls,
726 water quality monitoring, leachate controls, post closure maintenance
727 and monitoring, financial assurance for closure and post closure
728 activities, post closure use and any other information that the

729 commissioner determines is necessary to protect human health and the
730 environment from the effects of the solid waste disposal areas.

731 Sec. 516. (NEW) (*Effective October 1, 2006*) (a) The Commissioner of
732 Environmental Protection may issue, modify or revoke orders to
733 correct or abate violations of chapter 446m of the general statutes,
734 including, but not limited to, any regulation adopted pursuant to
735 chapter 446m of the general statutes. Any such order may include
736 remedial measures necessary to correct or abate such violations. Such
737 orders may be issued to any person who violates any provision of
738 chapter 446d of the general statutes or any regulation adopted
739 pursuant to chapter 446m of the general statutes.

740 (b) Each order issued under chapter 446m of the general statutes
741 shall be served by certified mail, return receipt requested, or by a state
742 marshal or indifferent person. If a state marshal or indifferent person
743 serves the order, a true copy of the order shall be served, and the
744 original, with a return of such service endorsed thereon, shall be filed
745 with the commissioner. The order shall be deemed to be issued upon
746 service or upon deposit in the mail. Any order issued pursuant to
747 chapter 446d of the general statutes shall state the basis on which it is
748 issued.

749 (c) Unless a person aggrieved by an order files a written request for
750 a hearing before the commissioner not later than thirty days after the
751 date of issuance, such order shall become final. If requested, the
752 commissioner shall hold a hearing as soon thereafter as practicable. A
753 request for a hearing shall be a condition precedent to any appeal. The
754 commissioner may, after the hearing or at any time after the issuance
755 of the order, modify such order by agreement or extend the time
756 schedule therefor if the commissioner deems such modification or
757 extension advisable or necessary, and any such modification or
758 extension shall be deemed to be a revision of an existing order and
759 shall not constitute a new order. There shall be no hearing subsequent
760 to or any appeal from any such modification or extension.

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

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

769 Sec. 517. (NEW) (*Effective October 1, 2006*) (a) Whenever, in the
770 judgment of the Commissioner of Environmental Protection, any
771 person has engaged in or is about to engage in any acts, practices or
772 omission which constitute, or will constitute, a violation of any
773 provision of chapter 446m of the general statutes, or any regulation
774 adopted or order issued pursuant to chapter 446m of the general
775 statutes, at the request of the Commissioner of Environmental
776 Protection, the Attorney General may bring an action in the superior
777 court for the judicial district of New Britain for an order enjoining such
778 acts or practices, to order remedial measures, or for an order directing
779 compliance and, upon a showing by the commissioner that such
780 person has engaged in or is about to engage in any such acts, practices
781 or omissions, a permanent or temporary injunction, restraining order
782 or other order may be granted.

783 (b) Any person who violates any provision of chapter 446m of the
784 general statutes, including, but not limited to, any regulation adopted
785 or order issued pursuant to chapter 446m of the general statutes, shall
786 be assessed a civil penalty not to exceed twenty-five thousand dollars
787 per day, to be fixed by the court, for each offense. Each violation shall
788 be a separate and distinct offense and, in the case of a continuing
789 violation, each day's continuance thereof shall be deemed to be a
790 separate and distinct offense. The Attorney General, upon request of
791 the commissioner, shall institute a civil action in the superior court for
792 the judicial district of New Britain to recover such penalty.

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

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

801 Sec. 518. (NEW) (*Effective October 1, 2006*) (a) Any person who, with
802 criminal negligence, violates any provision of chapter 446m of the
803 general statutes, including, but not limited to, any regulation adopted
804 or order issued pursuant to chapter 446m of the general statutes, or
805 who makes any false statement, representation, certification in any
806 application, notification, request for exemption, record, plan, report or
807 other document filed or required to be maintained under chapter 446m
808 of the general statutes, shall be fined not more than twenty-five
809 thousand dollars per day for each day of violation or be imprisoned
810 not more than one year, or both. A subsequent conviction for any such
811 violation shall carry a fine of not more than fifty thousand dollars per
812 day for each day of violation or imprisonment for not more than two
813 years, or both.

814 (b) Any person who knowingly violates any provision of chapter
815 446m of the general statutes, including, but not limited to, any
816 regulation adopted or order issued pursuant to chapter 446m of the
817 general statutes, or who makes any false statement, representation, or
818 certification in any application, notification, request for exemption,
819 record, plan, report or other document filed or required to be
820 maintained under chapter 446m of the general statutes, shall be fined
821 not more than fifty thousand dollars per day for each day of violation
822 or be imprisoned not more than three years, or both. A subsequent
823 conviction for any such violation shall carry a fine of not more than
824 fifty thousand dollars per day for each day of violation or
825 imprisonment for not more than ten years, or both.

826 Sec. 519. Subsection (a) of section 22a-617 of the general statutes is
827 repealed and the following is substituted in lieu thereof (*Effective July*
828 *1, 2005*):

829 (a) Except as provided in section 22a-618, except for products that
830 contain a mercury-containing lamp used for backlighting that cannot
831 feasibly be removed by the purchaser and except for [specialized
832 lighting used in the entertainment industry such as metal halide lights]
833 high intensity discharge lamps containing more than one hundred
834 milligrams of mercury including metal halide lamps, mercury vapor
835 lamps, mercury capillary lamps, mercury-xenon short-arc lamps and
836 mercury short-arc lamps, no person shall offer for sale or distribute for
837 promotional purposes any mercury-added product if: (1) After July 1,
838 2004, the mercury content of the product exceeds one gram in the case
839 of fabricated mercury-added products or two hundred fifty parts per
840 million in the case of formulated mercury-added products; and (2) on
841 and after July 1, 2006, the mercury content of the product exceeds one
842 hundred milligrams in the case of fabricated mercury-added products
843 or fifty parts per million in the case of formulated mercury-added
844 products."