



General Assembly

February Session, 2006

Raised Bill No. 5277

LCO No. 1471

01471_____ENV

Referred to Committee on Environment

Introduced by:
(ENV)

AN ACT CONCERNING PRESERVATION OF RIVERS AND STREAMS.

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

1 Section 1. Section 22a-375 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) The commissioner may periodically investigate and review those
4 diversions which are taking place pursuant to a permit issued in
5 accordance with sections 22a-365 to 22a-378, inclusive. If [he] the
6 commissioner determines that there is any violation of the terms,
7 limitations or conditions of the permit, [he] the commissioner may
8 suspend or revoke said permit in accordance with the provisions of
9 chapter 54 or may request the Attorney General to bring an action to
10 enjoin such violation in accordance with the provisions of subsection
11 (a) of section 22a-376.

12 (b) The commissioner shall prepare an inventory of those diversions
13 registered in accordance with section 22a-368. The commissioner shall
14 prepare a report for the General Assembly which shall be delivered on
15 or before January 1, 2000, and shall include: (1) An inventory of
16 diversion registrations filed on or before July 1, 1983; (2) an inventory

17 of the withdrawal quantities acknowledged for such registration; and
18 (3) an identification of those registrations which are planned to be used
19 by the registrants.

20 (c) The commissioner may investigate and review diversions
21 registered in accordance with section 22a-368 and may issue an order
22 directing the holder of any such registered diversion to apply for and
23 obtain a permit for such diversion in accordance with sections 22a-365
24 to 22a-378, inclusive, and the regulations of Connecticut state agencies.

25 (d) If the commissioner issues an order pursuant to this subsection:
26 (1) A true copy of the order shall be served upon the holder of the
27 diversion by certified mail, return receipt requested, or by a state
28 marshal or indifferent person, with a return of service endorsed
29 thereon and such return receipt or return of service shall be filed with
30 the commissioner, (2) the order shall specify the general location of the
31 diversion and specify a reasonable period of time within which the
32 holder shall make application for and obtain a permit for such
33 diversion in accordance with sections 22a-365 to 22a-378, inclusive,
34 and the regulations of Connecticut state agencies. Such order shall
35 remain in effect unless the commissioner finds the holder of the
36 diversion has surrendered such diversion or that the time frame to
37 apply for and obtain a permit is unreasonable.

38 (e) Unless the holder of the registered diversion files an answer, in
39 writing, not later than thirty days after the date of service of the order
40 and requests a hearing before the commissioner, the order shall be
41 final and shall not be subject to appeal. The commissioner shall grant a
42 hearing as soon as is practicable upon receipt of the request.

43 (f) Testimony at the hearing shall be under oath and recorded
44 stenographically or by a sound recording device. The parties shall not
45 be bound by the strict rules of evidence in courts of law. After the
46 hearing, the commissioner shall consider all of the evidence and shall
47 affirm, revoke or modify the order. At the request of the holder of the
48 registered diversion, a true and correct copy of the hearing transcript

49 or any other record of the hearing that was made shall be furnished to
50 the holder, at the holder's expense.

51 (g) By agreement of the commissioner and the person or persons
52 subject to the order, the commissioner may, after a hearing or at any
53 time after the issuance of the order, modify the order or extend time
54 for compliance with the order. Any such modification or extension of
55 time shall be a revision of the order and shall not constitute a new
56 order. There shall not be a right to appeal such modification or
57 extension by agreement. If the person or persons subject to the order
58 fails to comply with the order, the commissioner shall revoke the
59 registration that was the subject of the order. If the commissioner
60 issues an order pursuant to this subsection to two or more persons,
61 each person shall be jointly and severally liable with respect to such
62 order. Notwithstanding the provisions of chapter 54, a decision of the
63 commissioner issued pursuant to this subsection shall be final and
64 shall not be subject to appeal.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>from passage</i> | 22a-375 |

Statement of Purpose:

To allow the Commissioner of Environmental Protection to investigate, review, issue orders and hold hearings regarding registered water diversions and permits for such diversions and to specify hearing procedures and rights of appeal related to such hearings.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]