



General Assembly

Substitute Bill No. 5277

February Session, 2006

* HB05277ENV 032006 *

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 Section 22a-375 of the general statutes is repealed and the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 periodically investigate and review
21 nonagricultural diversions registered in accordance with section
22 22a-368. If the commissioner determines, after reviewing the applicable
23 data, that there is probable cause that a registered diversion is having,
24 on its own or together with other diversions, a detrimental effect on
25 the environment and natural aquatic life in a basin, the commissioner
26 may, after recognizing and providing for the needs and requirements
27 of public health and safety, water supply and industry, issue an order
28 directing the holder of any such registered diversion to apply for and
29 obtain a permit for such diversion in accordance with sections 22a-365
30 to 22a-378, inclusive, and the regulations of Connecticut state agencies.
31 A person or municipality maintaining such registered diversion may
32 continue to withdraw water at its current quantity, frequency and rate
33 until a decision is made by the commissioner pursuant to section 22a-
34 373.

35 (d) If the holder does not apply for a permit as ordered by the
36 commissioner, the commissioner may issue an order pursuant to this
37 subsection and: (1) A true copy of the order shall be served upon the
38 holder of the diversion by certified mail, return receipt requested, or
39 by a state marshal or indifferent person, with a return of service
40 endorsed thereon and such return receipt or return of service shall be
41 filed with the commissioner, (2) the order shall specify the general
42 location of the diversion and specify a reasonable period of time within
43 which the holder shall make application for and obtain a permit for
44 such diversion in accordance with sections 22a-365 to 22a-378,
45 inclusive, and the regulations of Connecticut state agencies. Such order
46 shall remain in effect unless the commissioner finds the holder of the
47 diversion has surrendered such diversion or that the time frame to
48 apply for and obtain a permit is unreasonable.

49 (e) Unless the holder of the registered diversion who has not
50 applied for a permit files an answer, in writing, not later than thirty
51 days after the date of service of the order and requests a hearing before
52 the commissioner, the order shall be final and shall not be subject to
53 appeal. The commissioner shall grant a hearing as soon as is

54 practicable upon receipt of the request.

55 (f) Testimony at the hearing shall be under oath and recorded
56 stenographically or by a sound recording device. The parties shall not
57 be bound by the strict rules of evidence in courts of law. After the
58 hearing, the commissioner shall consider all of the evidence and shall
59 affirm, revoke or modify the order. At the request of the holder of the
60 registered diversion, a true and correct copy of the hearing transcript
61 or any other record of the hearing that was made shall be furnished to
62 the holder, at the holder's expense.

63 (g) By agreement of the commissioner and the person or persons
64 subject to the order, the commissioner may, after a hearing or at any
65 time after the issuance of the order, modify the order or extend time
66 for compliance with the order. Any such modification or extension of
67 time shall be a revision of the order and shall not constitute a new
68 order. There shall not be a right to appeal such modification or
69 extension by agreement. If the person or persons subject to the order
70 fails to comply with the order, the commissioner shall revoke the
71 registration that was the subject of the order. If the commissioner
72 issues an order pursuant to this subsection to two or more persons,
73 each person shall be jointly and severally liable with respect to such
74 order.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	22a-375
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ENV *Joint Favorable Subst.*