



# Senate

General Assembly

**File No. 397**

January Session, 2007

Substitute Senate Bill No. 1224

*Senate, April 10, 2007*

The Committee on Environment reported through SEN. FINCH of the 22nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT CONCERNING LICENSED ENVIRONMENTAL PROFESSIONALS.**

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

1 Section 1. Subsection (g) of section 22a-133v of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2007*):

4 (g) The board may conduct investigations concerning the conduct of  
5 any licensed environmental professional. The commissioner may  
6 conduct audits of any actions authorized by law to be performed by a  
7 licensed environmental professional. The board shall authorize the  
8 commissioner to: (1) revoke [or] the license of any environmental  
9 professional; (2) suspend the license of any environmental  
10 professional; (3) impose any other sanctions that the board deems  
11 appropriate; or [to] (4) deny an application for such licensure if the  
12 board, after providing such professional with notice and an  
13 opportunity to be heard concerning such revocation, suspension, other  
14 sanction or denial, finds that such professional has submitted false or

15 misleading information to the board or has engaged in professional  
16 misconduct including, without limitation, knowingly or recklessly  
17 making a false verification of a remediation under section 22a-134a, as  
18 amended by this act, or violating any provision of this section or  
19 regulations adopted [hereunder] under the provisions of this section.

20 Sec. 2. Section 22a-133x of the general statutes is repealed and the  
21 following is substituted in lieu thereof (*Effective October 1, 2007*):

22 (a) Except as provided in section 22a-133y, a political subdivision of  
23 the state, an owner of an establishment, as defined in section 22a-134,  
24 an owner of property identified on the inventory of hazardous waste  
25 disposal sites maintained pursuant to section 22a-133c on October 1,  
26 1995, or an owner of contaminated property located in an area for  
27 which the groundwater classification is GA or GAA, may, at any time,  
28 submit to the commissioner an environmental condition assessment  
29 form for such real property owned by such political subdivision or  
30 such owner and an initial review fee in accordance with subsection (e)  
31 of this section. [Within] The owner or political subdivision shall use a  
32 licensed environmental professional to verify the investigation and  
33 remediation, unless not later than thirty days [of his] after the  
34 commissioner's receipt of such form, the commissioner [shall notify]  
35 notifies the owner or political subdivision, in writing, [as to whether or  
36 not] that review and written approval of any remedial action at such  
37 establishment or property by the commissioner will be required. The  
38 commissioner shall not process any such form submitted pursuant to  
39 this section unless such form is accompanied by the required initial  
40 review fee.

41 (b) [If the commissioner notifies the owner that he will not formally  
42 review and approve in writing the investigation and remediation of  
43 the parcel, the] The owner or political subdivision shall, on or before  
44 ninety days [of the receipt of such notice] after the submission of an  
45 environmental condition assessment form, submit a statement of  
46 proposed actions for investigating and remediating the parcel or a  
47 release area, as defined in the regulations adopted by the

48 commissioner pursuant to section 22a-133k, and a schedule for  
49 implementing such actions. The commissioner may require the owner  
50 or political subdivision to submit to [him] the commissioner copies of  
51 technical plans and reports related to investigation and remediation of  
52 the parcel or release area, [, and may notify the owner if the  
53 commissioner determines] Notwithstanding any other provision of  
54 this section, the commissioner may determine that the commissioner's  
55 review and written approval is necessary at any time, and in such case  
56 the commissioner shall notify the owner or political subdivision of the  
57 need for the commissioner's review and written approval. The  
58 commissioner shall require that the certifying party submit to [him] the  
59 commissioner all technical plans and reports related to the  
60 investigation and remediation of the parcel or release area if the  
61 commissioner receives a written request from any person for such  
62 information. The owner or political subdivision shall advise the  
63 commissioner of any modifications to the proposed schedule. Upon  
64 receipt of a verification by a licensed environmental professional that  
65 the parcel or release area has been investigated in accordance with  
66 prevailing standards and guidelines and remediated in accordance  
67 with the remediation standards, the owner or political subdivision  
68 shall submit [a copy of] such verification to the commissioner on a  
69 form prescribed by the commissioner.

70 (c) If the commissioner notifies the owner or political subdivision  
71 that [he] the commissioner will formally review and approve in  
72 writing the investigation and remediation of the parcel, the owner or  
73 political subdivision shall, on or before thirty days of the receipt of  
74 such notice, or such later date as may be approved in writing by the  
75 commissioner, submit for the commissioner's review and written  
76 approval, a proposed schedule for: (1) Investigating and remediating  
77 the parcel or release area; and (2) submitting to the commissioner  
78 technical plans, technical reports and progress reports related to such  
79 investigation and remediation. Upon the commissioner's approval of  
80 such schedule, the owner or political subdivision shall, in accordance  
81 with the approved schedule, submit technical plans, technical reports  
82 and progress reports to the commissioner for [his] the commissioner's

83 review and written approval. The owner or political subdivision shall  
84 perform all actions identified in the approved technical plans, technical  
85 reports and progress reports in accordance with the approved  
86 schedule. The commissioner may approve, in writing, any  
87 modification proposed in writing by the owner or political subdivision  
88 to such schedule or investigation and remediation and may notify the  
89 owner, in writing, if [he] the commissioner determines that it is  
90 appropriate to discontinue formal review and approval of the  
91 investigation or remediation.

92 (d) If, in accordance with the provisions of this section, the  
93 commissioner has approved in writing or, as applicable, a licensed  
94 environmental professional has verified, that the parcel or release area  
95 has been remediated in accordance with the remediation standards,  
96 such approval or verification may be used as the basis for submitting a  
97 Form II pursuant to sections 22a-134 to 22a-134e, inclusive, as  
98 amended by this act, provided there has been no additional discharge,  
99 spillage, uncontrolled loss, seepage or filtration of hazardous waste at  
100 or on the parcel subsequent to the date of the commissioner's approval  
101 or verification by a licensed environmental professional.

102 (e) The fee for submitting an environmental condition assessment  
103 form to the commissioner pursuant to this section shall be three  
104 thousand dollars and shall be paid at the time the environmental  
105 condition assessment form is submitted. Any fee paid pursuant to this  
106 section shall be deducted from any fee required by subsection (m) or  
107 (n) of section 22a-134e for the transfer of any parcel for which an  
108 environmental condition assessment form has been submitted within  
109 three years of such transfer.

110 (f) Nothing in this section shall be construed to affect or impair the  
111 voluntary site remediation process provided for in section 22a-133y.

112 (g) Prior to commencement of remedial action taken under this  
113 section, the [municipality or] owner or political subdivision shall (1)  
114 publish notice of the remediation, in accordance with the schedule  
115 submitted pursuant to this section, in a newspaper having a

116 substantial circulation in the area affected by the establishment, (2)  
117 notify the director of health of the municipality where the parcel is  
118 located of the remediation, and (3) either (A) erect and maintain for at  
119 least thirty days in a legible condition a sign not less than six feet by  
120 four feet on the parcel, which sign shall be clearly visible from the  
121 public highway, and shall include the words "ENVIRONMENTAL  
122 CLEAN-UP IN PROGRESS AT THIS SITE. FOR FURTHER  
123 INFORMATION CONTACT:" and include a telephone number for an  
124 office from which any interested person may obtain additional  
125 information about the remediation, or (B) mail notice of the  
126 remediation to each owner of record of property which abuts the  
127 parcel, at the address of such property on the last-completed grand list  
128 of the municipality where the parcel is located.

129 Sec. 3. Subdivision (19) of section 22a-134 of the general statutes is  
130 repealed and the following is substituted in lieu thereof (*Effective*  
131 *October 1, 2007*):

132 (19) "Verification" means the rendering of a written opinion by a  
133 licensed environmental professional on a form prescribed by the  
134 commissioner that an investigation of the parcel has been performed in  
135 accordance with prevailing standards and guidelines and that the  
136 establishment has been remediated in accordance with the remediation  
137 standards.

138 Sec. 4. Section 22a-134a of the general statutes is repealed and the  
139 following is substituted in lieu thereof (*Effective October 1, 2007*):

140 (a) No person shall transfer an establishment except in accordance  
141 with the provisions of sections 22a-134 to 22a-134e, inclusive, as  
142 amended by this act. Notwithstanding any provision of sections 22a-  
143 134 to 22a-134e, inclusive, as amended by this act, a person appointed  
144 by the Superior Court or any other court to sell, convey or partition  
145 real property or a person appointed as a trustee in bankruptcy shall  
146 not be deemed a party associated with the transfer of an establishment  
147 and shall not be required to comply with the provisions of sections  
148 22a-134 to 22a-134e, inclusive, as amended by this act.

149 (b) The commissioner may adopt regulations, in accordance with  
150 the provisions of chapter 54, to implement the provisions of this  
151 section.

152 (c) Prior to transferring an establishment, the transferor shall submit  
153 to the transferee a complete Form I or a Form II and, no later than ten  
154 days after the transfer, shall submit a copy of such Form I or Form II to  
155 the commissioner. The commissioner shall notify the transferor no  
156 later than ninety days after the submission of such Form I or Form II if  
157 the commissioner deems the Form I or Form II incomplete. If the  
158 transferor is unable to submit a Form I or a Form II to the transferee,  
159 the transferor shall, prior to the transfer, submit a complete Form III or  
160 Form IV prepared and signed by a party associated with the transfer to  
161 the transferee and, no later than ten days after the transfer, shall  
162 submit a copy of such Form III or Form IV to the commissioner. If no  
163 other party associated with the transfer of an establishment prepares  
164 and signs the proper form as a certifying party, the transferor shall  
165 have the obligation for such preparation and signing.

166 (d) The certifying party to a Form I, Form II, Form III or Form IV  
167 shall (1) upon receipt of a written request from the commissioner,  
168 provide to the commissioner copies of all technical plans, reports and  
169 other supporting documentation relating to the investigation of the  
170 parcel or remediation of the establishment as specified in the  
171 commissioner's written request, and (2) simultaneously submit with  
172 the submission of a Form I, Form III or Form IV to the commissioner a  
173 complete environmental condition assessment form and shall certify to  
174 the commissioner, in writing, that the information contained in such  
175 form is correct and accurate to the best of the certifying party's  
176 knowledge and belief.

177 (e) [No] Not later than thirty days after receipt of a Form III or Form  
178 IV, the commissioner shall notify the certifying party whether the form  
179 is complete or incomplete. [Within] The certifying party shall use a  
180 licensed environmental professional to verify the investigation and  
181 remediation, unless not later than forty-five days [of] after receipt of a

182 complete Form III or IV [.] the commissioner [shall notify] notifies the  
183 certifying party, in writing, [whether] that review and approval of the  
184 remediation by the commissioner [will] shall be required. [, or whether  
185 a licensed environmental professional may verify that the investigation  
186 has been performed in accordance with prevailing standards and  
187 guidelines and that the remediation has been performed in accordance  
188 with the remediation standards.] Any person who submitted a Form  
189 III to the commissioner prior to October 1, 1995, may submit an  
190 environmental condition assessment form to the commissioner. The  
191 commissioner shall, [within] not later than forty-five days [of] after  
192 receipt of such form, notify the certifying party whether approval of  
193 the remediation by the commissioner will be required or whether a  
194 licensed environmental professional may verify that the investigation  
195 was performed in accordance with prevailing standards and  
196 guidelines and the remediation has been performed in accordance with  
197 the remediation standards.

198 (f) In determining whether review and approval of the remediation  
199 by the commissioner will be required, or whether a licensed  
200 environmental professional may verify that the remediation has been  
201 performed in accordance with the remediation standards, the  
202 commissioner shall consider: (1) The potential risk to human health  
203 and the environment posed by any discharge, spillage, uncontrolled  
204 loss, seepage or filtration of hazardous waste or a hazardous substance  
205 at the establishment; (2) the degree of environmental investigation at  
206 the parcel; (3) the proximity of the establishment to significant natural  
207 resources; (4) the character of the land uses surrounding the  
208 establishment; (5) the complexity of the environmental condition of the  
209 establishment; and (6) any other factor the commissioner deems  
210 relevant.

211 (g) (1) [If the commissioner notifies] Except as provided in  
212 subsection (h) of this section, the certifying party to a Form III or Form  
213 IV [that a licensed environmental professional may verify the  
214 remediation, such certifying party] shall, on or before [thirty] seventy-  
215 five days [of] after the receipt of [such] the notice that such form is

216 complete or such later date as may be approved in writing by the  
217 commissioner, submit a schedule for the investigation of the parcel  
218 and remediation of the establishment. Such schedule shall, unless a  
219 later date is specified in writing by the commissioner, provide that the  
220 investigation shall be completed within two years of the date of receipt  
221 of such notice and that remediation shall be initiated within three years  
222 of the date of receipt of such notice. The schedule shall also include a  
223 schedule for providing public notice of the remediation prior to the  
224 initiation of such remediation in accordance with subsection (i) of this  
225 section. [The commissioner] Not later than two years after the date of  
226 the receipt of the notice that the Form III or Form IV is complete,  
227 unless the commissioner has specified a later day, in writing, the  
228 certifying party shall submit to the commissioner documentation in a  
229 form prescribed by the commissioner that the investigation has been  
230 completed. Not later than three years after the date of the receipt of the  
231 notice that the Form III or Form IV is complete, unless the  
232 commissioner has specified a later day in writing, the certifying party  
233 shall notify the commissioner in a form prescribed by the  
234 commissioner that the remediation has been initiated.  
235 Notwithstanding any other provision of this section, the commissioner  
236 may determine at any time that the commissioner's review and written  
237 approval is necessary and in such case shall notify [such] the certifying  
238 party [if the commissioner determines] that the commissioner's review  
239 and written approval is necessary. Such certifying party shall  
240 investigate the parcel and remediate the establishment in accordance  
241 with the proposed schedule or the schedule specified by the  
242 commissioner. When remediation of the entire establishment is  
243 complete, the certifying party shall submit to the commissioner a final  
244 verification by a licensed environmental professional. Any such final  
245 verification may include and rely upon a verification for a portion of  
246 the establishment submitted pursuant to subdivision (2) of this  
247 subsection.

248 (2) If a certifying party completes the remediation for a portion of an  
249 establishment, such party may submit a verification by a licensed  
250 environmental professional for any such portion of an establishment.

251 The certifying party shall be deemed to have satisfied the requirements  
252 of this subsection for that portion of the establishment covered by any  
253 such verification. If any portion of an establishment for which a  
254 verification is submitted pursuant to this subdivision is transferred,  
255 conveyed or undergoes a change in ownership before remediation of  
256 the entire establishment is complete that would not otherwise be  
257 subject to the provisions of sections 22a-134 to 22a-134e, inclusive, as  
258 amended by this act, then the certifying party shall provide notice to  
259 the commissioner of such transfer, conveyance or change in ownership  
260 not later than thirty days of any such transfer, conveyance or change in  
261 ownership.

262 (h) (1) If the commissioner notifies the certifying party to a Form III  
263 or Form IV that the commissioner's review and written approval of the  
264 investigation of the parcel and remediation of the establishment is  
265 required, such certifying party shall, on or before thirty days of the  
266 receipt of such notice or such later date as may be approved in writing  
267 by the commissioner, submit for the commissioner's review and  
268 written approval a proposed schedule for: (A) Investigating the parcel  
269 and remediating the establishment; (B) submitting to the commissioner  
270 scopes of work, technical plans, technical reports and progress reports  
271 related to such investigation and remediation; and (C) providing  
272 public notice of the remediation prior to the initiation of such  
273 remediation in accordance with subsection (i) of this section. Upon the  
274 commissioner's approval of such schedule, such certifying party shall,  
275 in accordance with the approved schedule, submit scopes of work,  
276 technical plans, technical reports and progress reports to the  
277 commissioner for the commissioner's review and written approval.  
278 Such certifying party shall perform all actions identified in the  
279 approved scopes of work, technical plans, technical reports and  
280 progress reports in accordance with the approved schedule. The  
281 commissioner may approve in writing any modification proposed in  
282 writing by such certifying party to such schedule or investigation and  
283 remediation. The commissioner may, at any time, notify such  
284 certifying party in writing that the commissioner's review and written  
285 approval is not required and that a licensed environmental

286 professional may verify that the remediation has been performed in  
287 accordance with the remediation standards.

288 (2) A certifying party may complete the remediation of a portion of  
289 an establishment and request that the commissioner determine that the  
290 requirements of this subsection have been satisfied for any such  
291 portion of the establishment. If the commissioner determines that any  
292 such remediation is complete, the certifying party shall be deemed to  
293 have satisfied the requirements of this subsection for any such portion  
294 of an establishment. Any determination by the commissioner that  
295 remediation at the entire establishment has been completed may  
296 include and rely upon any determination made pursuant to this  
297 subdivision that remediation is complete at a portion of an  
298 establishment. If any portion of an establishment for which the  
299 commissioner determines that remediation is complete pursuant to  
300 this subdivision is transferred, conveyed or undergoes a change in  
301 ownership before remediation of the entire establishment is complete  
302 that would not otherwise be subject to the provisions of sections 22a-  
303 134 to 22a-134e, inclusive, as amended by this act, then the certifying  
304 party shall provide notice to the commissioner of such transfer,  
305 conveyance or change in ownership not later than thirty days of any  
306 such transfer, conveyance or change in ownership.

307 (i) The certifying party to a Form III or Form IV shall (1) publish  
308 notice of the remediation, in accordance with the schedule submitted  
309 pursuant to this section, in a newspaper having a substantial  
310 circulation in the area affected by the establishment, (2) notify the  
311 director of health of the municipality where the establishment is  
312 located of the remediation, and (3) either (A) erect and maintain for at  
313 least thirty days in a legible condition a sign not less than six feet by  
314 four feet on the establishment, which sign shall be clearly visible from  
315 the public highway, and shall include the words "ENVIRONMENTAL  
316 CLEAN-UP IN PROGRESS AT THIS SITE. FOR FURTHER  
317 INFORMATION CONTACT:" and include a telephone number for an  
318 office from which any interested person may obtain additional  
319 information about the remediation, or (B) mail notice of the

320 remediation to each owner of record of property which abuts the  
321 parcel, at the address for such property on the last-completed grand  
322 list of the municipality where the establishment is located.

323 (j) The commissioner may issue an order to any person who fails to  
324 comply with any provision of sections 22a-134 to 22a-134e, inclusive,  
325 as amended by this act, including, but not limited to, any person who  
326 fails to file a form, or files an incomplete or incorrect form or to any  
327 person who fails to carry out any activities to which that person agreed  
328 in a Form III or Form IV. If no form is filed or if an incomplete or  
329 incorrect form is filed for a transfer of an establishment, the  
330 commissioner may issue an order to the transferor, the transferee, or  
331 both, requiring a filing. The commissioner may also request that the  
332 Attorney General bring an action in the superior court for the judicial  
333 district of Hartford to enjoin any person who fails to comply with any  
334 provision of sections 22a-134 to 22a-134e, inclusive, as amended by this  
335 act, including, but not limited to, any person who fails to file a form,  
336 improperly files a Form I, Form II, Form III or Form IV or the certifying  
337 party to a Form III or Form IV to take any actions necessary to prevent  
338 or abate any pollution at, or emanating from, the subject establishment.  
339 Any person to whom such an order is issued may appeal such order in  
340 accordance with the procedures set forth in sections 22a-436 and 22a-  
341 437.

342 (k) Notwithstanding the exemptions provided in [subsection (a) of  
343 section 22a-134] section 22a-134a, as amended by this act, nothing  
344 contained in sections 22a-134 to 22a-134e, inclusive, as amended by  
345 this act, shall be construed as creating an innocent landowner defense  
346 for purposes of section 22a-452d.

347 (l) Notwithstanding any other provisions of this section, no person  
348 shall be required to comply with the provisions of sections 22a-134 to  
349 22a-134e, inclusive, as amended by this act, when transferring real  
350 property (1) (A) for which a Form I or Form II has been filed for the  
351 transfer of the parcel on or after October 1, 1995, or (B) for which parcel  
352 a Form III or Form IV has been filed and which has been remediated

353 and such remediation has been approved in writing by the  
 354 commissioner or has been verified in writing in accordance with this  
 355 section by a licensed environmental professional that an investigation  
 356 has been performed in accordance with prevailing standards and  
 357 guidelines and that the remediation has been performed in accordance  
 358 with the remediation standards, and (2) at which no activities  
 359 described in subdivision (3) of section 22a-134 have been conducted  
 360 since the date of such approval or verification or the date on which the  
 361 Form I or Form II was filed.

362 (m) Failure of the commissioner to notify any party in accordance  
 363 with the provisions of this section in no way limits the ability of the  
 364 commissioner to enforce the provisions of sections 22a-134 to 22a-134e,  
 365 inclusive, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2007	22a-133v(g)
Sec. 2	October 1, 2007	22a-133x
Sec. 3	October 1, 2007	22a-134(19)
Sec. 4	October 1, 2007	22a-134a

**ENV**      *Joint Favorable Subst.*

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 chamber thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Department of Environmental Protection	EQ/GF - None	None	None

Note: EQ=Environmental Quality Fund

**Municipal Impact:** None

**Explanation**

The provisions in the bill concerning sanctions that may be imposed, site verification by, and submittal of documentation by licensed environmental professionals (LEPs) is not anticipated to result in a fiscal impact to the Department of Environmental protection.

**The Out Years**

None

**OLR Bill Analysis****sSB 1224*****AN ACT CONCERNING LICENSED ENVIRONMENTAL PROFESSIONALS.*****SUMMARY:**

This bill expands the sanctions that can be imposed on licensed environmental professionals (LEPs) who falsify information, engage in professional misconduct or otherwise violate relevant laws or regulations. It requires owners of contaminated property to have an LEP verify the site clean-up unless the Department of Environmental Protection (DEP) commissioner notifies them that she must review and approve it. It specifies that the law on investigation and remediation of contaminated real property applies to political subdivisions of the state that own such land. It requires an LEP to submit documentation to the commissioner when a site investigation required by the Transfer Act has been completed, to notify the commissioner when remediation begins, and makes other minor changes.

EFFECTIVE DATE: October 1, 2007

**LEP SANCTIONS**

By law, the DEP authorizes LEPs to determine, in lieu of the commissioner's approval, that certain contaminated properties have been investigated using prevailing industry standards and remediated according to DEP standards.

Under current law, the State Board of Examiners of Environmental Professionals (board) may investigate an LEP's conduct. If it finds an LEP has (1) submitted false or misleading information, (2) engaged in professional misconduct, including either knowingly or recklessly falsely verifying a remediation, or (3) violated any relevant law or

regulation, the board must authorize the commissioner to either (1) revoke or suspend the LEP's license or (2) deny his license application. The bill broadens the range of available sanctions by allowing the board to authorize the commissioner to impose any other sanction it deems appropriate. As under current law, the board must notify the LEP of the proposed sanction and provide an opportunity for a hearing.

### **INVESTIGATION AND REMEDIATION OF CONTAMINATED PROPERTY**

The bill requires an LEP to verify the remediation of certain contaminated property unless the commissioner notifies the property owner that the commissioner must review and approve the clean-up.

Under current law, the commissioner must tell (1) a political subdivision of the state, and (2) owners of (a) an establishment under the Transfer Act (see below), (b) property identified on the hazardous waste disposal site inventory, or (c) contaminated property where the groundwater is classified as GA or GAA, whether the commissioner must review any remedial action at the site, or an LEP may do so. Under the bill, as under existing law, the commissioner must do this within 30 days after receiving a description of the property's environmental condition (environmental condition assessment) and must do so in writing.

By law, once the commissioner notifies a property owner she need not formally review and approve the remediation, the owner has 90 days to submit a statement showing her how he or she intends to investigate and remediate the parcel and a schedule for doing so. The bill requires all property owners, not just those whose property the commissioner will not formally review, to submit this statement and schedule. They must do so within 90 days after submitting an environmental condition assessment form. If the commissioner determines, at any time, that she needs to review the remediation and approve it in writing, she must notify the owner.

### **LEP VERIFICATION AND NOTICE TO ABUTTING LANDOWNERS**

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Under current law, a property owner must provide the commissioner a copy of an LEP's written verification that the contaminated property has been properly remediated. The bill specifies that the LEP must also verify that the parcel has been investigated according to prevailing standards and guidelines. It requires the property owner to submit the LEP's original verification, not a copy, to the commissioner on a form she prescribes.

Current law requires that before beginning to clean up a contaminated parcel, the property owner must (1) publish notice of the planned remediation in the newspaper, (2) notify the local health director, and either (3) erect a six by four foot sign on the property or notify every property owner on the town's last completed grand list by mail. The bill allows an owner of contaminated property who chooses the mail notification option to send notice only to those landowners whose property abuts the contaminated parcel. The landowner must send the notice to the address of the abutting property on the last-completed grand list of the town where the land is located.

### **LEPS AND THE TRANSFER ACT**

The bill requires LEPs to verify the investigation and remediation of contaminated sites under the Transfer Act, unless the commissioner decides that her review is needed. It also requires that LEPs verify that the investigation was conducted according to prevailing standards and guidelines.

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. It also 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.

In the case of a Form III or Form IV, a “certifying party” is a person associated with the transfer of an establishment who agrees to investigate a parcel according to prevailing standards, and to properly remediate pollution. A certifying party files a Form III when (1) a hazardous waste or hazardous substance leak has occurred, but has not been fully remediated, or (2) he or she 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 has been a leak, and all remediation actions have been completed except for post-remediation monitoring or the recording of an environmental land use restriction.

Under current law, the commissioner has 45 days from receiving a complete Form III or Form IV to notify the certifying party whether the commissioner needs to review the remediation and approve it in writing, or an LEP may verify the investigation and remediation. Under the bill, a certifying party must have an LEP verify the investigation and remediation unless the commissioner notifies him, within 45 days of receiving a complete Form III or Form IV, that her review is needed.

By law, anyone who submitted a Form III to the commissioner before October 1, 1995 may submit an environmental condition assessment to her. The commissioner has 45 days to notify the owner if she needs to review the remediation or an LEP may do so. The law specifies that the LEP verify the remediation was properly performed. The bill requires LEPs to also verify that the investigation was conducted according to prevailing standards and guidelines.

#### **NOTIFICATION THAT INVESTIGATION IS COMPLETE OR REMEDIATION BEGUN**

By law, within 30 days after receiving notice from the commissioner that an LEP may verify the investigation and

remediation, a certifying party must submit an investigation and remediation schedule. The schedule must provide that the investigation will be completed within two years, and remediation begun within three years, after the owner receives the notice.

Under the bill, unless the commissioner states that her review and written approval is needed, the certifying party instead has 75 days from notification that his Form III or Form IV is complete to submit the investigation and remediation schedule. As under current law, the commissioner may extend the 75-day deadline. She must do so in writing.

The bill requires the certifying party to submit documentation that the investigation has been completed, and notify the commissioner, on forms the commissioner prescribes, when remediation has begun. The party must submit these forms within two years and three years, respectively, after receiving notice that the Form III or Form IV is complete, unless the commissioner has specified a later date in writing. The commissioner may, at any time, determine that her review and written approval is needed, and must so notify the certifying party.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 30 Nay 0 (03/23/2007)