



General Assembly

**Substitute Bill No. 7125**

January Session, 2007

\* \_\_\_\_\_ HB07125PH \_\_\_\_\_ 050207 \_\_\_\_\_ \*

**AN ACT CONCERNING UNDERGROUND STORAGE TANKS,  
DEMONSTRATION PROJECTS, AQUACULTURE STRUCTURES AND  
SAND REMOVAL.**

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

1 Section 1. Section 22a-449o of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective July 1, 2007*):

3 (a) As used in this section:

4 (1) "Double-walled underground storage tank" means an  
5 underground storage tank that is listed by Underwriters Laboratories,  
6 Incorporated and that is constructed using two complete shells to  
7 provide both primary and secondary containment, and having a  
8 continuous three-hundred-sixty degree interstitial space between the  
9 two shells which interstitial space shall be continuously monitored  
10 using inert gas or liquid, vacuum monitoring, electronic monitoring,  
11 mechanical monitoring or any other monitoring method approved in  
12 writing by the commissioner before being installed or used;

13 (2) "Double-walled underground storage tank system" means one or  
14 more double-walled underground storage tanks connected by double-  
15 walled piping and utilizing double-walled piping to connect the  
16 underground storage tank to any associated equipment;

17 (3) "Hazardous substance" means a substance defined in Section  
18 101(14) of the Comprehensive Environmental Response,

19 Compensation and Liability Act of 1980, but does not include any  
20 substance regulated as a hazardous waste under subsection (c) of  
21 section 22a-449 or any mixture of such substances and petroleum;

22 (4) "Petroleum" means crude oil, crude oil fractions and refined  
23 petroleum fractions, including gasoline, kerosene, heating oils and  
24 diesel fuels;

25 (5) "Underground storage tank" means a tank or combination of  
26 tanks, including underground pipes connected thereto, used to contain  
27 an accumulation of petroleum or hazardous substances, whose volume  
28 is ten per cent or more beneath the surface of the ground, including the  
29 volume of underground pipes connected thereto; and

30 (6) "Underground storage tank system" means an underground  
31 storage tank and any associated ancillary equipment and containment  
32 system, including, but not limited to, satellite piping, containment  
33 sumps, dispensers and dispenser pans or other comparable  
34 underdispenser spill containment.

35 (b) No person or municipality shall install, on or after October 1,  
36 2003, an underground storage tank system and no person or  
37 municipality shall operate or use, an underground storage tank system  
38 installed after October 1, 2003, unless such underground storage tank  
39 system is a double-walled underground storage tank system. This  
40 section shall not apply to a residential underground storage tank  
41 system, as defined in section 22a-449a. On or after January 1, 2008, no  
42 person or municipality shall install an underground storage tank  
43 system, or operate or use an underground storage tank system  
44 installed after January 1, 2008, unless such underground storage tank  
45 system is equipped with liquid-tight and vapor-tight sumps with  
46 electronic leak detectors and dispenser pans or other comparable  
47 underdispenser spill containment with electronic leak detectors. No  
48 person or municipality shall have an underground storage tank  
49 system's containment sump, dispenser or underdispenser spill  
50 containment repaired on or after January 1, 2008, to restore said

51 components to operating condition without equipping said  
52 underground storage tank system with liquid-tight and vapor-tight  
53 sumps with electronic leak detectors and dispenser pans or other  
54 comparable underdispenser spill containment with electronic leak  
55 detectors.

56 Sec. 2. (NEW) (*Effective October 1, 2007*) The Commissioner of  
57 Environmental Protection may issue a license for a demonstration  
58 project for any activity regulated by the commissioner under chapter  
59 446d of the general statutes provided the commissioner determines  
60 that such demonstration project (1) is necessary to research, develop or  
61 promote methods and technologies of solid waste management which  
62 are consistent with the goals of the state solid waste management plan;  
63 (2) does not pose a significant risk to human health or the  
64 environment; and (3) is not inconsistent with the federal Water  
65 Pollution Control Act, the federal Rivers and Harbors Act, the federal  
66 Clean Air Act or the federal Resource Conservation and Recovery Act.  
67 An application for such license shall be on a form prescribed by the  
68 commissioner, accompanied by a fee of one thousand dollars and shall  
69 provide such information as the commissioner deems necessary. Any  
70 person applying for such license shall not commence the project prior  
71 to the commissioner's written approval. The commissioner may  
72 impose conditions upon such license as deemed necessary to  
73 adequately protect human health and the environment or to ensure  
74 project success and shall be valid for a period of not more than two  
75 years. The commissioner may renew such license provided the total  
76 period of licensure does not exceed five years. The commissioner may  
77 order summary suspension of any such license in accordance with  
78 subsection (c) of section 4-182 of the general statutes. Notwithstanding  
79 the renewal process, any person may seek, or the commissioner may  
80 require, that the project be sanctioned under a permit pursuant to  
81 chapter 446d of the general statutes.

82 Sec. 3. Subdivision (1) of subsection (a) of section 22a-471 of the  
83 general statutes is repealed and the following is substituted in lieu  
84 thereof (*Effective from passage*):

85 (a) (1) If the commissioner determines that pollution of the  
86 groundwaters has occurred or can reasonably be expected to occur and  
87 the Commissioner of Public Health determines that the extent of  
88 pollution creates or can reasonably be expected to create an  
89 unacceptable risk of injury to the health or safety of persons using such  
90 groundwaters as a public or private source of water for drinking or  
91 other personal or domestic uses, the Commissioner of Environmental  
92 Protection shall, as funds from the emergency spill response account  
93 established by section 22a-451 allow, arrange for the short-term  
94 provision of potable drinking water to those residential buildings and  
95 elementary and secondary schools affected by such pollution, or at the  
96 commissioner's discretion, to health care, child care or elder care  
97 facilities or institutions affected by such pollution until either [he] the  
98 commissioner issues an order pursuant to this section requiring the  
99 provision of such short-term supply and the recipient complies with  
100 such order or a long-term supply of potable drinking water has been  
101 provided, whichever is earlier. In determining if pollution creates an  
102 unacceptable risk of injury, the Commissioner of Public Health shall  
103 balance all relevant and substantive facts and inferences and shall not  
104 be limited to a consideration of available statistical analysis but shall  
105 consider all of the evidence presented and any factor related to human  
106 health risks. The commissioner may issue an order to the person or  
107 municipality responsible for such pollution requiring that potable  
108 drinking water be provided to all persons affected by such pollution. If  
109 the commissioner finds that more than one person or municipality is  
110 responsible for such pollution, [he] the commissioner shall attempt to  
111 apportion responsibility if [he] the commissioner determines that  
112 apportionment is appropriate. If [he] the commissioner does not  
113 apportion responsibility, all persons and municipalities responsible for  
114 the pollution of the groundwaters shall be jointly and severally  
115 responsible for the providing of potable drinking water to persons  
116 affected by such pollution. If the commissioner determines that the  
117 state or an agency or department of the state is responsible in whole or  
118 in part for the pollution of the groundwaters, such agency or  
119 department shall prepare or arrange for the preparation of an

120 engineering report and shall provide or arrange for the provision of a  
121 long-term potable drinking water supply. If the commissioner is  
122 unable to determine the person or municipality responsible or [if he]  
123 determines that the responsible persons have no assets other than land,  
124 buildings, business machinery or livestock and are unable to secure a  
125 loan at a reasonable rate of interest to provide potable drinking water,  
126 [he] the commissioner may prepare or arrange for the preparation of  
127 an engineering report and provide or arrange for the provision of a  
128 long-term potable drinking water supply or [he] may issue an order to  
129 the municipality wherein groundwaters unusable for potable drinking  
130 water are located requiring that short-term provision of potable  
131 drinking water be made to those existing residential buildings and  
132 elementary and secondary schools affected by such pollution, or at the  
133 commissioner's discretion, to health care, child care or elder care  
134 facilities or institutions affected by such pollution and that long-term  
135 provision of potable drinking water be made to all persons affected by  
136 such pollution. For purposes of this section, "residential building"  
137 means any house, apartment, trailer, mobile manufactured home or  
138 other structure occupied by individuals as a dwelling, except a non-  
139 owner-occupied hotel or motel or a correctional institution.

140 Sec. 4. Subsection (d) of section 22a-361 of the general statutes is  
141 repealed and the following is substituted in lieu thereof (*Effective*  
142 *October 1, 2007*):

143 (d) (1) The Commissioner of Environmental Protection may issue a  
144 general permit for any minor activity regulated under sections 22a-28  
145 to 22a-35, inclusive, or sections 22a-359 to 22a-363f, inclusive, if the  
146 commissioner determines that such activity would (A) cause minimal  
147 environmental effects when conducted separately, (B) cause only  
148 minimal cumulative environmental effects, (C) not be inconsistent with  
149 the considerations and the public policy set forth in sections 22a-28 to  
150 22a-35, inclusive, and section 22a-359, as applicable, (D) be consistent  
151 with the policies of the Coastal Management Act, and (E) constitute an  
152 acceptable encroachment into public lands and waters. Such activities  
153 may include routine minor maintenance and routine minor repair of

154 existing structures, fill, obstructions, encroachments or excavations;  
155 substantial maintenance consisting of rebuilding, reconstructing or  
156 reestablishing to a preexisting condition and dimension any structure,  
157 fill, obstruction, encroachment or excavation; maintenance dredging of  
158 areas which have been dredged and continuously maintained as  
159 serviceable; activities allowed pursuant to a perimeter permit; the  
160 removal of structures, derelict vessels, debris, rubbish or similar  
161 discarded material or unauthorized fill material; minor alterations or  
162 amendments to authorized activities consistent with the authorization  
163 for such activities; activities which have been required or allowed by  
164 an order of the commissioner; open water marsh management by or  
165 under the supervision of the Department of Public Health or  
166 Department of Environmental Protection; conservation activities of or  
167 under the supervision or direction of the Department of  
168 Environmental Protection; construction of individual residential docks  
169 which do not create littoral or riparian conflicts, navigational  
170 interference, or adverse impacts to coastal resources as defined by  
171 section 22a-93, which are not located in tidal wetlands as defined by  
172 section 22a-29 and which extend no further than forty feet waterward  
173 of mean high water or to a depth of minus four feet mean low water,  
174 whichever point is more landward; installation of scientific measuring  
175 or monitoring devices; survey activities including excavation of test  
176 pits and core sampling and driving of test pilings; construction of  
177 utility lines; aquacultural activities; and installation and removal of  
178 small seasonal structures including floats and moorings. Any person  
179 conducting an activity for which a general permit has been issued shall  
180 not be required to obtain an individual permit or certificate under any  
181 other provision of sections 22a-28 to 22a-35, inclusive, or sections 22a-  
182 359 to 22a-363f, inclusive, for that activity except as provided in  
183 subdivision (3) of this subsection. A general permit shall clearly define  
184 the activity covered thereby and may include such conditions and  
185 requirements as the commissioner deems appropriate, including, but  
186 not limited to, construction timing, methodologies and durations,  
187 resource protection practices, management practices, and verification  
188 and reporting requirements. The general permit may require any

189 person proposing to conduct any activity under the general permit to  
190 register such activity, including obtaining approval from the  
191 commissioner, before the general permit becomes effective as to such  
192 activity. Registrations and applications for approval under the general  
193 permit shall be submitted on forms prescribed by the commissioner.  
194 Any approval by the commissioner under a general permit may  
195 include conditions specific to the proposed activity to ensure  
196 consistency with the requirements for issuance of the general permit.  
197 The commissioner shall prepare, and annually amend, a list of holders  
198 of general permits under this section, which list shall be made  
199 available to the public.

200 (2) Notwithstanding any other procedures specified in sections 22a-  
201 28 to 22a-35, inclusive, and sections 22a-359 to 22a-363f, inclusive, any  
202 regulations adopted thereunder, and chapter 54, the commissioner  
203 may issue a general permit in accordance with the following  
204 procedures: (A) The commissioner shall publish in a newspaper  
205 having a substantial circulation in the affected area or areas notice of  
206 intent to issue a general permit; (B) the commissioner shall allow a  
207 comment period of thirty days following publication of such notice  
208 during which interested persons may submit written comments  
209 concerning the permit to the commissioner and the commissioner shall  
210 hold a public hearing if, within said comment period, he receives a  
211 petition signed by at least twenty-five persons; (C) the commissioner  
212 may not issue the general permit until after the comment period; (D)  
213 the commissioner shall publish notice of any permit issued in a  
214 newspaper having substantial circulation in the affected area or areas;  
215 and (E) summary suspension may be ordered in accordance with  
216 subsection (c) of section 4-182. Any person may request that the  
217 commissioner issue, modify or revoke a general permit in accordance  
218 with this subsection.

219 (3) Subsequent to the issuance of a general permit, the commissioner  
220 may require any person whose activity is or may be covered by the  
221 general permit to apply for and obtain an individual permit or  
222 certificate under the provisions of sections 22a-28 to 22a-35, inclusive,

223 or sections 22a-359 to 22a-363f, inclusive, for all or any portion of the  
224 activities covered by the general permit, if the commissioner  
225 determines that an individual permit is necessary to assure consistency  
226 with purposes and policies of such sections, and the Coastal  
227 Management Act. The commissioner may require an individual permit  
228 under this subdivision in cases including, but not limited to, the  
229 following: (A) The permittee is not in compliance with the conditions  
230 of the general permit; (B) an individual permit or certificate is  
231 appropriate because of circumstances specific to the site; (C)  
232 circumstances have changed since the time the general permit was  
233 issued so that the permitted activity is no longer acceptable under the  
234 general permit; or (D) a change has occurred in relevant law. The  
235 commissioner may require an individual permit or certificate under  
236 this section only if the affected person has been notified in writing that  
237 an individual permit or certificate is required. The notice shall include  
238 a brief statement of the reasons for the decision.

239 (4) The commissioner may adopt regulations, in accordance with the  
240 provisions of chapter 54, to carry out the purposes of this section.

241 [(5) Notwithstanding any provision of sections 22a-359 to 22a-363f,  
242 inclusive, pending issuance of a general permit for aquaculture  
243 activities by the commissioner in accordance with this section, no  
244 permit or certificate shall be required for the placement, maintenance  
245 or removal of (A) individual structures used for aquaculture, as  
246 defined in section 22-416, including, but not limited to, cages or bags,  
247 which are located on designated state or municipal shellfish beds  
248 which structures create no adverse impacts on coastal resources or  
249 navigation over their location or (B) any buoys used to mark such  
250 structures. Upon issuance of a general permit for aquaculture activities  
251 in accordance with this section, any aquaculture activities shall comply  
252 with the terms of such general permit or other applicable provisions of  
253 sections 22a-359 to 22a-363f, inclusive.]

254 Sec. 5. Subsection (e) of section 22a-361 of the general statutes is  
255 repealed and the following is substituted in lieu thereof (*Effective*

256 *October 1, 2007*):

257 (e) No person, firm or corporation, public, municipal or private,  
 258 who removes sand, gravel or other material lying waterward of the  
 259 mean high water mark of the tidal, coastal or navigable waters of the  
 260 state pursuant to a permit issued under this section on or after October  
 261 1, 1996, shall make any beneficial or commercial use of such sand,  
 262 gravel or other material except upon payment to the state of a fee of  
 263 four dollars per cubic yard of such sand, gravel and other materials  
 264 unless otherwise exempted from payment under this section. Such  
 265 payment shall be made at times and under conditions specified by the  
 266 commissioner in such permit. No fee shall be assessed for (1) the  
 267 performance of such activities on land which is not owned by the state,  
 268 (2) the use of sand, gravel or other materials for beach restoration  
 269 projects, or (3) ultimate disposal of such sand, gravel or other materials  
 270 which does not result in an economic benefit to any person, and the  
 271 commissioner may waive the fee for the beneficial or commercial use  
 272 of sand, gravel or other materials that have been decontaminated or  
 273 processed to meet applicable environmental standards for reuse. For  
 274 the purposes of this section, "beneficial or commercial use" includes,  
 275 but is not limited to, sale or use of sand, gravel or other materials for  
 276 construction, aggregate, fill or landscaping.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2007</i>	22a-449o
Sec. 2	<i>October 1, 2007</i>	New section
Sec. 3	<i>from passage</i>	22a-471(a)(1)
Sec. 4	<i>October 1, 2007</i>	22a-361(d)
Sec. 5	<i>October 1, 2007</i>	22a-361(e)

**PD**            *Joint Favorable Subst.*

**PH**            *Joint Favorable*