



General Assembly

January Session, 2009

Raised Bill No. 995

LCO No. 3730

03730_____ENV

Referred to Committee on Environment

Introduced by:
(ENV)

**AN ACT CONCERNING BENEFICIAL REFUSE, RECYCLING AND
ILLEGAL DUMPING.**

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

1 Section 1. Section 22a-209f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) The Commissioner of Environmental Protection may issue a
4 general permit for a category of processing or beneficial use of solid
5 waste when used in a manufacturing process to make a product or as
6 an effective substitute for a commercial product, provided: (1) Such
7 permit does not allow an activity for which an individual permit has
8 been issued; (2) the issuance of the general permit is not inconsistent
9 with the requirements of the federal Resource Conservation and
10 Recovery Act; (3) the solid wastes included in the category are
11 proposed for the same or substantially similar operations and have the
12 same or similar physical character and chemical composition; (4) the
13 solid wastes included in the category are proposed for the same or
14 substantially similar beneficial use or processing activities; and (5) the
15 commissioner finds that the activities in the category can be
16 adequately regulated using standardized conditions without harming

17 or presenting a threat of harm to public health and safety or the
18 environment. [The commissioner's authority to issue a general permit
19 shall not apply to the reuse of hazardous waste as defined in section
20 22a-115.] The issuance of the general permit shall be governed by
21 procedures established in subsection [(q)] (i) of section 22a-208a. The
22 general permit may require any person or municipality proposing to
23 conduct any activity under a general permit to register such activity on
24 a form prescribed by the commissioner.

25 (b) (1) The commissioner may issue individual authorizations for
26 the beneficial use of solid waste in a manufacturing process to make a
27 product or as an effective substitute for a commercial product
28 provided (A) such authorization does not allow an activity for which
29 an individual or general permit has been issued, (B) such authorization
30 is not inconsistent with the requirements of the federal Resource
31 Conservation and Recovery Act (42 USC 6901 et seq.), and (C) the
32 commissioner finds that such solid waste can be reused without
33 harming or presenting a threat of harm to public health, safety or the
34 environment.

35 (2) The commissioner shall establish guidelines protective of public
36 health, safety and the environment for authorizations made in
37 accordance with this subsection and shall give public notice on the
38 Department of Environmental Protection's Internet web site of such
39 guidelines or any subsequent revision of the guidelines with an
40 opportunity for submission of written comments by interested persons
41 for a period of thirty days following the publication of the notice. The
42 commissioner shall post a response to any comments received on the
43 Department of Environmental Protection's Internet web site.

44 (3) An applicant for such authorization shall submit information on
45 forms prescribed by the commissioner and any additional information
46 required by the commissioner. The commissioner may direct the
47 applicant to pay a fee of not more than five thousand dollars at the
48 time of application, in accordance with the guidelines established

49 under subdivision (2) of this subsection, except that no such fee shall
50 be charged to a municipality.

51 (4) Notwithstanding section 22a-208 or any regulations adopted
52 pursuant to section 22a-209, the issuance or renewal of an
53 authorization under this subsection, or a modification of an
54 authorization under this subsection if such modification is sought by
55 the holder of an authorization, shall conform to the following
56 procedures: (A) The commissioner shall publish a notice of intent to
57 issue an authorization on the Department of Environmental
58 Protection's Internet web site. Such notice shall include: (i) The name
59 and mailing address of the applicant and the address of the location of
60 the proposed activity; (ii) the application number; (iii) the tentative
61 decision regarding the application; (iv) the type of authorization
62 sought, including a reference to the applicable statute or regulation; (v)
63 a description of the location of the proposed activity and any natural
64 resources affected thereby; (vi) the name, address and telephone
65 number of any agent of the applicant from whom interested persons
66 may obtain copies of the application; (vii) the length of time available
67 for submission of public comments to the commissioner; and (viii)
68 such additional information as the commissioner deems necessary to
69 comply with any provision of this title or regulations adopted
70 pursuant to this title, or with the federal Clean Air Act, federal Clean
71 Water Act or federal Resource Conservation and Recovery Act. There
72 shall be a comment period of thirty days following the publication of
73 such notice during which interested persons may submit written
74 comments to the commissioner. (B) The commissioner shall post a
75 response to any comments received on the Department of
76 Environmental Protection's Internet web site. (C) The commissioner
77 may approve or deny such authorization based upon a review of the
78 submitted information. Any authorization issued pursuant to this
79 section shall define clearly the activity covered by such authorization
80 and may include such conditions or requirements as the commissioner
81 deems appropriate, including, but not limited to, operation and
82 maintenance requirements, management practices, reporting

83 requirements and a specified term. (D) The commissioner may
84 suspend or revoke an authorization and may modify an authorization
85 if such modification is not sought by the holder of an authorization, in
86 accordance with the provisions of section 4-182 and the applicable
87 rules of practice adopted by the department.

88 Sec. 2. Section 22a-241b of the general statutes is repealed and the
89 following is substituted in lieu thereof (*Effective October 1, 2009*):

90 (a) On or before February 1, 1988, the Commissioner of
91 Environmental Protection shall adopt regulations in accordance with
92 the provisions of chapter 54 designating items that are required to be
93 recycled. The commissioner may designate other items as suitable for
94 recycling and amend said regulations accordingly.

95 (b) Any [item designated for recycling pursuant to subsection (a) of
96 this section] recyclable item shall be recycled by a municipality within
97 three months of the establishment of service to such municipality by a
98 regional processing center or local processing system.

99 (c) [On and after January 1, 1991, (1) each] (1) Each person who
100 generates solid waste from residential property shall, in accordance
101 with subsection (f) of section 22a-220, separate from other solid waste
102 [the] all recyclable items, [designated for recycling pursuant to
103 subsection (a) of this section] and (2) every other person who generates
104 solid waste shall, in accordance with subsection (f) of section 22a-220,
105 make provision for, and cause the separation from other solid waste of
106 [the] all recyclable items. [designated for recycling pursuant to
107 subsection (a) of this section] Each person described in subdivisions (1)
108 and (2) of this subsection shall separate any recyclable items by placing
109 all such items in a collection receptacle that is separate from any
110 receptacle containing other solid waste. No person shall combine
111 previously separated recyclable items with other solid waste.

112 (d) On and after October 1, 2009, no person shall enter into a
113 contract for the collection of solid waste without also making provision

114 for the collection of recyclable items. Any person offering solid waste
115 or recyclable item collection services shall provide each customer with
116 clear written instructions concerning the separation of recyclable items
117 as provided in subsection (c) of this section.

118 (e) For the purposes of this section, "recyclable item" means an item
119 designated for recycling in accordance with subsection (a) of this
120 section.

121 Sec. 3. Section 22a-248 of the general statutes is repealed and the
122 following is substituted in lieu thereof (*Effective October 1, 2009*):

123 As used in sections 22a-247 to 22a-249, inclusive, 22a-250 and 22a-
124 251:

125 (1) "Commissioner" means the Commissioner of Environmental
126 Protection or his designated agent, as defined in subsection (b) of
127 section 22a-2;

128 (2) "Department" means the Department of Environmental
129 Protection;

130 (3) "Person" means person, as defined in subsection (c) of section
131 22a-2;

132 (4) "Litter" means any discarded, used or unconsumed substance or
133 waste material, whether made of aluminum, glass, plastic, rubber,
134 paper, or other natural or synthetic material, or any combination
135 thereof, including, but not limited to, any bottle, jar or can, or any top,
136 cap or detachable tab of any bottle, jar or can, any unlighted cigarette,
137 cigar, match or any flaming or glowing material or any garbage, trash,
138 refuse, debris, rubbish, grass clippings or other lawn or garden waste,
139 newspaper, magazines, glass, metal, plastic or paper containers or
140 other packaging or construction material which has not been deposited
141 in a litter receptacle;

142 (5) "Litter bag" means a bag, sack or other container made of any

143 material which is large enough to serve as a receptacle for litter inside
144 a motor vehicle or watercraft of any person and is not necessarily
145 limited to the state recommended litter bag but shall be similar in size
146 and capacity;

147 (6) "Litter receptacle" means a receptacle suitable for the depositing
148 of litter;

149 (7) "Vehicle" includes every device capable of being moved upon a
150 public highway and in, upon or by which any person or property is or
151 may be transported or drawn upon a public highway, except devices
152 moved by human or animal power or used exclusively upon stationary
153 rails or tracks;

154 (8) "Watercraft" means any boat, ship, vessel, barge or other floating
155 craft;

156 (9) "Public place" means any area that is used or held out for use by
157 the public whether owned or operated by public or private interests;

158 (10) "Recycling" means the process of sorting, cleansing, treating
159 and reconstituting waste or other discarded material for the purpose of
160 using the altered form;

161 (11) "Recycling center" means any facility at which recyclable
162 material is processed or stored, separated or prepared for reuse or
163 resale;

164 (12) "Dump" means to discard (A) more than one cubic foot in
165 volume of litter at one time or (B) furniture, garbage bags or contents
166 thereof or other similar materials. [Material which has been placed at a
167 location with an intent to leave it indefinitely at such location, or
168 material which has not been removed from a location within forty-five
169 days, is deemed discarded.]

170 Sec. 4. Section 22a-250 of the general statutes is repealed and the
171 following is substituted in lieu thereof (*Effective October 1, 2009*):

172 (a) No person shall throw, scatter, spill or place or cause to be
173 blown, scattered, spilled, thrown or placed, or otherwise dispose of
174 any litter (1) upon any public property in the state, (2) upon any public
175 land in the state, (3) upon any private property in this state, [not
176 owned by such person,] or (4) in the waters of this state, including, but
177 not limited to, any public highway, public park, beach, campground,
178 forest land, recreational area, mobile manufactured home park,
179 highway, road, street or alley except: (A) When such property is
180 designated by the state or any political subdivision thereof for the
181 disposal of garbage and refuse, and such person is authorized to use
182 such property for such purpose; or (B) into a litter receptacle in such a
183 manner that the litter will be prevented from being carried away or
184 deposited by the elements upon any part of said private or public
185 property or waters. For the purposes of this subsection, "public land"
186 means a state park, state forest or municipal park or any other
187 publicly-owned land that is open to the public for active or passive
188 recreation.

189 (b) (1) Any person who violates any provision of subsection (a) of
190 this section shall be fined not more than one hundred ninety-nine
191 dollars. One-half of any fine collected pursuant to this subsection shall
192 be payable to the state and one-half of such fine shall be payable to the
193 municipality in which the arrest was made unless the arrest was made
194 by a conservation officer, special conservation officer or patrolman
195 appointed by the Commissioner of Environmental Protection under
196 authority of section 26-5, in which case one-half of such fine shall be
197 payable to the Department of Environmental Protection.

198 (2) Whenever any person is convicted of a violation of subdivision
199 (2) of subsection (a) of this section, the court shall, in addition to
200 imposing the fine authorized by subdivision (1) of this subsection,
201 impose a surcharge in an amount equal to fifty per cent of such fine.
202 Any such surcharge collected pursuant to this subdivision shall be
203 payable to the municipality in which the arrest was made unless the
204 arrest was made by a conservation officer, special conservation officer

205 or patrolman appointed by the Commissioner of Environmental
206 Protection under authority of section 26-5, in which case such
207 surcharge shall be payable to the Department of Environmental
208 Protection.

209 (3) When any such material or substances are thrown, blown,
210 scattered or spilled from a vehicle, the operator thereof shall be
211 deemed prima facie to have committed such offense.

212 (c) No person shall dump, as defined in subdivision (12) of section
213 22a-248, for financial gain, including the avoidance of disposal costs,
214 any material originating from another property upon any public or
215 private property in the state [or upon private property in this state not
216 owned by such person] except when (1) such property is designated by
217 the state or any political subdivision thereof for dumping or such
218 property is a licensed facility for such purpose, and (2) such person is
219 authorized to use such property. It shall not be a defense under this
220 subsection that the dumping occurred with the permission of the
221 property owner or on such person's own property. The commissioner
222 or the municipality in which such dumping occurs may, upon
223 complaint or on their own initiative, investigate any violation of this
224 subsection. Material that has been placed at a location with an intent to
225 leave it indefinitely at such location, or material that has not been
226 removed from a location within forty-five days, shall be deemed
227 discarded.

228 (d) No person shall dump, as defined in this subsection, for financial
229 gain, including the avoidance of disposal costs, any material
230 originating from another property upon any public or private
231 property in the state [or upon private property in this state not owned
232 by such person] except when (1) such property is designated by the
233 state or any political subdivision thereof for dumping or such property
234 is a licensed facility for such purpose, and (2) such person is
235 authorized to use such property. The commissioner or the
236 municipality in which such dumping occurs may, upon complaint or

237 on their own initiative, investigate any violation of this subsection. It
238 shall not be a defense under this subsection that the dumping occurred
239 with the permission of the property owner or on such person's own
240 property. Material that has been placed at a location with an intent to
241 leave it indefinitely at such location, or material that has not been
242 removed from a location within forty-five days shall be deemed
243 discarded unless (A) such material consists of material originating
244 from an on-site residential activity that is being staged or stored for
245 future reuse or for recycling at a permitted solid waste facility, as
246 defined in section 22a-207; (B) the person who placed such material at
247 the location has notified the commissioner of such placement; and (C)
248 the commissioner has not prohibited such placement. As used in this
249 subsection "dump" means to discard automobiles or automobile parts,
250 large appliances, tires, bulky waste, hazardous waste, as defined in
251 section 22a-115, or any other similar material.

252 (e) If the commissioner, after investigation, finds that there has been
253 a violation of subsection (c) or (d) of this section, he may issue an order
254 pursuant to section 22a-225 to remove material dumped in violation of
255 said subsection (c) or (d) to a solid waste facility approved by the
256 commissioner.

257 (f) (1) If the chief elected official of a municipality, after
258 investigation, finds that there has been a violation of subsection (c) or
259 (d) of this section, he may send a notice to the owner of the property
260 where such violation has occurred by certified mail, return receipt
261 requested, to the address of record for property tax purposes. Such
262 notice shall include (A) a reference to the statute alleged to have been
263 violated; (B) a short and plain statement of the matter asserted or
264 charged; (C) a demand that such property owner remove any material
265 dumped in violation of subsection (c) or (d) of this section to a solid
266 waste facility approved by the commissioner; and (D) a statement that
267 such property owner has the right to a hearing to contest the chief
268 elected official's finding and the date, time and place for the hearing.
269 Such hearing shall be fixed for a date not later than ten days after the

270 notice is mailed. The hearing shall be completed within fifteen days
271 after such hearing commences and a decision shall be rendered within
272 ten days of the completion of such hearing.

273 (2) The chief elected official or his designee shall hold a hearing
274 upon the alleged violation unless such property owner fails to appear
275 at the hearing. If such property owner fails to appear at the hearing or
276 if, after the hearing, the chief elected official or his designee finds that
277 material has been dumped on such owner's property in violation of
278 subsection (c) or (d) of this section and such property owner has not
279 removed such material to a solid waste facility approved by the
280 commissioner, the official may order that such property owner within
281 thirty days remove such material to a solid waste facility approved by
282 the commissioner. The official shall send a copy of any order issued
283 pursuant to this subdivision by certified mail, return receipt requested,
284 to such property owner. The person may appeal from an order of the
285 chief elected official of a municipality under this subdivision in
286 accordance with the provisions of section 8-8.

287 (3) If the owner fails to remove such material within thirty days
288 from the date of the order issued by the chief elected official under
289 subdivision (2) of this subsection, and no appeal of such order has
290 been taken in accordance with section 8-8, the municipality may enter
291 such property and remove such material to a solid waste facility
292 approved by the commissioner.

293 (4) The provisions of this subsection shall not apply to any
294 corporation subject to taxation under chapter 210.

295 (g) No property owner shall be ordered to remove dumped material
296 by the commissioner or the chief elected official of a municipality
297 pursuant to subsection (e) or (f) of this section unless (1) the
298 commissioner or the chief elected official, as the case may be, finds that
299 the property owner has dumped such material, or knowingly allowed
300 another person to dump such material, in violation of subsection (c) or
301 (d) of this section or (2) the commissioner or the chief elected official,

302 as the case may be, has determined that there is no reasonable
303 opportunity to compel the responsible party to remove the material or
304 pay the costs of such removal.

305 (h) Any person who violates subsection (c) or (d) of this section shall
306 be liable for a civil penalty of not less than one thousand dollars, nor
307 more than ten thousand dollars for each day such violation continues.
308 The Superior Court, in an action brought by the municipality or by the
309 Attorney General on the request of the commissioner, shall have
310 jurisdiction to issue an order to such person directing the removal of
311 the material to a solid waste facility approved by the commissioner. If
312 the court finds that the violation was wilful, it may impose a civil
313 penalty equivalent to three times the cost of remediation of the
314 violation in addition to other applicable civil penalties. The court may
315 also order that a violator shall pay restitution to a landowner which
316 the court finds has suffered damages as a result of the violation. All
317 such actions shall have precedence in the order of trial as provided in
318 section 52-191. Any such action by the Attorney General shall be
319 brought in the superior court for the judicial district of Hartford. Any
320 vehicle used by any person in violation of subsection (d) may be
321 forfeited in accordance with section 22a-250a.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	22a-209f
Sec. 2	<i>October 1, 2009</i>	22a-241b
Sec. 3	<i>October 1, 2009</i>	22a-248
Sec. 4	<i>October 1, 2009</i>	22a-250

Statement of Purpose:

To give the Department of Environmental Protection the authority to issue individual beneficial determinations rather than the general permit authorized under current law, to require separate containers for the collection of recyclable items, to require that anyone contracting for solid waste collection also arrange for the collection of recyclable items, and to prohibit property owners from dumping on their own property.

[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.]