



General Assembly

January Session, 2011

Amendment

LCO No. 8234

HB0640008234HDO

Offered by:
REP. BERGER, 73rd Dist.

To: Subst. House Bill No. 6400 File No. 196 Cal. No. 132

"AN ACT CONCERNING LICENSURE OF STORMWATER PROFESSIONALS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective from passage*) (a) As used in this section:

4 (1) "Qualified soil erosion and sediment control professional" means
5 a person who is a certified professional in erosion and sediment
6 control as designated by EnviroCert International, Incorporated, or a
7 similar professional organization approved in writing by the
8 commissioner, or a professional engineer licensed in the state in
9 accordance with chapter 391 of the general statutes, and (A) has, for a
10 minimum of eight years, engaged in the planning or design of soil
11 erosion and sediment controls for residential and commercial
12 construction projects in accordance with the guidelines for soil erosion
13 and sediment control developed pursuant to section 22a-328 of the
14 general statutes, including, but not limited to, a minimum of four years
15 in responsible charge of the planning or design of soil erosion and

16 sediment controls for such projects, and holds a bachelor's or advanced
17 degree from an accredited college or university in a related science or
18 related engineering field, or (B) has, for a minimum of fourteen years,
19 engaged in the planning or design of soil erosion and sediment
20 controls for residential and commercial construction projects in
21 accordance with the guidelines for soil erosion and sediment control
22 developed pursuant to said section 22a-328, including, but not limited
23 to, a minimum of seven years in responsible charge of planning or
24 designing of soil erosion and sediment controls for such projects;

25 (2) "Qualified professional engineer" means a professional engineer
26 licensed in the state in accordance with chapter 391 of the general
27 statutes who has, for a minimum of eight years, engaged in the
28 planning or designing of engineered stormwater management systems
29 for residential and commercial construction projects in accordance
30 with the guidelines for soil erosion and sediment control developed
31 pursuant to section 22a-328 of the general statutes, including, but not
32 limited to, a minimum of four years in responsible charge of the
33 planning or designing of engineered stormwater management systems
34 for such projects;

35 (3) "Qualified landscape architect" means a landscape architect
36 licensed in the state in accordance with chapter 396 of the general
37 statutes who has, for a minimum of eight years, engaged in the
38 planning or designing of soil erosion and sediment controls for
39 residential and commercial construction projects in accordance with
40 the guidelines for soil erosion and sediment control developed
41 pursuant to section 22a-328 of the general statutes, including, but not
42 limited to, a minimum of four years in responsible charge of the
43 planning or designing of soil erosion and sediment controls for such
44 projects;

45 (4) "Stormwater" means waters consisting of rainfall runoff,
46 including, but not limited to, snow or ice melt during a rain event; and

47 (5) "Commissioner" means the Commissioner of Environmental

48 Protection or the commissioner's designee.

49 (b) (1) Nothing in this section shall be construed to authorize a soil
50 and water conservation district established pursuant to section 22a-315
51 of the general statutes, a qualified soil erosion and sediment control
52 professional, a qualified professional engineer or a qualified landscape
53 architect to engage in any profession or occupation requiring a license
54 under any other provision of the general statutes without such license.

55 (2) Nothing in this section shall apply to projects for which the
56 registrant for a stormwater general permit issued pursuant to section
57 22a-430b of the general statutes is a state agency or a municipality.

58 (3) Nothing in this section shall be construed to affect or impact in
59 any manner the jurisdiction or discretion of any municipality to
60 interpret and enforce the soil and erosion sediment control regulations
61 of the municipality where the proposed activity is to take place.

62 (c) (1) As part of the registration for a stormwater general permit
63 pursuant to section 22a-430b of the general statutes, a registrant shall
64 submit to the commissioner a certification pursuant to subsection (f) of
65 this section from any soil and water conservation district established
66 pursuant to section 22a-315 of the general statutes, a qualified soil
67 erosion and sediment control professional or a qualified landscape
68 architect that the plans and specifications for soil erosion and sediment
69 controls (A) are consistent with the guidelines for soil erosion and
70 sediment control developed pursuant to section 22a-328 of the general
71 statutes, (B) comply with the stormwater general permit issued
72 pursuant to section 22a-430b of the general statutes, and (C) comply
73 with the soil and erosion sediment control regulations of the
74 municipality where the proposed activity is to take place.

75 (2) The commissioner shall accept such certification unless (A) such
76 certification is the subject of an audit under subsection (g) of this
77 section; (B) such certification was not made by a qualified soil erosion
78 and sediment control professional or a qualified landscape architect;
79 (C) the commissioner determines that the requirements of the

80 stormwater general permit issued pursuant to section 22a-430b of the
81 general statutes have not been met; or (D) the requirements of the soil
82 and erosion sediment control regulations of the municipality where the
83 proposed activity is to take place have not been met.

84 (d) (1) As part of the registration for a stormwater general permit
85 pursuant to section 22a-430b of the general statutes, a registrant shall
86 submit to the commissioner a certification pursuant to subsection (f) of
87 this section from a qualified professional engineer. Any qualified
88 professional engineer submitting a certification pursuant to this
89 subdivision shall satisfy the requirements of subsection (e) of this
90 section. Such certification shall not be made unless the plans and
91 specifications for engineered stormwater management systems for the
92 project or activity covered by the certification (A) are consistent with
93 the guidelines for soil erosion and sediment control developed
94 pursuant to section 22a-328 of the general statutes and best
95 engineering practices, (B) comply with the stormwater general permit
96 issued pursuant to section 22a-430b of the general statutes, and (C)
97 comply with the soil and erosion sediment control regulations of the
98 municipality where the proposed activity is to take place.

99 (2) The commissioner shall accept such certification unless (A) such
100 certification is the subject of an audit under subsection (g) of this
101 section; (B) such certification was not made by a qualified professional
102 engineer; (C) the commissioner determines that the requirements of a
103 stormwater general permit issued pursuant to section 22a-430b of the
104 general statutes have not been met; or (D) the requirements of the soil
105 and erosion sediment control regulations of the municipality where the
106 proposed activity is to take place have not been met.

107 (e) (1) For any construction project or activity with an area of
108 disturbance of one acre or more, but less than fifteen acres, the
109 qualified soil erosion and sediment control professional, qualified
110 landscape architect and qualified professional engineer providing a
111 certification pursuant to subsection (c) or (d) of this section, shall not
112 be an employee, as defined by the Internal Revenue Service of the

113 Internal Revenue Code of 1986, or any subsequent corresponding
114 internal revenue code of the United States, as amended from time to
115 time, of the registrant for a stormwater general permit issued pursuant
116 to section 22a-430b of the general statutes.

117 (2) For any construction project or activity with an area of
118 disturbance of fifteen acres or more, the qualified soil erosion and
119 sediment control professional, qualified landscape architect and
120 qualified professional engineer providing a certification, pursuant to
121 subsection (c) or (d) of this section, shall: (A) Not be an employee, as
122 defined by the Internal Revenue Service of the Internal Revenue Code
123 of 1986, or any subsequent corresponding internal revenue code of the
124 United States, as amended from time to time, of the registrant for a
125 stormwater general permit; (B) not have engaged in any activities
126 associated with the preparation, planning, design or engineering of the
127 plans and specifications for soil erosion and sediment control or plans
128 and specifications for engineered stormwater management systems;
129 and (C) not be under the same employ as any person who engaged in
130 any activities associated with the preparation, planning, design or
131 engineering of the plans and specifications for soil erosion and
132 sediment control or the plans and specifications for engineered
133 stormwater management systems. The commissioner may waive the
134 requirements of subparagraphs (B) and (C) of this subdivision.

135 (f) (1) In making any certification pursuant to subsection (c) of this
136 section, the qualified soil erosion and sediment control professional, or
137 qualified landscape architect shall certify to the following statement: "I
138 hereby certify that I am a qualified soil erosion and sediment control
139 professional or qualified landscape architect that meets the
140 requirements of this section of the Connecticut General Statutes and
141 have personally examined and am familiar with the information
142 submitted in this document and all attachments thereto, and I certify,
143 based on reasonable investigation, including my inquiry of those
144 individuals responsible for obtaining the information, that the
145 submitted information is true, accurate and complete to the best of my
146 knowledge and belief. I understand that any false statement made in

147 the submitted information may be punishable as a criminal offense
148 under section 53a-157b of the Connecticut General Statutes and any
149 other applicable law. I also certify that I have thoroughly and
150 completely reviewed the plans and specifications for soil erosion and
151 sediment controls for the site. I further certify, based on such review
152 and on my best professional judgment, that the plans and
153 specifications for soil erosion and sediment controls are consistent with
154 the guidelines for soil erosion and sediment control developed
155 pursuant to section 22a-328 of the Connecticut General Statutes,
156 comply with the applicable stormwater general permit issued
157 pursuant to section 22a-430b of the Connecticut General Statutes, and
158 comply with the soil and erosion sediment control regulations of the
159 municipality where the proposed project or activity is to take place. I
160 am aware that there are significant penalties for false statements in this
161 certification, including the possibility of fine and imprisonment for
162 knowingly making false statements."

163 (2) In making any certification pursuant to subsection (d) of this
164 section, the qualified professional engineer shall certify to the
165 following statement: "I hereby certify that I am a qualified professional
166 engineer that meets the requirements of this section and have
167 personally examined and am familiar with the information submitted
168 in this document and all attachments thereto, and I certify, based on
169 reasonable investigation, including my inquiry of those individuals
170 responsible for obtaining the information, that the submitted
171 information is true, accurate and complete to the best of my
172 knowledge and belief. I understand that any false statement made in
173 the submitted information may be punishable as a criminal offense
174 under section 53a-157b of the Connecticut General Statutes and any
175 other applicable law. I also certify that I have thoroughly and
176 completely reviewed the plans and specifications for engineered
177 stormwater management systems for the site. I further certify, based
178 on such review and on my best professional judgment, that the plans
179 and specifications for engineered stormwater management systems are
180 consistent with the guidelines for soil erosion and sediment control

181 developed pursuant to section 22a-328 of the Connecticut General
182 Statutes and best engineering practices, comply with the applicable
183 stormwater general permit issued pursuant to section 22a-430b of the
184 Connecticut General Statutes, and comply with the soil and erosion
185 sediment control regulations of the municipality where the project or
186 activity is to take place. I am aware that there are significant penalties
187 for false statements in this certification, including the possibility of fine
188 and imprisonment for knowingly making false statements."

189 (g) The commissioner may audit any actions performed by a
190 qualified soil erosion and sediment control professional, qualified
191 landscape architect or qualified professional engineer pursuant to this
192 section with the goal of auditing ten per cent of such actions to
193 establish program effectiveness. The commissioner may (1) deny an
194 application for a registration for a general permit issued pursuant to
195 section 22a-430b of the general statutes; or (2) revoke or suspend a
196 registration for a stormwater general permit issued pursuant to section
197 22a-430b of the general statutes if the commissioner finds that such
198 person violates any provision of this section or submitted false or
199 misleading information to the commissioner or has engaged in
200 professional misconduct including, but not limited to, knowingly or
201 recklessly making a false certification that the plans and specifications
202 for soil erosion and sediment control or the plans and specifications for
203 engineered stormwater management systems are consistent with the
204 guidelines for soil erosion and sediment control developed pursuant to
205 section 22a-328 of the general statutes, comply with the requirements
206 of any stormwater permit issued pursuant to section 22a-430b of the
207 general statutes, or comply with the soil and erosion sediment control
208 regulations of the municipality where the project or activity is to take
209 place. Any qualified soil erosion and sediment control professional,
210 qualified landscape architect or qualified professional engineer that is
211 the subject of an audit pursuant to this subsection shall be notified in
212 writing by the commissioner. The commissioner may request in
213 writing any information the commissioner deems necessary to carry
214 out the provisions of this subsection, including, but not limited to, any

215 information to demonstrate to the commissioner's satisfaction that
216 such qualified soil erosion and sediment control professional, qualified
217 landscape architect or qualified professional engineer meets the
218 qualifications as defined in subsection (a) of this section. As part of an
219 audit conducted pursuant to this subsection, the commissioner may
220 require that any plans and specifications for soil erosion and sediment
221 controls or any plans and specifications for engineered stormwater
222 management systems prepared in accordance with a stormwater
223 general permit issued pursuant to section 22a-430b of the general
224 statutes to be independently certified in accordance with this section
225 by a qualified soil erosion and sediment control professional, qualified
226 landscape architect or qualified professional engineer who does not
227 have any ownership interest in the project or activity and who did not
228 engage in any activities associated with the preparation, planning,
229 designing or engineering of such plan for soil erosion and sediment
230 control or plan for engineered stormwater management systems on
231 behalf of such registrant, and is not under the same employ as any
232 person who engaged in any activities associated with the preparation,
233 planning, designing or engineering of such plans and specifications for
234 soil erosion and sediment control or plans and specifications for
235 engineered stormwater management systems on behalf of such
236 applicant. Such independent certification for the registrant for a
237 stormwater general permit issued pursuant to section 22a-430b of the
238 general statutes shall be at the applicant's expense. The reasonable cost
239 of an audit under this subsection that reveals that a false certification
240 was filed with the commissioner may be charged to the registrant for a
241 stormwater general permit issued pursuant to section 22a-430b of the
242 general statutes.

243 (h) (1) It shall be a violation of this section for any person to submit
244 a certification when such person does not have the requisite
245 qualifications prescribed in subsection (a) or (e) of this section. It shall
246 also be a violation of this section for: (A) A qualified soil erosion and
247 sediment control professional or qualified landscape architect to
248 submit a certification under this section for plans and specifications for

249 soil erosion and sediment control; or (B) a qualified professional
 250 engineer to submit a certification under this section for plans and
 251 specifications for engineered stormwater management systems, if such
 252 plans and specifications (i) are not consistent with the guidelines of soil
 253 erosion and sediment control developed by the Council on Soil and
 254 Water Conservation pursuant to section 22a-328 of the general statutes;
 255 (ii) do not comply with the stormwater general permit issued pursuant
 256 to section 22a-430b of the general statutes; or (iii) do not comply with
 257 the soil and erosion sediment control regulations of the municipality
 258 where the proposed activity is to take place.

259 (2) In addition to any other penalty or sanction provided for by law,
 260 disciplinary action against any qualified soil erosion and sediment
 261 control professional, qualified landscape architect or qualified
 262 professional engineer may be taken for any violation noted in
 263 subdivision (1) of this subsection. The commissioner may take
 264 disciplinary action, which may include, but not be limited to, a referral
 265 to any board or department issuing the license identified in subsection
 266 (a) of this section, a reprimand or warning or prohibiting, either
 267 temporarily or permanently, a qualified soil erosion and sediment
 268 control professional, qualified landscape architect or qualified
 269 professional engineer from submitting a certification pursuant to this
 270 section. In addition to any other applicable procedures, subsection (c)
 271 of section 4-182 of the general statutes shall apply to any disciplinary
 272 action taken pursuant to this section."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section