



General Assembly

February Session, 2018

**Raised Bill No. 5151**

LCO No. 851



Referred to Committee on PUBLIC HEALTH

Introduced by:  
(PH)

***AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S  
RECOMMENDATIONS REGARDING CONNECTICUT'S SAFE  
DRINKING WATER.***

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

1 Section 1. (NEW) (*Effective October 1, 2018*) (a) As used in this  
2 section:

3 (1) "Small community water system" means a water company that  
4 regularly serves at least twenty-five, but not more than one thousand,  
5 year-round residents;

6 (2) "Unaccounted for water loss" means water that the small  
7 community water system supplies to its distribution system, but that  
8 never reaches its consumers;

9 (3) "Useful life" means a manufacturer's recommended life or the  
10 estimated lifespan of a water company's capital asset, taking into  
11 consideration the service history and the condition of such capital asset  
12 at the time a fiscal and asset management plan is prepared; and

13 (4) "Water company" has the same meaning as provided in section  
14 25-32a of the general statutes.

15 (b) Each water company shall prepare a fiscal and asset  
16 management plan for all of the capital assets that comprise each of the  
17 water company's small community water systems. The fiscal and asset  
18 management plan shall include, but need not be limited to, (1) a list of  
19 all capital assets of the small community water system, (2) the useful  
20 life of such capital assets, which shall be based on the current condition  
21 of such capital assets, (3) the maintenance and service history of such  
22 capital assets, (4) the manufacturer's recommendation regarding such  
23 capital assets, and (5) the water company's plan for the reconditioning,  
24 refurbishment or replacement of such capital assets. Such fiscal and  
25 asset management plan shall also provide information regarding  
26 whether the water company has any unaccounted for water loss, the  
27 amount of such unaccounted for water loss, what is causing such  
28 unaccounted for water loss and the measures the water company is  
29 taking to reduce such unaccounted for water loss. Each water company  
30 shall make the assessment of its hydropneumatic pressure tanks its  
31 initial priority in its preparation of the fiscal and asset management  
32 plan. Each water company shall complete the fiscal and asset  
33 management plan for all of the capital assets of each of its small  
34 community water systems not later than January 1, 2021, except each  
35 water company shall complete, on a form prepared by the Department  
36 of Public Health, the fiscal and asset management plan assessment  
37 review of every hydropneumatic pressure tank at each of its small  
38 community water systems not later than May 1, 2019. Following the  
39 completion of the initial fiscal and asset management plan, each water  
40 company shall update such fiscal and asset management plan annually  
41 and make such fiscal and asset management plan available to the  
42 department upon request.

43 (c) This section shall not apply to a water company that is (1)  
44 regulated by the Public Utilities Regulatory Authority, (2) subject to  
45 the requirements set forth in section 25-32d of the general statutes, or  
46 (3) a state agency.

47 (d) The provisions of this section shall be deemed to relate to the  
48 purity and adequacy of water supplies for the purposes of the  
49 imposition of a penalty under section 25-32e of the general statutes, as  
50 amended by this act.

51 (e) The Commissioner of Public Health may adopt regulations, in  
52 accordance with the provisions of chapter 54 of the general statutes, to  
53 carry out the provisions of this section.

54 Sec. 2. Subsections (a) to (e), inclusive, of section 25-32e of the  
55 general statutes are repealed and the following is substituted in lieu  
56 thereof (*Effective October 1, 2018*):

57 (a) If, upon review, investigation or inspection, the Commissioner of  
58 Public Health determines that a water company has violated any  
59 provision of section 25-32, section 25-32d or any regulation adopted  
60 under section 25-32d, or any [regulation in the Public Health Code]  
61 provision of the general statutes or regulations of Connecticut state  
62 agencies relating to the purity and adequacy of water supplies or to the  
63 testing of water supplies or any report of such testing, the  
64 commissioner may impose a civil penalty not to exceed five thousand  
65 dollars per violation per day upon such water company.  
66 Governmental immunity shall not be a defense against the imposition  
67 of any civil penalty imposed pursuant to this section. [The  
68 commissioner shall adopt regulations, in accordance with the  
69 provisions of chapter 54,] In establishing [a] such schedule or  
70 schedules of the amounts, or the ranges of amounts, of civil penalties  
71 which may be imposed under this section, [. In adopting such  
72 regulations,] the commissioner shall consider the size of or the number  
73 of persons served by the water company, the level of assessment  
74 necessary to insure immediate and continued compliance with such  
75 provision, and the character and degree of injury or impairment to or  
76 interference with or threat thereof to: (1) The purity of drinking water  
77 supplies; (2) the adequacy of drinking water supplies; and (3) the  
78 public health, safety or welfare. [No such civil penalty may be imposed  
79 until the regulations required by this subsection have been adopted.]

80 The commissioner shall publish annually, or as the commissioner  
81 deems necessary in response to any guidelines or ruling promulgated  
82 by the United States Environmental Protection Agency, a schedule of  
83 the amounts, or ranges of amounts, of civil penalties that may be  
84 imposed under this section on the Department of Public Health's  
85 Internet web site if the civil penalty for a violation under this section  
86 has not been established by statute. Notwithstanding the provisions of  
87 chapter 54, the commissioner shall not be required to adopt or revise  
88 any regulations regarding the imposition of civil penalties when  
89 publishing such schedule. Not less than six months prior to publishing  
90 such schedule, the commissioner shall publish notice in the  
91 Connecticut Law Journal of his or her intention to publish such  
92 schedule on the department's Internet web site. Such notice shall  
93 include such schedule and the date on which the commissioner intends  
94 to hold a public hearing on such schedule. The commissioner shall  
95 hold the public hearing on such schedule not later than thirty days  
96 after the date of publishing such notice.

97 (b) In setting a civil penalty in a particular case, where the civil  
98 penalty has not been established by statute or pursuant to the schedule  
99 in subsection (a) of this section, the commissioner shall consider all  
100 factors which the commissioner deems relevant, including, but not  
101 limited to, the following: (1) The amount of assessment necessary to  
102 [insure] ensure immediate and continued compliance with such  
103 provision; (2) the character and degree of impact of the violation on the  
104 purity and adequacy of drinking water supplies; (3) whether the water  
105 company incurring the civil penalty is taking all feasible steps or  
106 procedures necessary or appropriate to comply with such provisions  
107 or to correct the violation; (4) any prior violations by such water  
108 company of statutes, regulations, orders or permits administered,  
109 adopted or issued by the commissioner; (5) the character and degree of  
110 injury to, or interference with, public health, safety or welfare which  
111 has been or may be caused by such violation; and (6) [after the  
112 adoption of the federal Safe Drinking Water Act Public Notification  
113 Rule pursuant to section 5 of public act 01-185,] whether the consumers

114 of the water company have been notified of such violation pursuant to  
115 [such rule] section 19-13-B102 of the regulations of Connecticut state  
116 agencies.

117 (c) If the commissioner has reason to believe that a violation has  
118 occurred, the commissioner may impose a penalty if compliance is not  
119 achieved by a specified date and send to the suspected violator, by  
120 certified mail, return receipt requested, or personal service at the  
121 address filed with the department by the water company as required  
122 under subsection (a) of section 25-33 or, if the water company did not  
123 file an address as required under said subsection, to the last known  
124 address of the water company on file at the department, a notice which  
125 shall include: (1) A reference to the sections of the statute or regulation  
126 involved; (2) a short and plain statement of the [matters asserted or  
127 charged] violation; (3) a statement of the amount of the civil penalty or  
128 penalties [to be] imposed; (4) the initial date of the imposition of the  
129 penalty when the penalty is imposed for a continuing violation, or the  
130 date for which the penalty is imposed when the penalty is imposed for  
131 an isolated violation; and (5) a statement of the [party's] water  
132 company's right to a hearing. The commissioner shall send a copy of  
133 such notice to the local director of health in the municipality or  
134 municipalities in which such violation occurred or that utilize such  
135 water.

136 (d) The civil penalty shall be payable for noncompliance on the date  
137 specified in subsection (c) of this section and for each day thereafter  
138 until the water company against which the penalty was issued  
139 [notifies] demonstrates to the commissioner that the violation has been  
140 corrected. [Upon receipt of such notification, the commissioner shall  
141 determine whether or not the violation has been corrected and shall  
142 notify the water company, in writing, of such determination. The water  
143 company may, within twenty days after such notice is sent by the  
144 commissioner, request a hearing to contest an adverse determination.  
145 If, after such hearing, the commissioner finds that the violation still  
146 exists, or if the water company fails to request a hearing, the penalty  
147 shall continue in force from the original date of imposition.]

148 (e) The water company to which the notice is addressed shall have  
149 twenty days from the date of mailing of the notice to make written  
150 application to the commissioner for a hearing to contest the imposition  
151 of the penalty. The application shall include a detailed statement of all  
152 of the grounds for contesting the imposition of the penalty. The water  
153 company shall send a copy of such application to the local director of  
154 health in the municipality or municipalities in which such violation  
155 occurred or that utilize such water. All hearings under this section  
156 shall be conducted pursuant to sections 4-176e to 4-184, inclusive,  
157 except that the presiding officer shall automatically grant each local  
158 director of health in the municipality or municipalities in which such  
159 violation occurred or that utilize such water the right to be heard in the  
160 proceeding. Any civil penalty may be mitigated by the commissioner  
161 upon such terms and conditions as the commissioner, in the  
162 commissioner's discretion, deems proper or necessary upon  
163 consideration of the factors set forth in subsection (b) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	New section
Sec. 2	<i>October 1, 2018</i>	25-32e(a) to (e)

**Statement of Purpose:**

To implement the Department of Public Health's recommendations regarding Connecticut's safe drinking water.

*[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.]*