

File No. 655

(Reprint of File No. 626)

Substitute House Bill No. 5297
As Amended by House Amendment
Schedules "A" and "B"

Approved by the Legislative Commissioner
May 1, 1998

AN ACT CONCERNING HAZARDOUS WASTE AND SOLID WASTE
MANAGEMENT.

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

1 Section 1. Subsection (f) of section 22a-117
2 of the general statutes is repealed and the
3 following is substituted in lieu thereof:

4 (f) The storage or disposal for a fee or other
5 consideration, [in excess of the amount stored or
6 disposed of in the normal operation of any
7 facility as of May 28, 1981] OR STORAGE OF WASTE
8 CONTAINING POLYCHLORINATED BIPHENYLS GENERATED BY
9 ANOTHER OR GENERATED BY THE SERVICING OF EQUIPMENT
10 OWNED BY ANOTHER, is prohibited [until regulations
11 concerning the storage or disposal of
12 polychlorinated biphenyls are adopted by the
13 commissioner and such regulations are exempted
14 from preemption by the United States Environmental
15 Protection Agency pursuant to the federal Toxic
16 Substance Control Act of 1976, (15 USC 2601 et
17 seq.)] EXCEPT IN ACCORDANCE WITH AN APPROVAL
18 ISSUED BY THE UNITED STATES ENVIRONMENTAL
19 PROTECTION AGENCY PURSUANT TO SUBPART D OF PART
20 761 OF TITLE 40 OF THE CODE OF FEDERAL REGULATIONS
21 AND IN ACCORDANCE WITH A CERTIFICATE OF PUBLIC

22 SAFETY AND NECESSITY ISSUED UNDER THE PROVISIONS
23 OF THIS CHAPTER. This subsection prohibits and
24 otherwise regulates the manner and method of
25 disposal of polychlorinated biphenyls within the
26 meaning of [said federal act. Upon adoption of
27 such regulations and exemption from preemption by
28 the United States Environmental Protection Agency,
29 the storage or disposal of polychlorinated
30 biphenyls for a fee or other consideration shall
31 not be allowed except in accordance with a
32 certificate of public safety and necessity issued
33 under the provisions of this chapter] THE FEDERAL
34 TOXIC SUBSTANCES CONTROL ACT OF 1976 (15 USC 2601
35 ET SEQ.).

36 Sec. 2. Subsections (b) and (c) of section
37 22a-133x of the general statutes are repealed and
38 the following is substituted in lieu thereof:

39 (b) If the commissioner notifies the owner
40 that he will not formally review and approve in
41 writing the investigation and remediation of the
42 parcel, the owner shall, on or before ninety days
43 of the receipt of such notice, submit (1) a
44 statement of proposed actions for investigating
45 and remediating the parcel and (2) a schedule for
46 implementing such actions AND FOR PROVIDING PUBLIC
47 NOTICE OF REMEDIATION PRIOR TO THE INITIATION OF
48 SUCH REMEDIATION IN ACCORDANCE WITH SUBSECTION (g)
49 OF THIS SECTION. The commissioner may require the
50 owner to submit to him copies of technical plans
51 and reports related to investigation and
52 remediation of the parcel, and may notify the
53 owner if the commissioner determines that the
54 commissioner's review and written approval is
55 necessary. The commissioner shall require that the
56 certifying party submit to him all technical plans
57 and reports related to the investigation and
58 remediation of the parcel if the commissioner
59 receives a written request from any person for
60 such information. The owner shall advise the
61 commissioner of any modifications to the proposed
62 schedule. Upon receipt of a verification by a
63 licensed environmental professional that the
64 parcel has been remediated in accordance with the
65 remediation standards the owner shall submit a
66 copy of such verification to the commissioner.

67 (c) If the commissioner notifies the owner
68 that he will formally review and approve in
69 writing the investigation and remediation of the

70 parcel, the owner shall, on or before thirty days
71 of the receipt of such notice, or such later date
72 as may be approved in writing by the commissioner,
73 submit for the commissioner's review and written
74 approval, a proposed schedule for: (1)
75 Investigating and remediating the parcel; [and]
76 (2) submitting to the commissioner technical
77 plans, technical reports and progress reports
78 related to such investigation and remediation; AND
79 (3) PROVIDING PUBLIC NOTICE OF REMEDIATION PRIOR
80 TO THE INITIATION OF SUCH REMEDIATION IN
81 ACCORDANCE WITH SUBSECTION (g) OF THIS SECTION.
82 Upon the commissioner's approval of such schedule,
83 the owner shall, in accordance with the approved
84 schedule, submit technical plans, technical
85 reports and progress reports to the commissioner
86 for his review and written approval. The owner
87 shall perform all actions identified in the
88 approved technical plans, technical reports and
89 progress reports in accordance with the approved
90 schedule. The commissioner may approve, in
91 writing, any modification proposed in writing by
92 the owner to such schedule or investigation and
93 remediation and may notify the owner, in writing,
94 if he determines that it is appropriate to
95 discontinue formal review and approval of the
96 investigation or remediation.

97 Sec. 3. Section 22a-133x of the general
98 statutes is amended by adding subsection (g) as
99 follows:

100 (NEW) (g) The owner shall (1) publish notice
101 of the remediation, in accordance with the
102 schedule submitted pursuant to this section, in a
103 newspaper having a substantial circulation in the
104 area affected by the establishment, (2) notify the
105 director of health of the municipality where the
106 parcel is located of the remediation, and (3)
107 either (A) erect and maintain for at least thirty
108 days in a legible condition a sign not less than
109 six feet by four feet on the parcel, which sign
110 shall be clearly visible from the public highway,
111 and shall include the words "ENVIRONMENTAL
112 CLEAN-UP IN PROGRESS AT THIS SITE. FOR FURTHER
113 INFORMATION CONTACT:" and include a telephone
114 number for an office from which any interested
115 person may obtain additional information about the
116 remediation, or (B) mail notice of the remediation
117 to each owner of record of property which abuts

118 the parcel, at the address for such property on
119 the last-completed grand list of the municipality
120 where the parcel is located.

121 Sec. 4. Section 22a-134d of the general
122 statutes is repealed and the following is
123 substituted in lieu thereof:

124 Any person who knowingly gives or causes to be
125 given any false information on any document
126 required by sections 22a-134 to 22a-134e,
127 inclusive, AS AMENDED, SECTION 22a-133x, AS
128 AMENDED BY SECTIONS 2 AND 3 OF THIS ACT, or
129 section 22a-133y, AS AMENDED, or who fails to
130 comply with the provisions of said sections shall
131 forfeit to the state a sum not to exceed one
132 hundred thousand dollars. A civil action shall be
133 instituted to recover such forfeiture.

134 Sec. 5. Section 22a-467 of the general
135 statutes is repealed and the following is
136 substituted in lieu thereof:

137 No person or municipality shall dispose of
138 [the compound] PCB or any item, product or
139 material containing [the compound] PCB BY ANY
140 MEANS OTHER THAN A MEANS WHICH WILL RESULT IN THE
141 DESTRUCTION OF PCB IN ACCORDANCE WITH THE
142 PROVISIONS OF PART 761 OF TITLE 40 OF THE CODE OF
143 FEDERAL REGULATIONS, except in accordance with a
144 permit issued pursuant to section 22a-208a, AS
145 AMENDED, 22a-430 or 22a-454 [. Notwithstanding the
146 provisions of this section, a person or
147 municipality may dispose of the compound PCB, or
148 the item, product or material containing the
149 compound PCB,] OR in accordance with a written
150 approval by the commissioner [if such disposal (1)
151 results in destruction of the compound PCB; or
152 (2)] PROVIDED SUCH PERMIT OR APPROVAL is not
153 inconsistent with the provisions of Part 761 of
154 Title 40 of the Code of Federal Regulations. The
155 commissioner may include in any such approval such
156 conditions as he deems appropriate to protect the
157 environment and human health.

158 Sec. 6. Section 22a-256a of the general
159 statutes is repealed and the following is
160 substituted in lieu thereof:

161 (a) On and after July 1, 1993, each
162 municipality shall recycle nickel-cadmium
163 batteries contained in consumer products and
164 disposed of in municipal solid waste within three
165 months of the establishment of service to such

166 municipality by a regional processing center or
167 local processing system.

168 (b) A PARCEL OF REAL PROPERTY UPON WHICH A
169 RETAIL OR WHOLESALE BUSINESS OPERATION REGULATED
170 AS A UNIVERSAL WASTE HANDLER UNDER THE FEDERAL
171 RESOURCE CONSERVATION AND RECOVERY ACT OF 1976, 42
172 USC 6901 ET SEQ., AS AMENDED, COLLECTS
173 NICKEL-CADMIUM BATTERIES FOR THE PURPOSE OF
174 TRANSFERRING TO A RECYCLING OR DISPOSAL FACILITY,
175 SHALL NOT BE CONSIDERED AN ESTABLISHMENT AS
176 DEFINED IN SECTION 22a-134 SOLELY ON THE BASIS OF
177 SUCH COLLECTION ACTIVITIES.

178 Sec. 7. (NEW) Any municipal corporation that
179 owns or operates a landfill, for which landfill
180 the Commissioner of Environmental Protection has
181 approved a closure plan, completion of which
182 requires, or would otherwise be aided or advanced
183 by, the acquisition of real property, groundwater
184 rights or any other interests therein, may
185 purchase such real property, groundwater rights or
186 interests therein. If such municipal corporation
187 cannot agree with any owner of real property upon
188 the amount to be paid for the real property,
189 groundwater rights or interests therein, the
190 municipal corporation may proceed in the manner
191 provided in section 48-12 of the general statutes
192 to take such real property, groundwater rights or
193 interests therein including any real property,
194 groundwater rights or interests therein which
195 exist or extend beyond the corporate limits of
196 such municipal corporation. This section shall not
197 apply with respect to owners of property adjacent
198 to the landfill in Wallingford owned by the
199 Connecticut Resources Recovery Authority or owners
200 of property adjacent to the landfill in Bristol
201 owned by the Bristol Resources Recovery Facility
202 Operating Committee.

203 Sec. 8. This act shall take effect from its
204 passage.

* * * * *

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER SHB 5297

STATE IMPACT	Minimal Savings, Potential Minimal Revenue Gain and Minimal Cost, Within Budgetary Resources, see explanation below
MUNICIPAL IMPACT	Minimal Cost, Within Budgetary Resources, Potential Savings, see explanation below
STATE AGENCY(S)	Department of Environmental Protection

EXPLANATION OF ESTIMATES:

STATE IMPACT: There will be a minimal workload decrease to the Department of Environmental Protection (DEP) due to the elimination of the need for written approval for the disposal of polychlorinated bipheyl (PCB) by destruction. There could be a minimal workload increase, within resources, due to the additional public notification provisions which could result in an increase in public inquiries to DEP.

In addition, any increase in revenue due to the expansion of penalties for failure to comply with the remediation requirements is anticipated to be minimal.

MUNICIPAL IMPACT: Any increase in various municipal workloads due to including a public notice schedule in their voluntary remediation plans, publishing a notice in a paper with substantial circulation in the area, notification of the local health director and erecting and maintaining a sign or mailing notice to abutting property owners for voluntary remediation activities, can be done within budgetary resources.

The bill also authorizes the condemnation of real property for certain landfill closures and could result in a savings to Waterbury by helping to facilitate the closure of their landfill, potentially reducing the overall costs of the required closure. The exact impact is indeterminate.

House "A" clarifies the intent of the transfer act with regard to a business and has no fiscal impact.

House "B" authorizes the condemnation of real property and could result in a municipal savings.

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MR:HN:PA

OLR AMENDED BILL ANALYSIS

SHB 5297 (as amended by House "A" and "B")*

AN ACT CONCERNING MINOR REVISIONS TO CERTAIN HAZARDOUS WASTE AND SOLID WASTE MANAGEMENT STATUTES

SUMMARY: This bill allows commercial storage and disposal of polychlorinated biphenyl (PCB) if approved by the Environmental Protection Agency (EPA). It also allows for disposal of PCB by destruction without the written approval of the Department of Environmental Protection (DEP).

The bill requires owners of establishments and certain other contaminated properties to provide public notice of voluntary remediation activities in the same manner as existing law requires for remediation activities under the Transfer Act or for properties not located above drinking water supplies. It extends to such properties the penalty for failing to comply with remediation requirements or filing false statements regarding remediation activities. The penalty includes up to a \$100,000 forfeiture.

The bill allows universal waste (batteries, pesticides and thermostats) handlers to hold nickel cadmium batteries before transferring them to recycling or disposal facilities without being classified as "establishments" solely for such activities. By law, establishments are facilities that handle certain amounts of hazardous wastes; owners cannot sell or

transfer establishments without completing certain DEP forms regarding the environmental condition of the property. Nickel cadmium batteries are commonly used in portable electronic devices such as computers and video recorders.

The bill also allows municipal corporations that own or operate a landfill to purchase or take by eminent domain real property or property rights located in neighboring towns under certain circumstances.

*House Amendment "A" adds the provision regarding universal waste handlers.

*House Amendment "B" authorizes municipal corporations to take property in neighboring towns by eminent domain under some circumstances.

EFFECTIVE DATE: Upon passage

FURTHER EXPLANATION

PCB Storage and Disposal

Current law prohibits the commercial storage or disposal of PCB until the DEP adopts regulations and the regulations are exempt from preemption under the federal Toxic Substance Control Act (TSCA). The bill allows commercial storage and disposal of PCB in accordance with an EPA approval under its TSCA regulations. It continues to require facilities to have a certificate of public safety and necessity issued by the Connecticut Siting Council.

The bill allows people to dispose of PCB by destruction and in accordance with TSCA, without written DEP approval. It continues to allow disposal of PCB by means other than destruction if it is in accordance with permits for solid waste disposal; water discharges; and storage, treatment, and disposal of hazardous substances, provided the permits do not conflict with TSCA.

Notice of Remediation

The bill requires municipalities and owners of establishments and properties on the state's hazardous waste disposal site inventory to include a public

notice schedule in their voluntary remediation plans and provide such notice, in a similar manner as existing law requires for remediation activities under the Transfer Act and for properties not located over drinking water supplies. It requires them to publish notice in a paper with substantial circulation in the affected area, notify the local health director, and either (1) erect and maintain for 30 days a sign at least four feet by six feet in size and visible from the public highway that states a remediation project is in progress and a contact name and telephone number or (2) mail notice of remediation to each abutting property owner.

Eminent Domain

Under the bill, any municipal corporation that owns or operates a landfill can purchase real property, its groundwater rights, or other interests adjacent to the landfill and located in a neighboring town if the DEP has approved the landfill's closure plan and acquiring the property would aid or assist the landfill in fulfilling the plan. If the municipal corporation cannot agree with the property owner on a reasonable price, it may take the property by eminent domain. The bill does not apply to properties adjacent to the Wallingford landfill owned by the Connecticut Resource Recovery Authority or the Bristol landfill owned by the Bristol Resource Recovery Facility Operating Committee (those facilities already have similar authority).

BACKGROUND

Waterbury Landfill

The Waterbury landfill currently has a DEP-approved closure plan which includes use of property rights of a parcel adjacent to the landfill and located in Wolcott.

Legislative History

The House referred the bill (File 455) to the Planning and Development Committee on April 14. On April 20, that committee favorably reported a substitute bill that deleted a provision regarding waste disposal and volume reduction permits.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute Change of Reference
Yea 22 Nay 0

Judiciary Committee

Joint Favorable Report
Yea 39 Nay 0

Planning and Development Committee

Joint Favorable Substitute
Yea 17 Nay 0