



Substitute House Bill No. 6810

Public Act No. 23-153

**AN ACT CONCERNING MINOR REVISIONS TO THE STATE'S
AUTHORITY TO REGULATE CERTAIN NUCLEAR MATERIALS.**

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

Section 1. Subsection (a) of section 16a-100 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The state of Connecticut endorses the action of the Congress of the United States in enacting the Atomic Energy Act of 1954 to institute a program to encourage the widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public; and therefore declares the policy of the state to be (1) to cooperate actively in the program thus instituted; (2) to develop programs for the control of ionizing and nonionizing radiation compatible with federal programs for regulation of by-product, source and special nuclear material; and (3) to the extent that the regulation of special nuclear materials and by-product materials, of production facilities and utilization facilities and of persons operating such facilities may be within the jurisdiction of the state, to provide for the exercise of the state's regulatory authority so as to [conform, as nearly as may be, to] be compatible with the Atomic Energy Act of 1954 and regulations

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issued thereunder, to the end that there may, in effect, be a single harmonious system of regulation within the state.

Sec. 2. Subsection (a) of section 22a-6 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The commissioner may: (1) Adopt, amend or repeal, in accordance with the provisions of chapter 54, such environmental standards, criteria and regulations, and such procedural regulations as are necessary and proper to carry out [his] the department's functions, powers and duties; (2) enter into contracts with any person, firm, corporation or association to do all things necessary or convenient to carry out the functions, powers and duties of the department; (3) initiate and receive complaints as to any actual or suspected violation of any statute, regulation, permit or order administered, adopted or issued by [him] the department. The commissioner shall have the power to hold hearings, administer oaths, take testimony and subpoena witnesses and evidence, enter orders and institute legal proceedings including, but not limited to, suits for injunctions, for the enforcement of any statute, regulation, order or permit administered, adopted or issued by [him] the department; (4) in accordance with regulations adopted by [him] the department, require, issue, renew, revoke, modify or deny permits, under such conditions as [he] the commissioner may prescribe, governing all sources of pollution in Connecticut within [his] the department's jurisdiction; (5) in accordance with constitutional limitations, enter at all reasonable times, without liability, upon any public or private property, except a private residence, for the purpose of inspection and investigation to ascertain possible violations of any statute, regulation, order or permit administered, adopted or issued by [him] the department and the owner, managing agent or occupant of any such property shall permit such entry, and no action for trespass shall lie against the commissioner for such entry, or [he] the

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commissioner may apply to any court having criminal jurisdiction for a warrant to inspect such premises to determine compliance with any statute, regulation, order or permit administered, adopted or enforced by [him] the department, provided any information relating to secret processes or methods of manufacture or production ascertained by the commissioner during, or as a result of, any inspection, investigation, hearing or otherwise shall be kept confidential and shall not be disclosed except that, notwithstanding the provisions of subdivision (5) of subsection (b) of section 1-210, such information may be disclosed by the commissioner to the United States Environmental Protection Agency and the Nuclear Regulatory Commission pursuant to the federal Freedom of Information Act of 1976, (5 USC 552) and regulations adopted thereunder or, if such information is submitted after June 4, 1986, to any person pursuant to the federal Clean Water Act (33 USC 1251 et seq.); (6) undertake any studies, inquiries, surveys or analyses [he] the commissioner may deem relevant, through the personnel of the department or in cooperation with any public or private agency, to accomplish the functions, powers and duties of the commissioner; (7) require the posting of sufficient performance bond or other security to assure compliance with any permit or order; (8) provide by notice printed on any form that any false statement made thereon or pursuant thereto is punishable as a criminal offense under section 53a-157b; (9) construct or repair or contract for the construction or repair of any dam or flood and erosion control system under [his] the department's control and management, make or contract for the making of any alteration, repair or addition to any other real asset under [his] the department's control and management, including rented or leased premises, involving an expenditure of five hundred thousand dollars or less, and, with prior approval of the Commissioner of Administrative Services, make or contract for the making of any alteration, repair or addition to such other real asset under [his] the department's control and management involving an expenditure of more than five hundred thousand dollars but not more than one million dollars; (10) in

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consultation with affected town and watershed organizations, enter into a lease agreement with a private entity owning a facility to allow the private entity to generate hydroelectricity provided the project meets the certification standards of the Low Impact Hydropower Institute; (11) by regulations adopted in accordance with the provisions of chapter 54, require the payment of a fee sufficient to cover the reasonable cost of the search, duplication and review of records requested under the Freedom of Information Act, as defined in section 1-200, and the reasonable cost of reviewing and acting upon an application for and monitoring compliance with the terms and conditions of any state or federal permit, license, registration, order, certificate or approval required pursuant to subsection (i) of section 22a-39, subsections (c) and (d) of section 22a-96, subsections (h), (i) and (k) of section 22a-424, and sections 22a-6d, 22a-32, 22a-134a, 22a-134e, 22a-135, 22a-148, 22a-150, 22a-174, 22a-208, 22a-208a, 22a-209, 22a-342, 22a-345, 22a-354i, 22a-361, 22a-363c, 22a-368, 22a-372, 22a-379, 22a-403, 22a-409, 22a-416, 22a-428 to 22a-432, inclusive, 22a-449 and 22a-454 to 22a-454c, inclusive, and Section 401 of the federal Clean Water Act, (33 USC 1341). Such costs may include, but are not limited to the costs of (A) public notice, (B) reviews, inspections and testing incidental to the issuance of and monitoring of compliance with such permits, licenses, orders, certificates and approvals, and (C) surveying and staking boundary lines. The applicant shall pay the fee established in accordance with the provisions of this section prior to the final decision of the commissioner on the application. The commissioner may postpone review of an application until receipt of the payment. Payment of a fee for monitoring compliance with the terms or conditions of a permit shall be at such time as the commissioner deems necessary and is required for an approval to remain valid; and (12) by regulations adopted in accordance with the provisions of chapter 54, require the payment of a fee sufficient to cover the reasonable cost of responding to requests for information concerning the status of real estate with regard to compliance with environmental statutes, regulations, permits or orders. Such fee shall be paid by the person

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requesting such information at the time of the request. Funds not exceeding two hundred thousand dollars received by the commissioner pursuant to subsection (g) of section 22a-174, during the fiscal year ending June 30, 1985, shall be deposited in the General Fund and credited to the appropriations of the Department of Energy and Environmental Protection in accordance with the provisions of section 4-86, and such funds shall not lapse until June 30, 1986. In any action brought against any employee of the department acting within [his] the scope of delegated authority in performing any of the above-listed duties, the employee shall be represented by the Attorney General.

Sec. 3. Section 22a-151 of the general statutes is amended by adding subdivision (13) as follows (*Effective from passage*):

(NEW) (13) "Sources of ionizing radiation" means, collectively, radioactive materials and radiation generating equipment.

Sec. 4. Subsection (a) of section 22a-154 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Commissioner of Energy and Environmental Protection shall adopt regulations, in accordance with the provisions of chapter 54, for the general or specific licensing of sources of ionizing radiation or devices or equipment utilizing such sources. The commissioner may issue, deny, renew, modify, suspend or revoke such licenses and may include such terms and conditions in such licenses that the commissioner deems necessary. Nothing in this section shall be construed to confer authority to the commissioner to regulate materials or activities reserved to the Nuclear Regulatory Commission under 42 USC 2021(c) and 10 CFR 150.

Sec. 5. Section 22a-158b of the general statutes is amended by adding subsection (c) as follows (*Effective from passage*):

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(NEW) (c) (1) Whenever the commissioner finds after investigation that any person is causing, engaging in or maintaining, or is about to cause, engage in or maintain, any condition or activity that, in the commissioner's judgment, will result in or is likely to result in imminent threat to human health or the environment within the jurisdiction of the commissioner under the provisions of this chapter, or whenever the commissioner finds after investigation that there is a violation of the terms and conditions of a permit or license issued by the department that is, in the commissioner's judgment, substantial and continuous and it appears prejudicial to the interests of the people of the state to delay action until an opportunity for a hearing can be provided, or whenever the commissioner finds after investigation that any person is conducting, has conducted or is about to conduct an activity that will result in or is likely to result in imminent damage to the environment, or to public health within the jurisdiction of the commissioner under the provisions of chapter 446a for which a license, as defined in section 4-166, is required under the provisions of chapter 446a without obtaining such license, the commissioner may, without prior hearing, impound the source of ionizing radiation, or contract to impound such source.

(2) The commissioner shall, not later than ten days after the date of impounding material pursuant to subdivision (1) of this subsection, hold a hearing to provide any such person an opportunity to be heard and show that such violation does not exist or such violation has not occurred or a license was not required or all required licenses were obtained. All briefs or legal memoranda to be presented in connection with such hearing shall be filed not later than ten days after such hearing. Such order shall remain in effect until fifteen days after the hearing, during which time a new decision based on the hearing shall be made by the commissioner.

(3) Any person who is found by the commissioner to have violated any provision of this chapter, resulting in impoundment pursuant to

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this subsection, shall be liable for any costs of such impoundment, provided any provisions of this subsection concerning a continuing violation shall not apply to a person during the time when a hearing on an order issued pursuant to this subsection or an appeal is pending. The Attorney General, upon complaint of the commissioner, shall institute a civil action in the superior court for the judicial district of Hartford to recover such costs.

(4) The commissioner shall have the authority to enter into a contract for the storage of impounded material, as necessary, to carry out the provisions of this subsection.