



# Senate

General Assembly

**File No. 458**

January Session, 2021

Substitute Senate Bill No. 1031

*Senate, April 14, 2021*

The Committee on Environment reported through SEN. COHEN of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE USE OF SODIUM CHLORIDE TO MITIGATE ICE AND SNOW ACCUMULATIONS.***

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

1 Section 1. (NEW) (*Effective October 1, 2021*) The Commissioners of  
2 Energy and Environmental Protection and Transportation shall jointly  
3 work with The University of Connecticut's Tech Transfer Center to  
4 conduct a training program for state, municipal and private roadside  
5 applicators that relies on the Connecticut Best Management Practices  
6 "Green Snow Pro: Sustainable Winter Operations" guide for  
7 municipalities. Such training program shall include, but not be limited  
8 to, instruction on each topic contained in such guide and the provision  
9 of additional information resources for each topic. Such training shall be  
10 provided by personnel of the Departments of Energy and  
11 Environmental Protection and Transportation or The University of  
12 Connecticut's Tech Transfer Center and shall consist of not less than one  
13 training session conducted in each county of the state. Information  
14 concerning such training shall be provided by said agencies to each

15 regional council of governments. Not later than one year following the  
16 implementation of such training program and pursuant to section 11-4a  
17 of the general statutes, said commissioners shall jointly submit a report  
18 to the joint standing committees of the General Assembly having  
19 cognizance of matters relating to the environment and transportation on  
20 how many state, municipal and private applicators have received  
21 training pursuant to such program, any goals for the future of such  
22 program and any recommendations concerning proposed legislation to  
23 reduce the effects of sodium chloride on private wells and public  
24 drinking water supplies.

25 Sec. 2. (NEW) (*Effective from passage*) (a) For the purposes of this  
26 section and section 3 of this act:

27 (1) "Apply salt" means to apply salt or a salt alternative to roadways,  
28 parking lots or sidewalks for the purpose of winter maintenance;

29 (2) "Commercial applicator" means any individual who applies or  
30 supervises other persons who apply salt, except any municipal or state  
31 employee or employee of a political subdivision of the state;

32 (3) "Commissioner" means the Commissioner of Energy and  
33 Environmental Protection;

34 (4) "Department" means the Department of Energy and  
35 Environmental Protection;

36 (5) "Salt" means sodium chloride, calcium chloride, magnesium  
37 chloride or any other substance containing chloride; and

38 (6) "Salt alternative" means any substance not containing chloride  
39 that is used for the purpose of de-icing or anti-icing.

40 (b) Any commercial applicator may apply to be annually certified by  
41 the department. Applicator certificates shall be issued by the  
42 department provided any business that employs multiple commercial  
43 applicators may obtain a master certificate for the owner or chief  
44 supervisor, and commercial applicators employed by the business may

45 obtain certificates to qualify under such master certificate. Any business  
46 that holds a master certificate shall ensure that all commercial  
47 applicators operating under such master certificate receive the required  
48 training and shall provide the required recordkeeping on behalf of all  
49 commercial applicators. Any fees established by the commissioner  
50 pursuant to this section for such certificates shall be sufficient to cover  
51 all costs incurred from the provision of such training program. Any  
52 annual fee established by the commissioner for certificates obtained  
53 under a master certificate shall be significantly less than the fee for a  
54 master certificate.

55 (c) Application for such certification shall be on a form prescribed by  
56 the commissioner and shall include the following: (1) The full name and  
57 address of the person applying for the certification; (2) the name and  
58 address of a person whose domicile is in the state, and who is authorized  
59 to receive and accept service of summons and legal notices of all kinds  
60 for the applicant; (3) the type of apparatus used to apply salt or salt  
61 alternative whether liquid or dry; and (4) any other information deemed  
62 necessary by the commissioner.

63 (d) The commissioner shall administer and enforce the provisions of  
64 this section within available resources.

65 (e) The commissioner may issue an order to any person who is in  
66 violation of any provision of this section and any regulation adopted  
67 pursuant to this section, including, but not limited to, an order to cease  
68 and desist from any act in violation of such provision or regulation. Any  
69 order issued by the commissioner pursuant to this subsection shall be  
70 effective immediately. The commissioner, after notice and hearing,  
71 pursuant to chapter 54 of the general statutes, may revoke the  
72 certification of any person who violates any such provision or  
73 regulation.

74 (f) There is established a separate, nonlapsing salt application  
75 account. Such account shall contain any moneys required by law to be  
76 deposited into said account. Such account shall be used by the  
77 commissioner to administer the salt applicator certification program

78 established under this section. Certification fees collected by the  
79 commissioner pursuant to this section shall be deposited with the state  
80 Treasurer and be credited to such account and may be invested as  
81 provided by law. Interest received on any such investment shall also be  
82 credited to such account. No funds from the General Fund shall be used  
83 to cover the cost of the salt applicator certification program.

84 (g) The commissioner shall adopt regulations, in accordance with the  
85 provisions of chapter 54 of the general statutes, to implement the  
86 provisions of this section. Such regulations shall include, but are not  
87 limited to, provisions to: (1) Establish policies and goals for applying  
88 salt; (2) receive and allocate federal grants and other funds or gifts for  
89 the purpose of carrying out any provision of this section; (3) provide for  
90 the types and frequency of training programs required for certification;  
91 (4) establish procedures for commercial applicators to obtain  
92 certification; (5) recordkeeping required for commercial applicators to  
93 maintain certification; and (6) provide for the establishment and  
94 collection of fees to cover the cost of such program implementation.

95 Sec. 3. (NEW) (*Effective from passage*) (a) No commercial applicator, as  
96 defined in section 2 of this act, who is certified in accordance with  
97 section 2 of this act, and no owner, occupant or lessee of any land that is  
98 maintained by a commercial applicator certified in accordance with  
99 section 2 of this act, shall be liable for damages arising from  
100 insufficiencies or hazards on any premises owned, occupied,  
101 maintained or operated by such commercial applicator or owner,  
102 occupant or lessee, even if such commercial applicator or owner,  
103 occupant or lessee had actual notice of such insufficiency or hazard,  
104 when such insufficiency or hazard is caused solely by snow or ice, and  
105 the commercial applicator's, owner's, occupant's or lessee's failure or  
106 delay in removing or mitigating such insufficiency or hazard is the  
107 result of such commercial applicator's, owner's, occupant's or lessee's  
108 implementation of best management practices for winter road, parking  
109 lot and sidewalk maintenance adopted and published by the  
110 Department of Transportation in conjunction with the Department of  
111 Energy and Environmental Protection, except in the case of gross

112 negligence or reckless disregard of such insufficiency or hazard by such  
113 commercial applicator, owner, occupant or lessee. Any commercial  
114 applicator, owner, occupant or lessee who adopts such best  
115 management practices shall be presumed to be acting pursuant to the  
116 best management practices in the absence of proof to the contrary.

117 (b) In order to receive the liability protection provided in subsection  
118 (a) of this section, such commercial applicator, owner, occupant or lessee  
119 shall keep a written record describing such commercial operator's,  
120 owner's, occupant's or lessee's winter road, parking lot and property  
121 maintenance practices. Any such written record shall include the type  
122 and rate of application of de-icing materials used, the dates of treatment  
123 and the weather conditions for each event requiring de-icing. Such  
124 records shall be kept for a period of three years.

125 Sec. 4. (NEW) (*Effective from passage*) Not later than January 1, 2022,  
126 each local health district shall establish an electronic reporting system  
127 for the owner of any home or well that is damaged as the direct result  
128 of sodium chloride run-off to register such damage with the local health  
129 department. Not later than January 1, 2023, and each year thereafter,  
130 each local health department shall submit any report received pursuant  
131 to this section during the previous calendar year to the Office of Policy  
132 and Management. The Secretary of the Office of Policy and Management  
133 may identify any available state or federal financial resources to assist  
134 such owners with the costs of remediation, mitigation or repair of such  
135 homes or wells and establish any criteria and procedures for the  
136 issuance of any such financial assistance to such owners.

137 Sec. 5. (NEW) (*Effective from passage*) Any person, as defined in section  
138 1-1 of the general statutes, who installs residential water treatment  
139 systems, including, but not limited to, automatic water softeners or  
140 tanks, shall test a customer's drinking water for the presence of sodium  
141 and chloride prior to making any recommendation to such customer or  
142 potential customer regarding the installation of an automatic water  
143 softener or tank. Such testing shall be performed by an environmental  
144 laboratory registered pursuant to section 19a-29a of the general statutes.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2021</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	New section

**ENV**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the 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 chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	27,169	37,312
UConn	Other - Cost	Up to 65,000	Up to 88,000
Department of Energy and Environmental Protection	salt application account - Cost/Revenue Gain	See Below	See Below
Department of Energy and Environmental Protection	GF - Cost	65,784	90,343

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill requires the Department of Energy and Environmental Protection (DEEP) and the Department of Transportation (DOT) to work with the University of Connecticut (UConn) Technical Transfer Center to conduct training for roadside salt applicators relying on municipal guidelines.

This is anticipated to result in a cost to UConn of up to \$65,000 in FY 22 and up to \$88,000 in FY 23 due to the requirements to offer an enhanced road salt application training program with additional training sessions. These costs may be defrayed by certification fee

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 41.3% of payroll in FY 22 and FY 23.

revenue and/or grants, as described below. The bill is also anticipated to result in costs to DEEP of \$65,784 in FY 22 (based on the bill's effective date) and \$90,343 in FY 23, plus additional fringe benefits, for an Environmental Intern to perform duties under the new certification program discussed below.

**Section 1** requires DEEP and DOT to work with UConn's T2 Center to offer road salt application trainings to state, municipal, and private applicators. The bill allows the trainings to be provided by DEEP and DOT, or UConn's T2 Center.

The estimate assumes the trainings will be provided by UConn's T2 Center (instead of DEEP and DOT) because the center already offers two similar trainings annually to public sector road salt applicators. If the trainings are provided by DEEP and DOT instead of the T2 Center, then there will be minimal costs to UConn to serve in a consultative role.

It is anticipated the bill's costs to UConn, if it offers the trainings, may total up to \$65,000 in FY 22 (for nine-month costs) and \$88,000 in FY 23 (12-month costs) and annually thereafter, including fringe benefits. The costs are due to fractional (10 percent) costs for two leadership-level staff currently employed, half-time costs for a new Program Coordinator, and part-time costs for a new Instructor. The personnel-related costs across the positions are an estimated \$62,200 in FY 22 and \$85,500 in FY 23.<sup>2</sup> The estimate anticipates other program expenses of approximately \$2,500 annually.

**Section 1** also requires that DEEP and DOT to report to the Environment and Transportation Committees on the training program within one year. The report must include legislative recommendations to reduce the effect of sodium chloride on private wells and public drinking water supplies. This has no fiscal impact as both DEEP and

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<sup>2</sup> The fringe benefit costs for employees funded out of non-appropriated funds are generally supported by the same source of funding responsible for funding the position's salary. The estimated pension and non-pension fringe benefit cost associated with the identified personnel changes is 49.25% of payroll in FY 22 and FY 23.



DOT have the expertise to make legislative recommendations.

If UConn's T2 Center is selected by DEEP as a training provider for the voluntary certification program, then **Section 2** requires that the certification fee revenue, and/or grants, will cover the costs described above. The T2 Center currently is funded entirely by grant revenue. UConn has indicated that it will only offer the trainings if selected as a certification training provider.

**Section 2** establishes a salt applicator certification program within DEEP, within available resources, and requires DEEP to adopt regulations to implement the new program. The new certification program requirements result in a cost to DEEP of \$65,784 in FY 22 and \$90,343 in FY 23, and associated fringe benefits of \$36,225 and \$37,312 respectively, to hire an Environmental Intern to issue certificates to commercial salt applicators or master certificates to businesses that apply salt to mitigate ice and snow.

Additionally, **Section 2** establishes a separate, non-lapsing "salt application account", administered by DEEP for the salt applicator certification program. Fees collected under the new program must be deposited into this account. This provision results in fees flowing into (a revenue gain) and expenses being paid out from (costs), the newly established account. The bill specifies that fees must cover the costs of training.<sup>3</sup>

**Section 3** exempts a DEEP-certified commercial applicator, and any owner, occupant, or lessee of land maintained by the certified applicator, from liability for damages arising from an insufficiency or hazard on the property under certain conditions if records are kept. This is not expected to have a fiscal impact to the state or municipalities as public entities are anticipated to maintain their properties to avoid gross

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<sup>3</sup> The bill specifies that the Treasurer may invest funds in the newly established "salt applicator" account, as under current practice, and any investment interest must be credited to that account. Also, the bill specifically prohibits the General Fund from being used for the salt applicator certification program.

negligence (i.e. properly treated surfaces for ice and snow).

Additionally, **Section 4** requires each local health district, by January 1, 2022, to establish an electronic reporting system for owners of homes and wells damaged by sodium chloride run-off. This requirement has no fiscal impact, as local health districts can establish these reporting systems within existing resources.

Lastly, **Section 5** requires anyone who installs residential water treatment systems to test drinking water for sodium and chloride before recommending an automatic water softener or tank. This has no fiscal impact to the state or municipalities, as the provision applies to private, third-parties.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sSB 1031*****AN ACT CONCERNING THE USE OF SODIUM CHLORIDE TO MITIGATE ICE AND SNOW ACCUMULATIONS.*****SUMMARY**

This bill requires the Department of Energy and Environmental Protection (DEEP) and Department of Transportation (DOT) commissioners to work with UConn's Tech Transfer (T2) Center to conduct training for roadside salt applicators that relies on existing municipal guidelines. It requires the commissioners, within one year after implementing the training program, to report to the Environment and Transportation committees on it. The report must include any legislative recommendations to reduce the effect of sodium chloride on private wells and public drinking water supplies (§ 1).

The bill also establishes a salt applicator certification program within DEEP, which the commissioner must administer and enforce within available resources. It requires the commissioner to adopt implementing regulations (§ 2). The bill generally exempts a commercial applicator that completes the certification program, and an owner, operator, or lessee of property maintained by the applicator, from liability for damages related to the property maintenance if the applicator used DEEP's and DOT's published best practices and kept certain records (§ 3).

Additionally, the bill requires each local health district, by January 1, 2022, to establish an electronic reporting system for owners of homes and wells damaged by sodium chloride run-off. Health districts must report the information annually to the Office of Policy and Management (OPM), which may (1) identify available financial resources to help the owners with remediation, mitigation, or repair and (2) establish criteria and procedures for issuing financial assistance (§ 4).

Lastly, the bill requires any person who installs residential water treatment systems, including automatic water softeners or tanks, to test a customer's drinking water for sodium and chloride before recommending installation of an automatic water softener or tank. A registered environmental laboratory must perform the testing (§ 5).

EFFECTIVE DATE: Upon passage, except for the provisions requiring DEEP and DOT to work with UConn's T2 Center on a salt applicator training program, which are effective October 1, 2021.

### **§ 1 — SALT APPLICATOR TRAINING PROGRAM**

The bill requires DEEP and DOT to work with UConn's T2 Center to conduct training for state, municipal, and private roadside applicators that relies on the "Green Snow Pro: Sustainable Winter Operations" guide for municipalities. The program must include instruction on each topic contained in the guide. Under the bill, either DEEP and DOT personnel or UConn's T2 Center personnel must provide the training. They must hold at least one training session in each county.

The bill also requires DEEP and DOT to provide information about the training to the regional councils of government. They must report to the Environment and Transportation committees within one year after the program begins on (1) how many applicators received the training, (2) goals for the program's future, and (3) recommendations for proposed legislation to reduce the effects of sodium chloride on private wells and public drinking water supplies.

### **§ 2 — SALT APPLICATOR CERTIFICATION PROGRAM**

The bill allows commercial applicators to apply for DEEP certification annually. Under the bill, a "commercial applicator" is anyone who applies, or supervises people applying, salt or salt alternatives on roadways, parking lots, or sidewalks for winter maintenance. It excludes municipal, state, and state political subdivision employees.

The bill requires the DEEP commissioner to administer and enforce the certification program within available resources.

**Master Certificate**

Under the bill, a business that employs multiple commercial applicators may obtain a master certificate for its owner or chief supervisor, and applicators employed by the business may obtain certificates to qualify under the master certificate. A business holding a master certificate must (1) ensure that all applicators operating under it receive required training and (2) keep records on behalf of all its applicators.

Any annual fee DEEP establishes for an applicator's certificate to qualify under a master certificate must cost significantly less than the fee for the master certificate. The established fees must cover the costs of providing training.

**Application Form**

The bill requires the DEEP commissioner to develop the certification application form, which must include the following information:

1. the applicant's name and address;
2. the name and address for a Connecticut-domiciled person who is authorized to accept legal service and notices on the applicant's behalf;
3. the type of apparatus used to apply salt or salt alternative, whether liquid or dry; and
4. any other information the commissioner deems necessary.

**Regulations Required**

The bill also requires the commissioner to adopt implementing regulations, which must, at a minimum, include provisions to:

1. establish policies and goals for applying salt,
2. receive and allocate federal grants and other funds or gifts to carry out the program,

3. provide the types and frequency of training programs required for certification,
4. establish commercial applicator certification procedures,
5. establish recordkeeping requirements for applicators to maintain certification, and
6. establish and collect fees to cover program costs.

### ***Violations and Certification Revocation***

The bill authorizes the commissioner to issue orders, including cease and desist orders, to anyone who violates the bill's salt applicator certification program provisions or regulations. Orders are effective immediately upon issuance. The commissioner may revoke a violator's certification after notice and hearing pursuant to the state's Uniform Administrative Procedures Act.

### ***Salt Application Account***

The bill establishes a separate, non-lapsing salt application account, which the DEEP commissioner must use to administer the salt applicator certification program. The commissioner must deposit with the treasurer the fees she collects under the program. The treasurer must credit the fees to the account and may invest them as allowed by law. Any investment interest must be credited to the salt application account.

The bill prohibits the General Fund from being used for the salt applicator certification program.

### **§ 3 — CERTIFIED APPLICATOR LIABILITY PROTECTION**

The bill exempts a DEEP-certified commercial applicator, and any owner, occupant, or lessee of land maintained by the certified applicator, from liability for damages arising from an insufficiency or hazard on the property if (1) the damages were caused solely by snow and ice and (2) they had implemented DEEP's and DOT's published best practices for winter road, parking lot, and sidewalk maintenance.

It does not exempt liability for damages caused by gross negligence

or reckless disregard by the applicator, owner, occupant, or lessee. An applicator, owner, occupant, or lessee is presumed to be acting pursuant to the best practices in the absence of proof to the contrary.

To qualify for this liability protection, the applicator, owner, occupant, or lessee must keep a written record of their winter road, parking lot, and sidewalk maintenance practices. The written record must include (1) the type and rate of application of de-icing materials used, (2) treatment dates, and (3) weather conditions for each event requiring de-icing. Records must be kept for three years.

**§ 4 — LOCAL HEALTH DISTRICT REPORTING SYSTEM**

The bill requires each local health district, by January 1, 2022, to establish an electronic reporting system for owners of homes and wells damaged by sodium chloride run-off to report the damage.

Beginning by January 1, 2023, each local health department must annually submit the reports recorded during the prior calendar year to OPM. The OPM secretary may (1) identify available state or federal financial resources to help the owners with remediation, mitigation, or repair of the damaged homes or wells and (2) establish criteria and procedures for issuing financial assistance to the owners.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 31 Nay 1 (03/29/2021)