



General Assembly

February Session, 2024

Raised Bill No. 192

LCO No. 1438



Referred to Committee on ENVIRONMENT

Introduced by:
(ENV)

AN ACT CONCERNING DAM SAFETY.

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

1 Section 1. Section 22a-401 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 All dams, dikes, reservoirs and other similar structures, with their
4 appurtenances, without exception and without further definition or
5 enumeration herein, which, by breaking away or otherwise, might
6 endanger life or property, shall be subject to the jurisdiction conferred
7 by this chapter. No person shall maintain a dam in a condition that
8 might endanger life or property. The Commissioner of Energy and
9 Environmental Protection shall formulate all rules, definitions and
10 regulations necessary to carry out the provisions of this chapter and not
11 inconsistent therewith. The commissioner or [his] authorized
12 representatives of the commissioner may enter upon private property
13 to make such investigations and gather such data concerning dams,
14 watersheds, sites, structures and general conditions as may be necessary
15 in the public interest for a proper inspection, review and study of the
16 design and construction of such structures and of the environmental

17 impact of such structures on the inland wetlands of the state. The
18 commissioner may, when necessary, employ or make such agreements
19 with geologists, other engineers, expert consultants and such assistants
20 as may be reasonably necessary to carry out the provisions of this
21 chapter.

22 Sec. 2. Section 22a-402 of the general statutes is amended by adding
23 subsections (h) and (i) as follows (*Effective from passage*):

24 (NEW) (h) After an investigation, whenever the commissioner finds
25 that a dam is causing, or is about to cause, any condition that, in the
26 commissioner's judgment, will result in, or is likely to result in, an
27 imminent and substantial threat to public safety or the environment, or
28 whenever the Governor proclaims a civil preparedness state of
29 emergency pursuant to section 28-9 regarding a dam, the commissioner
30 may, without prior hearing, issue an order in writing to the owner or
31 person having care of such dam to discontinue, abate or alleviate such
32 condition or issue. Such written order may indicate that the
33 commissioner will immediately act to discontinue, abate or alleviate
34 such condition. The commissioner may discontinue, abate or alleviate
35 such condition by means that include, but are not limited to, the
36 temporary or permanent stabilization or repair of the dam or any other
37 actions necessary to place the dam in a safe condition and may retain
38 any contractor or consultant necessary to perform such actions. The
39 commissioner shall serve any order issued pursuant to this subsection
40 in accordance with the provisions of section 52-57. The commissioner
41 may cause a copy of such order to be posted upon the property that is
42 the subject of such order and no action for trespass shall lie for such
43 posting. Any order issued pursuant to this subsection shall be binding
44 upon all persons against whom it is issued, their agents and any
45 independent contractor engaged by such persons. Upon receipt of such
46 order, such person shall immediately comply with such order. The
47 commissioner shall, not later than ten days after the date of receipt of
48 such order by all persons served with such order, hold a hearing to
49 provide any such person an opportunity to be heard and show that such
50 condition does not exist. All briefs or legal memoranda to be presented

51 in connection with such hearing shall be filed not later than ten days
52 after such hearing. Such order shall remain in effect until fifteen days
53 after such hearing, during which time the commissioner shall issue a
54 decision based on such hearing.

55 (NEW) (i) Any owner or person having care of a dam who is issued
56 an order pursuant to subsection (h) of this section shall be liable for all
57 costs and expenses incurred by the commissioner to investigate, contain,
58 abate, remove, monitor or mitigate any threat to public safety and the
59 environment caused by such dam. If the dam subject to an order issued
60 pursuant to subsection (h) of this section is not in compliance with the
61 requirements of this chapter, such owner or person having care of the
62 dam shall be liable to the commissioner for damages equal to two times
63 the costs and expenses incurred by the commissioner pursuant to
64 subsection (h) of this section. Upon request of the commissioner, the
65 Attorney General shall bring a civil action to recover all such costs and
66 expenses.

67 Sec. 3. Section 22a-407 of the general statutes is repealed and the
68 following is substituted in lieu thereof (*Effective from passage*):

69 Any person who violates any provision of this chapter, any order or
70 permit issued by the commissioner pursuant to this chapter shall forfeit
71 to the state a sum not exceeding one thousand dollars, to be fixed by the
72 court, for each offense. Each violation shall be a separate and distinct
73 offense and, in case of a continuing violation, each day's continuance
74 thereof shall be deemed to be a separate and distinct offense. The
75 Attorney General, upon complaint of the commissioner, shall institute
76 an action to recover such forfeiture and to enjoin such violation and
77 require its correction. When a dam is causing, or is about to cause, any
78 condition that will result in, or is likely to result in, imminent and
79 substantial damage to public safety or the environment, or whenever
80 the Governor has proclaimed a civil preparedness state of emergency
81 pursuant to section 28-9 regarding a dam, any injunction issued
82 pursuant to this section may authorize the commissioner to
83 immediately act to discontinue, abate or alleviate such condition by

84 means including, but not limited to, temporary or permanent
85 stabilization or repairs to the dam or any other actions necessary to place
86 the dam in a safe condition.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-401
Sec. 2	<i>from passage</i>	22a-402(h) and (i)
Sec. 3	<i>from passage</i>	22a-407

ENV *Joint Favorable*

JUD *Joint Favorable*