



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 Section 22a-401 of the general statutes is repealed and the  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 (i) Any owner or person having care of a dam who is issued an order  
56 pursuant to subsection (h) of this section shall be liable for all costs and  
57 expenses incurred by the commissioner to investigate, contain, abate,  
58 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

**Statement of Purpose:**

To enable the Department of Energy and Environmental Protection to more readily take action to protect the public safety when a dam poses an imminent risk.

*[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.]*