



Senate Bill No. 192

Public Act No. 24-94

AN ACT CONCERNING DAM SAFETY.

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

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 Section 22a-401 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

All dams, dikes, reservoirs and other similar structures, with their appurtenances, without exception and without further definition or enumeration herein, which, by breaking away or otherwise, might endanger life or property, shall be subject to the jurisdiction conferred by this chapter. No person shall maintain a dam in a condition that might endanger life or property. The Commissioner of Energy and Environmental Protection shall formulate all rules, definitions and regulations necessary to carry out the provisions of this chapter and not inconsistent therewith. The commissioner or [his] authorized representatives of the commissioner may enter upon private property to make such investigations and gather such data concerning dams, watersheds, sites, structures and general conditions as may be necessary in the public interest for a proper inspection, review and study of the design and construction of such structures and of the environmental impact of such structures on the inland wetlands of the state. The commissioner may, when necessary, employ or make such agreements with geologists, other engineers, expert consultants and such assistants

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as may be reasonably necessary to carry out the provisions of this chapter. Nothing in this section shall be construed to apply to any dam that the owner of such dam has reasonably demonstrated to the commissioner, upon the commissioner's request, presents a hazard only to the property of the owner of such dam.

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

(NEW) (h) After an investigation, whenever the commissioner finds that a dam is causing, or is about to cause, any condition that, in the commissioner's judgment, will result in, or is likely to result in, an imminent and substantial threat to public safety or the environment, or whenever the Governor proclaims a civil preparedness state of emergency pursuant to section 28-9 regarding a dam, the commissioner may, without prior hearing, issue an order in writing to the owner or person having care of such dam to discontinue, abate or alleviate such condition or issue, provided the commissioner finds there is either a threat to human life or to property that is property other than the property of the dam owner. Such written order may indicate that the commissioner will immediately act to discontinue, abate or alleviate such condition. The commissioner may discontinue, abate or alleviate such condition by means that include, but are not limited to, the temporary or permanent stabilization or repair of the dam or any other actions necessary to place the dam in a safe condition and may retain any contractor or consultant necessary to perform such actions. The commissioner shall serve any order issued pursuant to this subsection in accordance with the provisions of section 52-57. The commissioner may cause a copy of such order to be posted upon the property that is the subject of such order and no action for trespass shall lie for such posting. Any order issued pursuant to this subsection shall be binding upon all persons against whom it is issued, their agents and any independent contractor engaged by such persons. Upon receipt of such

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order, such person shall immediately comply with such order. The commissioner shall, not later than ten days after the date of receipt of such order by all persons served with such order, hold a hearing to provide any such person an opportunity to be heard and show that such condition does not exist. 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 such hearing, during which time the commissioner shall issue a decision based on such hearing.

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

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

Any person who violates any provision of this chapter, any order or permit issued by the commissioner pursuant to this chapter shall forfeit to the state a sum not exceeding one thousand dollars, to be fixed by the court, for each offense. Each violation shall be a separate and distinct offense and, in case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. The Attorney General, upon complaint of the commissioner, shall institute an action to recover such forfeiture and to enjoin such violation and

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require its correction. When a dam is causing, or is about to cause, any condition that will result in, or is likely to result in, imminent and substantial damage to public safety or the environment, or whenever the Governor has proclaimed a civil preparedness state of emergency pursuant to section 28-9 regarding a dam, any injunction issued pursuant to this section may authorize the commissioner to immediately act to discontinue, abate or alleviate such condition by means including, but not limited to, temporary or permanent stabilization or repairs to the dam or any other actions necessary to place the dam in a safe condition, provided the commissioner finds there is either a threat to human life or to property that is property other than the property of the dam owner.