

Legislative History for Connecticut Act

HB 7196 PA 157 1987

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1987

VOL. 30
PART 10
3319-3701-A

House of Representatives Wednesday, April 22, 1987

REP. MAZZOTTA: (32nd)

Yes, Mr. Speaker. The Clerk has an amendment, LCO No. 6572. Will the Clerk please call and read the amendment.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 6572 House "A". Will the Clerk please call and read.

CLERK:

LCO 6572, House "A" offered by Rep. Mushinsky.

In line 9, after "THE" insert "DISPOSAL,"

SPEAKER STOLBERG:

Rep. Mazzotta, what is your pleasure?

REP. MAZZOTTA: (32nd)

I move adoption of the amendment, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark on the amendment?

REP. MAZZOTTA: (32nd)

Yes, Mr. Speaker, it is a simple technical amendment which adds disposal to the bill in order for the bill to be in full accordance with the federal regulations.

SPEAKER STOLBERG:

Will you remark further on the amendment? If not,

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all those in favor of the amendment please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

The amendment is adopted and ruled technical.

Will you remark further on the bill as amended?

REP. MAZZOTTA: (32nd)

Yes, Mr. Speaker, this is a quite simple bill which permits state enforcement of federal regulations regarding, related to the compound of PCBs.

Currently, the Department of Environmental Protection has only limited authority over the regulation of PCB. This bill would clarify DEP's role in those regulations by authorizing the DEP commissioner to adopt by reference, federal regulations concerning PCB. I urge the Chamber to vote for the bill.

SPEAKER STOLBERG:

Will you remark further on the bill? If not, members please be seated. Staff and guests to the well of the House. The machine will be opened.

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CLERK:

The House of Representatives is voting by roll call. Members please return to the Chamber. The House of Representatives is voting by roll call. Members please return to the Chamber.

SPEAKER STOLBERG:

Have all the members voted and is your vote properly recorded? Have all the members voted? Have all the members voted and is your vote properly recorded? If all the members have voted, the machine will be locked and the Clerk will take a tally.

Rep. Fusscas, I'm not sure that you voted.

He's not here. Rep. Nickerson.

REP. NICKERSON: (149th)

Thank you, Mr. Speaker. In the affirmative, please.

SPEAKER STOLBERG:

Rep. Nickerson in the affirmative.

REP. THOMPSON: (13th)

In the affirmative, Mr. Speaker.

SPEAKER STOLBERG:

Rep. Thompson of the 13th in the affirmative.

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SPEAKER STOLBERG:

Rep. Nickerson of the 149th.

The Clerk please announce the tally.

CLERK:

House Bill 7196 as amended by House "A".

Total number voting	148
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Necessary for passage	75
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Those voting yea	148
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Those voting nay	0
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Those absent and not voting	3
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SPEAKER STOLBERG:

The bill is passed.

Are there announcements or points of personal privilege at this time? Rep. Elizabeth Brown.

REP. BROWN: (74th)

Yes, Mr. Speaker. A point of personal privilege, please.

SPEAKER STOLBERG:

Please proceed.

REP. BROWN: (74th)

Thank you, Mr. Speaker. My great privilege this afternoon to welcome to the House of Representatives the members of the CCAG organization. They have

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SENATE

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VOL. 30
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WEDNESDAY
APRIL 29, 1987

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LFU 1561

THE CHAIR:

Without objection, so ordered.

SENATOR O'LEARY:

Calendar 356 is marked go; Calendar 357 is passed retaining; Calendar 358 is marked go. On page nine, I would move Calendar 359, Substitute Bill 6260 to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR O'LEARY:

Calendar 360, Substitute for House Bill 6059 be moved to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR O'LEARY:

Calendar 361, House Bill 6074, I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR O'LEARY:

Calendar 362, Substitute for House Bill 7196, I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

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to the chamber immediately.

THE CHAIR:

The question before the chamber is a motion to adopt all those items that have been referred to the Consent Calendar and please give your attention to the Clerk who will now read those that have been referred to the Consent Calendar.

THE CLERK:

Beginning on page three, Calendar 270, Senate Bill correction, Senate Bill 1154. Calendar, Page five, Calendar 329, Substitute for House Bill 7325; Calendar 330, Substitute for Senate Bill 216; Calendar Page eight, Calendar 355, Senate Bill 485; Calendar Page nine, Calendar 359, Substitute for House Bill 6260; Calendar 360, Substitute for House Bill 6059; Calendar 361, House Bill 6074; Calendar 362, Substitute for House Bill 7196; Calendar 363, House Bill 7384.

Calendar Page ten, Calendar 365, House Bill 7321, Calendar 366, Substitute for House Bill 7388; Calendar 367, Substitute for House Bill 5345; Calendar 386, House Bill 5623; Calendar--

THE CHAIR:

That's Calendar 368, Mr. Clerk.

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THE CLERK:

Correction, Calendar 368, House Bill 5623. Calendar 369, House Bill 7328; Calendar 370, House Bill 6734; Calendar Page eleven, Calendar 372, Substitute for House Bill 5810; Calendar 374, House Bill 7359; Calendar Page thirteen, Calendar 389, House Bill 5600. Calendar Page fourteen, Calendar 390, House Bill 7194; Calendar 393, Substitute for House Bill 7468; Calendar 394, Substitute for House Bill 6527.

Calendar Page fifteen, Calendar 396, House Bill 7368; Calendar 399, House Bill 5285; Calendar 400, Substitute for House Bill 6587.

Calendar Page sixteen, Calendar 401, Substitute for House Bill 7366; Calendar 402, Substitute for House Bill 5109.

Calendar Page twenty-one, Calendar 312, House Bill 5442; Calendar Page twenty-two, Calendar 376, Substitute for House Joint Resolution 29; Calendar 377, House Joint Resolution 48.

Calendar Page twenty-three, Calendar 278, House Joint Resolution 51.

THE CHAIR:

Any corrections or omissions? The machine is open.

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LFU 1575

Please record your vote. Senator Larson, Senator Avallone, Senator Mustone, Senator Gunther. Has everyone voted? The machine is closed. Clerk please tally the vote.

The result of the vote:

34 YEA

0 NAY

The Consent Calendar is adopted. Senator Morano.

SENATOR MORANO:

Mr. Speaker, will the record please indicate that Senator Gunther is sick at home.

THE CHAIR:

The record will so note. Senator Larson.

SENATOR LARSON:

Mr. President, I apologize. I was out of the room when the vote was taken. I wish to be recorded in the affirmative.

THE CHAIR:

The record will so note. Are we ready to proceed with the Calendar?

THE CLERK:

Senate Calendar for Wednesday, April 29, 1987,
Calendar Page 1, Executive and Legislative Nominations,

JOINT
STANDING
COMMITTEE
HEARINGS

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1348-1660

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PRINTING OFFICE
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DR. HITCHCOCK: (continued)

The next is House Bill 7196, the regulation of the compound PCB. At present, our PCB people are totally funded by the federal government, so in this bill, what DEP is proposing is that we have the authority to write regulations governing PCB's. At the moment, we are very limited to specific items under section 22a-465 to 467 of the Connecticut General Statutes, and this is very limited authority over PCB's.

What has happened is that our inspectors, and they are state inspectors paid with federal money, they go out under federal authorization, use federal authority to go out and then refer these cases up to EPA Region I in Boston. In the last four years, EPA has assessed more than a million dollars in penalties against violators in Connecticut of the PCB laws. That million dollars then goes to the federal government. If we had the authority to do the same things ourselves, this money could come into the General Fund rather than go to the federal coffers.

REP. TIFFANY: Steve, is this a change from present regulation where it says in the beginning: "The Commissioner may adopt regulations for means appropriate..." How about under chapter 54?

DR. HITCHCOCK: Yes, I think that would be all right.

REP. TIFFANY: Well, it is quite a...

DR. HITCHCOCK: Right.

REP. TIFFANY: It is quite a departure.

DR. HITCHCOCK: Right. A different procedure, that is all.

REP. MUSHINSKY: While we are still on this bill, I have a question, too.

MR. LATTAZORI: (continued)

a problem with that. We enjoy the benefits of that reservoir also. People that come to our town come there because they love the river, the woods, the hills and they love the environmental atmosphere. There are further plans now to put in a tunnel that would divert the West Branch of this River over to the reservoir for added capacity. That's a major concern for us. We want to know that that's going to be carefully monitored, which is why we supported the water diversion act in the first place and we think 963 strengthens and clarifies that.

Major impact. Thank you very much.

REP. MUSHINSKY: John King followed by Sue Giordano.

MR. KING: Representative Mushinsky, Members of the Environment Committee, my name is John King. I am an attorney with Updike, Kelly and (inaudible) in Hartford and today I am appearing on behalf of Northeast Utilities as a registered lobbyist with regard to Raised Committee Bill 7196 an act concerning regulation of the compound PCB. What the bill proposes to do is to authorize the Commissioner of DEP to adopt regulations concerning the storage, marking, record keeping, use of transportation by any mode of any detectable levels of PCB. The bill also authorizes our DEP to promulgate by its regulations the standards adopted by the EPA. The purpose of the bill as we understand and has been testified to by DEP is to clarify the authority of the DEP with regard to the regulation of PCB. We have no qualms at all with DEP assuming this regulatory authority and particularly collecting the fines which have been levied not against Northeast Utilities but against others for the enforcement of Federal Regulations

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MR. KING: (continued)

And indeed NU has worked with DEP in involving transportation and incineration of PCB's. I'd like to point out to the Committee that under current federal regulations as promulgated by the EPA under TOSCA which is the Toxic Substances Control Act, the EPA already extensively regulates PCB's. And there is substantial authority both by statute and by case authority to the effect that in certain authorities EPA has preempted the field so that there is not any place for state regulation.

Our concern with the bill is that whatever is passed ultimately by the General Assembly be consistent with the federal regulation and the EPS's enforcement of TOSCA so you don't have two separate modes of regulation of PCB's. One particular concern we have on the bill that as least as drafted, there is no such limitation on DEP's regulatory authority. And also one of the lines of the bill talks about detectable levels of PCB. The federal regulatory scheme as adopted by EPA sets the regulatory level at 50 parts per million for PCB's and to this extent the bill somewhat contradicts the federal standards. I will be supplying written comments and perhaps some suggested language changes to the Committee.

The bottom line is that we do support DEP regulatory authority in the area so long as it is consistent with federal authority.

REP. MUSHINSKY: Does federal law allow us to be stricter than the feds?

MR. KING: That is not a question which is easily answered, because there is a lot of (inaudible) law as to whether or not the feds have intended to preempt any state regulation. And in certain types of regulation for instance in the areas of incineration, arguably the DEP cannot be more strict than the federal government. There was this case a few years ago as you may recall involving the city of Middletown's

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MR. KING: (continued)

attempt to regulate the incineration of PCB's by NU. In that instance the judge, Judge Higgins ultimately upheld by the appellate courts, ruled that that feds had preempted the field. So I guess in some instances the answer may be yes, i.e. in regard to particular types of incineration. Here where you're dealing with transportation, storage, marketing and record keeping, that's not quite as clear as to what the state and federal authority would be. I think it would be a regulation by regulation analysis rather than a blanket statement.

REP. MUSHINSKY: So you'd prefer that we not be stricter than the feds, but it's necessarily prohibited that we be stricter?

MR. KING: Um, we would prefer that you not be stricter by the feds and at least establish a regulatory threshold of 50 parts per million, because when you get down to any detectable level of PCB where there has not been determined to be a health concern and yet requiring a utility such as Northeast Utilities than may handle PCB contaminated transformer fluid at any detectable level than that could present a severe problem to the utilities. I think that we would certainly prefer that the threshold regulatory level be the same as the federal government.

REP. MUSHINSKY: Thank you, any other questions? Thanks John, Sue Giordano, followed by Culver Modisette.

MS. GIORDANO: Good morning, my name is Sue Giordano and I'm here today representing the environmentally regulated Connecticut industries. Since John King has already spoken on the PCB bill, I would also like to offer my comments. I would concur with his statements. I'm not an attorney, but I also have another concern to whether if the DEP gave us authority to write regulations, can industry in Connecticut then be subject to two different fines, one by the EPA and one by the DEP? And if that would happen, I'd like to see some provision in the

MS. GIORDANO: (continued)

bill to allow that that would not occur. The other bill that I'd like to talk about today, Bill No. 7384 an Act Concerning Permits for Hazardous Waste. The existing language change from who manages such substances during the course of the business to whose principal business is the management of such waste. We believe that the language change would allow companies who are ill equipped technically and financially to manage waste to do so without expert knowledge and without the restrictions for handling such materials.

If the intent of the bill is to clarify that industrial and manufacturing facilities should not be required to obtain a 22A 454 permit to manage waste oils and other substances, than I would suggest that the language be changed to require that only those who manage waste generated by others on site be required a permit. We feel there are some businesses who may want to start picking up waste oils from gas stations and other facilities who may do this as a principal place of business would not be required to meet the stringent requirements which are needed for managing such material. So we don't want to create another gap in the already adequate law in this area.

If the purpose was to allow municipalities to start collection points then I think an exemption should be allowed for that purpose, if it was a controlled site. I'm not sure what the purpose of this bill was, two scenarios that I could predict.

The last bill that I'd like to comment on is Proposed Bill No. 7275. The reason why I have a problem with this bill is that it requires that a person who receives a notice regarding a potential or alleged violation be required before having the opportunity to be heard to pay a penalty that the Department of Environmental Protection assesses to that individual person or municipality. I think, not being an attorney, but I think there could be a due process question. I certainly wouldn't want

MS. WARNER: (continued)

the implementation of those strategies. 2) HVA urges that the technical assistance program not be limited to towns with high or moderate yield stratified drip deposits, otherwise called aquifers. Many towns in Connecticut rely entirely on fractured bedrock for household water supplies. These towns don't have a place that they can identify as an aquifer and then protect. They need to look at townwide policies for protecting bedrock fracture system groundwater supplies, and they need help in developing these townwide policies like hazardous waste storage ordinances and best management practices at existing facilities like dry cleaners and gas stations. HVA wholeheartedly supports additional staff personnel within the DEP water compliance unit. We support a small grants program to towns to help offset mapping and research costs associated with groundwater protection, and we also support an acquisition fund to allow the DEP to purchase or otherwise secure both land identified now as critical to significant groundwater supplies.

If we don't take immediate steps at the local level there's no doubt that groundwater contamination will occur where we currently have the ability to prevent it. I'd also like to speak briefly to Bill 7196. HVA has quite a bit of experience in PCB contamination has the Housatonic River has been polluted for many years. We wholeheartedly support a clarification of DEP's regulation regulatory authority over the PCB compound and uh I'd like to thank you very much for this opportunity to speak to you today and answer any questions if you have any.

REP. MUSHINSKY: I just want to let you know Lynn, that don't be upset if your recommendations on extending groundwater protection don't go anywhere this year. We took a look at our workload and decided amongst screening that we couldn't do the major groundwater bill this year, we just don't have the time before April 10, so it will just be a small piece this year the major bill will be done next year. So we are

REP. MUSHINSKY: (continued)

listening to you but you're not going to see those major additions this year. We just don't have the time to put it all together.

MS. WERNER: Okay, that's fair.

REP. MUSHINSKY: But come back and help us next year write the big bill.

REP. TIFFANY: You very briefly mentioned about the PCB's in the Housatonic Valley. In your opinion are the federal regulations sufficient. I guess I'm asking would you be amenable to having the state regulations mirror the federal regulations?

MS. WERNER: We would be amenable to that, we would also support stricter guidelines. Right now currently the regs at the federal level provide for very slow moving remedial action and something stricter in the state of Connecticut would be greatly appreciated.

REP. TIFFANY: There is a difference between a time frame and actual regulations. The existing regulations you are fairly comfortable with on the federal level?

MS. WERNER: There is a 50 ppm ceiling, that's what the question really comes down to.

REP. MUSHINSKY : I think we would be in favor of a stronger Connecticut regulaton. Do you want to regulate below 50 parts per million or not, that's what ...

MS. WERNER: The Housatonic River in Connecticut has PCB parts below 50 parts per million, somewhere in the range of 4-5. We would like to regulate that but in terms of remedial action, I am not at liberty right now to say whether we would support remedial action at levels below 50 parts per million. Does that make it clear?

REP. TIFFANY: No, but anyway.

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the major part of the program instrumented by the environment agency of the State which in addition to its regulatory functions participates in the technical assistance in the educational program. And I think in our recommendations which we developed in some detail for a task force who has waste management service and that a minimum funding at a level of about \$180,000 a year was going to be a minimum to avoid considerable disappointment and I think that even with avoidance to initial onsite technical assistance of any kind and with a very modest any kind of financial assistance this is going to be a minimum to avoid disappointment. And it could certainly be conducted effective calibration of several state entities. (inaudible)

REP. MUSHINSKY: Thank you. Thanks for the hours you put in on this. Rich Miller. Are there any questions for Mr. Brooks? Thank you. Last two speakers are Rich Miller to be followed by Peter Molinario.

PETER MOLINARIO: Thank you. Senator Meotti, Representative Mushinsky, members of the committee my name is Peter Molinario. I am Senior State Manager of Public Affairs for Union Carbide Corporation head-quartered in Danbury. I had not really planned to testify but did want to say a few words about the Raised Committee Bill 7196 An Act Concerning Regulation of PCBs. As you know and heard earlier in testimony statutes bans the manufacture of PCBs and EPA regulations require removal of electrical transformers containing them in public buildings by October 1, 1990.

Even moderately contaminated transformers will often have over 5000 parts per million of PCBs. Union Carbide through its subsidiary unison has developed preparatory technology for re-classifying PCB latent transformers to non-PCB status recognized in EPA regulations as less than 50 parts per million which is about 5 one-thousandths

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of one percent. Owners alternatives currently for dealing with PCB latent transformers are to either drain the fluid the PCB fluid out and land fill the carcass. It still would contain in its windings and installation between 20 and 100 pounds of PCB material so there still a contingent risk and liability to that owner of the transformer down the line. Or in EPA approved process to basically reclassify that transformer through the draining and migration of the PCB material out of the windings and removing it and then refilling the transformer with a non-PCB fluid. Are service permits reclassification are continued use of the transformer at a cost savings of between twenty-five and seventy-five percent over replacement not to mention the greatly reduced future liability since the land fill carcass would, the land filling of the carcass would be avoid.

So we support 7196 with one exception and that is the reference to the detectible levels as mentioned earlier by the representative of Northeast Utilities. Thats troubling because if subsequent DEP regulations were to go the low 50ppm in transformer related actions it could inadvertently cause disincentive to our transformer owner to use are technology because they might want to just be rid of the "regulatory problem" at least the near term regulatory problem and might consider replacing their transformer as a pose to rector filling it which would than mean land filling which I don't think something anybody really wants to encourage.

So we support some language that might recognize the 50ppm theshold in the case of transformers and would gladly work with DEP and others on the committee to come up with some approoriate language. It seems the public policy is heading more in the direction toward the limination of land filling and creating incentives for new technologies unisons service represents some technologies thatsatisfies both of those objectives and we hope that it can

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be encourage and not inadvertently discourage.
Thank you.

REP. MUSHINSKY: Thank you. Any questions?

PETER MOLINARIO: I don't have I'm sorry.

SEN. MEOTTI: Peter, you don't see the bill itself discouraging technology its a question on how the DEP might (inaudible) regulations.

PETER MOLINARIO: Yes for an example if a person has a transformer reclassified and we've said that 50 parts per million you know your regulatory problems are somewhat are pretty much solved, you have the leak and its regulated as a waste that might be 5 parts per million well then maybe I should get rid of the transformer all together in a land fill. I have some but I didn't bring copies for everybody but I can drop off some other information on the service.

REP. MUSHINSKY: Thank you.

PETER MOLINARIO: Thank you.

SEN. MEOTTI: Is there anyone in the audience who has not signed up that wishes to testify. Okay. The hearing is now closed. Committee members take a half hour break and then come back here to the table for voting.