

Act Number:	09-122	
Bill Number:	6501	
Senate Pages:	4248, 4266-4268	4
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Committee:	None	0

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Thank you, Mr. President. Also, calendar page 24, Calendar 243, House Bill 6501, would move to place that item on the consent calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Mr. President. A couple of other items to mark pass temporarily. Moving to calendar page 25, Calendar 275, Senate Bill 891, should be passed temporarily, and calendar page 27, Calendar 293, Senate Bill 1019, also pass temporarily.

THE CHAIR:

Without objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Mr. President. And also, Mr. President, calendar page 28, Calendar 337, Senate Bill 1033, should be passed temporarily.

THE CHAIR:

Without objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Mr. President. And if the Clerk would call as the next go item, calendar page 29, Calendar 357, Senate Bill 995.

THE CHAIR:

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THE CHAIR:

Senator Meyer requests that this item be put on consent. Seeing no objection, so ordered. Mr. Clerk?

THE CLERK:

Mr. President, that completes those items previously marked go.

THE CHAIR:

Senator Looney?

SENATOR LOONEY:

Thank you, Mr. President. If the Clerk might now call the first consent calendar?

THE CHAIR:

Mr. Clerk, please call the first consent calendar, and the machine will be open. Excuse me. Please call the consent calendar.

THE CLERK:

Immediate roll call has been ordered in the Senate on the consent calendar. Will all Senators please return to the chamber? Immediate roll call has been ordered in the Senate on the consent calendar. Will all Senators please return to the chamber?

Mr. President, those items placed on the first consent calendar begin on calendar page 6, Calendar 486, substitute for Senate Bill 650. Calendar page

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17, Calendar Number 660, substitute for House Bill 5262.

Calendar 664, House Bill 5894, calendar page 23.
Calendar Number 202, Senate Bill 74. Calendar page
24, Calendar 220, substitute for Senate Bill 866.

Calendar 227, substitute for Senate Bill 920.
Calendar 238, House Bill 5222. Calendar 243, House
Bill 6501. Calendar page 29, Calendar Number 357,
substitute for Senate Bill 995.

Calendar page 33, Calendar 471, Senate Bill 1128.
Calendar 481, substitute for Senate Bill 533.
Calendar 499, Senate Bill 1099, and calendar page 37,
Calendar 321, Senate Bill 271.

Mr. President, that completes those items placed
on the first consent calendar.

THE CHAIR:

Please call the consent calendar. The machine
will be open.

THE CLERK:

The Senate is now voting by roll call on the
consent calendar. Will all Senators please return to
the chamber? The Senate is now voting by roll call on
the consent calendar. Will all Senators please return
to the chamber?

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THE CHAIR:

Have all Senators voted? If all Senators have voted, please check your vote. The machine will be locked. The Clerk will call the tally.

THE CLERK:

Motion is adoption of Consent Calendar Number 1.

Total number voting 35

Those voting yea 35

Those voting nay 0

Those absent and not voting 1

THE CHAIR:

Consent Calendar Number 1 passes. Senator
Looney?

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, I would move for suspension for immediate transmittal to the House of Representatives of all items acted upon today requiring action in that chamber.

THE CHAIR:

There's a motion on the floor for suspension of the rules for immediate transmittal. Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, I would

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REP. ALDARONDO (75th):

Mr. Speaker, I voted wrong. I would like to vote green.

SPEAKER DONOVAN:

Thank you, Representative. Representative Aldarondo in the affirmative. Will the Clerk please announce the tally?

THE CLERK:

House Bill 6401, as amended by House A.

Total Number Voting 141

Necessary for Passage 71

Those voting Yea 140

Those voting Nay 0

Those absent and not voting 10

SPEAKER DONOVAN:

The bill as amended is passed. Will the Clerk please call Calendar Number 140.

THE CLERK:

On page 11, Calendar 140, House Bill Number 6501,
AN ACT ELIMINATING SURETY BOND REQUIREMENTS FOR
RESIDENTIAL UNDERGROUND HEATING OIL TANK REMOVAL OR
REPLACEMENT CONTRACTORS, favorable report of the
Committee on General Law.

SPEAKER DONOVAN:

Representative Shapiro.

REP. SHAPIRO (144th):

Thank you, Mr. Speaker. I move acceptance of the Joint Committee's favorable report and passage of the bill.

SPEAKER DONOVAN:

Question is acceptance of the Joint Committee's favorable report and passage of the bill. Will you remark?

REP. SHAPIRO (144th):

Thank you, Mr. Speaker. Mr. Speaker, current law requires the people who remove underground heating oil tanks to do a variety of things. They must register with the DCP and meet requirements of hazardous materials training. They must have a surety bond of \$250,000, and they must also have insurance in the amount of a million dollars to cover liabilities.

In addition, companies who remove these tanks are required by the DEP to have either a \$250,000 surety bond, assets of \$250,000 or liability insurance in that same amount. But currently, the law does not meet with the practice in this industry, in the state. People are unable to obtain the surety bond. No one offers it. And so basically, our entire industry is

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subject to this law that they cannot comply with. Good, reputable businesses are experiencing trouble because they can't comply. And since no one in the industry actually has this insurance, it provides us absolutely zero protection. I'm the first person to want to have us protected against any particular spills or environmental hazards related to this work, but the current system was not working.

So this bill removes the \$250,000 surety bond requirement to allow our businesses to function legally and honorably. And in addition, it harmonizes the two insurance requirements, one from the DCP and one from the DEP, to raise the DEP level to a million dollars consistent with the DCP. Therefore, we feel that we'll be protected by this insurance requirement, and the bond is not necessary. We ran this by DEP and they were okay with it. DCP was okay with it. The Attorney General, who initially prosecuted someone for failure to have this, thoroughly investigated the matter and found out, you know, that this really wasn't warranted. And I think we all know the Attorney General enjoys a good prosecution, and he doesn't desire to prosecute these folks.

So I believe that with the support of all these

agencies and the common sense that we need to apply to our business community, this bill should pass, and I urge passage from my colleagues. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative. Will you remark further? Remark further? Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you, Mr. Speaker. Mr. Speaker, through you, just a couple questions for clarification to the Chairman of General Law.

SPEAKER DONOVAN:

Please proceed.

REP. BACCHIOCHI (52nd):

Thank you. Could you just outline the two different requirements from DEP versus DCP for licensure or approval? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Shapiro.

REP. SHAPIRO (144th):

Yes, and through you, Mr. Speaker. For the Department of Consumer Protection, they require a million dollars in liability insurance, a \$250,000 surety bond, and hazardous materials training. For

the Department of Environmental Protection, they also require the hazardous materials training along with some other requirements and an either/or on \$250,000 in a surety bond, \$250,000 in liability insurance or \$250,000 in net assets. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you, Mr. Speaker. Through you, yes, I understand those are the current requirements, but I was referring to when we passed this bill, will the DEP and the DCP require the same items from the contractors? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Shapiro.

REP. SHAPIRO (144th):

Thank you, Mr. Speaker. Sorry if I misunderstand your question. We will have made consistent and harmonized the liability insurance requirements, so they will be the same at a million dollars. Neither will have the surety bond requirement, so that will be out, but the DCP, the Department of Environmental Protection will have and/or with the -- a million dollar liability or a million dollars in assets.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you. Will the million dollars in assets, which if I understand correctly, is only required by DEP, how does the applicant prove that? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Shapiro.

REP. SHAPIRO (144th):

Thank you, Mr. Speaker. It is required under the DEP statutes, but these agent -- these organizations are licensed under the home contractor status statutes for DCP. So they still will have to provide certain information to DCP at the time of registration, and that information will be communicated. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you, Mr. Speaker. Respectfully, to my Chairman, I still don't understand. How does one contractor show that they have a million dollars in

liquid assets? I'm sure it's probably a common practice, but I'm just not familiar with how they prove that. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Shapiro.

REP. SHAPIRO (144th):

Through you, Mr. Speaker, upon the request of the relevant agency and prior to taking action on removal of the tank, they would send whatever financial documents that the agency required for proof of assets. It is my guess, although I don't know this, that typically they choose the insurance method without divulging all of their financial information, because it's easier to show an insurance certificate than root through your financials. And my guess is that that is a little used provision. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Yes. Through you, Mr. Speaker, that does bring me to one concern that I have with the bill. You may be able to prove that you have liquid assets in the fiscal year 2008 exceeding \$1 million, but clearly,

that could change by 2009. How frequently would the contractor need to either show proof of insurance liability or proof of liquid assets? How frequently would that process take place?

SPEAKER DONOVAN:

Representative Shapiro.

REP. SHAPIRO (144th):

Thank you, and through you, Mr. Speaker, under current law there is no requirement for a recurring check of the insurance requirements or the bond requirements, for that matter, or the assets. This law doesn't change that. However, the DCP is empowered to ask for it at any time they want. It is not their current practice, but given the nature of what we're doing here, I think it would be a valuable conversation with DCP to ask them to make the request on an annual basis or some regular interval basis to do this. And they are empowered to ask that question. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you, Mr. Speaker. I do completely concur with the chairman of General Law, that this is

something that is very important environmentally. And if we are going to try to regulate this a little more closely down the road, we might want to look at how frequently we ask the contractors to show their, either their proof of liquid assets or their proof of liability. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative. Remark further on the bill? Would you remark further on the bill? If not, staff and guests please come to the well of the House. Members take their seats. The machine will be open.

THE CLERK:

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

SPEAKER DONOVAN:

Have all the members voted? Have all the members voted? Members, please check the board to make sure your vote has been properly cast. If all members have voted, the machine will be locked. The Clerk will please take a tally. The Clerk will please announce the tally.

THE CLERK:

House Bill Number 6501.

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Total Number Voting	142
Necessary for Passage	72
Those voting Yea	141
Those voting Nay	0
Those absent and not voting	9

SPEAKER DONOVAN:

Bill is passed. Are there any announcements or introductions? Representative Serra.

REP. SERRA (33rd):

Thank you, Mr. Speaker. Mr. Speaker, on behalf of the Italian-American Legislative Caucus Educational Fund, I'd like to invite everybody to our annual St. Joseph's day, today. And the event will begin at 4:30, in Room 1A with a brief ceremony to confer the 2009 education award and recognize the honorees for their community contribution.

After that, a reception to celebrate the feast of St. Joseph with traditional dishes and drinks will be held at 5 p.m. at the LOB atrium. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative Serra. You look nice with your red tie there. The Clerk please call Calendar Number 119.