§ 15-1705. Licenses; approval by the Governor.

1. The department, subject to the provisions of title 17 of this article, may upon application issue to any person or public corporation heretofore or hereafter authorized to develop, use, furnish or sell power in this state or to a municipality of the state having such authority, a license authorizing the diversion and use for power or other purposes of any of the waters of the state in which the state has a proprietary right or interest, or the bed of which, or the real property required for use of such waters or the right to develop water power, is vested in the state; or of boundary waters of the state where the state has jurisdiction over the diversion or interference with the flow of the same solely or concurrently with any other jurisdiction or owner of a proprietary right; or to any such applicant when the owner of any water power site or sites which it uses or proposes to use for the production, sale and distribution of heat, light or power to the public; and subject to the property right of others including riparian rights, authorizing the construction, maintenance and operation in, across or along any of such lands and waters of such dams, reservoirs, diverting canals or races, water conduits, power houses, transmission lines and other project works as are deemed necessary or convenient for the development, transmission and utilization of the developable power and authorizing in connection therewith the use of dams or other structures or contiguous or adjacent lands belonging to the state. When any water power site or property necessary to the full development of such a site is owned by the state, or water, the use of which is dependent upon the consent of the state, is not, in the opinion of the department suitable or necessary for the development of power for public use, a license may be issued to a person or public corporation for private use under like conditions and with the same restrictions.

2. Whenever the use of water or the erection of structures under a license may affect the navigable waters over which the United States shall have lawfully assumed jurisdiction for purposes of navigation, such license shall not be issued until the plans for such use and structures have been submitted to and approved by the federal authorities as required by law and any licenses shall be at all times

subject to the lawful exercise of such jurisdiction over the waters affected by the license for the purposes of navigation.

3. Whenever canal lands, structures or surplus canal or canal feeder waters are covered by the license, the license shall not issue unless the Commissioner of Transportation certifies to the department in writing that the same are not necessary for the navigation or operation of the canals and shall not become effective until endorsed with his approval. Any licensee in the use of such license, structures or water shall be at all times subject to such reasonable rules and regulations as the Commissioner of Transportation shall from time to time prescribe so that the use thereof by the licensee shall not impair the efficiency of the canals and such use shall at all times be subordinate to the needs of the canals.

4. Notwithstanding any provision of title 17 of this article, no license issued by the department pursuant to the provisions of title 17 of this article shall be effective unless and until it is approved in writing by the Governor and such approval is signed by him and affixed thereto; and notwithstanding any provision of title 17 of this article a modification of such license shall not be effective until approved by the Governor in like manner.