

MAINE STATE LEGISLATURE

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L.D. 1472

(Filing No. H-352)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
113TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1081, L.D. 1472, Bill, "AN ACT to Amend Maine's Radiation Protection Law."

Amend the Bill by striking out everything after the enacting clause and inserting in its place the following:

'Sec. 1. 22 MRSA §673, sub-§4, as enacted by PL 1983, c. 345, §§13 and 14, is amended to read:

4. Decommissioning. "Decommissioning" means the series of activities undertaken beginning at the time of closing of a nuclear power plant or other facility licensed by the United States Nuclear Regulatory Commission or the department to ensure that the final disposition of the site or any radioactive components or material, but not including spent fuel, associated with the plant is accomplished safely in compliance with all applicable state and federal laws. Decommissioning includes activities undertaken to prepare a nuclear power plant or other facility for final disposition, to monitor and maintain it after closing and to effect final disposition of any radioactive components of the nuclear power plant or facility.

Sec. 2. 22 MRSA §673, sub-§8, as enacted by PL 1983, c. 345, §§13 and 14, is repealed and the following enacted in its place:

8. Low-level radioactive waste. "Low-level radioactive waste" means radioactive material that:

A. Is not high-level radioactive waste, spent nuclear fuel, transuranic waste or by-product material as defined in the United States Code, Title 42, Section 2014(e)(2), the Atomic Energy Act

COMMITTEE AMENDMENT "A" to H.P. 1081, L.D. 1472

1 of 1954, Section 11e(2); and

2 B. The United States Nuclear Regulatory Commis-
3 sion, consistent with existing law and in accord-
4 ance with paragraph A, classifies as low-level
5 radioactive waste.

6 Sec. 3. 22 MRSA §673, sub-§8-A is enacted to
7 read:

8 8-A. Person. "Person" means any individual,
9 corporation, partnership, firm, association, trust,
10 estate, public or private institution, group, agency
11 of this State, political subdivision of this State,
12 any other state or political subdivision or agency of
13 a state or political subdivision and any legal suc-
14 cessor, representative, agent or agency of the state
15 or political subdivision or agency, but not including
16 Federal Government agencies.

17 Sec. 4. 22 MRSA §674, sub-§4, as enacted by PL
18 1983, c. 345, §§13 and 14, is amended to read:

19 4. Authority. The department shall, for the
20 protection of the public health and safety:

21 A. Develop Shall develop programs for the evalu-
22 ation and control of hazards associated with use
23 of sources of radiation;

24 B. Develop Shall develop programs with due re-
25 gard for compatibility with federal programs for
26 regulation of by-product, source and special nu-
27 clear materials;

28 C. Develop Shall develop programs with due re-
29 gard for consistency with federal programs for
30 regulation of radiation generating equipment;

31 D. Formulate Shall formulate, adopt, promulgate
32 and repeal codes and rules, which may provide for
33 licensing or registration, relating to control of

COMMITTEE AMENDMENT "A" to H.P. 1081, L.D. 1472

- 1 sources of radiation with due regard for compati-
2 bility with the regulatory programs of the Feder-
3 al Government;.
- 4 Promulgate such rules in addition to the rule
5 specified in this paragraph as are appropriate to
6 carry out the purposes of this Act, including,
7 but not limited to, rules concerning acquisition,
8 ownership, possession and use of radioactive ma-
9 terials or devices or equipment utilizing radio-
10 active material;.
- 11 E. Issue Shall issue such orders or modifica-
12 tions thereof as may be necessary in connection
13 with proceedings under section 677;
- 14 F. Advise Shall advise, consult and cooperate
15 with other agencies of the State, Federal Govern-
16 ment, other states and interstate agencies, po-
17 litical subdivisions and other organizations con-
18 cerned with control of sources of radiation;
- 19 G. May accept and administer loans, grants or
20 other funds or gifts, conditional or otherwise,
21 in furtherance of its functions, from the Federal
22 Government and from other sources, public or pri-
23 vate;
- 24 H. Encourage Shall encourage, participate in, or
25 conduct studies, investigations, training, re-
26 search and demonstrations relating to control of
27 sources of radiation; and
- 28 I. Collect Shall collect and disseminate infor-
29 mation relating to control of sources of radia-
30 tion, including:
- 31 (1) Maintenance of a file of all license
32 applications, issuances, denials, amend-
33 ments, transfers, renewals, modifications,
34 suspensions and revocations;

COMMITTEE AMENDMENT "A" to H.P. 1081, L.D. 1472

1 (2) Maintenance of a file of registrants
2 possessing sources of radiation requiring
3 registration under this Act and any adminis-
4 trative or judicial action pertaining there-
5 to; and

6 (3) Maintenance of a file of all of the de-
7 partment's rules relating to regulation of
8 sources of radiation, pending or promul-
9 gated, and proceedings thereon;

10 J. May investigate and sample sites where radio-
11 active substances or devices are stored or han-
12 dled to identify uncontrolled radioactive sub-
13 stance sites; and

14 K. May take whatever action is deemed necessary
15 to abate, clean up or mitigate the threats or
16 hazards posed or potentially posed by radioactive
17 material or radiation-generating equipment to
18 protect the public health, safety or welfare or
19 the environment, including administering or car-
20 rying out measures to abate, clean up or mitigate
21 the threats or hazards and implementing remedies
22 to remove, store, treat, dispose of or otherwise
23 handle radioactive material, including soil and
24 water contaminated by the material.

25 **Sec. 5. 22 MRSA §677, sub-§1, as enacted by PL**
26 **1983, c. 345, §§13 and 14, is amended to read:**

27 1. Radioactive material, devices or equipment.
28 The department shall provide by rule for licensing of
29 radioactive material or devices or equipment, ~~includ-~~
30 ~~ing nuclear power plants,~~ utilizing those materials
31 except where prohibited by federal law. That rule
32 shall provide for amendment, suspension or revocation
33 of licenses.

34 **Sec. 6. 22 MRSA §681, as enacted by PL 1983, c.**
35 **345, §§13 and 14, is repealed and the following en-**
36 **acted in its place:**

COMMITTEE AMENDMENT "A" to H.P. 1081, L.D. 1472

1 §681. Surety requirements

2 Licensees shall pay to the department for deposit
3 by the Treasurer of State, into a fund called the Ra-
4 diation Materials Recovery Fund, adequate funds to
5 permit the department to complete the requirements
6 established by the department for the
7 decontamination, decommissioning, closure and recla-
8 mation of sites, structures and equipment used in
9 conjunction with the licensed activity. In lieu of
10 the deposit of funds, the licensee may provide an ad-
11 equate surety. The condition of the surety shall be
12 to account for the completion of the requirements ac-
13 cording to standards established by the department by
14 rule. All sureties forfeited shall be paid to the de-
15 partment for deposit by the Treasurer of State to the
16 aforementioned fund. Money in the fund shall not be
17 used for normal operations of the department. The de-
18 partment shall adopt by rule the standards for deter-
19 mining the amount of financial responsibility re-
20 quired by each licensee and the procedures for the
21 payment of funds or provision of surety.

22 The funds or sureties required in this section
23 shall be in amounts necessary to comply with stan-
24 dards established by the United States Nuclear Regu-
25 latory Commission or the State.

26 The department may accept gifts or transfers from
27 another agency or individual of land or appurtenances
28 necessary to fulfill the purposes of this section.

29 Sec. 7. 22 MRSA §682, sub-§2, as enacted by PL
30 1983, c. 345, §§13 and 14, is amended to read:

31 2. Equipment inspection. The department shall
32 promulgate rules requiring periodic inspection, cer-
33 tification and calibration of equipment, capable of
34 emitting ionizing radiation, by certified techni-
35 cians. ~~The rules shall not provide for inspection,~~
36 ~~certification and calibration more frequently than~~

1 annually-

2 **Sec. 8. 22 MRSA §686**, as enacted by PL 1983, c.
3 345, §§13 and 14, is amended to read:

4 §686. Conflicting laws

5 Ordinances, resolutions or regulations, now or
6 hereafter in effect, of the governing body of a mu-
7 nicipality or county or of state agencies other than
8 the Department of Human Services relating to by-
9 product, source and special nuclear materials, except
10 as provided in sections 678 and 679, shall not be su-
11 perseded by this Act, provided that the ordinances or
12 regulations are and continue to be consistent with
13 this Act, amendments thereto and rules thereunder.

14 **Sec. 9. 22 MRSA §690, sub-§2**, as enacted by PL
15 1983, c. 345, §§13 and 14, is repealed and the fol-
16 lowing enacted in its place:

17 2. Civil penalties. Civil penalties shall be as-
18 essed and enforced as follows.

19 A. Any person who violates any licensing or reg-
20 istration provision of this Act or any rule or
21 order issued under this Act, any term, condition
22 or limitation of any license or registration cer-
23 tificate issued under this Act, or any person who
24 commits any violation for which a license or reg-
25 istration certificate may be revoked, suspended
26 or modified under rules issued pursuant to this
27 Act is subject to a civil penalty, to be imposed
28 by the department, not to exceed \$10,000 for each
29 violation or \$100,000 for any willful and wanton
30 violation. If any violation is a continuing vio-
31 lation, each day of the violation shall consti-
32 tute a separate violation for the purpose of com-
33 puting the applicable civil penalty. The depart-
34 ment may compromise, mitigate or remit the penal-
35 ties.

COMMITTEE AMENDMENT "A" to H.P. 1081, L.D. 1472

1 B. When the department has reason to believe
2 that a person has become subject to the imposi-
3 tion of a civil penalty under the provisions of
4 this section, the department may notify the At-
5 torney General or hold a public hearing. If a
6 hearing is scheduled, the commissioner shall give
7 at least 30 days' written notice to the alleged
8 violator of the date, time and place of that
9 hearing. The notice shall specify the act done or
10 omitted to be done which is claimed to be in vio-
11 lation of law; identify the particular provisions
12 of the section, rule, order or license involved
13 in the violation; and advising of each penalty
14 which the department proposes to impose and its
15 amount. The notice shall be sent by registered or
16 certified mail by the department to the last
17 known address of the person.

18 Any hearing conducted under the authority of this
19 subsection shall be in accordance with the provi-
20 sions of the Maine Administrative Procedure Act,
21 Title 5, chapter 375.

22 At the hearing, the alleged violator may appear
23 in person or by attorney and answer the allega-
24 tions of violation and file a statement of the
25 facts, including the methods, practices and pro-
26 cedures, if any, adopted or used by him to comply
27 with this chapter and present such evidence as
28 may be pertinent and relevant to the alleged vio-
29 lation.

30 C. On the request of the department, the Attor-
31 ney General may institute a civil action to col-
32 lect a penalty imposed pursuant to this subsec-
33 tion. Only the Attorney General may compromise,
34 mitigate or remit such civil penalties as are re-
35 ferred to him for collection.

36 D. All money collected from civil penalties
37 shall be paid to the Treasurer of State for de-
38 posit in the General Fund. Money collected from

COMMITTEE AMENDMENT "A" to H.P. 1081, L.D. 1472

1 civil penalties shall not be used for normal op-
2 erating expenses of the department, except as ap-
3 propriations made from the General Fund in the
4 normal budgetary process.

5 FISCAL NOTE

6 If enacted, this amendment removes the appropria-
7 tion; however, it has the potential for future cost
8 to the Dedicated Revenue Account to be established by
9 the Department of Human Services. The cost to set up
10 the fund and monitor activities related to it would
11 be minimal and could be absorbed within existing re-
12 sources of the department.

13 STATEMENT OF FACT

14 The Atomic Energy Act of 1956 authorizes the in-
15 dividual states to enter into agreements with the
16 United States Nuclear Regulatory Commission for the
17 purpose of licensing and inspecting all holders of
18 radioactive material licenses. Maine law, the Maine
19 Revised Statutes, Title 33, chapter 160, passed in
20 1983, gives this authority to the Department of Human
21 Services.

22 The Department of Human Services has applied for
23 agreement state status, necessitating a revision to
24 state law to make it compatible with federal law.

25 This amendment allows the State to regulate its
26 radiation users and results in all radiation control
27 facilities being regulated by the same agency. Cer-
28 tain users of naturally occurring radioactive materi-
29 al such as radium, cobalt-57, iodine-126, phospho-
30 rus-32, etc., as well as x-ray machines are now regu-
31 lated by the Department of Human Services.

32 Certain sections of the original bill were
33 amended or deleted. The remaining sections, as

COMMITTEE AMENDMENT "A" to H.P. 1081, L.D. 1472

1 amended provide the following.

2 Section 1 defines decommissioning to include all
3 licensed facilities, not just nuclear power plants.
4 This change includes laboratories and industrial
5 plants under the decommissioning definition.

6 Section 2 amends the definition of low-level ra-
7 dioactive waste to include a cross reference to para-
8 graph A of that definition.

9 Section 3 adds a definition of "person."

10 Section 4 authorizes the Department of Human Ser-
11 vices to investigate radioactive threats which could
12 have an impact on the public.

13 Section 5 clarifies the authority of the State to
14 license radioactive materials.

15 Section 6 requires financial surety. A section
16 requiring financial surety was approved in the origi-
17 nal legislation in 1983; however, the wording was not
18 included. It was the intent to add the appropriate
19 language at a later date. This amendment includes fi-
20 nancial surety language. It places a guarantee of fi-
21 nancial responsibility on the licensee.

22 Section 7 conforms state law to what is currently
23 allowed by federal rules.

24 Section 8 adds a cross reference to the Depart-
25 ment of Environmental Protection's authority.

26 Section 9 increases the civil penalties.

27 This amendment also deletes the appropriation as
28 it is unnecessary.

29

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