

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1472

H.P. 1081 House of Representatives, May 8, 1987
Submitted by the Department of Human Services pursuant to
Joint Rule 24.

Reference to the Committee on Human Resources suggested
and ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative HOLLOWAY of Edgecomb.

Cosponsored by Senators SEWALL of Lincoln, TUTTLE of York
and Representative COLES of Harpswell.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT to Amend Maine's Radiation Protection
Law.

Be it enacted by the People of the State of Maine as
follows:

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 Com-
mission 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. Decom-

1 missioning includes activities undertaken to prepare
2 a nuclear power plant or other facility for final
3 disposition, to monitor and maintain it after closing
4 and to effect final disposition of any radioactive
5 components of the nuclear power plant or facility.

6 **Sec. 2. 22 MRSA §673, sub-§6, as enacted by PL**
7 **1983, c. 345, §§13 and 14, is repealed and the fol-**
8 **lowing enacted in its place:**

9 6. High-level radioactive waste. "High-level
10 radioactive waste" means:

11 A. Irradiated reactor fuel;

12 B. Liquid wastes resulting from the operation of
13 the first cycle solvent extraction system, or its
14 equivalent, and the concentrated waste from sub-
15 sequent extraction cycles, or their equivalent,
16 in a facility for reprocessing irradiated reactor
17 fuel; and

18 C. Solids into which these liquid wastes have
19 been converted.

20 **Sec. 3. 22 MRSA §673, sub-§8, as enacted by PL**
21 **1983, c. 345, §§13 and 14, is repealed and the fol-**
22 **lowing enacted in its place:**

23 7. Low-level radioactive waste. "Low-level ra-
24 dioactive waste" means radioactive material that:

25 A. Is not high-level radioactive waste, spent
26 nuclear fuel or by-product material as defined
27 in the United States Code, Title 42, Section
28 2014(e)(2), the Atomic Energy Act of 1954, Sec-
29 tion 11e(2); and

30 B. The United States Nuclear Regulatory Commis-
31 sion, consistent with existing law and in accord-
32 ance with paragraph A, classifies as low-level
33 radioactive waste.

34 **Sec. 4. 22 MRSA §673, sub-§8-A is enacted to**
35 **read:**

1 8. Person. "Person" means any individual, cor-
2 poration, partnership, firm, association, trust, es-
3 tate, public or private institution, group, agency of
4 this State, political subdivision of this State, any
5 other state or political subdivision or agency of a
6 state or political subdivision and any legal succes-
7 or, representative, agent or agency of the state or
8 political subdivision or agency, but not including
9 Federal Government agencies.

10 Sec. 5. 22 MRSA §673, sub-§18, as enacted by PL
11 1983, c. 345, §§13 and 14, is amended to read:

12 18. Spent nuclear fuel. "Spent nuclear fuel"
13 means fuel that has been withdrawn from a nuclear re-
14 actor following irradiation, the constituent elements
15 of which have not been separated by reprocessing
16 irradiated nuclear fuel that has undergone at least
17 one year's decay since being used as a source of en-
18 ergy in a power reactor. Spent nuclear fuel includes
19 the special nuclear material, by-product material,
20 source material and other radioactive material asso-
21 ciated with fuel assemblies.

22 Sec. 6. 22 MRSA §674, sub-§4, as enacted by PL
23 1983, c. 345, §§13 and 14, is amended to read:

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

26 A. Develop shall develop programs for the evalu-
27 ation and control of hazards associated with use
28 of sources of radiation;

29 B. Develop shall develop programs with due re-
30 gard for compatibility with federal programs for
31 regulation of by-product, source and special nu-
32 clear materials;

33 C. Develop shall develop programs with due re-
34 gard for consistency with federal programs for
35 regulation of radiation generating equipment;

36 D. Formulate shall formulate, adopt, promulgate
37 and repeal codes and rules, which may provide for
38 licensing or registration, relating to control of
39 sources of radiation with due regard for compati-

1 bility with the regulatory programs of the Feder-
2 al Government;

3 Promulgate such rules in addition to the rule
4 specified in this paragraph as are appropriate to
5 carry out the purposes of this Act, including,
6 but not limited to, rules concerning acquisition,
7 ownership, possession and use of radioactive ma-
8 terials or devices or equipment utilizing radio-
9 active material.

10 E. ~~Issue~~ Shall issue such orders or modifica-
11 tions thereof as may be necessary in connection
12 with proceedings under section 677;

13 F. ~~Advise~~ Shall advise, consult and cooperate
14 with other agencies of the State, Federal Govern-
15 ment, other states and interstate agencies, po-
16 litical subdivisions and other organizations con-
17 cerned with control of sources of radiation;

18 G. May accept and administer loans, grants or
19 other funds or gifts, conditional or otherwise,
20 in furtherance of its functions, from the Federal
21 Government and from other sources, public or pri-
22 vate;

23 H. ~~Encourage~~ Shall encourage, participate in, or
24 conduct studies, investigations, training, re-
25 search and demonstrations relating to control of
26 sources of radiation; and

27 I. ~~Collect~~ Shall collect and disseminate infor-
28 mation relating to control of sources of radia-
29 tion, including:

30 (1) Maintenance of a file of all license
31 applications, issuances, denials, amend-
32 ments, transfers, renewals, modifications,
33 suspensions and revocations;

34 (2) Maintenance of a file of registrants
35 possessing sources of radiation requiring
36 registration under this Act and any adminis-
37 trative or judicial action pertaining there-
38 to; and

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

5 J. May investigate and sample sites where radio-
6 active substances or devices are stored or han-
7 dled to identify uncontrolled radioactive sub-
8 stance sites; and

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

20 Sec. 7. 22 MRSA §677, sub-§1, as enacted by PL
21 1983, c. 345, §§13 and 14, is amended to read:

22 1. Radioactive material, devices or equipment.
23 The department shall provide by rule for licensing of
24 radioactive material or, devices or equipment,
25 including not to include nuclear power plants, uti-
26 lizing those materials. That rule shall provide for
27 amendment, suspension or revocation of licenses.

28 Sec. 8. 22 MRSA §681, as enacted by PL 1983, c.
29 345, §§13 and 14, is repealed and the following en-
30 acted in its place:

31 §681. Surety requirements

32 1. Rules; adequate surety. The department,
33 through rule, shall adopt standards and procedures to
34 ensure that licensees shall provide an adequate sure-
35 ty or other financial arrangement to permit the com-
36 pletion of all requirements established by the de-
37 partment for the decontamination, decommissioning,
38 closure and reclamation of sites, structures and
39 equipment used in conjunction with the licensed ac-
40 tivity.

1 2. Sureties forfeited. All sureties under sub-
2 section 1, which are forfeited shall be paid to the
3 department for deposit by the Treasurer of State into
4 a special fund called the Radiation Materials Recov-
5 ery Fund. All money in this fund may be expended by
6 the department, as necessary, to complete the re-
7 quirements on which licensees have defaulted. Money
8 in the fund shall not be used for normal operating
9 expenses of the department.

10 3. Surveillance and control funds. For licensed
11 activities which will require surveillance or control
12 after the licensed activity ceases, the department,
13 through rule, shall adopt standards and procedures to
14 ensure that the licensee, before termination of the
15 license, shall make available such funding arrange-
16 ments as necessary to provide for long-term site sur-
17 veillance and control.

18 4. Long-term care fund. All funds collected
19 from licensees under subsection 3 shall be paid to
20 the department for deposit by the Treasurer of State
21 into a special long-term care fund. All funds ac-
22 crued may be expended by the department for the con-
23 tinuing long-term surveillance, maintenance and other
24 care of facilities from which such funds are col-
25 lected as necessary for the protection of the public
26 health, safety and environment.

27 5. Amount of funds. The sureties or financial
28 arrangements and funds required by subsections 1 and
29 3 shall be established in amounts sufficient to en-
30 sure compliance with standards, if any, established
31 by the United States Nuclear Regulatory Commission or
32 this State.

33 6. Acceptance of gifts. In order to provide for
34 the proper care and surveillance of sites subject to
35 subsection 3, the State may acquire, by gift or
36 transfer from another government agency or private
37 person, any land or appurtenances necessary to ful-
38 fill the purposes of this section.

39 7. Authority to contract. The department may
40 enter into contracts, agreements, leases or licenses
41 with any person, including another state agency, to
42 provide for such decontamination, decommissioning,

1 reclamation, surveillance or other care of a site
2 subject to this section as necessary to carry out the
3 purposes of this section.

4 Sec. 9. 22 MRSa §682, sub-§2, as enacted by PL
5 1983, c. 345, §§13 and 14, is amended to read:

6 2. Equipment inspection. The department shall
7 promulgate rules requiring periodic inspection, cer-
8 tification and calibration of equipment, capable of
9 emitting ionizing radiation, by certified techni-
10 cians. ~~The--rules--shall--not--provide--for--inspection,~~
11 ~~certification--and--calibration--more--frequently--than~~
12 ~~annually.~~

13 Sec. 10. 22 MRSa §686, as enacted by PL 1983, c.
14 345, §§13 and 14, is amended to read:

15 §686. Conflicting laws

16 Ordinances, resolutions or regulations, now or
17 hereafter in effect, of the governing body of a mu-
18 nicipality or county or of state agencies other than
19 the Department of Human Services relating to by-
20 product, source and special nuclear materials, except
21 as provided in sections 678 and 679, shall not be su-
22 perseded by this Act, provided that the ordinances or
23 regulations are and continue to be consistent with
24 this Act, amendments thereto and rules thereunder.

25 Sec. 11. 22 MRSa §690, sub-§2, as enacted by PL
26 1983, c. 345, §§13 and 14, is repealed and the fol-
27 lowing enacted in its place:

28 2. Civil penalties. Civil penalties shall be as-
29 essed and enforced as follows.

30 A. Any person who violates any licensing or reg-
31 istration provision of this Act or any rule or
32 order issued under this Act, any term, condition
33 or limitation of any license or registration cer-
34 tificate issued under this Act, or any person who
35 commits any violation for which a license or reg-
36 istration certificate may be revoked, suspended
37 or modified under rules issued pursuant to this
38 Act is subject to a civil penalty, to be imposed
39 by the department, not to exceed \$10,000 for each

1 violation or \$100,000 for any egregious viola-
2 tion. If any violation is a continuing viola-
3 tion, each day of the violation shall constitute
4 a separate violation for the purpose of computing
5 the applicable civil penalty. The department
6 shall may compromise, mitigate or remit the pen-
7 alties.

8 B. Whenever the department has reason to believe
9 that a person has become subject to the imposi-
10 tion of a civil penalty under the provisions of
11 this section, it shall notify the person in writ-
12 ing:

13 (1) Setting forth the date, facts and na-
14 ture of each act or omission with which the
15 person is charged;

16 (2) Specifically identifying the particular
17 provision or provisions of the section,
18 rule, regulation, order or license involved
19 in the violation; and

20 (3) Advising of each penalty which the de-
21 partment proposes to impose and its amount.

22 The written notice shall be sent by registered or
23 certified mail by the department to the last
24 known address of the person. The person so noti-
25 fied shall be granted an opportunity to show in
26 writing, within such a reasonable period as the
27 department shall prescribe by regulation, why the
28 penalty should not be imposed. The notice shall
29 also advise the person that, upon failure to pay
30 the civil penalty subsequently determined by the
31 department, if any, the penalty may be collected
32 by civil action.

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

39 D. All money collected from civil penalties
40 shall be paid to the Treasurer of State for de-

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

6 Sec. 12. Allocation. The following funds are
7 allocated from the Special Revenue Account authorized
8 in the Maine Revised Statutes, Title 22, section 680,
9 subsection 7, to carry out the purposes of this Act.

10 1987-88

11 HUMAN SERVICES,
12 DEPARTMENT OF

13 Bureau of Health

14	Personal Services	\$32,000
15	All Other	3,000
16	Capital Expenditures	2,500

17		
18	Total	<u>\$37,500</u>

19 STATEMENT OF FACT

20 The Atomic Energy Act of 1956 authorizes the in-
21 dividual states to enter into agreements with the
22 United States Nuclear Regulatory Commission for the
23 purpose of licensing and inspecting all holders of
24 radioactive material licenses. Maine law, the Maine
25 Revised Statutes, Title 22, chapter 160, passed in
26 1983, gives this authority to the Department of Human
27 Services.

28 The Department of Human Services has applied for
29 agreement state status, necessitating a revision to
30 state law to make it compatible with federal law.
31 The changes are similar in content to the Council of
32 State Governments 1983 Suggested State Legislation,
33 or the Low-level Radioactive Waste Policy Act amend-
34 ments, or the Suggested State Standards for the Con-
35 trol of Radiation.

1 This bill allows the State to regulate its radiation
2 users and results in all radiation control facilities
3 being regulated by the same agency. Certain
4 users of naturally occurring radioactive material
5 such as radium, cobalt-57, iodine-126, phosphorus-32,
6 etc., as well as x-ray machines are now regulated by
7 the Department of Human Services.

8 A section requiring financial surety was approved
9 in the original legislation in 1983; however, the
10 wording was not included. It was the intent to add
11 the appropriate language at a later date. This bill
12 includes financial surety language. This provision
13 will place a guarantee of financial responsibility on
14 the licensee.

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