

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "^B" to H.P. 655, L.D. 889, Bill, "An Act to Improve Indoor Air Quality Through Accurate Testing and Effective Reduction of Radon Levels in Buildings"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 22 MRSA c.165 is enacted to read:

CHAPTER 165

RADON REGISTRATION ACT

§771. Short title

This chapter may be known and cited as the "Radon Registration Act."

§772. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Associated radiological concerns. "Associated radiological concerns" means radioactive elements other than radon, including, but not limited to, radium, thorium, uranium and their respective decay products.

2. Authorized radon testing device. "Authorized radon testing device" means a device that:

A. Collects radon or its decay products;

B. Requires analysis by an independent measuring facility or is a continuous monitoring device; and

C. Has been determined to be acceptable by the United States Environmental Protection Agency under the Radon Measurement Proficiency Program conducted under 15 United States Code, Section 2661, et. seq.

2 **3. Division.** "Division" means the Department of Human
3 Services, Division of Health Engineering.

4 **4. Listed facility.** "Listed facility" means a radon testing
5 facility that is designated as a primary company by the Radon
6 Measurement Proficiency Program of the United States
7 Environmental Protection Agency under 15 United States Code,
8 Section 2661, et. seq.

9 **5. Radon.** "Radon" means the radioactive gaseous element and
10 its decay products produced by the disintegration of the element
11 radium in air, water, soil or other media.

12 **6. Radon testing services.** "Radon testing services" means
13 providing, for remuneration, determination of radon levels or
14 analysis of an authorized radon testing device. This term
15 includes those services provided by listed facilities.

16 **§773. Lead agency**

17 The division is the lead agency having primary
18 responsibility for programs related to radon and associated
19 radiological concerns. The division shall register firms,
20 including listed facilities, and individuals who test for the
21 presence of radon or associated radiological concerns or who
22 provide consulting, construction or other remedial services for
23 reducing the levels of radon or associated radiological
24 concerns. The division may facilitate functions including, but
25 not limited to, education, funding, liaison, technology transfer
26 and training with the United States Environmental Protection
27 Agency or other federal or state agencies. The division also
28 serves as an information clearinghouse for radon and associated
29 radiological concerns by maintaining records and disseminating
30 information to educate the public about radon, describing
31 technical assistance programs and interpreting test results as
32 appropriate.

33 **§774. Radon testing; registration required**

34 A person may not perform, evaluate or advertise to perform
35 or evaluate tests for the presence of radon in buildings or on
36 building lots unless registered with the division. This
37 registration requirement includes without limitation a person
38 whose place of business is located in the State, or in another
39 state, who offers radon testing services to residents of the
40 State either directly or through the mail.

41 **§775. Radon mitigation; registration required**

42 A person may not offer advice or plans to reduce the level
43 of radon or contract to modify an existing structure in a manner
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2 intended to reduce the level of radon unless registered with the
3 division.

4 **§776. Exemptions**

6 The requirements of sections 774 and 775 do not apply to any
7 of the following:

8
9 1. Personal use. A person performing testing or mitigation
10 on a building owned or inhabited by that person:

12 2. New construction. A builder utilizing preventive or
13 safeguarding measures in new construction as recommended in
14 "Radon-resistant Residential New Construction" EPA/60018-881087
15 published by the United States Environmental Protection Agency or
16 an equivalent publication as determined by the department:

18 3. Department employees. Employees of the department in the
19 course of their assigned duties; or

20
21 4. Authorized personnel. A person performing testing with
22 the written approval of the department. Registration under
23 section 774 or 775 does not constitute written approval for the
24 purposes of this subsection.

26 **§777. Use of listed facilities**

28 Any person who is required to register under section 774 or
29 775 shall use only authorized radon testing devices and shall
30 have these devices analyzed by a listed facility. When
31 disclosing test results, any person registered under sections 774
32 or 775 shall provide in writing the name and address of the
33 listed facility that performed the analysis.

34
35 **§778. Reports**

36 A person registered under section 774 or 775 shall, within
37 45 days of the date the services are provided, notify the
38 department in writing of zip code of the client and the results
39 of any tests performed. The department may, by rule, specify an
40 alternative notification procedure and notification period.

42
43 **§779. Advertising**

44 A person may not advertise any radon testing device as
45 "State-approved," "approved by the State of Maine" or by use of
46 any phrases with similar meaning or content. This restriction
47 also applies to any reference denoting municipal approval.

48
49 **§780. Fees**

2 The department shall determine a schedule of fees to defray
3 the costs of the registration programs established in sections
4 774 and 775. Fees may not exceed \$150 for registrants under
5 section 774 or \$75 for registrants under section 775. The fees
6 collected must be placed in the Radon Relief Fund established in
7 section 784. The fee schedule must provide for initial
8 registration and biennial registration fees.

9
10 **§781. Rules**

11 The department shall adopt rules, in accordance with the
12 Maine Administrative Procedure Act, Title 5, chapter 375,
13 necessary to administer and enforce this chapter. Rules must
14 address, but are not limited to, minimal training requirements
15 for registration, periodic reregistration, performance standards,
16 reports, truth-in-advertising requirements and criteria and
17 procedures for revoking registrations.

18
19 **§782. Penalties**

20 Any person failing to register pursuant to section 774 or
21 775, commits a civil violation for which a forfeiture not to
22 exceed \$500 may be adjudged. Any person in violation of section
23 777, 778 or 779 commits a civil violation for which a forfeiture
24 not to exceed \$250 per violation may be adjudged. Any person who
25 engages in radon testing, advertising or mitigation in violation
26 of this chapter is also in violation of Title 5, chapter 10.

27
28 **§783. Registration revoked**

29 The department may revoke, in accordance with the Maine
30 Administrative Procedure Act, Title 5, chapter 375, the
31 registration of any person found in violation of this chapter.

32
33 **§784. Radon Relief Fund**

34 The Radon Relief Fund is established as a nonlapsing fund to
35 support the radon-related research, testing, educational and
36 mitigation activities of the division. Funds received from
37 registrations under sections 774 and 775 and any other
38 miscellaneous sources of income are deposited in the fund. The
39 division shall administer the fund. Funds in the Radon Relief
40 Fund must be deposited with the Treasurer of State to the credit
41 of the fund and may be invested as provided by law. Interest on
42 these investments must be credited to the fund.

43 **Sec. 2. Allocation.** The following funds are allocated from
44 the Federal Expenditure Fund to carry out the purposes of this
45 Act.

1990-91

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HUMAN SERVICES, DEPARTMENT OF

4

Bureau of Health

6

Positions	(2)
Personal Services	\$41,350
All Other	2,146
Capital Expenditures	1,695

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Provides funds for a Word Processing Operator position, an Environmental Specialist II position, general operating expenses, testing equipment and office equipment to implement the Radon Registration Act and to carry out educational and public information activities relating to radon and indoor air pollution.

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DEPARTMENT OF HUMAN SERVICES

TOTAL

\$45,191

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FISCAL NOTE

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There will be an increase in dedicated revenues to the Department of Human Services from registration fees collected. The amount will be dependent upon the number of registrations received with regard to radon testing and radon mitigation and is estimated to be approximately \$2,000 in fiscal year 1990-91.

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A federal grant from the United States Environmental Protection Agency will provide the funds for staff support and related expenses, and these funds are expected to continue for 3 years. Once federal funds are no longer available for this purpose, it may be necessary for the Department of Human Services to request a General Fund appropriation to continue to implement the Radon Registration Act.

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STATEMENT OF FACT

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The amendment retains the provisions of the original bill requiring all persons, including listed facilities, that provide radon testing or mitigation services to register while clarifying that it is a violation to provide these services if not registered. People testing their own buildings, Department of Human Services employees, other persons approved by the department and builders following approved methods in new construction are the only exemptions from registration.

COMMITTEE AMENDMENT "B" to H.P. 655, L.D. 889

The amendment also:

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1. Expands the definition of "radon testing device" to include continuous monitoring devices;
2. Removes the requirement for expiration dates on radon testing devices;
3. Removes the requirement to report the name of the municipality where a test is performed;
4. Adds a section prohibiting the advertisement of radon testing devices as approved by the State or a municipality;
5. Adds a biennial registration fee;
6. Makes technical corrections to language and to section references;
7. Broadens the duties of personnel hired under this program to include education and public information activities relating to radon and indoor air pollution; and
8. Replaces the original appropriation section with an allocation of federal funds reflecting a recently received federal grant.

Reported by the Committee on Energy and Natural Resources
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House
2/8/90

(Filing No. H-769)