

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 889

H.P. 655

House of Representatives, March 22, 1989

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

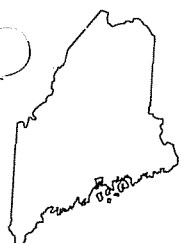
Presented by Representative KETOVER of Portland.

Cosponsored by Senator PERKINS of Hancock, Senator KANY of Kennebec and Representative DORE of Auburn.

STATE OF MAINE

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

**An Act to Improve Indoor Air Quality Through Accurate Testing and
Effective Reduction of Radon Levels in Buildings.**



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

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

5 CHAPTER 165

7 RADON REGISTRATION ACT

9 §801. Short title

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

15 §802. Definitions

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

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

25 2. Department. "Department" means the Department of Human
Services.

27 3. Division. "Division" means the Division of Health
29 Engineering within the Department of Human Services.

31 4. Listed facility. "Listed facility" means a radon testing
facility that is designated as a primary company by the Radon
33 Measurement Proficiency Program of the United States
Environmental Protection Agency.

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

39 6. Radon testing device. "Radon testing device" means a
41 device that:

43 A. Collects radon or its decay products; and

45 B. Requires analysis by an independent measuring facility.

47 7. Radon testing services. "Radon testing services" means
an offer for remuneration to determine radon levels or to analyze
49 or cause the analysis of a radon testing device.

1 **§803. Lead agency**

3 The division shall be the lead agency having primary
5 responsibility for programs related to radon and associated
7 radiological concerns. The division shall register firms and
9 individuals who test for the presence of radon or associated
11 radiological concerns and who provide consulting, construction or
13 other remedial services for reducing the levels of radon or
15 associated radiological concerns. The division may facilitate
17 functions including, but not limited to, education, funding,
 liaison, technology transfer and training with the United States
 Environmental Protection Agency or other federal agencies. The
 division also shall serve as an information clearinghouse for
 radon and associated radiological concerns by maintaining records
 and disseminating information to educate the public about radon,
 describing technical assistance programs and interpreting test
 results as appropriate.

19 **§804. Registration required; radon testing**

21 Any person performing, evaluating or advertising to perform
23 or evaluate tests for the presence of radon in buildings or on
25 building lots shall register with the division. This requirement
27 includes without limit a person whose place of business is
 located in the State, or in another state, who offers radon
 testing services to residents of the State either directly or
 through the mail.

29 **§805. Registration required; radon mitigation**

31 Any person who in exchange for compensation offers advice or
33 plans to reduce the level of radon or who contracts to modify an
35 existing structure in a manner intended to reduce the level of
 radon shall register with the division.

37 **§806. Exemptions**

39 The requirements of sections 803 and 804 shall not apply to
 any of the following:

41 1. Personal use. A person performing testing or mitigation
43 on a building owned or inhabited by that person;

45 2. New construction. A builder utilizing appropriate
 preventative or safeguarding measures in new construction; or

47 3. Department employees. Employees of the department in
49 the course of their assigned duties.

51 **§807. Sale of testing devices; listed facilities**

53 Any person selling a radon testing device in this State must
 affix a valid, visible expiration date to the device. Any person
 who is required to register under section 803 shall have all

1 radon testing devices analyzed by a listed facility. When
2 disclosing test results, any person registered under section 803
3 shall provide in writing the name and address of the listed
4 facility that performed the analysis.

5 **§808. Reports**

7
8 A person registered under section 803 or 804 to provide
9 testing or mitigation services shall, within 45 days of the date
10 the services are provided, notify the department in writing of
11 the name of the municipality where the services were provided,
12 the zip code of the client and the results of any tests performed.

13 **§809. Fees**

15
16 The department shall determine a schedule of fees to defray
17 the costs of the registration programs established in sections
18 803 and 804. Fees shall not exceed \$250 for registrants under
19 section 803 or \$75 for registrants under section 804. The fees
20 collected shall be placed in the Radon Relief Fund established in
21 section 812.

22 **§810. Rules**

24
25 The department shall adopt rules, in accordance with the
26 Maine Administrative Procedure Act, Title 5, chapter 375,
27 necessary to administer and enforce this chapter. Rules shall
28 address, but are not limited to, periodic reregistration,
29 reports, criteria and procedures for revoking registrations and
30 truth-in-advertising requirements.

31 **§811. Penalties**

33
34 Any person failing to register, pursuant to section 803 or
35 804, commits a civil violation for which a forfeiture not to
36 exceed \$500 may be adjudged. Any person in violation of section
37 806 or 807 commits a civil violation for which a forfeiture not
38 to exceed \$250 per violation may be adjudged. Any person who
39 engages in radon testing or mitigation in violation of this
40 chapter is also in violation of the Maine Unfair Trade Practices
41 Act, Title 5, sections 206 to 214.

42 **§812. Registration revoked**

44
45 The department may revoke, in accordance with Title 5,
46 chapter 375, the registration of any person found in violation of
47 this chapter.

48 **§813. Radon Relief Fund**

50
51 The Radon Relief Fund is established as a nonlapsing fund
52 for the purpose of supporting the radon-related research.

1 testing, educational and mitigation activities of the division.
 2 The Radon Relief Fund shall consist of the funds received from
 3 registrations pursuant to sections 803 and 804, Federal
 4 Government grants or other grants and the funds appropriated to
 5 it by the Legislature. The division shall administer the fund.
 6 Funds in the Radon Relief Fund shall be deposited with the
 7 Treasurer of State to the credit of the fund and may be invested
 8 as provided by law. Interest on these investments shall be
 9 credited to the fund.

11 **Sec. 2. Appropriation.** The following funds are appropriated
 12 from the General Fund to carry out the purposes of this Act.

13 1989-90 1990-91

14 **HUMAN SERVICES, DEPARTMENT OF**

15 **Bureau of Health**

16 **Division of Health Engineering**

17	Positions	(2)	(2)
18	Personal Services	\$33,506	\$48,262
19	All Other	2,086	2,341
20	Capital Expenditures	1,695	

21 Provides funds for a Word
 22 Processing Operator position,
 23 an Environmental Specialist
 24 II position, general
 25 operating expenses and office
 26 equipment to implement the
 27 Radon Registration Act.

28	DEPARTMENT OF HUMAN SERVICES		
29	TOTAL	<u>\$37,287</u>	<u>\$50,603</u>

30 **STATEMENT OF FACT**

31 This bill establishes the Radon Registration Act. It is the
 32 intention of the Legislature and the purpose of this Act to
 33 ensure accurate testing for the presence of radon, to encourage
 34 safe and effective mitigation of dangerous radon levels and to
 35 protect property owners from unqualified or unscrupulous firms
 36 and consultants by establishing in the Department of Human
 37 Services programs to register firms and individuals involved with
 38 radon testing, consulting, construction or other remedial
 39 services.

1 The Radon Registration Act requires the registration of: all
3 firms and individuals measuring or testing radon levels in
5 existing buildings or on building lots; consultants designing
7 plans to reduce radon levels in existing buildings; and
9 contractors modifying existing structures to reduce radon
11 levels. Any persons working on a building they own or inhabit
13 builders of new construction, Department of Human Services
15 employees performing their assigned duties and testing
17 laboratories listed as proficient in radon analysis by the United
19 States Environmental Protection Agency are exempt from
21 registration. Registrants would have 45 days to report test
23 results or mitigation activities to the department.

25 Radon testing consultants would pay a registration fee of
27 \$250 or less and radon mitigation registrants would pay a fee of
29 \$75 or less as determined by the Department of Human Services.
31 Registration fees would go to the Radon Relief Fund and be used
33 for radon-related research, testing, educational and mitigation
35 programs of the Division of Health Engineering.

37 Any person providing testing devices that require laboratory
39 analysis is required to have the analysis performed by a facility
41 which has passed the voluntary radon/radon progeny measurement
43 proficiency program of the United States Environmental Protection
Agency and to divulge the name and address of the facility when
reporting the test results.

45 The bill also identifies the Division of Health Engineering
47 as the lead agency for radon programs. Designation of a lead
49 agency is needed for the State to qualify for federal grants
51 available under recent amendments to the Toxic Substances Control
53 Act, United States Code, Title 15, Section 2601.

55 Civil penalties of not more than \$500 for failure to
57 register and not more than \$250 for failure to report test
59 results to the department or failure to use and report the name
61 of a listed testing facility are provided. Violation of this
63 legislation would also be a violation of the Maine Unfair Trade
65 Practices Act, Maine Revised Statutes, Title 5, sections 206 to
67 214.

69 A General Fund appropriation supports Environmental Services
71 Specialist II and Word Processor positions.