

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

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PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
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1987

schedule and the state grant is not available.

Effective September 29, 1987.

CHAPTER 493

H.P. 1081 — L.D. 1472

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 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Sec. 2. 22 MRSA §673, sub-§8, as enacted by PL 1983, c. 345, §§13 and 14, is repealed and the following enacted in its place: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 of 1954, Section 11e(2); and

B. The United States Nuclear Regulatory Commission, consistent with existing law and in accordance with paragraph A, classifies as low-level radioactive waste.

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

8-A. Person. "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency of this State, political subdivision of this State, any other state or political subdivision or agency of a state or political subdivision and any legal successor, representative, agent or agency of the state or political subdivision or agency, but not including Federal Government agencies.

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

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

A. ~~Develop~~ Shall develop programs for the evaluation and control of hazards associated with use of sources of radiation;

B. ~~Develop~~ Shall develop programs with due regard for compatibility with federal programs for regulation of by-product, source and special nuclear materials;

C. ~~Develop~~ Shall develop programs with due regard for consistency with federal programs for regulation of radiation generating equipment;

D. ~~Formulate~~ Shall formulate, adopt, promulgate and repeal codes and rules, which may provide for licensing or registration, relating to control of sources of radiation with due regard for compatibility with the regulatory programs of the Federal Government; ;

Promulgate such rules in addition to the rule specified in this paragraph as are appropriate to carry out the purposes of this Act, including, but not limited to, rules concerning acquisition, ownership, possession and use of radioactive materials or devices or equipment utilizing radioactive material; ;

E. ~~Issue~~ Shall issue such orders or modifications thereof as may be necessary in connection with proceedings under section 677;

F. ~~Advise~~ Shall advise, consult and cooperate with other agencies of the State, Federal Government, other states and interstate agencies, political subdivisions and other organizations concerned with control of sources of radiation;

G. May accept and administer loans, grants or other funds or gifts, conditional or otherwise, in furtherance of its functions, from the Federal Government and from other sources, public or private;

H. ~~Encourage~~ Shall encourage, participate in, or conduct studies, investigations, training, research and demonstrations relating to control of sources of radiation; and

I. ~~Collect~~ Shall collect and disseminate information relating to control of sources of radiation, including:

(1) Maintenance of a file of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions and revocations;

(2) Maintenance of a file of registrants possessing sources of radiation requiring registration under this Act and any administrative or judicial action pertaining thereto; and

(3) Maintenance of a file of all of the department's rules relating to regulation of sources of radiation,

pending or promulgated, and proceedings thereon; ;

J. May investigate and sample sites where radioactive substances or devices are stored or handled to identify uncontrolled radioactive substance sites; and

K. May take whatever action is deemed necessary to abate, clean up or mitigate the threats or hazards posed or potentially posed by radioactive material or radiation-generating equipment to protect the public health, safety or welfare or the environment, including administering or carrying out measures to abate, clean up or mitigate the threats or hazards and implementing remedies to remove, store, treat, dispose of or otherwise handle radioactive material, including soil and water contaminated by the material.

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

1. Radioactive material, devices or equipment. The department shall provide by rule for licensing of radioactive material or devices or equipment, including nuclear power plants, utilizing those materials except where prohibited by federal law. That rule shall provide for amendment, suspension or revocation of licenses.

Sec. 6. 22 MRSA §681, as enacted by PL 1983, c. 345, §§13 and 14, is repealed and the following enacted in its place:

§681. Surety requirements

Licenses shall pay to the department for deposit by the Treasurer of State, into a fund called the Radiation Materials Recovery Fund, adequate funds to permit the department to complete the requirements established by the department for the decontamination, decommissioning, closure and reclamation of sites, structures and equipment used in conjunction with the licensed activity. In lieu of the deposit of funds, the licensee may provide an adequate surety. The condition of the surety shall be to account for the completion of the requirements according to standards established by the department by rule. All sureties forfeited shall be paid to the department for deposit by the Treasurer of State to the aforementioned fund. Money in the fund shall not be used for normal operations of the department. The department shall adopt by rule the standards for determining the amount of financial responsibility required by each licensee and the procedures for the payment of funds or provision of surety.

The funds or sureties required in this section shall be in amounts necessary to comply with standards established by the United States Nuclear Regulatory Commission or the State.

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

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

2. Equipment inspection. The department shall promulgate rules requiring periodic inspection, certification and calibration of equipment, capable of emitting ionizing radiation, by certified technicians. The rules shall not provide for inspection, certification and calibration more frequently than annually.

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

§686. Conflicting laws

Ordinances, resolutions or regulations, now or hereafter in effect, of the governing body of a municipality or county or of state agencies other than the Department of Human Services relating to by-product, source and special nuclear materials, except as provided in sections 678 and 679, shall not be superseded by this Act, provided that the ordinances or regulations are and continue to be consistent with this Act, amendments thereto and rules thereunder.

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

2. Civil penalties. Civil penalties shall be assessed and enforced as follows.

A. Any person who violates any licensing or registration provision of this Act or any rule or order issued under this Act, any term, condition or limitation of any license or registration certificate issued under this Act, or any person who commits any violation for which a license or registration certificate may be revoked, suspended or modified under rules issued pursuant to this Act is subject to a civil penalty, to be imposed by the department, not to exceed \$10,000 for each violation or \$100,000 for any willful and wanton violation. If any violation is a continuing violation, each day of the violation shall constitute a separate violation for the purpose of computing the applicable civil penalty. The department may compromise, mitigate or remit the penalties.

B. When the department has reason to believe that a person has become subject to the imposition of a civil penalty under the provisions of this section, the department may notify the Attorney General or hold a public hearing. If a hearing is scheduled, the commissioner shall give at least 30 days' written notice to the alleged violator of the date, time and place of that hearing. The notice shall specify the act done or omitted to be done which is claimed to be in violation of law; identify the particular provisions of the section, rule, order or license involved in the violation; and advising of each penalty which the department proposes to impose and its amount. The notice shall be sent by registered or certified mail by the department to the last known ad-

dress of the person.

Any hearing conducted under the authority of this subsection shall be in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375.

At the hearing, the alleged violator may appear in person or by attorney and answer the allegations of violation and file a statement of the facts, including the methods, practices and procedures, if any, adopted or used by him to comply with this chapter and present such evidence as may be pertinent and relevant to the alleged violation.

C. On the request of the department, the Attorney General may institute a civil action to collect a penalty imposed pursuant to this subsection. Only the Attorney General may compromise, mitigate or remit such civil penalties as are referred to him for collection.

D. All money collected from civil penalties shall be paid to the Treasurer of State for deposit in the General Fund. Money collected from civil penalties shall not be used for normal operating expenses of the department, except as appropriations made from the General Fund in the normal budgetary process.

Effective September 29, 1987.

CHAPTER 494

S.P. 436 — L.D. 1316

AN ACT to Establish an Outreach and Support Program for Head-injured Persons.

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

22 MRSA c. 715-A is enacted to read:

CHAPTER 715-A

ASSISTANCE FOR SURVIVORS OF HEAD INJURY

§3086. Definitions

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

1. Head injury. "Head injury" means a traumatic injury to the head or neck which results in a known or suspected loss of consciousness of any duration.

§3087. Registry; duty to report

The Bureau of Rehabilitation shall establish, maintain and operate a statewide registry of persons who sustain head injuries to assist in promoting the general health

and welfare of the State's citizens, including, but not limited to, the following specific purposes:

1. Assessment needs, planning and coordination. To assess the needs of persons who sustain head injuries and to facilitate rehabilitation planning and coordination efforts;

2. Education and information. To provide educational material to the medical community including, but not limited to, emergency room physicians, psychiatrists, neurologists, neurosurgeons, neuropsychologists and other interested persons relating to diagnosis, evaluation and treatment of the sequelae of head injuries; and

3. Network. To provide a means for persons who have sustained head injuries or their family members or friends to contact each other or to contact local or statewide support groups for survivors of head injuries.

Hospitals, physicians and neuropsychologists are encouraged to report to the bureau all persons whom they diagnose as having sustained head injuries. They are encouraged to submit a report within 7 days of the diagnosis which shall contain, but shall not be limited to, the following: The name, if released; age; and residence of the person; and the date and cause of the injury. No person's name may be released without that person's consent or the consent of the person's guardian or other person having legal responsibility for the person. A hospital, physician or neuropsychologist who submits a report under this section is not liable for any civil damages as a result of that act.

§3088. Comprehensive rehabilitation service system

The department shall, within the limits of its available resources, develop a comprehensive rehabilitation service system specifically designed to train, educate and physically rehabilitate the head-injured individual. The service programs shall include, but need not be limited to, physical therapy, cognitive retraining, behavior modification, social skills, counseling, vocational rehabilitation and independent living. The department may increase the availability of adequate post-hospital residential facilities designed to meet the unique needs of persons who have sustained a head injury.

Effective September 29, 1987.

CHAPTER 495

H.P. 1366 — L.D. 1872

AN ACT to Extend the Time for the Transfer of Authority to Adjudicate Traffic Infractions to the Secretary of State.

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