

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 2

Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

Water Line Crossing Railroad.

Sec. 28. Water utility line crossing right-of-way of railroad.—Whenever a line or main of any water utility is located and about to be constructed across the right-of-way of any railroad, unless the officers of such water utility shall agree with the corporation operating such railroad as to the place, manner and conditions of the crossing, the public utilities commission upon petition of either party, after notice and hearing, shall determine the place, manner and conditions of such crossing. All the work within the limits of such railroad location shall be done under the supervision of the officers of the corporation operating said railroad and to the satisfaction of the commission, and the expense thereof shall be borne by the water utility. Said commission shall make report of their decision in the same manner as in the case of highways located across railroads and subject to the same right of appeal. (1963, c. 242.)

Chapter 52-A.

Peaceful Uses of Atomic Energy.

Sec. 1. Declaration of policy.—The state of Maine endorses the action of the congress of the United States in enacting the atomic energy act of 1954 to institute a program to encourage the widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public; and therefore declares the policy of the state to be:

I. To cooperate actively in the program thus instituted; and

II. To the extent that the regulation of special nuclear materials, source materials and by-product materials, of production facilities and utilization facilities, and of other forms of radiation, and of persons operating such facilities may be within the jurisdiction of the state, to provide for the exercise of the state's regulatory authority so as to conform, as nearly as may be, to the atomic energy act of 1954 and regulations issued thereunder, to the end that there may, in effect, be a single harmonious system of regulation within the state.

The state of Maine recognizes that the development of industries producing or utilizing atomic energy and other forms of radiation may result in new conditions calling for changes in the laws of the state and in regulations issued thereunder with respect to health and safety, working conditions, workmen's compensation, transportation, public utilities, life, health, accident, fire and casualty insurance, the conservation of natural resources, including wildlife, and the protection of streams, rivers and airspace from pollution, and therefore declares the policy of the state to be:

I. To adapt its laws and regulations to meet the new conditions in ways that will encourage the healthy development of industries producing or utilizing atomic energy while at the same time protecting the public interest; and

II. To initiate continuing studies of the need for changes in the relevant laws and regulations of the state by the respective departments and agencies of the state which are responsible for their administration; and

III. To insure the coordination of the studies thus undertaken, particularly with other atomic industrial development activities of the state and with the development and regulatory activities of other states and of the government of the United States. (1955, c. 105, § 1. 1957, c. 210, §§ 1, 2.)

Effect of amendment.—Section 1 of the 1957 amendment inserted the words "source materials" and the words "and of other forms of radiation" in subsection II of the first paragraph of this section.

Section 2 of such amendment inserted the words "and other forms of radiation" in the opening statement of the second paragraph.

Sec. 2. Definitions.—As used in this chapter, the term “atomic energy” means all forms of energy released in the course of nuclear fission or nuclear transformation.

The term “by-product material” means any radioactive materials, except special nuclear materials, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear materials.

“Ionizing radiation” means gamma rays and x-rays, alpha and beta particles, high-speed electrons, neutrons, protons and other nuclear particles, but not sound or radio waves, or visible, infrared or ultraviolet light.

The term “production facility” means any equipment or device capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or any important component part especially designed for such equipment or device.

The term “source material” means uranium, thorium or any other material which the governor declares by order to be source material after the United States atomic energy commission has determined the material to be such; or ores containing one or more of the foregoing materials, in such concentration as the governor declares by order after the United States atomic energy commission has by regulation so determined.

The term “special nuclear material” means plutonium and uranium enriched in the isotope 233 or in the isotope 235, and any other material which the governor declares by order to be special nuclear material after the United States atomic energy commission has determined the material to be such; or any material artificially enriched by any of the foregoing.

“Unnecessary radiation” means the use of gamma rays, x-rays, alpha and beta particles, high-speed electrons, neutrons, protons and other atomic or nuclear particles or rays in such manner as may be hazardous to the health of the industrial or agricultural potentials of the state.

The term “utilization facility” means any equipment or device, except an atomic weapon, capable of making use of special nuclear materials in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or any important component part especially designed for such equipment or device. (1955, c. 105, § 1. 1957, c. 210, § 3. 1961, c. 403, § 1.)

Effect of amendments. — The 1957 amendment inserted the fifth paragraph which defines “ionizing radiation” and the seventh paragraph which defines “unnecessary radiation.”

The 1961 amendment inserted the third

Sec. 3. United States licenses or permits required.—No person shall manufacture, construct, produce, transfer, acquire or possess any special nuclear material, source material, by-product material, production facility or utilization facility, or act as an operator of a production or utilization facility wholly within this state unless he shall have first obtained a license or permit for the activity in which he proposes to engage from the United States atomic energy commission if, pursuant to the atomic energy act of 1954, the commission requires a license or permit to be obtained by persons proposing to engage in activities of the same type over which it has jurisdiction. (1955, c. 105, § 1. 1957, c. 210, § 4.)

Effect of amendment. — The 1957 amendment inserted the words “source material” in this section.

Sec. 4. Conduct of studies concerning changes in laws and regulations with a view to atomic industrial development.—Each of the follow-

ing departments and agencies of the state government is directed to initiate and to pursue continuing studies as to the need, if any, for changes in the laws and regulations administered by it that would arise from the presence within the state of special nuclear materials, source materials, by-product materials and radioactive materials, from the operation herein of production or utilization facilities, and, on the basis of such studies, to make such recommendations for the enactment of laws or amendments to law administered by it, and such proposals for amendments to the regulations issued by it, as may appear necessary and appropriate.

I. The department of health and welfare, particularly as to hazards, if any, to the public health and safety.

II. The department of labor & industry, particularly as to hazardous working conditions, if any.

III. The industrial accident commission, particularly as to the time and character of proof of claims of injuries and the extent of the compensation allowable therefor.

IV. The state highway commission, particularly as to the transportation of special nuclear materials, source materials, by-product and radioactive materials on highways of the state.

V. The public utilities commission, particularly as to the transportation of special nuclear materials, source materials, by-product and radioactive materials by common carriers not in interstate commerce and as to the participation by public utilities subject to its jurisdiction in projects looking to the development of production or utilization facilities for industrial or commercial use.

VI. The insurance commissioner, particularly as to the insurance of persons and property from hazards to life and property resulting from atomic development.

VII. The departments of forestry, inland fisheries and game, sea and shore fisheries and the aeronautics commission, particularly as to the hazards, if any, to the natural resources of the state, including wildlife, and as to the protection, if necessary, of rivers, streams and airspace from pollution.

VIII. Such other departments and agencies, including departments and agencies of political subdivisions of the state, as the governor may direct and for the purposes specified by him. (1955, c. 105, § 1. 1957, c. 210, §§ 5, 6.)

Effect of amendment. — The 1957 also to “source materials” and “radio-amendment made this section applicable active materials”.

Sec. 5. Coordination of studies and development activities.—The governor and council shall appoint a citizen of this state to serve as adviser to the governor with respect to atomic industrial development within the state; as coordinator of the development and regulatory activities of the state relating to the industrial and commercial uses of atomic energy and other forms of radiation; and as deputy of the governor in matters relating to atomic energy and other forms of radiation, including participation in the activities of any committee formed by the New England states to represent their interest in such matters and also cooperation with other states and with the government of the United States. The person so appointed shall have the title of coordinator of atomic development activities.

The coordinator of atomic development activities shall have the duty of coordinating the studies, recommendations and proposals of the several departments and agencies of the state and its political subdivisions required by section 4 with each other and also with the programs and activities of the department of labor and industry and the department of economic development and of the state. So far as may be practicable, he shall coordinate the studies conducted, and the recommendations and proposals made, in this state with like activities in the New England and other states and with the policies and regulations of the United States atomic energy commission. In carrying out his duties, he shall proceed in close

cooperation with the department of labor and industry and the department of economic development.

The several departments and agencies of the state and its political subdivisions which are directed by section 4 to initiate and pursue continuing studies are further directed to keep the coordinator of atomic development activities fully and currently informed as to their activities relating to atomic energy. No regulation or amendment to a regulation applying specifically to an atomic energy matter which any such department or agency may propose to issue shall become effective until 30 days after it has been submitted to the coordinator. If the coordinator objects to any such regulation or amendment thereto he may, within said 30 days, notify the governor of his objection and the reasons therefor, and the governor, after due consideration thereof, and after discussion with said department or agency, and within 15 days after receipt of said notice from the coordinator, may declare the proposed regulation or amendment thereto valid and effective, or he may declare it invalid and ineffective. Upon a finding of emergency need, the governor may declare any proposed regulation or amendment thereto immediately effective.

The coordinator of atomic development activities shall keep the governor and council and the several interested departments and agencies informed as to private and public activities affecting atomic industrial development and shall enlist their cooperation in taking action to further such development as is consistent with the health, safety and general welfare of this state. (1955, c. 105, § 1. 1957, c. 123, § 11; c. 210, § 7.)

Effect of amendment.—The first 1957 amendment substituted “department of economic development” for “Maine development commission” in two places in the first paragraph. The second 1957 amendment inserted the words “and other forms of radiation” in two places in the second paragraph. The second 1957 amendment inserted the words “and other forms of radiation” in two places in the first paragraph.

Sec. 5-A. Duties of department of health and welfare.—The department of health and welfare shall be authorized and empowered:

I. Rules and regulations. To formulate and promulgate, amend and repeal codes and rules and regulations, including licensing of sources of radiation, as may be necessary to prohibit and prevent unnecessary radiation, with due regard for compatibility with the regulatory programs of the federal government. No such code, rule or regulation and no such amendment or repeal shall be effective until 30 days after it has been submitted to the coordinator of atomic development activities unless, upon a finding of emergency need, the governor by order waives all or any part of this 30-day period;

II. Policies and programs. To develop comprehensive policies and programs for the evaluation and determination of hazards associated with the use of radiation, and for their amelioration;

III. Cooperate with others. To advise, consult and cooperate with other agencies of the state, the federal government, other states and interstate agencies, and with affected groups, political subdivisions and industries;

IV. Funds. To accept and administer according to law loans, grants or other funds or gifts from the federal government and from other sources, public or private, for carrying out its functions under this chapter;

V. Studies and research. To encourage, participate in or conduct studies, investigations, training, research and demonstrations relating to the control of radiation hazard, the measurement of radiation, the effects on health of exposure to radiation and related problems as it may deem necessary or advisable for the discharge of its duties under this chapter;

VI. Health education information. To collect and disseminate health education information relating to radiation protection;

VII. Review plans. To review plans and specifications for radiation sources submitted pursuant to codes, rules or regulations promulgated under this chapter;

VIII. Inspection. To inspect radiation sources, their shielding and immediate surroundings and records concerning their operation for the determination of any possible radiation hazard. (1961, c. 403, § 2.)

Sec. 5-B. Sources handled to prevent unnecessary radiation.—All sources of radiation shall be shielded, transported, handled, used and kept in such a manner as to prevent all users thereof and all persons within effective range thereof from being exposed to unnecessary radiation. (1961, c. 403, § 2.)

Sec. 5-C. Penalty for violations; injunctions.—Any person who violates any of the provisions of, or who fails to perform any duty imposed by, this chapter or who violates any order or rule of the department promulgated pursuant to this chapter, shall be guilty of a misdemeanor, and in addition thereto may be enjoined in a civil action by a court of competent jurisdiction from continuing such violation. (1961, c. 403, § 2.)

Sec. 5-D. Injunctive relief.—A civil action may be instituted by the attorney general in the appropriate court on behalf of the department for injunctive relief to prevent the violation of the provisions of this chapter or codes, rules or regulations promulgated under this chapter, and said court may proceed in the action in a summary manner or otherwise and may restrain in all such cases any person from violating any of the provisions of this chapter or said codes, rules or regulations. (1961, c. 403, § 2.)

Sec. 5-E. Exposure of patients to radiation not limited.—Nothing in this chapter shall be interpreted as limiting intentional exposure of patients to radiation for the purpose of diagnosis or therapy, or medical research, as authorized by law. (1961, c. 403, § 2.)

Sec. 5-F. Construction of chapter.—This chapter shall not be construed as repealing any laws of the state relating to radiation sources, exposures, radiation protection and professional licensure, but shall be held and construed as auxiliary and supplementary thereto, except to the extent that the same are in direct conflict herewith. (1961, c. 403, § 2.)

Sec. 5-G. Contracts with federal agencies.—The governor is authorized to execute contracts with appropriate federal officers or agencies relating to the responsibility of radiation hazards pursuant to P. L. 86-373, federal-state amendment to the atomic energy act of 1954. (1961, c. 403, § 2.)

Sec. 6. Injunction proceedings.—Whenever, in the opinion of the attorney general, any person is violating or is about to violate section 3, the attorney general may apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the activity violative of this chapter and upon a showing that such person has engaged, or is about to engage in any such activity, a permanent or temporary injunction, restraining order or other order may be granted. (1955, c. 105, § 1.)

Sec. 7. Agreements and cooperative arrangements authorized.—Any appropriate department or agency may cooperate with the federal government in performing functions on behalf of the federal government relating to atomic energy, and in the administration of this chapter or any matter pertaining thereto, and for that purpose may, with the approval of the coordinator, enter into agreements or cooperative arrangements with the federal government.

Such department or agency may receive, administer and disburse any funds or contributions received from the federal government for the purposes mentioned herein. (1957, c. 210, § 8.)