

## LEGISLATIVE BILL 814

Approved by the Governor April 24, 1978

Introduced by Appropriations Committee, Warner, 25, Chmn.; Bereuter, 24; S. Marsh, 29; Savage, 10; Goodrich, 20; Rumery, 42; Cope, 36; Fowler, 27

AN ACT to amend sections 71-2622, 71-3503, 71-3505, 71-3507, 71-3508, and 71-3515, Reissue Revised Statutes of Nebraska, 1943, and section 71-2618, Revised Statutes Supplement, 1977, as amended by section 1, Legislative Bill 813, Eighty-fifth Legislature, Second Session, 1978, relating to public health and welfare; to increase the fee for certain inspections; to provide for additional types of inspections; to change the use of a fund; to provide duties; to define and redefine terms; to provide for licensing of persons involved with radiation as prescribed; to provide for the registration of persons installing or servicing sources of radiation; to provide for regulations pertaining to the qualifications of a user of radioactive material; to provide penalties; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 71-2622, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2622. The Department of Health shall collect a fee of ~~twenty-five~~ forty-five dollars for each inspection of private water supply or private sewage disposal facilities requested of and made by the department in order for the person requesting the inspection to qualify for any type of commercial loan, guarantee, or other type of payment or benefit from any commercial agency or enterprise to the person applying for or receiving the same, or to meet the requirements of any federal governmental agency, including, but not limited to, the Farmers Home Administration, the Federal Housing Administration, and the United States Veterans Administration, that such an inspection be conducted as a condition of applying for or receiving any type of grant, loan, guarantee, or other type of payment or benefit from such agency to the person applying for or receiving the same. All fees so collected shall be paid into the state

treasury and by the State Treasurer credited to the Department of Health Cash Fund.

Sec. 2. That section 71-2618, Revised Statutes Supplement, 1977, as amended by section 1, Legislative Bill 813, Eighty-fifth Legislature, Second Session, 1978, be amended to read as follows:

71-2618. There is hereby created in the Department of Health a cash fund to be known as the Department of Health Cash Fund. Such fund shall be used by the Department of Health for the purpose of administering those laws relating to inspection of nuclear power plants, bedding, laboratory services, private water supply and private sewage disposal facilities, recreation camps, and swimming pools administered by the department. Such fund shall also be used by the department for the purpose of receiving and expending any third party reimbursement payments, matching funds, or similar nongrant funds from any federal governmental agency, private corporation, or other public or private organization or entity, which are to be used for home health services, family planning services, health services to migrants, maternal and child health services, the provision of statistical information or technical services, and the operation of the Hall of Health at the State Fair. All such funds received shall be paid into the state treasury and by the State Treasurer credited to the Department of Health Cash Fund.

Sec. 3. That section 71-3503, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3503. As used in sections 71-3501 to 71-3519, unless the context otherwise requires:

(1) Radiation shall mean (a) ionizing radiation including gamma rays, X-rays, alpha and beta particles, and other atomic or nuclear particles or rays, (b) any electromagnetic radiation which can be generated during the operations of electronic products to such energy density levels as to present a biological hazard to the public health and safety, and (c) any sonic, ultrasonic, or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and to such energy density levels as to present a biological hazard to the public health and safety;

(2) Radioactive material shall mean any material, solid, liquid or gas, that emits radiation spontaneously, whether occurring naturally or produced artificially;

(3) Radiation device shall mean any device that produces radiation when associated control devices are operated or operable;

(4) Source of radiation shall mean any radioactive material or any device or equipment emitting or capable of producing radiation;

(5) Undesirable radiation shall mean radiation in such quantity and under such circumstances as determined from time to time by regulations adopted by the Department of Health;

(6) Person shall mean any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States ~~Atomic--Energy~~ Nuclear Regulatory Commission, or any successor thereto, and other than federal government agencies licensed by the United States ~~Atomic--Energy~~ Nuclear Regulatory Commission, or any successor thereto;

(7) Registration shall mean registration with the Department of Health pursuant to its rules and regulations;

(8) Department shall mean the Department of Health;

(9) Coordinator shall mean the Director of Health;

(10) Council shall mean the radiation advisory council as provided for in sections 71-3501 to 71-3519;

(11) Electronic product shall mean any manufactured product, device, assembly, or assemblies of such products or devices which, during operation in an electronic circuit, can generate or emit a physical field of radiation;

(12) License shall mean (a) a general license issued pursuant to regulations promulgated by the Department of Health without the filing of an application to permit the licensee to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing by-products, source, special nuclear materials, or other radioactive materials occurring naturally or produced artificially, or (b) a specific license, issued after application, to use, manufacture, produce,

transfer, receive, acquire, own, or possess quantities of or devices or equipment utilizing by-products, source, special nuclear materials, or other radioactive materials occurring naturally or produced artificially;

(13) By-product material shall mean any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(14) Source material shall mean (a) uranium, thorium, or any other material which the Governor declares by order to be source material after the United States Atomic--Energy Nuclear Regulatory Commission, or any successor thereto, has determined the material to be such, or (b) ores containing one or more of such materials in such concentration as the Governor declares by order to be source material after the United States Atomic--Energy Nuclear Regulatory Commission, or any successor thereto, has determined the material in such concentration to be source material; and

(15) Special nuclear material shall mean (a) plutonium, uranium 233, 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 Nuclear Regulatory Commission, or any successor thereto, has determined the material to be such, but shall not include source material, or (b) any material artificially enriched by any such materials, but shall not include source material; and -

(16) Users of radioactive material shall mean:  
(a) Physicians using radioactive material for human use;  
(b) natural persons using radioactive material for education, research, or development purposes; (c) natural persons using radioactive material for manufacture or distribution purposes; (d) natural persons using radioactive material for industrial purposes; and (e) natural persons using radioactive material for any other similar purpose.

Sec. 4. That section 71-3505, <sup>1</sup> Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3505. Matters relative to radiation as they relate to the public health and safety shall be a responsibility of the Department of Health. The department shall:

(1) Develop comprehensive policies and programs for the evaluation and determination of undesirable radiation associated with the production, use, storage, or disposal of radiation sources; and formulate, adopt, promulgate and repeal rules and regulations which may provide for registration under the provisions of section 71-3507 or licensure as provided by section 71-3509, and for registration or licensure of any other source of radiation as specified by rule or regulation so as to reasonably protect the health and safety of the people of Nebraska in a manner compatible with regulatory programs of the federal government. The department for identical purposes may also adopt regulations for the issuance of licenses, either general or specific, to persons for the purpose of using, manufacturing, producing, transporting, transferring, receiving, acquiring, owning, or possessing any source of radiation or any other matter, as described in subdivision (12) of section 71-3503. Such rules and regulations may prohibit the use of radiation for uses found by the department to be detrimental to health or safety and shall carry out the purposes and policies set out in sections 71-3501 and 71-3502; provided, that such rules and regulations shall not prohibit or limit the kind or amount of radiation purposely prescribed for or administered to a patient by doctors of medicine and surgery, dentistry, osteopathy, chiropractic, podiatry, and veterinary medicine, and engaged in the lawful practice of his profession, or administered by other professional personnel, such as X-ray technicians, nurses, and laboratory workers, acting under the supervision of a licensed practitioner. ; Violation of regulations adopted by the department pursuant to sections 71-3501 to 71-3519 shall be due cause for the suspension, revocation, or limitation of a license issued by the department. Any licensee may request a hearing before the department on the issue of such suspension, revocation, or limitation. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the provisions of Chapter 84, article 9, and continued departmental suspension, revocation, or limitation subsequent to such a hearing shall also be subject to judicial review pursuant to such provisions;

(2) Inform the council of any such rules and regulations at least thirty days prior to their adoption, and consider any recommendations of the council;

(3) Have the authority to 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;

(4) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to sources of radiation;

(5) Collect and disseminate health education information relating to radiation protection;

(6) Make its facilities available so that any person or any agency may request the department to review and comment on plans and specifications of installations submitted by the person or agency, with respect to matters of protection and safety, for the control of undesirable radiation; and

(7) Be empowered to inspect radiation sources, their shieldings and surroundings for the determination of any possible undesirable radiation, or violations of rules and regulations promulgated by the department; and provide the owner, user or operator with a report of any known or suspected deficiencies; and -

(8) Collect a fee for each inspection of a nuclear power plant equal to the amount of completing the inspection and any associated report. In no event shall the monthly fee for any nuclear power plant exceed two thousand dollars. The fee collected shall be deposited in the Department of Health Cash Fund and shall be used solely for the purpose of defraying the costs of the inspections conducted by the department.

Sec. 5. That section 71-3507, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3507. (1) The department shall cause to be registered with the department such sources of radiation as the department determines to be reasonably necessary to protect the health and safety of the people of the State of Nebraska, as follows:

(a) The department shall, by public notice, establish a date on or before which date said sources of radiation shall be registered with the department, and the department shall provide appropriate forms for such registration. Each application for registration shall be in writing and shall state such information as the department by rules or regulations may determine to be necessary and reasonable to protect the public health and safety;

(b) Registration of sources of radiation shall be an initial registration with appropriate notification to the department in the case of alteration of equipment,

acquisition of new sources of radiation, or the transfer, loss, or destruction of sources of radiation and shall include the registration of persons installing or servicing sources of radiation:

(c) Failure to register sources of radiation in accordance with rules and regulations promulgated by the department shall be subject to a fine of not less than fifty dollars nor more than two hundred dollars; and

(d) There shall be no fee for registration.

(2) The department is authorized to exempt certain sources of radiation or kinds of uses or users from the licensing or registration requirements set forth in sections 71-3501 to 71-3519 when the department makes a finding that the exemption of such sources of radiation or kinds of uses or users will not constitute a significant risk to the health and safety of the public. Violation of the regulations adopted by the department pursuant to sections 71-3501 to 71-3519 shall be due cause for the suspension or revocation of a registration issued by the department. Any registrant may request a hearing before the department on the issue of such suspension or revocation. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the provisions of Chapter 84, article 9, and continued departmental suspension or revocation subsequent to such a hearing shall also be subject to judicial review pursuant to such provisions.

(3) Rules and regulations promulgated pursuant to sections 71-3501 to 71-3519 may provide for recognition of other state or federal licenses to the extent the department determines that such recognition will achieve the purposes and policies of sections 71-3501 to 71-3519.

(4) The department shall have the right to make such surveys or inspections of sources of radiation as the department deems necessary for the control of undesirable radiation; Provided, that any such survey or inspection shall be performed at a reasonable time or with adequate prior notification by the department of the owner or user of such sources of radiation.

(5) The results of any surveys or inspections of sources of radiation conducted by the department may be withheld from public inspection if disclosure of its contents is not required in the public interest and would adversely affect the interest of a person concerned. The department shall make such reports of results of surveys or inspections to the owner or operator of the source of radiation, together with any recommendations of the

department regarding deficiencies noted.

(6) The department shall have the right to survey or inspect again any source of radiation previously surveyed, without limitation of the number of surveys or inspections conducted on a given source of radiation; Provided, that the provisions of adequate notification as listed in subsection (4) of this section shall be complied with.

Sec. 6. That section 71-3508, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3508. (1) The department shall require each person who possesses or uses a source of radiation to maintain records relating to its receipt, storage, transfer or disposal and such other records as the department may require subject to such exemptions as may be provided by rules or regulations.

(2) The department shall require each person who possesses or uses a source of radiation to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring is required by rules and regulations of the department. Copies of these records and those required to be kept by subsection (1) of this section shall be submitted to the department on request. Any person possessing or using a source of radiation shall furnish to each employee for whom personnel monitoring is required a copy of each employee's personal exposure record at any time such employee has received exposure in excess of the amount specified in the regulations of the department, and upon termination of employment. A copy of his annual exposure record shall be furnished to the employee upon his request.

(3) The department may adopt regulations establishing qualifications pertaining to the education, knowledge of radiation safety procedures, training, experience, utilization, facilities, equipment, and the radiation protection program that an individual user of radioactive material pursuant to subdivision (16) of section 71-3503 must possess prior to using any source of radioactive material. Nothing in such regulations shall invalidate or conflict with any agreements, federal laws, federal contracts, or federal rules and regulations which are in effect as of the effective date of this act.

Sec. 7. That section 71-3515, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:



71-3515. It shall be unlawful for any person to use, manufacture, produce, transport, transfer, receive, acquire, own or possess any source of radiation unless registered with the department as required by section 71-3507 or unless licensed by the department as required by sections 71-3505 and 71-3509. ~~when--registration--or licensing-is-required-in-accordance-with--the--provisions of-sections-71-3504-to-71-3519.~~

Sec. 8. That original sections 71-2622, 71-3503, 71-3505, 71-3507, 71-3508, and 71-3515, Reissue Revised Statutes of Nebraska, 1943, and section 71-2618, Revised Statutes Supplement, 1977, as amended by section 1, Legislative Bill 813, Eighty-fifth Legislature, Second Session, 1978, are repealed.