

LEGISLATIVE BILL 716

Approved by the Governor April 3, 1984

Introduced by McDonald, 31

AN ACT relating to radiation control; to amend sections 71-3501 to 71-3503, 71-3511, and 71-3515, Reissue Revised Statutes of Nebraska, 1943; to redefine policy; to redefine terms; to provide for the supersession of certain ordinances, resolutions, and regulations; to expand a prohibition as prescribed; and to repeal the original sections.

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

Section 1. That section 71-3501, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3501. It is the policy of the State of Nebraska in furtherance of its responsibility to protect the public health, and safety; and welfare; (1) To institute and maintain a regulatory program for sources of radiation so as to provide for (a) compatibility with the standards and regulatory programs of the federal government, (b) a single effective system of regulation within the state, and (c) a system consonant insofar as possible with those of other states; and (2) to institute and maintain a program to permit development and utilization of sources of radiation for peaceful purposes consistent with the health, and safety and welfare of the public.

Sec. 2. That section 71-3502, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3502. It is the purpose of sections 71-3501 to 71-3519 to effectuate the policies set forth in section 71-3501 by providing for:

(1) A program of effective regulation of sources of radiation for the protection of the public health, and safety; and welfare;

(2) A program to promote an orderly regulatory pattern within the state, among the states, and between the federal government and the state and facilitate intergovernmental cooperation with respect to use and regulation of sources of radiation to the end that duplication of regulation may be minimized;

(3) A program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to sources of radiation; and

(4) A program to permit maximum utilization of sources of radiation consistent with the health, and

safety and welfare of the public.

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~~ which 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 Nuclear Regulatory Commission, or any successor thereto, and other than federal government agencies licensed by the United States Nuclear Regulatory Commission, or any successor thereto but not including federal government agencies;~~

(7) Registration shall mean registration with the Department of Health pursuant to ~~its rules and regulations~~ Chapter 71, article 35;

(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~~ Chapter 71, article 35;

(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 with the Department of Health or the issuance of licensing documents to particular persons 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 to a named person upon application filed with the Department of Health pursuant to Chapter 71, article 35, 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~~ Byproduct 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, or thorium, or any other material which the Governor declares by order to be source material after the United States 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 Nuclear Regulatory Commission, or any successor thereto, has determined the material in such concentration to be source material combination thereof, in any physical or chemical form, or~~ (b) ~~ores which contain by weight one-twentieth of one per cent or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material;~~

(15) Special nuclear material shall mean (a) ~~plutonium, uranium 233, or 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 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 71-3511, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3511. Any ordinance, resolution, or regulation, now or hereafter in effect, of the governing body of a municipality, county, or state agency relating to sources of radiation that is inconsistent with sections 71-3501 to 71-3919, amendments thereto, or rules and regulations thereunder, is superseded by such sections. Ordinances, resolutions or regulations, now or hereafter in effect, of the governing body of a municipality or county or board of health relating to sources of radiation shall not be superseded by sections 71-3501 to 71-3519; PROVIDED, that such ordinances or regulations must be consistent with the provisions of sections 71-3501 to 71-3519, amendments thereto and rules and regulations thereunder.

Sec. 5. 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, distribute, sell, transport, transfer, install, repair, 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.

Sec. 6. That original sections 71-3501 to 71-3503, 71-3511, and 71-3515, Reissue Revised Statutes of Nebraska, 1943, are repealed.