

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 717

Introduced by Preister, 5

Read first time January 20, 1999

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to the Nebraska Emergency Planning and
2 Community Right to Know Act; to amend sections 81-15,191,
3 81-15,193, 81-15,207, 81-15,210, 81-15,213, 81-15,214,
4 and 81-15,235, Revised Statutes Supplement, 1998; to
5 define and redefine terms; to transfer powers and duties
6 to the State Fire Marshal; to provide for fees and
7 allocations; to provide for the recovery of costs; to
8 harmonize provisions; and to repeal the original
9 sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-15,191, Revised Statutes
2 Supplement, 1998, is amended to read:

3 81-15,191. Sections 81-15,191 to 81-15,235 and sections
4 3 and 8 to 10 of this act shall be known and may be cited as the
5 Nebraska Emergency Planning and Community Right to Know Act.

6 Sec. 2. Section 81-15,193, Revised Statutes Supplement,
7 1998, is amended to read:

8 81-15,193. For purposes of the Nebraska Emergency
9 Planning and Community Right to Know Act, the definitions found in
10 sections 81-15,194 to 81-15,209 and section 3 of this act apply.

11 Sec. 3. Hazardous material has the same meaning as in 49
12 C.F.R. 171.8.

13 Sec. 4. Section 81-15,207, Revised Statutes Supplement,
14 1998, is amended to read:

15 81-15,207. State Administrator means the ~~director of the~~
16 ~~Nebraska Emergency Management Agency~~ State Fire Marshal.

17 Sec. 5. Section 81-15,210, Revised Statutes Supplement,
18 1998, is amended to read:

19 81-15,210. (1) The ~~director of the Nebraska Emergency~~
20 ~~Management Agency~~ State Fire Marshal shall serve as the State
21 Administrator of the Nebraska Emergency Planning and Community
22 Right to Know Act. The State Emergency Response Commission is
23 created and shall be a part of the ~~Nebraska Emergency Management~~
24 ~~Agency~~ office of the State Fire Marshal for administrative
25 purposes. The membership of the commission shall include the
26 Director of Environmental Quality or his or her designee, the
27 Director of Health and Human Services Regulation and Licensure or
28 his or her designee, the Director-State Engineer or his or her

1 designee, the Superintendent of Law Enforcement and Public Safety
2 or his or her designee, the State Fire Marshal or his or her
3 designee, the director of the Nebraska Emergency Management Agency
4 or his or her designee, two elected officials or employees of
5 municipal or county government, and one citizen member to represent
6 each of the following interest groups: Firefighters, local
7 emergency management, public or community health, environmental
8 protection, labor, school district, small business, agricultural
9 business, chemical industry, highway transportation, and rail
10 transportation. The Governor shall appoint the municipal or county
11 government officials or employees and the citizen members with the
12 approval of the Legislature. The appointments shall be made to
13 represent the three congressional districts as equally as possible.

14 (2) The members appointed by the Governor shall be
15 appointed for terms of four years, except that of the first citizen
16 members appointed, three members shall serve for one-year terms,
17 three members shall serve for two-year terms, and two members shall
18 serve for three-year terms, as designated at the time of
19 appointment.

20 (3) A vacancy on the commission shall exist in the event
21 of the death, disability, or resignation of a member. Any member
22 appointed to fill a vacancy occurring prior to the expiration of
23 the term for which his or her predecessor was appointed shall be
24 appointed by the Governor for the remainder of such term.

25 Sec. 6. Section 81-15,213, Revised Statutes Supplement,
26 1998, is amended to read:

27 81-15,213. (1) The ~~Nebraska Emergency Management Agency~~
28 State Fire Marshal shall supervise and coordinate emergency

1 planning and training under section 305 of Title III and shall
2 oversee and distribute all funds received under section 305 of
3 Title III and section 81-15,214.

4 (2) The Department of Environmental Quality shall receive
5 emergency notification and facility reports and establish
6 procedures for receiving and processing requests from the public
7 for information as required to be provided under the Nebraska
8 Emergency Planning and Community Right to Know Act. The director
9 or his or her designee shall serve as commission coordinator for
10 information.

11 Sec. 7. Section 81-15,214, Revised Statutes Supplement,
12 1998, is amended to read:

13 81-15,214. (1) There is hereby created the Nebraska
14 Emergency Planning and Community Right to Know Cash Fund. The fund
15 may receive gifts, bequests, grants, fees, or other contributions
16 or donations from public or private entities. All fees received
17 under section 8 of this act and all federal funds received from the
18 Federal Emergency Management Agency under Title III for training
19 and planning and from the federal Department of Transportation for
20 hazardous material emergency preparedness shall be credited to the
21 fund. The fund shall be used to carry out the purposes of the
22 Nebraska Emergency Planning and Community Right to Know Act,
23 including:

24 (a) Allocations under section 9 of this act;

25 (b) The funding of training and planning requirements as
26 approved by the commission;

27 (c) The funding of specific projects as approved by the
28 commission; and

1 ~~(b)~~ (d) The payment of expenses incurred by the
2 commission to administer the fund. Payment from the fund for costs
3 of administering the fund shall not exceed fifteen percent of the
4 total receipts of the fund during the fiscal year not including
5 fees received under section 8 of this act.

6 (2) The commission shall adopt and promulgate rules and
7 regulations governing allocations from the fund, ~~and~~ shall publish
8 guidelines regarding allocations from the fund, and shall make all
9 decisions regarding expenditures from the fund.

10 (3) Any money in the fund available for investment shall
11 be invested by the state investment officer pursuant to the
12 Nebraska Capital Expansion Act and the Nebraska State Funds
13 Investment Act.

14 ~~(2)~~ (4) Entities receiving allocations from the Nebraska
15 Emergency Planning and Community Right to Know Cash Fund shall
16 expend the allocation in a manner expressly approved by the
17 commission. If allocations from the fund are used for purposes
18 other than those approved by the commission, the commission may
19 recover by appropriate legal means any funds spent inconsistent
20 with the terms of the allocation. Any recovered funds shall be
21 deposited in the fund.

22 Sec. 8. (1) An owner or operator of a facility required
23 to file a tier II inventory form under section 81-15,224 shall
24 submit an annual fee of one hundred dollars with the form, except
25 that if more than three hazardous chemicals or mixtures are
26 reported on the form, the owner or operator shall submit an
27 additional twenty-five-dollar fee for each hazardous chemical or
28 mixture in excess of three chemicals or mixtures.

1 (2) A business engaged in transporting a hazardous
2 material by pipeline shall submit an annual certification of all
3 the counties in which it operated a pipeline during the previous
4 calendar year and an annual fee of two hundred fifty dollars for
5 each county in which it operates a pipeline.

6 (3) Fees shall be submitted on or before March 1
7 beginning in 2000.

8 (4) If the fees are not paid by April 1, the commission
9 shall assess a late fee of ten percent of the total amount owed,
10 plus twenty-five dollars per month, against the owner or operator
11 until all fees under this section are paid in total. The
12 commission shall send a copy of all late fee assessment notices to
13 the local emergency planning committee where the facility or
14 pipeline is located and to the Department of Environmental Quality.
15 The department shall file such notice with the facility owner's
16 Tier II form, except that any notice sent to businesses under
17 subsection (2) of this section shall be kept in a separate file.
18 All notices shall be made available for public review.

19 (5) Fees shall be remitted to the State Treasurer for
20 credit to the Nebraska Emergency Planning and Community Right to
21 Know Cash Fund.

22 Sec. 9. The commission shall make allocations of the
23 fees received under section 8 of this act as follows:

24 (1) Fifty percent shall be provided to local emergency
25 planning committees which are actively working to carry out their
26 powers and duties under the Nebraska Emergency Planning and
27 Community Right to Know Act as follows:

28 (a) One-fourth of the fifty percent shall be annually

1 distributed equally to each local emergency planning committee; and

2 (b) Three-fourths of the fifty percent shall be
3 distributed to local emergency planning committees based on the
4 number of facilities identified with hazardous chemicals and the
5 presence of highways, railroads, pipelines, and other structures
6 within the territory of the committee as determined by the
7 commission.

8 If the commission has designated two or more counties to
9 join together to form a local emergency planning district, any
10 funds distributed to such committees under subdivisions (1)(a) and
11 (b) of this section shall be transferred to the committee for the
12 local emergency planning district;

13 (2) Twenty-five percent shall be allocated to the
14 commission to carry out the responsibilities of the commission; and

15 (3) Twenty-five percent shall be allocated to the State
16 Fire Marshal for training required under the act.

17 The State Fire Marshal's office shall provide a detailed
18 expenditure report to the commission and shall respond to all
19 inquiries regarding expenditures.

20 Sec. 10. A state agency or political subdivision may
21 recover from a facility owner the actual cost of responding to the
22 release or threatened release from such facility of a hazardous
23 chemical or hazardous material. Response includes, but is not
24 limited to, mitigation and any other action deemed necessary to
25 protect the public health and safety. The Accounting Administrator
26 may establish a cash fund pursuant to section 81-1111.04 for any
27 funds recovered under this section and shall make such funds
28 available as reimbursement to the recovering agency or political

1 subdivision.

2 Sec. 11. Section 81-15,235, Revised Statutes Supplement,
3 1998, is amended to read:

4 81-15,235. The ~~Nebraska Emergency Management Agency~~
5 State Fire Marshal and the commission shall as necessary adopt and
6 promulgate rules and regulations to carry out ~~its~~ their
7 responsibilities under the Nebraska Emergency Planning and
8 Community Right to Know Act. The Environmental Quality Council
9 shall adopt and promulgate rules and regulations necessary for the
10 Department of Environmental Quality to carry out its
11 responsibilities under the act.

12 Sec. 12. Original sections 81-15,191, 81-15,193,
13 81-15,207, 81-15,210, 81-15,213, 81-15,214, and 81-15,235, Revised
14 Statutes Supplement, 1998, are repealed.