

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 882**

Introduced by Johnson, 37

Read first time January 5, 2006

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Radiation Control Act; to amend  
2 sections 71-3505, 71-3507, 71-3515.01, 71-3515.02,  
3 71-3516, and 71-3517, Reissue Revised Statutes of  
4 Nebraska, and sections 71-3503 and 71-3519, Revised  
5 Statutes Supplement, 2005; to redefine terms; to provide  
6 for licensure of medical radiographers restricted to  
7 computed tomography; to change licensure requirements  
8 and department duties; to eliminate obsolete provisions;  
9 to provide for disposition of an impounded source of  
10 radiation; to change the disposition of civil penalties;  
11 to harmonize provisions; and to repeal the original  
12 sections.

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

1           Section 1. Section 71-3503, Revised Statutes Supplement,  
2 2005, is amended to read:

3           71-3503 For purposes of the Radiation Control Act, unless  
4 the context otherwise requires:

5           (1) Radiation means ionizing radiation and nonionizing  
6 radiation as follows:

7           (a) Ionizing radiation means gamma rays, X-rays, alpha  
8 and beta particles, high-speed electrons, neutrons, protons, and  
9 other atomic or nuclear particles or rays but does not include  
10 sound or radio waves or visible, infrared, or ultraviolet light;  
11 and

12           (b) Nonionizing radiation means (i) any electromagnetic  
13 radiation which can be generated during the operations of  
14 electronic products to such energy density levels as to present  
15 a biological hazard to occupational and public health and safety  
16 and the environment, other than ionizing electromagnetic radiation,  
17 and (ii) any sonic, ultrasonic, or infrasonic waves which are  
18 emitted from an electronic product as a result of the operation of  
19 an electronic circuit in such product and to such energy density  
20 levels as to present a biological hazard to occupational and public  
21 health and safety and the environment;

22           (2) Radioactive material means any material, whether  
23 solid, liquid, or gas, which emits ionizing radiation  
24 spontaneously. Radioactive material includes, but is not  
25 limited to, accelerator-produced material, byproduct material,

1 naturally occurring material, source material, and special nuclear  
2 material;

3 (3) Radiation-generating equipment means any manufactured  
4 product or device, component part of such a product or device,  
5 or machine or system which during operation can generate or emit  
6 radiation except devices which emit radiation only from radioactive  
7 material;

8 (4) Sources of radiation means any radioactive material,  
9 any radiation-generating equipment, or any device or equipment  
10 emitting or capable of emitting radiation or radioactive material;

11 (5) Undesirable radiation means radiation in such  
12 quantity and under such circumstances as determined from time  
13 to time by rules and regulations adopted and promulgated by the  
14 department;

15 (6) Person means any individual, corporation,  
16 partnership, limited liability company, firm, association,  
17 trust, estate, public or private institution, group, agency,  
18 political subdivision of this state, any other state or  
19 political subdivision or agency thereof, and any legal successor,  
20 representative, agent, or agency of the foregoing;

21 (7) Registration means registration with the department  
22 pursuant to the Radiation Control Act;

23 (8) Department means the Department of Health and Human  
24 Services Regulation and Licensure;

25 (9) Coordinator means the Director of Regulation and

1 Licensure;

2 (10) Electronic product means any manufactured product,  
3 device, assembly, or assemblies of such products or devices which,  
4 during operation in an electronic circuit, can generate or emit a  
5 physical field of radiation;

6 (11) License means:

7 (a) A general license issued pursuant to rules and  
8 regulations adopted and promulgated by the department without the  
9 filing of an application with the department or the issuance of  
10 licensing documents to particular persons to transfer, acquire,  
11 own, possess, or use quantities of or devices or equipment  
12 utilizing radioactive materials;

13 (b) A specific license, issued to a named person upon  
14 application filed with the department pursuant to the Radiation  
15 Control Act and rules and regulations adopted and promulgated  
16 pursuant to the act, to use, manufacture, produce, transfer,  
17 receive, acquire, own, or possess quantities of or devices or  
18 equipment utilizing radioactive materials;

19 (c) A license issued to a radon measurement specialist,  
20 radon measurement technician, radon mitigation specialist, radon  
21 mitigation technician, radon measurement business, or radon  
22 mitigation business; or

23 (d) A license issued to a medical radiographer or limited  
24 radiographer;

25 (12) Byproduct material means:

1           (a) Any radioactive material, except special nuclear  
2 material, yielded in or made radioactive by exposure to the  
3 radiation incident to the process of producing or utilizing special  
4 nuclear material; and

5           (b) The tailings or wastes produced by the extraction  
6 or concentration of uranium or thorium from any ore processed  
7 primarily for its source material content, including discrete  
8 surface wastes resulting from uranium or thorium solution  
9 extraction processes. Underground ore bodies depleted by such  
10 solution extraction operations do not constitute byproduct  
11 material;

12           (13) Source material means:

13           (a) Uranium or thorium or any combination thereof in any  
14 physical or chemical form; or

15           (b) Ores which contain by weight one-twentieth of one  
16 percent or more of uranium, thorium, or any combination thereof.  
17 Source material does not include special nuclear material;

18           (14) Special nuclear material means:

19           (a) Plutonium, uranium 233, or uranium enriched in the  
20 isotope 233 or in the isotope 235 and any other material that  
21 the United States Nuclear Regulatory Commission pursuant to the  
22 provisions of section 51 of the federal Atomic Energy Act of 1954,  
23 as amended, determines to be special nuclear material but does not  
24 include source material; or

25           (b) Any material artificially enriched by any material

1 listed in subdivision (14) (a) of this section but does not include  
2 source material;

3 (15) Users of sources of radiation means:

4 (a) ~~Physicians~~ Natural persons using radioactive material  
5 or radiation-generating equipment for human use;

6 (b) Natural persons using radioactive material or  
7 radiation-generating equipment for education, research, or  
8 development purposes;

9 (c) Natural persons using radioactive material or  
10 radiation-generating equipment for manufacture or distribution  
11 purposes;

12 (d) Natural persons using radioactive material or  
13 radiation-generating equipment for industrial purposes; and

14 (e) Natural persons using radioactive material or  
15 radiation-generating equipment for any other similar purpose;

16 (16) Civil penalty means any monetary penalty levied on  
17 a licensee or registrant because of violations of statutes, rules,  
18 regulations, licenses, or registration certificates but does not  
19 include criminal penalties;

20 (17) Closure means all activities performed at a waste  
21 handling, processing, management, or disposal site, such as  
22 stabilization and contouring, to assure that the site is in a  
23 stable condition so that only minor custodial care, surveillance,  
24 and monitoring are necessary at the site following termination of  
25 licensed operation;

1           (18) Decommissioning means final operational activities  
2 at a facility to dismantle site structures, to decontaminate  
3 site surfaces and remaining structures, to stabilize and contain  
4 residual radioactive material, and to carry out any other  
5 activities to prepare the site for postoperational care;

6           (19) Disposal means the permanent isolation of low-level  
7 radioactive waste pursuant to the Radiation Control Act and rules  
8 and regulations adopted and promulgated pursuant to such act;

9           (20) Generate means to produce low-level radioactive  
10 waste when used in relation to low-level radioactive waste;

11           (21) High-level radioactive waste means:

12           (a) Irradiated reactor fuel;

13           (b) Liquid wastes resulting from the operation of the  
14 first cycle solvent extraction system or equivalent and the  
15 concentrated wastes from subsequent extraction cycles or the  
16 equivalent in a facility for reprocessing irradiated reactor fuel;  
17 and

18           (c) Solids into which such liquid wastes have been  
19 converted;

20           (22) Low-level radioactive waste means radioactive waste  
21 not defined as high-level radioactive waste, spent nuclear fuel,  
22 or byproduct material as defined in subdivision (12)(b) of this  
23 section;

24           (23) Management of low-level radioactive waste means  
25 the handling, processing, storage, reduction in volume, disposal,

1 or isolation of such waste from the biosphere in any manner,  
2 except the commercial disposal of low-level radioactive waste in a  
3 disposal facility; ~~7 designated by the Central Interstate Low-Level~~  
4 ~~Radioactive Waste Compact Commission;~~

5 (24) Source material mill tailings or mill tailings means  
6 the tailings or wastes produced by the extraction or concentration  
7 of uranium or thorium from any ore processed primarily for  
8 its source material content, including discrete surface wastes  
9 resulting from underground solution extraction processes, but  
10 not including underground ore bodies depleted by such solution  
11 extraction processes;

12 (25) Source material milling means any processing of ore,  
13 including underground solution extraction of unmined ore, primarily  
14 for the purpose of extracting or concentrating uranium or thorium  
15 therefrom and which results in the production of source material  
16 and source material mill tailings;

17 (26) Spent nuclear fuel means irradiated nuclear fuel  
18 that has undergone at least one year of decay since being used as  
19 a source of energy in a power reactor. Spent nuclear fuel includes  
20 the special nuclear material, byproduct material, source material,  
21 and other radioactive material associated with fuel assemblies;

22 (27) Transuranic waste means radioactive waste material  
23 containing alpha-emitting radioactive elements, with radioactive  
24 half-lives greater than five years, having an atomic number greater  
25 than 92 in concentrations in excess of one hundred nanocuries per

1 gram;

2 (28) Licensed practitioner means a person licensed to  
3 ~~practice medicine, dentistry, podiatry, chiropractic, osteopathic~~  
4 ~~medicine and surgery, or as an osteopathic physician as a~~  
5 doctor of medicine and surgery, dentistry, osteopathic medicine,  
6 chiropractic, podiatry, or veterinary medicine, or licensed as a  
7 physician assistant or nurse practitioner;

8 (29) X-ray system means an assemblage of components for  
9 the controlled production of X-rays, including, but not limited to,  
10 an X-ray high-voltage generator, an X-ray control, a tube housing  
11 assembly, a beam-limiting device, and the necessary supporting  
12 structures. Additional components which function with the system  
13 are considered integral parts of the system;

14 (30) Limited radiographer means a person licensed  
15 to practice medical radiography pursuant to subsection (2) of  
16 section 71-3515.01. Limited radiographer does not include a person  
17 certified under section 71-176.01;

18 (31) Medical radiographer means a person licensed  
19 to practice medical radiography pursuant to subsection (1) or  
20 subsection (3) of section 71-3515.01;

21 (32) Medical radiography means the application of  
22 radiation to humans for diagnostic purposes, including, but not  
23 limited to, adjustment or manipulation of X-ray systems and  
24 accessories including image receptors, positioning of patients,  
25 processing of films, and any other action that materially affects

1 the radiation dose to patients;

2 (33) Licensed facility operator means any person or  
3 entity who has obtained a license under the Low-Level Radioactive  
4 Waste Disposal Act to operate a facility, including any person  
5 or entity to whom an assignment of a license is approved by the  
6 Department of Environmental Quality; and

7 (34) Deliberate misconduct means an intentional act or  
8 omission by a person that (a) would intentionally cause a licensee,  
9 registrant, or applicant for a license or registration to be  
10 in violation of any rule, regulation, or order of or any term,  
11 condition, or limitation of any license or registration issued by  
12 the department under the Radiation Control Act or (b) constitutes  
13 an intentional violation of a requirement, procedure, instruction,  
14 contract, purchase order, or policy under the Radiation Control  
15 Act by a licensee, a registrant, an applicant for a license or  
16 registration, or a contractor or subcontractor of a licensee,  
17 registrant, or applicant for a license or registration.

18 Sec. 2. Section 71-3505, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 71-3505 Matters relative to radiation as they relate to  
21 occupational and public health and safety and the environment shall  
22 be a responsibility of the department. The department shall:

23 (1) Develop comprehensive policies and programs for the  
24 evaluation and determination of undesirable radiation associated  
25 with the production, use, storage, or disposal of radiation sources

1 and formulate, adopt, promulgate, and repeal rules and regulations  
2 which may provide (a) for registration or licensure under section  
3 71-3507 or 71-3509 and (b) for registration or licensure of (i)  
4 any other source of radiation, (ii) persons providing services  
5 for collection, detection, measurement, or monitoring of sources  
6 of radiation, including, but not limited to, radon and its  
7 decay products, (iii) persons providing services to reduce the  
8 effects of sources of radiation, (iv) persons practicing medical  
9 radiography, and (v) persons practicing industrial radiography,  
10 as specified by rule or regulation so as to reasonably protect  
11 occupational and public health and safety and the environment  
12 in a manner compatible with regulatory programs of the federal  
13 government. The department for identical purposes may also adopt  
14 and promulgate rules and regulations for the issuance of licenses,  
15 either general or specific, to persons for the purpose of using,  
16 manufacturing, producing, transporting, transferring, receiving,  
17 acquiring, owning, or possessing any radioactive material. Such  
18 rules and regulations may prohibit the use of radiation for uses  
19 found by the department to be detrimental to occupational and  
20 public health or safety or the environment and shall carry out the  
21 purposes and policies set out in sections 71-3501 and 71-3502.  
22 Such rules and regulations shall not prohibit or limit the kind or  
23 amount of radiation purposely prescribed for or administered to a  
24 patient by ~~doctors of medicine and surgery, dentistry, osteopathic~~  
25 ~~medicine, chiropractic, podiatry, and veterinary medicine, a~~

1 licensed practitioner while engaged in the lawful practice of  
2 such profession, or administered by other professional personnel,  
3 such as allied health personnel, medical radiographers, limited  
4 radiographers, nurses, and laboratory workers, acting under the  
5 supervision of a licensed practitioner. Violation of rules and  
6 regulations adopted and promulgated by the department pursuant to  
7 the Radiation Control Act shall be due cause for the suspension,  
8 revocation, or limitation of a license issued by the department.  
9 Any licensee may request a hearing before the department on the  
10 issue of such suspension, revocation, or limitation. Procedures for  
11 notice and opportunity for a hearing before the department shall be  
12 pursuant to the Administrative Procedure Act. The decision of the  
13 department may be appealed, and the appeal shall be in accordance  
14 with the Administrative Procedure Act;

15 (2) Have the authority to accept and administer loans,  
16 grants, or other funds or gifts, conditional or otherwise, in  
17 furtherance of its functions, from the federal government and from  
18 other sources, public or private;

19 (3) Encourage, participate in, or conduct studies,  
20 investigations, training, research, and demonstrations relating to  
21 the control of sources of radiation;

22 (4) Collect and disseminate health education information  
23 relating to radiation protection;

24 (5) Make its facilities available so that any person or  
25 any agency may request the department to review and comment on

1 plans and specifications of installations submitted by the person  
2 or agency with respect to matters of protection and safety for the  
3 control of undesirable radiation;

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

10 (7) Collect a fee for emergency response or environmental  
11 surveillance, or both, offsite from each nuclear power plant equal  
12 to the cost of completing the emergency response or environmental  
13 surveillance and any associated report. In no event shall the  
14 fee for any nuclear power plant exceed the lesser of the  
15 actual costs of such activities or fifty-three thousand dollars  
16 per annum. Commencing July 1, 1997, the accounting division  
17 of the Department of Administrative Services shall recommend an  
18 inflationary adjustment equivalent which shall be based upon the  
19 Consumer Price Index for All Urban Consumers of the United States  
20 Department of Labor, Bureau of Labor Statistics, and shall not  
21 exceed five percent per annum. Such adjustment shall be applied to  
22 the annual fee for nuclear power plants. The fee collected shall be  
23 credited to the Department of Health and Human Services Regulation  
24 and Licensure Cash Fund. This fee shall be used solely for the  
25 purpose of defraying the direct costs of the emergency response

1 and environmental surveillance at Cooper Nuclear Station and Fort  
2 Calhoun Station conducted by the department. The department may  
3 charge additional fees when mutually agreed upon for services,  
4 training, or equipment that are a part of or in addition to matters  
5 in this section.

6           Sec. 3. Section 71-3507, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           71-3507 (1) The department shall adopt and promulgate  
9 rules and regulations for the issuance, amendment, suspension,  
10 and revocation of general and specific licenses. Such licenses  
11 shall be for byproduct material, source material, special nuclear  
12 material, and radioactive material not under the authority of the  
13 federal Nuclear Regulatory Commission and for devices or equipment  
14 utilizing such materials. The rules and regulations shall provide:

15           (a) For written applications for a specific license  
16 which include the technical, financial, and other qualifications  
17 determined by the department to be reasonable and necessary  
18 to protect occupational and public health and safety and the  
19 environment;

20           (b) For additional written statements and inspections, as  
21 required by the department, at any time after filing an application  
22 for a specific license and before the expiration of the license to  
23 determine whether the license should be issued, amended, suspended,  
24 or revoked;

25           (c) That all applications and statements be signed by the

1 applicant or licensee;

2 (d) The form, terms, and conditions of general and  
3 specific licenses;

4 (e) That no license or right to possess or utilize  
5 sources of radiation granted by a license shall be assigned or  
6 in any manner disposed of without the written consent of the  
7 department; and

8 (f) That the terms and conditions of all licenses are  
9 subject to amendment by rules, regulations, or orders issued by the  
10 department.

11 (2) The department may require registration or licensing  
12 of radioactive material not enumerated in subsection (1) of this  
13 section in order to maintain compatibility and equivalency with  
14 the standards and regulatory programs of the federal government or  
15 to protect the occupational and public health and safety and the  
16 environment.

17 (3) The department shall require licensure of persons  
18 providing measurement and mitigation services of radon or its  
19 decay products in order to protect the occupational and public  
20 health and safety and the environment. The department shall  
21 adopt and promulgate rules and regulations establishing education,  
22 experience, training, examination, and continuing competency  
23 requirements for radon measurement specialists, radon measurement  
24 technicians, radon mitigation specialists, and radon mitigation  
25 technicians. Continuing competency requirements may include, but

1 not be limited to, one or more of the continuing competency  
2 activities listed in section 71-161.09. The department shall  
3 adopt and promulgate rules and regulations establishing staffing,  
4 proficiency, quality control, reporting, worker health and safety,  
5 equipment, and record-keeping requirements for radon measurement  
6 businesses and radon mitigation businesses and mitigation system  
7 installation requirements for radon mitigation businesses.

8 (4) The department shall license persons practicing  
9 medical radiography, including medical radiographers and limited  
10 radiographers, in order to protect the occupational and public  
11 health and safety and the environment. The licenses shall  
12 be renewed biennially. For medical radiographers and limited  
13 radiographers, the department shall adopt and promulgate rules and  
14 regulations establishing examination requirements for licensure,  
15 continuing competency requirements for renewal of a license, and  
16 approval requirements for examinations. Continuing education is  
17 sufficient to meet continuing competency requirements. Continuing  
18 competency requirements may also include, but not be limited  
19 to, one or more of the continuing competency activities listed  
20 in section 71-161.09 which a licensed person may select as an  
21 alternative to continuing education. For medical radiographers,  
22 the department shall adopt and promulgate rules and regulations  
23 establishing requirements for education and training and for  
24 approval of courses of training. Persons authorized under sections  
25 71-193.15 and 71-193.17 to practice as dental hygienists and dental

1 assistants who meet the requirements of section 71-193.13 shall not  
2 be required to be licensed under this section.

3 (5) The department may exempt certain sources of  
4 radiation or kinds of uses or users from licensing or registration  
5 requirements established under the Radiation Control Act when  
6 the department finds that the exemption will not constitute a  
7 significant risk to occupational and public health and safety and  
8 the environment.

9 (6) The department may provide by rule and regulation  
10 for the recognition of other state or federal licenses compatible  
11 and equivalent with the standards established by the department for  
12 Nebraska licensees.

13 (7) The department may accept accreditation for an  
14 industrial radiographer by a recognized independent accreditation  
15 body, a public agency, or the federal Nuclear Regulatory  
16 Commission, which has standards that are at least as stringent as  
17 those of the State of Nebraska, as evidence that the industrial  
18 radiographer complies with the rules and regulations adopted and  
19 promulgated pursuant to the act. The department may adopt and  
20 promulgate rules and regulations which list accreditation bodies,  
21 public agencies, and federal programs that meet this standard.

22 (8) The department may enter at all reasonable times  
23 upon any private or public property for the purpose of determining  
24 whether or not there is compliance with the act and rules and  
25 regulations adopted and promulgated pursuant to the act, except

1 that entry into areas under the jurisdiction of the federal  
2 government shall be effected only with the concurrence of the  
3 federal government or its duly designated representative.

4 (9) The department shall cause to be registered with the  
5 department such sources of radiation as the department determines  
6 to be reasonably necessary to protect occupational and public  
7 health and safety and the environment as follows:

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

16 (b) Registration of sources of radiation shall be  
17 an initial registration with appropriate notification to the  
18 department in the case of alteration of equipment, acquisition of  
19 new sources of radiation, or the transfer, loss, or destruction of  
20 sources of radiation and shall include the registration of persons  
21 installing or servicing sources of radiation;

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

1           (d) The department may provide by rule and regulation for  
2 reregistration of sources of radiation.

3           (10) The results of any surveys or inspections of sources  
4 of radiation conducted by the department shall be public records  
5 subject to sections 84-712 to 84-712.09. In addition, the following  
6 information shall be deemed confidential:

7           (a) The names of individuals in dosimetry reports;

8           (b) Emergency response procedures which would present a  
9 clear threat to security or disclose names of individuals; and

10          (c) Any other information that is likely to present  
11 a clear threat to the security of radioactive material. The  
12 department shall make such reports of results of surveys or  
13 inspections available to the owner or operator of the source  
14 of radiation together with any recommendations of the department  
15 regarding deficiencies noted.

16          (11) The department shall have the right to survey or  
17 inspect again any source of radiation previously surveyed without  
18 limitation of the number of surveys or inspections conducted on a  
19 given source of radiation.

20          (12) The department may enter into contracts with  
21 persons or corporations to perform the inspection of X-ray  
22 radiation-generating equipment or devices which emit radiation  
23 from radioactive materials and to aid the department in the  
24 administration of the act.

25          Sec. 4. Section 71-3515.01, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-3515.01 (1) A person licensed by the department as  
3 a medical radiographer ~~by the department~~ may practice medical  
4 radiography on any part of the human anatomy for interpretation  
5 by and under the direction of a licensed practitioner, excluding  
6 interpretative fluoroscopic procedures. Such person shall:

7           (a) Prior to issuance of a license as a medical  
8 radiographer, (i) complete an educational program in radiography  
9 incorporating the course material as provided in the rules and  
10 regulations of the department pursuant to subsection (1) of section  
11 71-3515.02 and (ii) complete an application which includes such  
12 person's social security number and successfully complete an  
13 examination approved by the department on the course material.  
14 Presentation of proof of registration in radiography with the  
15 American Registry of Radiologic Technologists is proof of meeting  
16 the requirements of this subdivision (a) of this subsection; and

17           (b) Prior to renewal of licensure as a medical  
18 radiographer, have an average of twelve units of continuing  
19 education per year as approved by the department or complete  
20 continuing competency activities as required by the department  
21 pursuant to section 71-3507.

22           Presentation of proof of current registration in  
23 radiography with the American Registry of Radiologic Technologists  
24 is proof of meeting the requirements of subdivisions (a) and (b)  
25 of this subsection.

1           (2) A person licensed by the department as a limited  
2 radiographer ~~by the department~~ may practice medical radiography  
3 on limited regions of the human anatomy, using only routine  
4 radiographic procedures, for the interpretation by and under  
5 the direction of a licensed practitioner, excluding computed  
6 tomography, the use of contrast media, and the use of fluoroscopic  
7 or mammographic equipment. Such person shall:

8           (a) Prior to issuance of a license as a limited  
9 radiographer, complete an application which includes the  
10 applicant's social security number and successfully complete  
11 an examination approved by the department, as described in  
12 subdivision (2)(a) of section 71-3515.02 and at least one of the  
13 anatomical regions listed in subdivision (2)(b) of such section or  
14 successfully complete an examination approved by the department,  
15 as described in subsection (3) of section 71-3515.02. The license  
16 issued shall be specific to the anatomical region or regions for  
17 which the applicant has passed an approved examination, except  
18 that an applicant may be licensed in the anatomical region of  
19 Abdomen upon successful passage of the examinations described in  
20 subdivisions (2)(a) and (2)(b)(iv) of section 71-3515.02 and upon a  
21 finding by the department that continued provision of service for a  
22 community would be in jeopardy; and

23           (b) Prior to renewal of licensure as a limited  
24 radiographer, have an average of twelve units of continuing  
25 education per year as approved by the department or complete

1 continuing competency activities as required by the department  
2 pursuant to section 71-3507.

3 (3) A person licensed by the department as a medical  
4 radiographer restricted to computed tomography may practice medical  
5 radiography on any part of the human anatomy, using only computed  
6 tomography systems designed to perform the functions of both  
7 a nuclear medicine system and a computed tomography system  
8 for interpretation by and under the direction of a licensed  
9 practitioner. Such person shall:

10 (a) Prior to issuance of a license as a medical  
11 radiographer restricted to computed tomography, (i) present  
12 proof of current registration by the Nuclear Medicine Technology  
13 Certification Board (NMTCB) or the American Registry of Radiologic  
14 Technologists in Nuclear Medicine Technology, (ii) present proof of  
15 certification by the American Registry of Radiologic Technologists  
16 in Computed Tomography; and (iii) complete an application which  
17 includes the applicant's social security number; and

18 (b) Prior to renewal of licensure as a medical  
19 radiographer restricted to computed tomography, have an average of  
20 twelve units of continuing education per year as approved by the  
21 department or complete continuing competency activities as required  
22 by the department pursuant to section 71-3507.

23 Presentation of proof of current registration in computed  
24 tomography with the American Registry of Radiologic Technologists  
25 is proof of meeting the requirements of this subdivision.

1           (4) The requirements of this section do not apply to  
2 a student while enrolled and participating in an educational  
3 program in medical radiography who, as a part of an educational  
4 program, applies X-rays to humans while under the supervision  
5 of the licensed practitioners or medical radiographers associated  
6 with the educational program. Students who have completed at least  
7 twelve months of the training course described in subsection (1) of  
8 section 71-3515.02 may apply for licensure as a temporary medical  
9 radiographer. Temporary medical radiographer licenses shall expire  
10 eighteen months after issuance and shall not be renewed. Persons  
11 licensed as temporary medical radiographers shall be permitted  
12 to perform the duties of a limited radiographer licensed in all  
13 anatomical regions of subdivision (2)(b) of such section and  
14 Abdomen.

15           Sec. 5. Section 71-3515.02, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           71-3515.02 (1) The educational program for medical  
18 radiographers shall consist of twenty-four months of instruction  
19 in radiography approved by the department which includes, but is  
20 not limited to, radiographic procedures, imaging equipment, image  
21 production and evaluation, film processing, radiation physics,  
22 radiation protection, radiation biology, radiographic pathology,  
23 and quality assurance activities. The department shall recognize  
24 equivalent courses of instruction successfully completed by  
25 individuals who are applying for licensure as medical radiographers

1 by the department when determining if the requirements of section  
2 71-3515.01 have been met.

3 (2) The examination for limited radiographers shall  
4 include, but not be limited to:

5 (a) Radiation protection, equipment maintenance and  
6 operation, image production and evaluation, and patient care and  
7 management; and

8 (b) The anatomy of, and positioning for, specific regions  
9 of the human anatomy. The anatomical regions shall include at least  
10 one of the following:

11 (i) Chest;

12 (ii) Extremities;

13 (iii) Skull and sinus;

14 (iv) Spine; or

15 (v) Ankle and foot.

16 (3) The examination for limited radiographers in bone  
17 density shall include, but not be limited to, basic concepts  
18 of bone densitometry, equipment operation and quality control,  
19 radiation safety, and dual X-ray absorptiometry (DXA) scanning of  
20 the finger, heel, forearm, lumbar spine, and proximal femur.

21 (4) The department shall adopt and promulgate  
22 rules and regulations regarding the examinations required in  
23 subdivisions (1)(a)(ii) and (2)(a) of section 71-3515.01. Such  
24 rules and regulations shall provide for (a) the administration  
25 of examinations based upon national standards, such as the

1 Examination in Radiography from the American Registry of Radiologic  
2 Technologists for medical radiographers, the Examination for the  
3 Limited Scope of Practice in Radiography or the Bone Densitometry  
4 Equipment Operator Examination from the American Registry of  
5 Radiologic Technologists for limited radiographers, or equivalent  
6 examinations that, as determined by the department, meet the  
7 standards for educational and psychological testing as recommended  
8 by the American Psychological Association, the American Educational  
9 Research Association, and the National Council on Measurement in  
10 Education, (b) procedures to be followed for examinations, (c) the  
11 method of grading and the passing grades for such examinations, (d)  
12 security protection for questions and answers, and (e) for medical  
13 radiographers, the contents of such examination based on the course  
14 requirements for medical radiographers prescribed in subsection (1)  
15 of this section. Any costs incurred in determining the extent to  
16 which examinations meet the examining standards of this subsection  
17 shall be paid by the individual or organization proposing the use  
18 of such examination.

19 ~~(4) Any person employed in medical radiography before~~  
20 ~~and on June 27, 1995, who is not otherwise licensed may apply for~~  
21 ~~a license as a provisional limited radiographer before January~~  
22 ~~1, 1996. A person licensed as a provisional limited radiographer~~  
23 ~~may perform the duties of a limited radiographer licensed in all~~  
24 ~~anatomical regions listed in subdivision (2)(b) of this section~~  
25 ~~and the anatomical region of Abdomen. A provisional limited~~

1 radiographer shall not radiograph children under the age of  
2 six months, except (a) upon a finding by the department that  
3 continued provision of service for a community would be in  
4 jeopardy if this provision is enforced, (b) for an employee of  
5 a hospital licensed and in good standing under the Health Care  
6 Facility Licensure Act and located in a rural area as defined  
7 in section 71-5653, or (c) in a bona fide emergency situation.  
8 No examination shall be required of individuals applying for a  
9 license as a provisional limited radiographer. All provisional  
10 limited radiographer licenses expire January 1, 2005. A license  
11 as a provisional limited radiographer is subject to discipline for  
12 violations of the Radiation Control Act and rules and regulations  
13 adopted pursuant to the act, including, but not limited to,  
14 revocation for nonpayment of fees or failure to meet continuing  
15 competency requirements as required by the department pursuant to  
16 section 71-3507.

17 (5) No applicant for a license as a limited radiographer  
18 may take the examination for licensure, or for licensure for any  
19 specific anatomical region, more than three times without first  
20 waiting a period of one year after the last unsuccessful attempt  
21 of the examination and submitting proof to the department of  
22 completion of continuing competency activities as required by the  
23 department pursuant to section 71-3507 for each subsequent attempt.

24 (6) The department shall establish and collect fees as  
25 provided in section 71-162 for the implementation of this section

1 and section 71-3515.01, including an examination fee, initial  
2 and renewal fees for licenses for persons performing medical  
3 radiography, and a fee for approval of courses of instruction.

4 Sec. 6. Section 71-3516, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-3516 (1) The department shall have the authority in  
7 the event of an emergency affecting occupational or public health  
8 and safety or the environment to impound or order the impounding  
9 of sources of radiation in the possession of any person who is  
10 not equipped to observe or fails to observe the provisions of the  
11 Radiation Control Act or any rules or regulations issued pursuant  
12 to such act.

13 (2) Any source of radiation impounded by the department  
14 is declared to be a common nuisance and cannot be subject to a  
15 replevin action.

16 (3) Possession of an impounded source of radiation shall  
17 be determined by section 7 of this act.

18 Sec. 7. (1) The department shall keep any source of  
19 radiation impounded under section 71-3516 for as long as it is  
20 needed as evidence for any hearing.

21 (2) Prior to the issuance of an order of disposition for  
22 an impounded source of radiation, the department shall notify in  
23 writing any person, known by the department to claim an interest  
24 in the source of radiation, that the department intends to dispose  
25 of the source of radiation. Notice shall be served by personal

1 service, by certified or registered mail to the last-known address  
2 of the person, or by publication. Notice by publication shall  
3 only be made if personal service or service by mail cannot be  
4 effectuated.

5 (3) Within fifteen days after service of the notice under  
6 subsection (2) of this section, any person claiming an interest  
7 in the impounded source of radiation may request, in writing, a  
8 hearing before the department to determine possession of the source  
9 of radiation. The hearing shall be held in accordance with rules  
10 and regulations adopted and promulgated by the department. If the  
11 department determines that the person claiming an interest in the  
12 source of radiation has proven by a preponderance of the evidence  
13 that such person (a) had not used or intended to use the source  
14 of radiation in violation of the Radiation Control Act, (b) has  
15 an interest in the source of radiation acquired in good faith as  
16 an owner, a lien holder, or otherwise, and (c) has the authority  
17 under the act to possess such source of radiation, the department  
18 shall order that possession of the source of radiation be given to  
19 such person. If possession of the impounded source of radiation is  
20 not given to the person requesting the hearing, such person may  
21 appeal the decision of the department, and the appeal shall be in  
22 accordance with the Administrative Procedure Act. If possession of  
23 the impounded source of radiation is not given to the person so  
24 appealing, the department shall order such person to pay for the  
25 costs of the hearing, storage fees, and any other reasonable and

1 necessary expenses related to the impounded source of radiation.

2 (4) If possession of the impounded source of radiation is  
3 not given to the person requesting the hearing under subsection (3)  
4 of this section, the department shall issue an order of disposition  
5 for the source of radiation and shall dispose of the source of  
6 radiation as directed in the order. Disposition methods are at the  
7 discretion of the department and may include, but are not limited  
8 to, (a) sale of the source of radiation to a person authorized to  
9 possess the source of radiation under the act, (b) transfer to the  
10 manufacturer of the source of radiation, or (c) destruction of the  
11 source of radiation. The order of disposition shall be considered a  
12 transfer of title of the source of radiation.

13 (5) If expenses related to the impounded source of  
14 radiation are not paid under subsection (3) of this section, the  
15 department shall pay such expenses from:

16 (a) Proceeds from the sale of the source of radiation, if  
17 sold; or

18 (b) Available funds in the Department of Health and Human  
19 Services Regulation and Licensure Cash Fund.

20 Sec. 8. Section 71-3517, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 71-3517 (1) Any person who violates any of the provisions  
23 of the Radiation Control Act shall be guilty of a Class IV  
24 misdemeanor.

25 (2) In addition to the penalty provided in subsection

1 (1) of this section, any person who violates any provision of the  
2 Radiation Control Act or any rule, regulation, or order issued  
3 pursuant to such act or any term, condition, or limitation of any  
4 license or registration certificate issued pursuant to such act  
5 shall be subject to:

6 (a) License revocation, suspension, modification,  
7 condition, or limitation;

8 (b) The imposition of a civil penalty; or

9 (c) The terms of any appropriate order issued by the  
10 department.

11 (3) Whenever the department proposes to subject a person  
12 to the provisions of subsection (2) of this section, the department  
13 shall notify the person in writing (a) setting forth the date,  
14 facts, and nature of each act or omission with which the person  
15 is charged, (b) specifically identifying the particular provision  
16 or provisions of the section, rule, regulation, order, license, or  
17 registration certificate involved in the violation, and (c) of the  
18 sanction or order to be imposed. If a civil penalty is imposed, the  
19 notice shall include a statement that it can be collected by civil  
20 action. The notice shall be delivered to each alleged violator by  
21 personal service, by certified or registered mail to his or her  
22 last-known address, or by publication. Notice by publication shall  
23 only be made if personal service or service by mail cannot be  
24 effectuated. The sanction or order in the notice shall become final  
25 thirty days after the mailing of the notice unless the applicant,

1 registrant, or licensee, within the thirty-day period, requests, in  
2 writing, a hearing before the department. If the notice is served  
3 by personal service or publication, the sanction or order shall  
4 become final thirty days after completion of such service unless  
5 the applicant, registrant, or licensee, within the thirty-day  
6 period, requests, in writing, a hearing before the department.

7 (4) Hearings held pursuant to subsection (3) of this  
8 section shall be held in accordance with rules and regulations  
9 adopted and promulgated by the department and shall provide for  
10 the alleged violator to present such evidence as may be proper.  
11 Witnesses may be subpoenaed by either party and shall be allowed  
12 fees at a rate prescribed by the rules and regulations of the  
13 department. A full and complete record shall be kept of the  
14 proceedings.

15 (5) Following the hearing, the director shall determine  
16 whether the charges are true or not, and if true, the director  
17 may (a) issue a declaratory order finding the charges to be true,  
18 (b) revoke, suspend, modify, condition, or limit the license, (c)  
19 impose a civil penalty in an amount not to exceed ten thousand  
20 dollars for each violation, or (d) enter an appropriate order. If  
21 any violation is a continuing one, each day of such violation shall  
22 constitute a separate violation for the purpose of computing the  
23 applicable civil penalty and the amount of the penalty shall be  
24 based on the severity of the violation. A copy of such decision  
25 setting forth the finding of facts and the particular reasons upon

1 which it is based shall be sent by either certified or registered  
2 mail to the alleged violator. The decision may be appealed, and  
3 the appeal shall be in accordance with the Administrative Procedure  
4 Act.

5 (6) Any civil penalty assessed and unpaid under  
6 subsection (5) of this section shall constitute a debt to the  
7 State of Nebraska which may be collected in the manner of a lien  
8 foreclosure or sued for and recovered in any proper form of action  
9 in the name of the State of Nebraska in the district court of  
10 the county in which the violator resides or owns property. ~~The~~  
11 ~~department shall, within thirty days from receipt, transmit any~~  
12 ~~collected civil penalty to the State Treasurer for deposit in the~~  
13 ~~permanent school fund. The department shall remit any collected~~  
14 ~~civil penalty to the State Treasurer, within thirty days after~~  
15 ~~receipt, for distribution in accordance with Article VII, section~~  
16 ~~5, of the Constitution of Nebraska.~~

17 Sec. 9. Section 71-3519, Revised Statutes Supplement,  
18 2005, is amended to read:

19 71-3519 Sections 71-3501 to 71-3520 and section 7 of this  
20 act shall be known and may be cited as the Radiation Control Act.

21 Sec. 10. Original sections 71-3505, 71-3507, 71-3515.01,  
22 71-3515.02, 71-3516, and 71-3517, Reissue Revised Statutes of  
23 Nebraska, and sections 71-3503 and 71-3519, Revised Statutes  
24 Supplement, 2005, are repealed.