

LEGISLATIVE BILL 430

Approved by the Governor May 10, 2017

Introduced by Smith, 14.

A BILL FOR AN ACT relating to the Radiation Control Act; to amend section 71-3505, Reissue Revised Statutes of Nebraska; to change powers and duties of the Department of Health and Human Services relative to radiation as prescribed; and to repeal the original section.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-3505, Reissue Revised Statutes of Nebraska, is amended to read:

71-3505 (1) Matters relative to radiation as they relate to occupational and public health and safety and the environment shall be a responsibility of the department. The department shall:

(a) (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 (i) (a) for registration or licensure under section 71-3507 or 71-3509, (ii) (b) for registration or licensure of (A) (i) any other source of radiation, (B) (ii) persons providing services for collection, detection, measurement, or monitoring of sources of radiation, including, but not limited to, radon and its decay products, (C) (iii) persons providing services to reduce the effects of sources of radiation, and (D) (iv) persons practicing industrial radiography, and (iii) (c) for fingerprinting and a federal criminal background check on persons with unescorted access to radionuclides of concern, as specified by rule, regulation, or order so as to reasonably protect occupational and public health and safety and the environment in a manner compatible with regulatory programs of the federal government. The department for identical purposes may also adopt and promulgate rules and 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 radioactive material. Such rules and regulations may prohibit the use of radiation for uses found by the department to be detrimental to occupational and public health or safety or the environment and shall carry out the purposes and policies set out in sections 71-3501 and 71-3502. 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, osteopathic medicine, chiropractic, podiatry, and veterinary medicine, while engaged in the lawful practice of such profession, or administered by other professional personnel, such as allied health personnel, medical radiographers, limited radiographers, nurses, and laboratory workers, acting under the supervision of a licensed practitioner. Violation of rules and regulations adopted and promulgated by the department pursuant to the Radiation Control Act 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 Administrative Procedure Act. The decision of the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act;

(b) (2) 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;

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

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

(e) (5) 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;

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

(g) (7) Collect a fee for emergency response or environmental surveillance, or both, offsite from each nuclear power plant equal to the cost of completing the emergency response or environmental surveillance and any associated report. In no event shall the fee for any nuclear power plant exceed the lesser of the actual costs of such activities or eighty-two ~~eighty-two~~ ~~fifty-three~~ thousand dollars per annum. Commencing January 1, 2018 ~~July 1, 1997~~, the accounting division of the Department of Administrative Services shall

recommend an inflationary adjustment equivalent which shall be based upon the Consumer Price Index for All Urban Consumers of the United States Department of Labor, Bureau of Labor Statistics, and shall not exceed five percent per annum. Such adjustment shall be applied to the annual fee for nuclear power plants. The fee collected shall be credited to the Health and Human Services Cash Fund. This fee shall be used solely for the purpose of defraying the direct costs of the emergency response and environmental surveillance at Cooper Nuclear Station and Fort Calhoun Station conducted by the department. The department may charge additional fees when mutually agreed upon for services, training, or equipment that are a part of or in addition to matters in this section. This subdivision shall not apply to any nuclear power plant that (i) has initiated permanent plant decommissioning and has notified the department that it has implemented a permanent defueled emergency plan which no longer requires pre-planned assistance from state agencies pursuant to rules and regulations of the United States Nuclear Regulatory Commission and (ii) no longer requires protective actions beyond the site boundary to protect the public and the environment from exposure to radiation as a result of an event at such plant.

(2) If a nuclear power plant is no longer subject to the fee requirement pursuant to subdivision (1)(g) of this section, the fee for the remaining nuclear power plant shall not exceed the lesser of the actual costs of the department's activities or one hundred ten thousand dollars per annum. Such fee shall be subject to all other provisions of subdivision (1)(g) of this section.

Sec. 2. Original section 71-3505, Reissue Revised Statutes of Nebraska, is repealed.