
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 987

Session of
1983

INTRODUCED BY BELL AND MOORE, SEPTEMBER 21, 1983

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
SEPTEMBER 21, 1983

AN ACT

1 Combining the radiation safety provisions of the Atomic Energy
2 Development and Radiation Control Act and the Environmental
3 Radiation Protection Act; empowering the Department of
4 Environmental Resources to implement a comprehensive
5 Statewide radiation protection program; further providing for
6 duties of the Environmental Hearing Board; expanding the
7 authority of the department to regulate other radiation
8 sources and radiologic procedures; establishing fees; and
9 providing penalties.

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17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:
19 CHAPTER 1
20 GENERAL PROVISIONS
21 Section 101. Short title.
22 This act shall be known and may be cited as the Radiation
23 Protection Act.
24 Section 102. Legislative findings.
25 The General Assembly hereby determines, declares and finds
26 that, since radiation exposure has the potential for causing
27 undesirable health effects, the citizens of the Commonwealth
28 should be protected from unnecessary and harmful exposure
29 resulting from improper use of radioactive materials, radiation
30 sources, accidents involving nuclear power and radioactive

1 material transportation. It is the purpose of this act to:

2 (1) Establish and maintain a comprehensive program of
3 radiation protection in the Department of Environmental
4 Resources.

5 (2) Provide for the licensing and regulation in
6 cooperation with the Federal Government, other State agencies
7 and appropriate private entities, of radiologic equipment and
8 procedures and the persons who administer radiologic
9 procedures.

10 (3) Maintain a comprehensive environmental radiation
11 monitoring program around nuclear power plants and at other
12 locations throughout the Commonwealth.

13 (4) Establish a nuclear safety program to include
14 nuclear safety evaluations of all nuclear power plants in the
15 Commonwealth.

16 (5) Maintain a technical emergency radiation response
17 capability within the Department of Environmental Resources,
18 in conjunction with the Pennsylvania Emergency Management
19 Agency, to respond to accidents at nuclear power plants or at
20 any other location throughout the Commonwealth.

21 (6) Assume licensing and regulatory responsibility for
22 radioactive materials from the Federal Government.

23 (7) Carry out comprehensive remedial action programs.

24 (8) Establish fees.

25 Section 103. Definitions.

26 The following words and phrases when used in this act shall
27 have the meanings given to them in this section unless the
28 context clearly indicates otherwise:

29 "Abatement." Any action deemed necessary by the department
30 to protect public health, safety or welfare, or public or

1 private property, resulting from the use of a radiation source.

2 "Department." The Department of Environmental Resources and
3 its authorized representatives.

4 "Electronic product radiation." Any radiation emitted by
5 products subject to the Radiation Control for Health and Safety
6 Act of 1968 (Public Law 90-602, 82 Stat. 1173).

7 "Person." An individual, corporation, firm, association,
8 public utility, trust, estate, public or private institution,
9 group, agency, political subdivision of the Commonwealth, any
10 other state or political subdivision or agency thereof and any
11 legal successor, representative, agent or agency of the
12 foregoing, other than the United States Nuclear Regulatory
13 Commission or any successor thereto. In any provision of this
14 act prescribing a fine, imprisonment or penalty, or any
15 combination of the foregoing, the term "person" shall include
16 the officers and directors of any corporation or other legal
17 entity having officers and directors.

18 "Persons who administer radiologic procedures." Any person,
19 other than a doctor of medicine, osteopathy, dentistry, podiatry
20 or chiropractic, who intentionally administers radiation or
21 radioactive material to other persons for medical purposes, and
22 includes medical radiologic technologists, dental hygienists and
23 assistants, radiation therapy technologists and nuclear medicine
24 technologists.

25 "Radiation." Any ionizing radiation or electronic product
26 radiation.

27 "Radiation source." An apparatus or material emitting or
28 capable of emitting radiation.

29 "Radiation source user." A person who owns or is responsible
30 for a radiation source.

1 "Radiologic procedure." A healing arts procedure intended
2 for use in the diagnosis or treatment of diseases or other
3 conditions in humans, which is subject to standards established
4 pursuant to the Consumer-Patient Radiation Health and Safety Act
5 of 1981 (Public Law 97-35, 95 Stat. 598).

6 "Secretary." The Secretary of Environmental Resources or his
7 authorized representative.

8 CHAPTER 2

9 FEDERAL-STATE AGREEMENTS

10 Section 201. Federal-State agreements.

11 The Governor, on behalf of this Commonwealth, is authorized
12 to enter into agreements with Federal agencies for
13 discontinuance of certain of the Federal Government's activities
14 with respect to radiation sources and the assumption thereof by
15 the Commonwealth.

16 CHAPTER 3

17 RADIATION PROTECTION

18 Section 301. Powers of Department of Environmental Resources.

19 (a) Regulation in general.--The department is hereby
20 designated as the agency of the Commonwealth for the purpose of
21 registration, licensing, regulation and control of radiation,
22 radiologic procedures, radiation sources, users of radiation
23 sources and persons who administer radiologic procedures, but,
24 notwithstanding anything in this act to the contrary, shall not
25 have the power to license telecommunications equipment in
26 duplication of any activity preempted by the Federal Government.

27 (b) Employees.--In accordance with the law of this
28 Commonwealth, the department shall employ, compensate and
29 prescribe the powers and duties of such individuals as may be
30 necessary to carry out the provisions of this act.

1 (c) Powers.--The department shall have the power to:

2 (1) Develop and conduct programs for evaluation of
3 hazards associated with the use of radiation sources and with
4 radiation source users.

5 (2) Develop and conduct comprehensive programs for the
6 registration, licensing, control, disposal, regulation and
7 inspection of radiation sources, radiation source users and
8 persons who administer radiologic procedures.

9 (3) Prevent and remedy hazards associated with the
10 misuse of any device emitting electronic product radiation.

11 (4) Issue such orders or modifications thereof as may be
12 necessary in conjunction with proceedings under this act.

13 (5) Carry out a comprehensive environmental radiation
14 monitoring program around all nuclear power reactors and at
15 all other locations throughout the Commonwealth deemed
16 necessary by the department.

17 (6) Monitor, identify and assess safety issues
18 associated with nuclear power for each nuclear power plant
19 site in the Commonwealth and to participate in matters before
20 the Nuclear Regulatory Commission or its successor and other
21 appropriate agencies and courts of the United States.

22 (7) Prepare a technical emergency radiation response
23 plan for incorporation into the Pennsylvania Emergency
24 Management Plan developed by the Pennsylvania Emergency
25 Management Agency pursuant to Title 35 of the Pennsylvania
26 Consolidated Statutes (relating to health and safety), and
27 provide the capability for responding to emergencies at each
28 nuclear power plant and at other important locations
29 throughout the Commonwealth.

30 (8) Make available technical staff and equipment to

1 determine levels of radiation in the environment and identify
2 emergency measures to protect the public from exposure to
3 such radiation in the event of an accident at a nuclear power
4 plant, a transportation accident involving radioactive
5 materials or any other condition or occurrence which
6 necessitates radiation emergency assistance at any location
7 in the Commonwealth.

8 (9) Advise the Governor, the General Assembly and the
9 general public with regard to nuclear safety, nuclear
10 emergencies, radioactive waste disposal, environmental
11 monitoring results and other radiation control activities and
12 consult and cooperate with the various departments, agencies
13 and political subdivisions of the Commonwealth, the Federal
14 Government, other states, interstate agencies, political
15 subdivisions and with groups concerned with radiation safety.

16 (10) Accept and administer loans, grants or other funds
17 or gifts, conditional or otherwise, in furtherance of its
18 functions, from any source, public or private, including the
19 Federal Government, except that funds received from the
20 Federal Government shall be subject to appropriation by the
21 General Assembly.

22 (11) Encourage, participate in or conduct studies,
23 investigations, training, research, remedial actions and
24 demonstrations relating to control, disposal and monitoring
25 of radiation sources.

26 (12) Collect and disseminate information related to
27 nuclear power, the control of radiation sources, radiation
28 protection, emergency response and the effects of radiation
29 exposure.

30 (13) Establish special advisory committees as may be

1 necessary to assist the department in drafting rules and
2 regulations and to advise the department regarding
3 implementation of specific portions of the regulations or
4 specific programs of the department. Members of these
5 committees may be reimbursed by the department for reasonable
6 and necessary expenses incurred in connection with their
7 duties as approved by the secretary.

8 (14) Issue registrations and licenses and specify the
9 terms and conditions thereof. This is not intended to require
10 registration and licenses within the exclusive jurisdiction
11 of the Nuclear Regulatory Commission.

12 (15) Require the payment of and collect fees established
13 under Chapter 4.

14 (16) Issue orders and institute proceedings in courts
15 against any person or municipality to compel compliance with
16 this act, any rule or regulation, any order of the department
17 or the terms and conditions of any registration or license.

18 (17) Institute prosecutions against any person or
19 municipality for violation of this act.

20 (18) Assess civil penalties pursuant to section 308(e).

21 (19) Prepare a report on environmental radiation levels,
22 as determined by the monitoring program, on at least an
23 annual basis. Copies of the report shall be submitted to the
24 President pro tempore of the Senate and the Speaker of the
25 House of Representatives of the General Assembly and shall be
26 made available to the general public. The report shall also
27 contain a description and analysis of any emergency responses
28 or other actions taken by the department under this act and
29 any other information about environmental radiation or
30 radiation emergencies which the department deems to be of

sufficient importance to call to the attention of the General Assembly and the citizens of the Commonwealth.

(20) Administer a program, including the disbursement of funds appropriated by the General Assembly, of assistance for funding the decontamination of damaged nuclear power reactors.

(21) Adopt such rules and regulations as necessary for the implementation of this act.

(22) Adopt a reasonable fee system as authorized by Chapter 4.

(23) Do any and all other acts not inconsistent with any provision of this act which it may deem necessary or proper for the effective enforcement of this act.

Section 302. Licensing and registration.

(a) Authority.--The department is authorized to license radiation source users and persons who administer radiologic procedures and register any radiation sources.

(b) Exemption.--The department shall be exempt from the licensing and registration requirements of this act and is authorized to exempt certain radiation sources and users from this act provided the department determines that such action will constitute an insignificant risk to the health and safety of the public and to persons exposed to radiation sources.

(c) Approval of transfer.--No license issued under this act and no right to possess or utilize radiation sources granted by any license shall be assigned, or in any manner disposed of, without the approval of the department.

(d) Terms and conditions of licenses.--The terms and conditions of all licenses shall be subject to amendment, revision or modification by rules, regulations or orders issued

1 in accordance with this act.

2 (e) Recognition of other licenses.--Rules and regulations
3 promulgated under this act may provide for recognition of other
4 state or Federal licenses.

5 Section 303. Radiologic procedures.

6 (a) Standards.--The department is authorized to license
7 persons who administer radiologic procedures to ensure that
8 these persons comply with minimum standards established pursuant
9 to the Consumer-Patient Radiation Health and Safety Act of 1981
10 (Public Law 97-35, 95 Stat. 598) for the certification and
11 education of persons who administer radiologic procedures and
12 such additional requirements as the department deems
13 appropriate. To the maximum extent possible, the department
14 shall ensure compliance with those standards and requirements
15 employing existing programs of certification established by the
16 Federal Government, other state or local agencies and private
17 entities as recognized pursuant to § 981(b) of the Consumer-
18 Patient Radiation Health and Safety Act of 1981.

19 (b) Existing regulations.--Any department, agency, board or
20 commission of the Commonwealth which licenses or certifies
21 persons who administer radiologic procedures, or which accredit
22 or approve programs for the education of persons who administer
23 radiologic procedures, shall modify their standards,
24 accreditation, requirements or regulations to be at least as
25 stringent as the standards or requirements established under
26 this section.

27 (c) Technical assistance.--The department shall provide
28 technical assistance to any other state, local or private
29 entities which license, certify or accredit persons or programs
30 for persons who administer radiologic procedures to ensure

1 compliance with minimum standards established pursuant to the
2 Consumer-Patient Radiation Health and Safety Act of 1981.
3 Section 304. Records.

4 (a) General rule.--Each person who possesses or uses any
5 radiation source shall maintain records relating to its receipt,
6 storage, transfer or disposal, and such other records as the
7 department may require, subject to any exemptions as may be
8 provided by rules or regulations.

9 (b) Personnel radiation exposure records.--Each person who
10 possesses or uses a radiation source shall maintain appropriate
11 records of personnel radiation exposure, as mandated by the
12 rules and regulations of the department. Copies of these records
13 and those required to be kept by subsection (a) shall be
14 submitted to the department on written request. Any person
15 possessing or using a radiation source shall furnish to each
16 employee for whom personnel monitoring is required or to the
17 employee's physician, a copy of the employee's personal exposure
18 record at such times as the department, by rule or regulation,
19 may prescribe.

20 Section 305. Inspection.

21 (a) Authority.--The department or its duly authorized
22 representatives shall have the power to enter at all reasonable
23 times upon any public or private property, building, premise or
24 place, for the purposes of determining compliance with this act,
25 any license conditions or any rules, regulations or orders
26 issued under this act. In the conduct of an investigation, the
27 department or its duly authorized representatives shall have the
28 authority to conduct tests, inspections or examinations of any
29 radiation source, or of any book, record, document or other
30 physical evidence related to the use of a radiation source.

1 (b) Search warrant.--An agent or employee of the department
2 may apply for a search warrant, to a court of common pleas, for
3 the purposes of testing, inspecting or examining any radiation
4 source or any public or private property, building, premise,
5 place, book, record or other physical evidence related to the
6 use of the radiation source. In the event a judge of the court
7 of common pleas is unavailable, the department may apply for a
8 search warrant to a district justice or Philadelphia Municipal
9 Court judge who may issue a warrant as provided in this section.
10 A warrant shall be issued only upon probable cause. It shall be
11 sufficient probable cause to show any of the following:

12 (1) The test, inspection or examination is pursuant to a
13 general administrative plan to determine compliance with this
14 act.

15 (2) The agent or employee has reason to believe that a
16 violation of this act has occurred or may occur.

17 (3) The agent or employee has been refused access to the
18 radiation source, property, building, premise, place, book,
19 record, document or other physical evidence related to the
20 use of the radiation source or has been prevented from
21 conducting tests, inspections or examinations.

22 Section 306. Conflicting laws.

23 Ordinances, resolutions or regulations now or hereafter in
24 effect of the governing body of any agency or political
25 subdivision of this Commonwealth relating to radiation or
26 radiation sources shall be superseded by this act if such
27 ordinances or regulations are not in substantial conformity with
28 this act and any rules and regulations issued hereunder.

29 Section 307. Prohibited uses and acts.

30 It shall be unlawful for any person to use, manufacture,

1 produce, transport, transfer, bury, receive, acquire, own,
2 possess or dispose of any radiation source in violation of this
3 act. It shall be unlawful for any person to operate an
4 unregistered radiation source or to operate a radiation source
5 or to administer a radiologic procedure without a license to do
6 so where a license or registration is required by the department
7 by rule or regulation.

8 Section 308. Penalties.

9 (a) Summary offense.--Any person, other than a municipal
10 official exercising his official duties, who violates any
11 provisions of this act or any rules or regulations or order
12 promulgated or issued hereunder commits a summary offense and
13 shall, upon conviction, be sentenced to pay a fine not less than
14 \$100 and not more than \$1,000 for each separate offense and in
15 default thereof shall be imprisoned for a term of not more than
16 30 days. All summary proceedings under this act may be brought
17 before any district justice or magistrate in the county where
18 the offense was committed and to that end jurisdiction is hereby
19 conferred upon district justices and magistrates, subject to
20 appeal by either party in the manner provided by law.

21 (b) Misdemeanor.--Any person, other than a municipal
22 official exercising his official duties, who violates any
23 provision of this act or any rule or regulation or order
24 promulgated or issued hereunder, commits a misdemeanor of the
25 third degree and shall, upon conviction, be sentenced to pay a
26 fine of not less than \$1,000 but not more than \$25,000 for each
27 separate offense or imprisonment in the county jail for a period
28 of not more than one year, or both.

29 (c) Felony.--Any person who intentionally, knowingly or
30 recklessly violates any provision of this act, or any rule or

1 regulation or order of the department or any term or condition
2 of any permit, and whose acts or omissions cause or create the
3 possibility of a public nuisance or bodily harm to any person,
4 commits a felony of the second degree and shall, upon
5 conviction, be sentenced to pay a fine of not less than \$2,500
6 but not more than \$100,000 per day for each violation, or to a
7 term of imprisonment of not less than one year but not more than
8 ten years, or both.

9 (d) Separate offense for each day.--Each day of continued
10 violation of any provision of this act or any rule or regulation
11 or order promulgated or issued pursuant to this act shall
12 constitute a separate offense.

13 (e) Civil penalty.--In addition to proceeding under any
14 other remedy available at law or in equity for a violation of
15 this act or a regulation or order of the department promulgated
16 or issued hereunder, the department may assess a civil penalty
17 upon the person for the violation. This penalty may be assessed
18 whether or not the violation was willful or negligent. The civil
19 penalty shall not exceed \$25,000 plus \$5,000 for each day of
20 continued violation. In determining the civil penalty, the
21 department shall consider, where applicable, the willfulness of
22 the violation, gravity of the violation, good faith of the
23 person charged, history of the previous violations, danger to
24 the public health and welfare, damage to the air, water, land or
25 other natural resources of the Commonwealth or their uses, cost
26 of restoration or abatement, savings resultant to the person in
27 consequence of the violation and any other relevant facts. The
28 person charged with the penalty shall then have 30 days to pay
29 the proposed penalty in full or, if the person wishes to contest
30 either the amount of the penalty or the fact of the violation,

1 to file within a 30-day period an appeal of the action with the
2 Environmental Hearing Board. Failure to appeal within 30 days
3 shall result in a waiver of all legal rights to contest the
4 violation or the amount of the penalty. Civil penalties shall be
5 payable to the Commonwealth of Pennsylvania and shall be
6 collectible in any manner provided by law for collection of
7 debts. If any person liable to pay a penalty neglects or refuses
8 to pay the same after demand, the amount, together with interest
9 and any costs that may accrue shall be a lien in favor of the
10 Commonwealth upon the property, both real and personal, of the
11 person, but only after same has been entered and docketed of
12 record by the prothonotary of the county where the property is
13 situated. The department may, at any time, transmit to
14 prothonotaries of the respective counties certified copies of
15 all such liens and it shall be the duty of each prothonotary to
16 enter and docket the same of record in his office and to index
17 the same as judgments are indexed, without requiring the payment
18 of costs as a condition precedent to the entry thereof.

19 Section 309. Enforcement and abatement.

20 (a) Public nuisance.--Any violation of this act or of any
21 rule, regulation or order of the department or of any term or
22 condition of any license or registration shall constitute a
23 public nuisance. Any person committing the violation shall be
24 liable for the costs of abatement of the nuisance. The
25 Environmental Hearing Board and every court of common pleas are
26 hereby given jurisdiction over actions to recover the costs of
27 the abatement.

28 (b) Orders.--In addition to other remedies provided under
29 this act or any other act, to aid in the enforcement of this
30 act, the department may issue orders to persons as it deems

1 necessary. These orders may include an order modifying or
2 revoking registrations or licenses, orders to cease unlawful
3 activities or other acts involving radiation sources that are
4 determined by the department to be detrimental to the public
5 health and safety and such other orders as the department deems
6 necessary to abate public nuisances. An order issued under this
7 subsection shall take effect upon notice, unless the order
8 specifies otherwise. An appeal to the Environmental Hearing
9 Board shall not act as a supersedeas. It shall be the duty of
10 any person to comply with any order issued under this
11 subsection. Any person who fails to comply with an order issued
12 under this subsection shall be guilty of contempt and shall be
13 punished in an appropriate manner by the Commonwealth Court,
14 which court is hereby granted jurisdiction, upon application by
15 the department.

16 (c) Injunction.--In addition to any other remedies provided
17 for in this act, the department may institute a suit in equity
18 in the name of the Commonwealth for an injunction to restrain a
19 violation of this act or the rules, regulations or orders
20 adopted or issued hereunder, or to restrain the maintenance or
21 threat of a public nuisance. In any such proceeding the court
22 shall, upon motion by the department, issue a prohibitory or
23 mandatory preliminary injunction if it finds that the defendant
24 is engaging in unlawful conduct or is engaged in conduct which
25 is causing immediate and irreparable harm to the public. The
26 Commonwealth shall not be required to furnish bond or other
27 security in connection with such proceedings.

28 (d) Impoundment, etc.--The department shall have the
29 authority to impound any radiation source or to take other
30 actions as are necessary to abate a public nuisance wherever the

1 department believes that this action is necessary to protect the
2 health and safety of the public.

3 (e) Emergency order.--Whenever the secretary finds that an
4 emergency exists requiring immediate action to protect the
5 public health and safety, the secretary may issue an emergency
6 order reciting the existence of the emergency and requiring that
7 such action be taken as is necessary to meet the emergency. This
8 order shall be effective immediately. Any person to whom this
9 order is directed shall comply therewith immediately, unless a
10 supersedeas is granted by the Environmental Hearing Board.

11 Section 310. Liberal construction.

12 The penalties and remedies prescribed by this act shall be
13 deemed concurrent and the existence of or exercise of any remedy
14 shall not prevent the department from exercising any other
15 remedy at law or in equity. No provision of this act or any
16 action taken by virtue of this act, including the granting of a
17 registration or license, shall be construed as estopping the
18 Commonwealth from proceeding in courts of law or equity to abate
19 nuisances under existing law, nor shall this act in any other
20 manner abridge or alter rights of action or remedies now or
21 hereafter existing in equity or under the common law or
22 statutory law, criminal or civil, exercised by the Commonwealth
23 or any person to enforce their rights or to abate any nuisance,
24 now or hereafter existing, in any court of competent
25 jurisdiction.

26 CHAPTER 4

27 FEES

28 Section 401. Licensing and registration fees.

29 The department shall by rule and regulation set reasonable
30 annual fees for the registration of radiation sources and the

1 licensing of radiation source users and persons who administer
2 radiologic procedures. These fees shall be in an amount at least
3 sufficient to cover the costs of administering the programs.

4 Section 402. Nuclear power plant fees.

5 Each nuclear power plant operator who has received a
6 construction permit or operating license from the United States
7 Nuclear Regulatory Commission or any predecessor or successor
8 thereto shall pay to the department within 30 days of the
9 effective date of this act and on July 1 of each succeeding year
10 an annual fee of \$150,000 per reactor, regardless of the number
11 of reactors per site.

12 Section 403. Nonpayment of fees.

13 Nonpayment of fees within the prescribed time shall
14 constitute a violation of this act and is subject to the
15 penalties and enforcement provisions of section 308.

16 Section 404. Radiation Protection Fund.

17 There is hereby established in the General Fund a restricted
18 account to be known as the Radiation Protection Fund. Fees and
19 penalties received under this act shall be deposited in this
20 fund and are hereby appropriated to the department for
21 expenditure to implement the purposes of this act.

22 CHAPTER 5

23 MISCELLANEOUS PROVISIONS

24 Section 501. Transition provisions.

25 All registrations, licenses and orders issued and regulations
26 promulgated under the act of January 28, 1966 (1965 P.L.1625,
27 No.578), known as The Atomic Energy Development and Radiation
28 Control Act, shall remain in full force unless and until
29 modified, amended, suspended or revoked and all appropriations,
30 allocations, personnel, agreements, leases, claims, demands and

1 causes of action of any nature and equipment, files, records,
2 real estate, personal property and all other materials owned,
3 used, employed or expended in connection with that act by the
4 Department of Commerce are hereby transferred to the Department
5 of Environmental Resources.

6 Section 502. Repeals.

7 The following acts are repealed:

8 Act of January 28, 1966 (1965 P.L.1625, No.578), known as The
9 Atomic Energy Development and Radiation Control Act.

10 Act of July 20, 1979 (P.L.151, No.49), known as the
11 Environmental Radiation Protection Act.

12 Section 503. Effective date.

13 This act shall take effect immediately.