

CHAPTER 336
FORMERLY
SENATE BILL NO. 197

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO RADIATION CONTROL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 16 of the Delaware Code by making additions as shown by underlining and deletions as shown by strike through as follows:

~~§ 7401. Declaration of policy.~~ §7402. Purpose.

It is the policy of this State in furtherance of its responsibilities to protect the public health and safety to:

(3) ~~Establish~~ Define regulatory responsibilities with respect to radioactive material;

~~(5) Survey radon concentrations indoors to determine elevated radon levels and advise the General Assembly of those potential health effects as are set forth in publications and guidelines of the federal government.~~

§ 7403. Definitions.

As used in this chapter:

~~(2) "By product material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.~~

~~(3) "General license" means a license or registration effective pursuant to regulations promulgated by the Authority without the filing of an application to transfer, acquire, own, possess or use quantities of or devices or equipment utilizing by product, source, special nuclear materials or other radioactive material occurring naturally or produced artificially.~~

~~(5) "NARM" means any naturally occurring or accelerator produced radioactive material, except source material.~~

(7) "Radioactive material" means any material (solid, liquid or gas) which emits ionizing radiation spontaneously. ~~(e.g. byproduct, source material, special nuclear material and NARM).~~

~~(8) "Source material" means:~~

~~a. Uranium, thorium or any other material which the Authority declares to be source material in concurrence with the United States Nuclear Regulatory Commission or any successor thereto who has determined the material to be such; or~~

~~b. Ores containing 1 or more of the foregoing materials in such concentration as the Authority declares by order to be source material in concurrence with the United States Nuclear Regulatory Commission or any successor thereto who has determined the material in such concentration to be source material.~~

~~(9) "Special nuclear material" means:~~

~~a. Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Authority declares by order to be special nuclear material in concurrence with the United States Nuclear Regulatory Commission or any successor thereto who has determined the material to be such, but does not include source material; or~~

~~b. Any material artificially enriched by any of the foregoing, but does not include any of the source material.~~

~~(10) "Specific license" means a license or registration issued by the Authority, after application, to use, manufacture, produce, transfer, receive, acquire, own or possess quantities of or devices or equipment utilizing by product, source, special nuclear materials or other radioactive material occurring naturally or produced artificially.~~

§ 7404. Authority on Radiation Regulation.

(3) The Lead Administrator of the Office of Radiation Control in the Division of Public Health, Department of Health and Social Services and 12 other persons who shall be appointees of the Governor to include:

f. The remaining 7 shall be appointed members of the public who need not fall into any of the other categories for membership on the Authority, but who have an interest in radiation protection. Each nonpublic member shall have had training in 1 or more of the following fields: radiology, nuclear medicine, radiation oncology, radiation physics, health physics or related sciences with specialization in ionizing radiation, provided however, that not more

than 2 persons shall be specialists in any 1 of the above-named fields. Each county shall be represented by at least 2 members. Each of the 15 members shall have 1 vote.

(b) Authority members appointed by the Governor shall be appointed for a term of 3 years. ~~Two shall be initially appointed for terms of 1 year, 1 for a term of 2 years and 1 for a term of 3 years. The terms shall commence on July 1 in the year of appointment.~~ Each Authority member shall hold over after the expiration of the member's term until the member's successor has been appointed and has taken office. Vacancies shall be filled for the unexpired term.

~~(d) Members of the Authority shall be eligible to be reimbursed for travel to and from each meeting. However a member may not receive more than \$50 for each meeting attended, and not more than a total of \$500 for meetings attended in any calendar year.~~

(e) The Authority shall elect a Chairperson to serve for at least 1 year from those members appointed by the Governor. The Chairperson shall lead biennial review of the Authority bylaws, chair public hearings and issue approval of regulations amended or promulgated by the Authority. A majority of the Authority shall constitute a quorum to transact its business.

(g) The Authority shall establish and provide biennial review of ~~an~~ the Authority bylaws, which defines policy on major governance elements that shall include, but is not limited to: criteria for approval of Authority decisions, selection of members, addressing potential conflict of interest, and management of public funds.

§ 7405. Rules and regulations; adoption; notice; hearing.

(c) Fees are ~~hereby~~ established for issuance of annual registration permits to radiation machine facilities located within the State, according to the fee schedule below, with appropriated revenue to be used for fee-supported program enhancements, consistent with state budgetary procedures. ~~(appropriation by Joint Finance Committee):~~

§ 7406. Licensing and registration of sources and users of ionizing radiation.

(a) The Authority shall promulgate rules and regulations for ~~the general or specific licensing~~ regulation of radioactive radiation material ~~sources~~ and devices or equipment utilizing such ~~materials~~ sources and for the registration or exemption of such ~~material~~ sources, devices or equipment. Such rules or regulations shall provide for the amendment, suspension or revocation of such licenses or registration.

~~(b) The Authority may require registration or licensing of other sources of ionizing radiation as it may deem necessary.~~

~~(e)~~ (b) The Authority may require licensing or certification of users of ionizing radiation.

~~(d)~~ (c) The Authority may provide for recognition of other state or federal licenses or registrations.

§ 7408. Records.

(a) The Authority or its duly authorized representatives shall require each person who possesses or uses a source of ionizing radiation to maintain records relating to its receipt, storage, transfer or disposal and such other records as the Authority may require subject to such exemptions as may be provided by rules or regulations.

(b) The Authority or its duly authorized representatives shall require each person who possesses or uses a source of ionizing radiation to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring is required by the rules and regulations of the Authority. Copies of these records and those required to be kept by this section shall be submitted to the Administrative Agent or Authority on request. ~~Any person possessing or using a source of ionizing radiation shall notify each employee for whom personnel monitoring is required of such employee's personal exposure record annually, at any time such employee has received excessive exposure, and upon termination of employment.~~

§ 7410. Inspection agreements and training programs.

(b) The Authority or its duly authorized representatives may institute training programs for the purpose of qualifying personnel to carry out this chapter and may make personnel available for participation in any program or programs of the federal government, other states or interstate agencies.

§ 7411. Conflicting laws.

Ordinances, resolutions or regulations of a governing body or of any other governmental unit relating to ~~by product, source and special nuclear~~ radioactive materials shall not be superseded by this chapter if they are consistent with this chapter and rules and regulations hereunder.

§ 7414. Prohibited uses.

It is unlawful for any person to use, manufacture, produce, transport, transfer, receive, acquire, own or possess any source of ionizing radiation unless licensed by, the Nuclear Regulatory Commission and registered with or specifically exempted by the Authority in accordance with this chapter.

§ 7415. Impounding of materials.

The Authority may, in the event of an emergency, ~~impound or~~ order the impounding of sources of ionizing radiation, with the approval of the Nuclear Regulatory Commission when deemed necessary, in the possession of any person who is not equipped to observe or fails to observe the provisions of this chapter or any rules or regulations issued thereunder.

§ 7417. Storage of radioactive material .

(a) No facility for the permanent deposit, storage, reprocessing or disposal of spent nuclear fuel elements, or for the permanent deposit, storage, reprocessing or disposal of high or low-level radioactive waste material, shall be constructed or established in this State unless the Authority on Radiation Protection in consultation with the U.S. Nuclear Regulatory Commission first finds that such facility promotes the general good of the State and approves, after a public hearing, a petition for the approval of such facility.

(d) Whenever the Authority on Radiation Protection finds that the continued presence of a facility for the deposit, storage, reprocessing or disposal of materials in subsection (a) of this section is injurious to the public welfare, the Authority in consultation with the U.S. Nuclear Regulatory Commission shall issue its order shutting the facility and requiring immediate removal of such material as follows:

Approved July 18, 2012