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SENATE BILL 163

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY

Carroll H. Leavell

AN ACT

RELATING TO THE ENVIRONMENT; PROVIDING FOR RADIATION LICENSE,
REGISTRATION AND OTHER RELATED FEES; CREATING THE RADIATION
PROTECTION FUND; AMENDING AND ENACTING SECTIONS OF THE NMSA
1978; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 74-1-7 NMSA 1978 (being Laws 1971,
Chapter 277, Section 10, as amended) is amended to read:

"74-1-7. DEPARTMENT--DUTIES.--

A. The department is responsible for environmental
management and consumer protection programs. In that
respect, the department shall maintain, develop and enforce
[regulations] rules and standards in the following areas:

(1) food protection;

(2) water supply, including implementing a
capacity development program to assist water systems in

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1 acquiring and maintaining technical, managerial and financial
2 capacity in accordance with Section 1420 of the federal Safe
3 Drinking Water Act and establishing administrative penalties
4 for enforcement;

5 (3) liquid waste, including exclusive
6 authority to implement and administer an inspection and
7 permitting program for on-site liquid waste systems;

8 (4) air quality management as provided in
9 the Air Quality Control Act;

10 (5) radiation control and collection of
11 license, registration and other related fees as provided in
12 the Radiation Protection Act;

13 (6) noise control;

14 (7) nuisance abatement;

15 (8) vector control;

16 (9) occupational health and safety as
17 provided in the Occupational Health and Safety Act;

18 (10) sanitation of public swimming pools and
19 public baths;

20 (11) plumbing, drainage, ventilation and
21 sanitation of public buildings in the interest of public
22 health;

23 (12) medical radiation, health and safety
24 certification and standards for radiologic technologists as
25 provided in the Medical Radiation Health and Safety Act;

(13) hazardous wastes and underground
storage tanks as provided in the Hazardous Waste Act; and

1 (14) solid waste as provided in the Solid
2 Waste Act.

3 B. Nothing in Subsection A of this section imposes
4 requirements for the approval of subdivision plats in
5 addition to those required elsewhere by law. Nothing in
6 Subsection A of this section preempts the authority of any
7 political subdivision to approve subdivision plats."

8 Section 2. Section 74-1-8 NMSA 1978 (being Laws 1971,
9 Chapter 277, Section 11, as amended) is amended to read:

10 "74-1-8. BOARD--DUTIES.--

11 A. The board is responsible for environmental
12 management and consumer protection. In that respect, the
13 board shall promulgate [~~regulations~~] rules and standards in
14 the following areas:

15 (1) food protection;

16 (2) water supply, including a capacity
17 development program to assist water systems in acquiring and
18 maintaining technical, managerial and financial capacity in
19 accordance with Section 1420 of the federal Safe Drinking
20 Water Act and [~~regulations~~] rules authorizing imposition of
21 administrative penalties for enforcement;

22 (3) liquid waste, including exclusive
23 authority to implement and administer an inspection and
24 permitting program for on-site liquid waste systems;

25 (4) air quality management as provided in
the Air Quality Control Act;

(5) radiation control and establishment of

1 license, registration and other related fees as provided in
2 the Radiation Protection Act;

3 (6) noise control;

4 (7) nuisance abatement;

5 (8) vector control;

6 (9) occupational health and safety as
7 provided in the Occupational Health and Safety Act;

8 (10) sanitation of public swimming pools and
9 public baths;

10 (11) plumbing, drainage, ventilation and
11 sanitation of public buildings in the interest of public
12 health;

13 (12) medical radiation, health and safety
14 certification and standards for radiologic technologists as
15 provided in the Medical Radiation Health and Safety Act;

16 (13) hazardous wastes and underground
17 storage tanks as provided in the Hazardous Waste Act; and

18 (14) solid waste as provided in the Solid
19 Waste Act.

20 B. Nothing in Subsection A of this section imposes
21 requirements for the approval of subdivision plats in
22 addition to those required elsewhere by law. Nothing in
23 Subsection A of this section preempts the authority of any
24 political subdivision to approve subdivision plats.

25 C. Administrative penalties collected pursuant to
Paragraph (2) of Subsection A of this section shall be
deposited in the water conservation fund.

1 D. Radiation license, registration and other
2 related fees shall be deposited in the radiation protection
3 fund."

4 Section 3. Section 74-3-5 NMSA 1978 (being Laws 1971,
5 Chapter 284, Section 5, as amended) is amended to read:

6 "74-3-5. RADIATION PROTECTION CONSULTANT--RADIATION
7 REGULATIONS--INSPECTION.--

8 A. The board shall be the radiation protection
9 consultant for all agencies and institutions of the state and
10 shall, with the advice and consent of the council, have the
11 authority, after considering the facts and circumstances and
12 following the procedures set forth in Section [~~12-12-13 NMSA~~
13 ~~1953~~] 74-1-9 NMSA 1978, to promulgate rules [~~and~~
14 ~~regulations~~]:

15 (1) concerning the health and environmental
16 aspects of the use, management, storage and disposal of
17 radioactive material and the operation of ionizing and non-
18 ionizing radiation emitting equipment;

19 (2) prescribing license, registration and
20 other related fees, all of which shall be deposited in the
21 [~~general~~] radiation protection fund;

22 (3) requiring the posting of a bond running
23 only to the state for licensed activities, which bond shall
24 be adequate to insure, in the event of abandonment, default
25 or other performance inabilities of the licensee, compliance
with the requirements of the [~~regulations~~] rules or license
conditions, including actions of the licensee required during

1 or after the cessation of operations, which bond shall be
2 released upon demonstration by the licensee that the
3 conditions of the license have been satisfied; and

4 (4) establishing continued care fund deposit
5 requirements and other continued care requirements as
6 provided in Section ~~[12-9-5.1 NMSA 1953]~~ 74-3-6 NMSA 1978.

7 B. Upon adoption, ~~[regulations]~~ rules shall be
8 furnished to interested parties upon request.

9 C. In order to carry out the purposes of the
10 Radiation Protection Act, the director ~~[of the agency]~~ or his
11 authorized representatives may, as a condition of license or
12 registration, enter at all reasonable times in or upon any
13 private or public property where the director has reasonable
14 cause to believe there is radioactive material or radiation
15 equipment."

16 Section 4. Section 74-3-9 NMSA 1978 (being Laws 1971,
17 Chapter 284, Section 7, as amended) is amended to read:

18 "74-3-9. LICENSING OF RADIOACTIVE MATERIAL--APPEAL.--

19 A. It is unlawful for ~~[any]~~ a person to possess,
20 use, store, dispose of, manufacture, process, repair or alter
21 any radioactive material unless he holds:

22 (1) a license issued by the nuclear
23 regulatory commission and notification by the licensee to the
24 agency of license identification;

25 (2) a license issued by an agreement state
and notification by the licensee to the agency of license
identification; or

1 (3) a license issued by the agency.

2 B. The agency shall issue licenses, collect
3 license, registration and other related fees and deposit
4 those fees in the radiation protection fund and shall approve
5 requests for reciprocity in accordance with procedures
6 prescribed by rule of the board. License applications shall
7 be made on forms provided by the agency. The agency shall
8 not issue a license unless the applicant has demonstrated the
9 capability of complying with all applicable rules of the
10 board.

11 C. The board may, by rule, establish radiation
12 license, registration and other related fees and exempt from
13 the requirements of licensure specific quantities of any
14 radioactive material determined by the board not to
15 constitute a health or environmental hazard.

16 D. The holding of a license issued by the agency,
17 the nuclear regulatory commission or an agreement state does
18 not relieve the licensee from the responsibility of complying
19 with all applicable rules of the board.

20 E. A person who is or may be affected by licensing
21 action of the agency may appeal to the district court
22 pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

23 Section 5. A new section of the Radiation Protection
24 Act is enacted to read:

25 "[NEW MATERIAL] RADIATION PROTECTION FUND CREATED.--The
"radiation protection fund" is created in the state treasury.
Radiation license, registration and other related fees shall

1 be deposited in the fund. All earnings from investment of
2 the fund shall be credited to the fund. Money in the fund is
3 appropriated to the department of environment to carry out
4 provisions of the Radiation Protection Act. Disbursements
5 from the fund shall be by warrant drawn by the secretary of
6 finance and administration pursuant to vouchers signed by the
7 secretary of environment or his designee. Any unexpended or
8 unencumbered balance in the radiation protection fund at the
9 end of any fiscal year shall not revert to the general fund."

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