

No. 444, S.

Published
September 24, 1963.

CHAPTER 325

AN ACT to repeal 20.440 (44) and 101.50; and to create 20.410 (52) and 140.50 to 140.60 of the statutes, relating to radiation protection, prescribing powers and duties of the industrial commission and the state board of health, providing for registration of radiation sources, creating an advisory radiation protection council, providing penalties, granting rule-making authority and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.410 (52) of the statutes is created to read:

20.410 (52) RADIATION PROTECTION ACT. All moneys collected under s. 140.54 shall be paid within one week into the general fund, as a revolving appropriation, and are appropriated therefrom to the state board of health for the administration of ss. 140.50 to 140.60.

SECTION 2. 20.440 (44) of the statutes is repealed.

SECTION 3. 101.50 of the statutes is repealed.

SECTION 4. 140.50 to 140.60 of the statutes are created to read:

140.50 NAME OF THE ACT. Sections 140.50 to 140.60 shall be known as the radiation protection act.

140.51 PUBLIC POLICY. Since ionizing radiations and their sources can be instrumental in the improvement of the health and welfare of the public if properly utilized, and may be destructive or detrimental to life or health if carelessly or excessively employed or may detrimentally affect the environment of the state if improperly utilized, it is hereby declared to be the public policy of this state to encourage the constructive uses of radiation and to prohibit and prevent exposure to ionizing radiation in amounts which are or may be detrimental to health. It is further the policy to advise, consult and co-operate with the industrial commission and other agencies of the state, the federal government, other states and interstate agencies and with affected groups, political subdivisions and industries; and, in general, to conform as nearly as possible to nationally accepted standards in the promulgation and enforcement of rules.

140.52 DEFINITIONS. As used in ss. 140.50 to 140.60. (1) "Board" means the state board of health.

(2) "Commission" means the industrial commission.

(3) "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.

(4) "Nuclear facility" means any reactor plant, any equipment or device used for the separation of the isotopes of uranium or plutonium, the processing or utilizing of radioactive material or handling, processing or packaging waste; any premise, structure, excavation or place of storage or disposition of waste or by-product material; or any equipment used for or in connection with the transportation of such material.

(5) "Radiation" or "ionizing radiation" as used in this chapter refers to electromagnetic radiations such as X rays and gamma rays, or particulate radiations such as electrons or beta particles, protons, neutrons, alpha particles, usually of high energy, but in any case it includes all radiations capable of producing ions directly or indirectly in their passage through matter.

(6) "Radiation installation" is any location or facility where radiation machines are used or where radioactive material is produced, transported, stored, disposed of or used for any purpose.

(7) "Radiation machine" is any device that produces radiation when in use.

(8) "Radioactive material" includes any solid, liquid or gaseous substance which emits radiation spontaneously.

(9) "Radiation source" means a radiation machine or radioactive material as defined herein.

(10) "Source material" means any material except special nuclear material, which contains by weight 0.05 per cent or more of uranium, thorium, or any combination thereof.

(11) "Special nuclear material" means plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the atomic energy commission determines to be special nuclear material; or any material artificially enriched by any of the foregoing. Special nuclear material does not include source material.

140.53 POWERS AND DUTIES. (1) The board and the commission shall:

(a) Formulate, adopt and enforce, amend and repeal rules, including registration of sources of radiation, as may be necessary to prohibit and prevent unnecessary radiation. Such rules may incorporate by reference the recommended standards of nationally recognized bodies in the field of radiation protection and other fields of atomic energy, under the procedure established by s. 227.025.

(b) Administer ss. 140.50 to 140.60 and the rules promulgated thereunder.

(c) Develop comprehensive policies and programs for the evaluation and determination of hazards associated with the use of radiation, and for their amelioration.

(d) Advise, consult and co-operate with other agencies of the state, the federal government, other states and interstate agencies, and with affected groups, political subdivisions and industries.

(e) Encourage, participate in or conduct studies, investigations, training, research and demonstrations relating to the control of radiation hazards, the measurement of radiation, the effects on health of exposure to radiation and related problems as it deems necessary or advisable for the discharge of its duties under ss. 140.50 to 140.60.

(f) Collect and disseminate health education information relating to radiation protection as it deems proper.

(g) Review and approve plans and specifications for radiation sources submitted pursuant to rules promulgated under ss. 140.50 to 140.60; and inspect radiation sources, their shielding and immediate surroundings and records concerning their operation for the determination of any possible radiation hazard.

(2) The board and the commission may:

(a) Enter, at all reasonable times, any private or public property for the purpose of investigating conditions relating to radiation control.

(b) Accept and utilize grants or other funds or gifts from the federal government and from other sources, public or private, for carrying out its functions under ss. 140.50 to 140.60. Such studies, investigations, training and demonstration may be conducted independently, by contract, or in co-operation with any person or any public or private agency, including any political subdivision of the state.

140.54 REGISTRATION. (1) **APPLICATION.** Every radiation installation in this state, not exempted by this section or the rules of the board or this section shall be registered by the board by January 1, 1964, by the person in control thereof, and no such radiation installation shall be operated thereafter unless it has been duly registered by January 1 of each year and a notice of such registration is possessed by the person in control. Every radiation installation established in this state after January 1, 1964, shall be registered prior to its operation. The application for registration shall be made on forms provided by the board which shall be devised to obtain any information that is considered necessary for evaluation of hazards. Multiple radiation sources at a single radiation installation and under the control of one person shall be listed on a single registration form and only one registration fee shall be required. Registration alone shall not imply approval of manufacture, storage, use, handling, operation or disposal of the radiation installation or radioactive materials, but shall serve merely to inform the board of the location and character of radiation sources. The board shall furnish the commission with a copy of each amended and new registration. Persons engaged in manufacturing, demonstration, sale, testing or repair of radiation sources shall not be required to list such sources on the registration form.

(2) **AMENDED REGISTRATION.** Whenever the person in control increases the number of sources, source strength, rated output or energy of radiation produced in any installation, he shall notify the board of such increase prior to operation on such revised basis, and such change shall be recorded in the registration. If any installation is discontinued, the person in control shall notify the board within 30 days of such discontinuance.

(3) **FEES.** An annual registration fee of \$5 shall be levied on every person in control of a radiation installation registering under this section. No additional fee shall be required for recording changes in the registration information.

(4) **EXEMPTIONS.** The board shall exempt from registration any source licensed by the atomic energy commission and may exempt from registration any source of radiation installation which the board finds to be without undue radiation hazard as determined by standards established by the national committee on radiation protection and measurements or any comparable nationally recognized agency established for the purpose of recommending standards for radiation protection, and after the initial registration may exempt from subsequent annual registration requirements any source of radiation devoted primarily to industrial purposes.

140.56 ADVISORY RADIATION PROTECTION COUNCIL. (1) There is created an advisory radiation protection council to advise and consult in carrying out the administration of ss. 140.50 to 140.60 and in the development of rules. It shall provide the board with technical advice and assistance.

(2) The advisory radiation protection council shall consist of 9 members, 5 to be appointed by the board and 4 by the commission.

(3) The terms of office of all members of the advisory council shall be 3 years, except that in making the original appointments of the 5 members appointed by the board one shall be appointed to serve for terms of 1 year, 2 for 2 years and 2 for 3 years. Of the 4 members appointed by the commission 2 shall be for 1 year, 1 for 2 years, and 1 for 3 years. All members shall serve after the expiration of their terms until their respective successors are appointed and qualified. Any vacancy occurring, whether by expiration of the term or otherwise, shall be filled by the appointing authority for the unexpired term.

(4) The chairman of the advisory council shall be elected by the members from among their membership. Five members of the advisory council shall constitute a quorum to transact its business.

(5) The advisory council shall meet as frequently as necessary but not less than once each year. Meetings shall be called by the chairman upon request of the board or 5 members of the advisory council.

(6) All members of the advisory council shall serve without compensation but shall be entitled to receive their actual and necessary expenses while serving as a council member.

140.57 UNIFORM CODE. The board shall, on the recommendation of the advisory council promulgate a radiation protection code. Other departments and agencies of state government and local governmental units may adopt the identical code, but no other codes or ordinances relating to this subject shall be promulgated or enacted.

140.58 ENFORCEMENT. (1) **NOTIFICATION OF VIOLATION AND ORDER OF ABATEMENT.** Whenever the board or commission finds, upon inspection and examination, that a source of radiation as constructed, operated or maintained results in a violation of ss. 140.50 to 140.60 or of any rules promulgated thereunder, it shall notify the person in control that is causing, allowing or permitting such violation as to the nature thereof and order that, prior to a specified time such person in control shall cease and abate causing, allowing or permitting such violation and take such action

as may be necessary to have the source of radiation constructed, operated, or maintained in compliance with ss. 140.50 to 140.60 and rules promulgated thereunder.

(2) The board or commission shall issue and enforce such orders or modifications of previously issued orders as may be required in connection with proceedings under ss. 140.50 to 140.60. Such orders shall be subject to review by the board upon petition of the persons affected. Whenever the board or commission finds that a condition exists which constitutes an immediate threat to health due to violation of ss. 140.50 to 140.60 or any rule or order promulgated thereunder it may issue an order reciting the existence of such threat and the findings pertaining thereto. The board or commission may summarily cause the abatement of such violation.

(3) The state board of health shall enforce the rules pertaining to ionizing radiation in establishments principally engaged in furnishing medical, surgical, chiropractic and other health services to persons and animals. The industrial commission shall enforce the rules pertaining to ionizing radiation in industrial establishments. The board shall notify the commission and deliver to it a copy of each new registration and at such time a decision shall be made as to which state agency shall enforce the rules pertaining to ionizing radiation. The board and the commission are directed to consult with the advisory committee in case of jurisdictional problems.

(4) All orders issued pursuant to ss. 140.50 to 140.60 shall be enforced by the attorney general. The circuit court of Dane county shall have jurisdiction to enforce such orders by injunctive and other appropriate relief.

140.59 IMPOUNDING MATERIALS. The board or commission may impound or order the sequestration of sources of ionizing radiation in the possession of any person who is not equipped to observe or who fails to observe such safety standards to protect health as may have been established by rule.

140.595 EXCEPTIONS. (1) Nothing in ss. 140.50 to 140.60 shall be interpreted as limiting intentional exposure of persons to radiation for the purpose of analysis, diagnosis, therapy, and medical, chiropractic or dental research as authorized by law.

(2) Sections 140.50 to 140.60 shall not apply to on site activities of any nuclear reactor plant licensed or operated by the atomic energy commission.

140.60 PENALTIES. Any person who violates any provision of ss. 140.50 to 140.60 or any rule or order of the board or commission issued pursuant thereto shall forfeit and pay into the state treasury not less than \$10 nor more than \$500. Each day of continued violation after notice of the fact that a violation is being committed shall be considered a separate offense. Should injury or death of an employe ensue, due to a failure of an employer to observe or enforce any rule issued under ss. 140.50 to 140.60, compensation and death benefits shall be increased by 15 per cent as provided in s. 102.57.

SECTION 5. TRANSITION PROVISIONS. On July 1, 1963, all of the functions relating to the registration of sources of ionizing radiation are transferred from the industrial commission to the state board of health, and all matters relating thereto pending before the commission shall be completed by the board. No employes shall be removed because of this transfer. All nonlapsed unencumbered balances in the appropriation of the industrial commission attributable to this function are transferred to the board of health.

SECTION 6. This bill is declared to be an emergency appropriation bill, in accordance with the requirements of section 16.47 (2) of the statutes.

Approved September 12, 1963.