

SOON - In edit 1/30

1999 - 2000 LEGISLATURE

LRB-1164/84
DAK:wlj&jlg:kan

DOA:.....Jablonsky - Radioactive material regulation

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

do not gen

1

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Under current law, the department of health and family services (DHFS) and the department of commerce are together authorized to perform various actions, including impounding materials, to regulate sources of ionizing and nonionizing radiation. DHFS annually registers sites of ionizing radiation installations, such as medical sites, and imposes annual fees for each site and each X-ray tube at the site. Violation of the regulatory statutes or rules subjects the violator to a forfeiture.

This bill eliminates authority of the department of commerce to regulate sources of ionizing and nonionizing radiation. The bill authorizes the governor to enter into agreements with the U.S. Nuclear Regulatory Commission to discontinue certain federal governmental licensing and related regulatory authority with respect to by-product, source and special nuclear radioactive material and to assume state regulatory authority. Under the bill, if the agreements are made, persons possessing licenses issued by the U.S. Nuclear Regulatory Commission are considered to be licensed by the state; the licenses expire 90 days after notice of expiration by DHFS or on the expiration date of the former federal licenses, whichever is earlier. Rules promulgated by DHFS for by-product, source and special nuclear radioactive material may not be less stringent than federal statutory standards.

The bill establishes authority, as of January 1, 2003, for DHFS to license specifically the possession, use, transfer or acquisition of radioactive by-product

renewals, annual license maintenance, and license amendment and termination LRB-1164/3 DAK:wlj&jlg:hmh

initial
prescribed by rules

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material and to license specifically the possession, use, manufacture, production, transfer or acquisition of radioactive material or devices or items that use radioactive material and to operate a site that uses radioactive material. DHFS may assess annual fees for the licenses and must promulgate rules for issuance, modification, suspension, termination and revocation of specific licenses and for requirements for general licenses. DHFS also is authorized to establish general license requirements for the possession, use, transfer or acquisition of by-product radioactive material or devices or items that contain by-product radioactive material. In addition, DHFS is authorized to issue reciprocal recognition of a license for radioactive materials of another state or the U.S. nuclear regulatory commission.

and to assess a fee for the recognition

The bill authorizes DHFS annually, until January 1, 2003, to assess a fee, the amount of which is prescribed by DHFS by rule, a person in this state holding a license issued by the U.S. nuclear regulatory commission. The bill requires DHFS to promulgate rules establishing the fee amount on an emergency basis and exempts DHFS from making a finding of emergency for the rules.

The bill eliminates court-imposed forfeitures for violations of the radiation regulatory statutes and rules of DHFS and instead establishes administrative forfeitures that DHFS may directly assess and procedures for notice, a hearing for contested cases, forfeiture payment and disposition and enforcement.

Lastly, the bill authorizes DHFS to issue emergency orders to protect the public from radiation exposure; increases the annual fee amounts for registration of ionizing radiation installation sites and for X-ray tubes at those sites; and changes current law to prohibit, rather than allow, transfer of registration of ionizing radiation installations if ownership transfers.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

authorizes DHFS to revise the fee amounts by rule

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

1 SECTION 1. 20.435 (5) (ed) of the statutes is amended to read:
2 20.435 (5) (ed) *Radon aids*. The amounts in the schedule for the provision of
3 state aid for local radon services under s. 254.34 (4) (1) (h) 5.

4 SECTION 2. 166.15 (1) (f) of the statutes is amended to read:
5 166.15 (1) (f) "Nuclear incident" means any sudden or nonsudden release of
6 ionizing radiation, as defined under s. 254.31 (3g), from radioactive waste being
7 stored or disposed of in a waste repository or transported. "Nuclear incident" does

1 requirements under 42 USC 2011 to 2114 and regulations adopted under 42 USC
2 2011 to 2114.

3 **SECTION 21.** 254.34 (1) (c) of the statutes is renumbered 254.34 (1) (c) (intro.)
4 and amended to read:

5 254.34 (1) (c) (intro.) Develop comprehensive policies and programs for the
6 evaluation and, determination and reduction of hazards associated with the use of
7 radiation, ~~and for their amelioration.~~ that are compatible with requirements of the
8 U.S. nuclear regulatory commission for the regulation of by-product material,
9 source material and special nuclear material. The department shall maintain all of
10 the following records:

11 **SECTION 22.** 254.34 (1) (c) 1. of the statutes is created to read:

12 254.34 (1) (c) 1. Files of all license applications, issuances, denials, transfers,
13 renewals, modifications, suspensions and revocations under s. 254.365.

14 **SECTION 23.** 254.34 (1) (c) 2. of the statutes is created to read:

15 254.34 (1) (c) 2. Files of all registrants under s. 254.35 and any related
16 administrative or judicial action.

17 **SECTION 24.** 254.34 (2) (intro.) of the statutes is amended to read:

18 254.34 (2) (intro.) The department, ~~serving as the lead agency, and the~~
19 ~~department of commerce~~ may:

20 **SECTION 25.** 254.34 (4) of the statutes is renumbered 254.34 (1) (h) 5.

21 **SECTION 26.** 254.345 of the statutes is created to read:

22 **254.345 Assessment of Fee.** (1) The department may annually assess a fee
23 ~~the amount of which is prescribed by the department by rule, to any licensee~~
24 of the U.S. nuclear regulatory commission in this state. The fee amounts shall be
25 used by the department for the department's activities under this subchapter. *The*
department may revise the fee amounts by rule.

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1 254.35 (4) EXEMPTIONS. ~~The department shall~~ After initial registration under
2 sub. (1), the department may exempt from annual registration any source licensed
3 ~~by the nuclear regulatory commission and may exempt from registration any source~~
4 ~~of radiation installation which~~ of radiation that the department finds to be without
5 undue radiation hazard ~~as determined by standards established by the national~~
6 ~~committee on radiation protection and measurements or any comparable nationally~~
7 ~~recognized agency established for the purpose of recommending standards for~~
8 ~~radiation protection, and after the initial registration may exempt from subsequent~~
9 ~~annual radiation requirements any source of radiation devoted primarily to~~
10 ~~industrial purposes.~~

11 **SECTION 38.** 254.36 of the statutes is renumbered 254.34 (1) (am) and amended
12 to read:

13 254.34 (1) (am) ~~*Radiation protection.*~~ ~~The department shall promulgate a~~
14 ~~radiation protection code. Other departments and agencies of state government and~~
15 A rule identical to a rule specified under par. (a) may be promulgated by a state
16 agency other than the department and an ordinance identical to a rule specified
17 under par. (a) may be enacted by a local governmental units may adopt the identical
18 code unit, but no other rule, code or ordinance relating to this subject may be
19 promulgated or enacted may be promulgated or ordinance may be enacted that
20 differs from a rule under par. (a) and relates to the same subject area except as
21 provided under ss. 166.03 (2) (b) 6., 293.15 (8) and 293.25.

22 **SECTION 39.** 254.365 of the statutes is created to read:

23 **254.365 Licensing of radioactive material.** (1) LICENSE REQUIRED. No
24 person may possess, use, manufacture, transport, store, transfer or dispose of
25 radioactive material or a device or item of equipment that uses radioactive material

1 or may operate a site that uses radioactive material that is not under the authority
2 of the U.S. nuclear regulatory commission unless one of the following applies:

- 3 (a) The person has a specific license issued by the department.
- 4 (b) The person meets general license requirements.
- 5 (c) The person possesses a license issued by another state or by the U.S. nuclear
6 regulatory commission that is reciprocally recognized by the department.
- 7 (d) The person is exempted from licensure under sub. (7).

8 **(2) APPLICATION.** Application for a license under sub. (1) (a) or for reciprocal
9 recognition under sub. (1) (c) shall be made on forms provided by the department.

10 **(3) MODIFICATION OR TERMINATION OF LICENSE.** Within 30 days after any change
11 to the information on a license issued under this section, the licensee shall inform the
12 department of the change and the department shall record the changed information.
13 Within 30 days after termination of an activity licensed under this section, the person
14 in control of the activity shall notify the department. The department may require
15 that the person in control submit to the department for approval a plan for
16 decommissioning the activity.

17 **(4) RULES.** The department shall promulgate rules for all of the following:

- 18 (a) The issuance, modification, suspension, termination and revocation of
19 specific licenses under sub. (1) (a) under the standards specified in s. 254.34 (1) (a).
- 20 (b) The requirements for a general license under sub. (1) (b).

21 **(5) FEES AND CHARGES.** (a) The department may assess fees, the amounts of
22 which are prescribed by the department by rule, for any of the following:

23 1. Issuance of an initial or renewal specific license under sub. (1) (a).

→ 2. Annual license maintenance.

24 2. Issuance of a license amendment.

25 3. Termination of a license.

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① ~~4.~~⁵ Issuance of reciprocal recognition of a license for radioactive materials of
2 another state or the U.S. nuclear regulatory commission.

3 (b) The department may assess a late payment charge of 25% of the specific
4 license renewal fee, in addition to the fee under par. (a) for renewal of a specific
5 license, if payment for renewal of a specific license is not made within 30 days after
6 the license expiration date.

7 (6) DENIAL, SUSPENSION OR REVOCATION OF LICENSURE. The department may, after
8 a hearing under ch. 227, refuse to issue a license or suspend or revoke a license for
9 failure by the licensee to comply with this subchapter, rules promulgated by the
10 department under this subchapter or any condition of the license.

11 (7) EXEMPTION. The department may exempt from licensing requirements of
12 this section radioactive material that the department finds is without undue
13 radiation hazard.

14 SECTION 40. 254.37 (1) of the statutes is renumbered 254.37 (1) (intro.) and
15 amended to read:

16 254.37 (1) NOTIFICATION OF VIOLATION AND ORDER OF ABATEMENT. (intro.)
17 Whenever the department ~~or the department of commerce~~ finds, upon inspection and
18 examination, that a source of radiation as constructed, operated or maintained
19 results in a violation of this subchapter or of any rules promulgated under this
20 subchapter, it the department shall notify do all of the following:

21 (a) Notify the person in control that is causing, allowing or permitting the
22 violation as to the nature of the violation ~~and order.~~

23 (b) Order that, prior to a specified time, the person in control shall cease and
24 abate causing, allowing or permitting the violation and take such action as may be

1 material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31
2 ~~(3)~~ (1).

3 SECTION 52. 295.11 (10) of the statutes is amended to read:

4 295.11 (10) "Solid waste" means any garbage, refuse, sludge from a waste
5 treatment plant, water supply treatment plant or air pollution control facility and
6 other discarded or salvageable materials, including solid, liquid, semisolid, or
7 contained gaseous materials resulting from industrial, commercial, mining and
8 agricultural operations, and from community activities, but does not include solids
9 or dissolved material in domestic sewage, or solid or dissolved materials in irrigation
10 return flows or industrial discharges which are point sources subject to permits
11 under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear
12 material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31
13 ~~(3)~~ (1).

14 SECTION 9123. Nonstatutory provisions; health and family services. 9

15 (1) RULES FOR FEE ASSESSMENT. Using the procedure under section 227.24 of the
16 statutes, the department of health and family services shall promulgate the rules
17 required under section 254.345 (1) of the statutes, as created by this act, for the
18 period before the effective date of the permanent rules promulgated under section
19 254.345 (1) of the statutes, as created by this act, but not to exceed the period
20 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding
21 section 227.24 (1) (a), (2) (b) and (3) of the statutes, the department is not required
22 to provide evidence that promulgating a rule under this subsection as an emergency
23 rule is necessary for the preservation of the public peace, health, safety or welfare
24 and is not required to provide a finding of emergency for a rule promulgated under
25 this subsection.

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of 3670 of the U.S. nuclear regulatory commission

license application fee and materials license

annual fee, for any

(SOON - In edit 2/2)

1999 - 2000 LEGISLATURE

LRB-1164/5

DAK:wlj&jlg:j

D-NOTE

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OTHER HEALTH AND HUMAN SERVICES

Under current law, the department of health and family services (DHFS) and the department of commerce are together authorized to perform various actions, including impounding materials, to regulate sources of ionizing and nonionizing radiation. DHFS annually registers sites of ionizing radiation installations, such as medical sites, and imposes annual fees for each site and each X-ray tube at the site. Violation of the regulatory statutes or rules subjects the violator to a forfeiture.

This bill eliminates authority of the department of commerce to regulate sources of ionizing and nonionizing radiation. The bill authorizes the governor to enter into agreements with the U.S. Nuclear Regulatory Commission to discontinue certain federal governmental licensing and related regulatory authority with respect to by-product, source and special nuclear radioactive material and to assume state regulatory authority. Under the bill, if the agreements are made, persons possessing licenses issued by the U.S. Nuclear Regulatory Commission are considered to be licensed by the state; the licenses expire 90 days after notice of expiration by DHFS or on the expiration date of the former federal licenses, whichever is earlier. Rules promulgated by DHFS for by-product, source and special nuclear radioactive material may not be less stringent than federal statutory standards.

The bill establishes authority, as of January 1, 2003, for DHFS to license specifically the possession, use, transfer or acquisition of radioactive by-product

material and to license specifically the possession, use, manufacture, production, transfer or acquisition of radioactive material or devices or items that use radioactive material and to operate a site that uses radioactive material. DHFS may assess annual fees, prescribed by rule, for the initial licenses renewals, annual license maintenance, and license amendment and termination and must promulgate rules for issuance, modification, suspension, termination and revocation of specific licenses and for requirements for general licenses. DHFS also is authorized to establish general license requirements for the possession, use, transfer or acquisition of by-product radioactive material or devices or items that contain by-product radioactive material. In addition, DHFS is authorized to issue reciprocal recognition of a license for radioactive materials of another state or the U.S. nuclear regulatory commission and to assess a fee for the recognition.

The bill authorizes DHFS annually, until January 1, 2003, to assess a fee of 36% of the U.S. nuclear regulatory commission license application fee and materials license annual fee, for any person in this state holding a license issued by the U.S. nuclear regulatory commission. The bill authorizes DHFS to revise the fee amounts by rule.

The bill eliminates court-imposed forfeitures for violations of the radiation regulatory statutes and rules of DHFS and instead establishes administrative forfeitures that DHFS may directly assess and procedures for notice, a hearing for contested cases, forfeiture payment and disposition and enforcement.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

- 1 **SECTION 1.** 20.435 (5) (ed) of the statutes is amended to read:
2 20.435 (5) (ed) *Radon aids.* The amounts in the schedule for the provision of
3 state aid for local radon services under s. 254.34 (4) (1) (h) 5.
4 **SECTION 2.** 166.15 (1) (f) of the statutes is amended to read:
5 166.15 (1) (f) “Nuclear incident” means any sudden or nonsudden release of
6 ionizing radiation, as defined under s. 254.31 (3g), from radioactive waste being
7 stored or disposed of in a waste repository or transported. “Nuclear incident” does

1 not include any release of radiation from radioactive waste being transported under
2 routine operations.

3 **SECTION 3.** 254.31 (1) (b) of the statutes is created to read:

4 254.31 (1) (b) The tailings or waste produced by the extraction or concentration
5 of uranium or thorium from any ore processed primarily for its source material
6 content.

7 ~~SECTION 4. 254.31 (1)(b) of the statutes is created to read:~~

8 **SECTION 5.** 254.31 (2) of the statutes is created to read:

9 254.31 (2) “Decommissioning” means conducting final operational activities at
10 a nuclear facility to dismantle site structures, to decontaminate site surfaces and
11 remaining structures, to stabilize and contain residual radioactive material and to
12 carry out any other activities necessary to prepare the site for postoperational care.

13 **SECTION 6.** 254.31 (2m) of the statutes is created to read:

14 254.31 (2m) “General license” means a license, under requirements prescribed
15 by the department by rule, to possess, use, transfer or acquire by-product material
16 or devices or equipment utilizing by-product material without the filing of a license
17 application by a person or issuance of licensing confirmation by the department.

18 **SECTION 7.** 254.31 (3) of the statutes is renumbered 254.31 (1) (intro.) and
19 amended to read:

20 254.31 (1) (intro.) “By-product material” means any radioactive of the
21 following:

22 (a) Radioactive material (except special nuclear material), yielded in or made
23 radioactive by exposure to the radiation incident to the process of producing or
24 utilizing special nuclear material.

25 **SECTION 8.** 254.31 (3g) of the statutes is repealed and recreated to read:

D-NOTE

To Sue Gajdosky:

This redraft corrects a typographical error
in SECTION 4 of LRB-1164/4. No substantive
change is effected.

DAK

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1164/5dn
DAK:wlj&jlg:ijs

February 3, 1999

To Sue Jablonsky:

This redraft corrects a typographical error in SECTION 4 of LRB-1164/4. No substantive change is effected.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1164/5
DAK:wlj&jlg:ijs

DOA:.....Jablonsky – Radioactive material regulation

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material and to license specifically the possession, use, manufacture, production, transfer or acquisition of radioactive material or devices or items that use radioactive material and to operate a site that uses radioactive material. DHFS may assess annual fees, prescribed by rule, for the initial licenses renewals, annual license maintenance, and license amendment and termination and must promulgate rules for issuance, modification, suspension, termination and revocation of specific licenses and for requirements for general licenses. DHFS also is authorized to establish general license requirements for the possession, use, transfer or acquisition of by-product radioactive material or devices or items that contain by-product radioactive material. In addition, DHFS is authorized to issue reciprocal recognition of a license for radioactive materials of another state or the U.S. nuclear regulatory commission and to assess a fee for the recognition.

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4 **SECTION 2.** 166.15 (1) (f) of the statutes is amended to read:
5 166.15 (1) (f) “Nuclear incident” means any sudden or nonsudden release of
6 ionizing radiation, as defined under s. 254.31 (3g), from radioactive waste being
7 stored or disposed of in a waste repository or transported. “Nuclear incident” does

1 not include any release of radiation from radioactive waste being transported under
2 routine operations.

3 **SECTION 3.** 254.31 (1) (b) of the statutes is created to read:

4 254.31 (1) (b) The tailings or waste produced by the extraction or concentration
5 of uranium or thorium from any ore processed primarily for its source material
6 content.

7 **SECTION 4.** 254.31 (2) of the statutes is created to read:

8 254.31 (2) “Decommissioning” means conducting final operational activities at
9 a nuclear facility to dismantle site structures, to decontaminate site surfaces and
10 remaining structures, to stabilize and contain residual radioactive material and to
11 carry out any other activities necessary to prepare the site for postoperational care.

12 **SECTION 5.** 254.31 (2m) of the statutes is created to read:

13 254.31 (2m) “General license” means a license, under requirements prescribed
14 by the department by rule, to possess, use, transfer or acquire by-product material
15 or devices or equipment utilizing by-product material without the filing of a license
16 application by a person or issuance of licensing confirmation by the department.

17 **SECTION 6.** 254.31 (3) of the statutes is renumbered 254.31 (1) (intro.) and
18 amended to read:

19 254.31 (1) (intro.) “By-product material” means any ~~radioactive~~ of the
20 following:

21 (a) Radioactive material (~~, except special nuclear material,~~ yielded in or made
22 radioactive by exposure to the radiation incident to the process of producing or
23 utilizing special nuclear material.

24 **SECTION 7.** 254.31 (3g) of the statutes is repealed and recreated to read:

1 254.31 (3g) “Ionizing radiation” means all radiations capable of producing ions
2 directly or indirectly in their passage through matter, including all of the following:

3 (a) Electromagnetic radiations, including X-rays and gamma rays.

4 (b) Particulate radiations, including electrons, beta particles, protons,
5 neutrons, alpha particles and other nuclear particles.

6 **SECTION 8.** 254.31 (5) of the statutes is created to read:

7 254.31 (5) “Radiation generating equipment” means a system, manufactured
8 product or device or component part of such a product or device that, during
9 operation, is capable of generating or emitting ionizing radiation without the use of
10 radioactive material. “Radiation generating equipment” does not include a device
11 that emits nonionizing radiation.

12 **SECTION 9.** 254.31 (6) of the statutes is amended to read:

13 254.31 (6) “Radiation installation” is any location or facility where radiation
14 ~~machines are generating equipment is~~ used or where radioactive material is
15 produced, transported, stored, disposed of or used for any purpose.

16 **SECTION 10.** 254.31 (7) of the statutes is repealed.

17 **SECTION 11.** 254.31 (8) of the statutes is renumbered 254.31 (9m) and amended
18 to read:

19 254.31 (9m) “Radioactive material” includes any solid, liquid or gaseous
20 substance which emits ionizing radiation spontaneously, including
21 accelerator-produced material, by-product material, naturally occurring material,
22 source material and special nuclear material.

23 **SECTION 12.** 254.31 (9) of the statutes is amended to read:

24 254.31 (9) “Radiation source” means a radiation ~~machine~~ generating
25 equipment or radioactive material as defined herein.

1 **SECTION 13.** 254.31 (11g) of the statutes is created to read:

2 254.31 (11g) “Specific license” means a license, under requirements prescribed
3 by the department by rule, to possess, use, manufacture, produce, transfer or acquire
4 radioactive material or devices or equipment utilizing radioactive material.

5 **SECTION 14.** 254.31 (11m) of the statutes is created to read:

6 254.31 (11m) “Transuranic” means a radioactive material having an atomic
7 number that is greater than 92.

8 **SECTION 15.** 254.31 (12) of the statutes is amended to read:

9 254.31 (12) “X-ray tube” means any electron tube ~~which~~ that is contained in
10 a device and that is specifically designed for the conversion of electrical energy into
11 X-ray energy.

12 **SECTION 16.** 254.33 of the statutes is amended to read:

13 **254.33 Public policy.** Since radiations and their sources can be instrumental
14 in the improvement of the health and welfare of the public if properly utilized, and
15 may be destructive or detrimental to life or health if carelessly or excessively
16 employed or may detrimentally affect the environment of the state if improperly
17 utilized, it is hereby declared to be the public policy of this state to encourage the
18 constructive uses of radiation and to prohibit and prevent exposure to radiation in
19 amounts which are or may be detrimental to health. It is further the policy for the
20 department to advise, consult and cooperate with ~~the department of commerce and~~
21 other agencies of the state, the federal government, other states and interstate
22 agencies and with affected groups, political subdivisions and industries; and, in
23 general, to conform as nearly as possible to nationally accepted standards in the
24 promulgation and enforcement of rules.

25 **SECTION 17.** 254.335 of the statutes is created to read:

1 **254.335 Agreements with the U.S. nuclear regulatory commission**
2 **transition.** (1) The governor may, on behalf of the state, enter into agreements with
3 the U.S. nuclear regulatory commission, as provided in 42 USC 2021 (b), to
4 discontinue certain federal licensing and related regulatory authority with respect
5 to by-product material, source material and special nuclear material and to assume
6 state regulatory authority.

7 (2) Any person who, on the effective date of an agreement specified under sub.
8 (1), possesses a license issued by the U.S. nuclear regulatory commission that is
9 subject to the agreement is considered to possess a specific license issued under s.
10 254.365 (1) (a) or to fulfill requirements specified for a general license under s.
11 254.365 (1) (b). The specific license expires 90 days after the date of receipt by the
12 person from the department of a notice of expiration of the license or on the date of
13 expiration that was specified in the license issued by the U.S. nuclear regulatory
14 commission, whichever is earlier.

15 **SECTION 18.** 254.34 (1) (intro.) of the statutes is amended to read:

16 254.34 (1) (intro.) ~~The department and the department of commerce is the state~~
17 radiation control agency and shall do all of the following:

18 **SECTION 19.** 254.34 (1) (a) of the statutes is amended to read:

19 254.34 (1) (a) ~~Formulate, adopt and enforce, amend and repeal~~ Promulgate and
20 enforce rules, including registration and licensing of sources of ionizing radiation, as
21 may be necessary to prohibit and prevent unnecessary radiation. ~~Such exposure.~~
22 The rules may incorporate by reference the recommended standards of nationally
23 recognized bodies in the field of radiation protection and other fields of atomic energy,
24 under the procedure established by s. 227.21 (2). The rules for by-product material,
25 source material and special nuclear material may be no less stringent than the

1 requirements under 42 USC 2011 to 2114 and regulations adopted under 42 USC
2 2011 to 2114.

3 **SECTION 20.** 254.34 (1) (c) of the statutes is renumbered 254.34 (1) (c) (intro.)
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6 evaluation ~~and, determination~~ and reduction of hazards associated with the use of
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12 254.34 (1) (c) 1. Files of all license applications, issuances, denials, transfers,
13 renewals, modifications, suspensions and revocations under s. 254.365.

14 **SECTION 22.** 254.34 (1) (c) 2. of the statutes is created to read:

15 254.34 (1) (c) 2. Files of all registrants under s. 254.35 and any related
16 administrative or judicial action.

17 **SECTION 23.** 254.34 (2) (intro.) of the statutes is amended to read:

18 254.34 (2) (intro.) The department, ~~-serving as the lead agency, and the~~
19 ~~department of commerce~~ may:

20 **SECTION 24.** 254.34 (4) of the statutes is renumbered 254.34 (1) (h) 5.

21 **SECTION 25.** 254.345 of the statutes is created to read:

22 **254.345 Assessment of Fee. (1)** The department may annually assess a fee
23 of 36% of the U.S. nuclear regulatory commission license application fee and
24 materials license annual fee, for any licensee of the U.S. nuclear regulatory
25 commission in this state. The fee amounts shall be used by the department for the

1 department's activities under this subchapter. The department may revise the fee
2 amounts by rule.

3 (2) This section does not apply after December 31, 2002.

4 **SECTION 26.** 254.35 (1) of the statutes is amended to read:

5 254.35 (1) APPLICATION. ~~Every~~ For every site in this state having that has an
6 ionizing radiation installation, that is not exempted by this section or the rules of the
7 department ~~shall be registered by the department by January 1, 1964, by,~~ the person
8 in control of ~~an~~ the installation, including installations in sites that are administered
9 by a state agency or in an institution under the jurisdiction of a state agency, ~~and no~~
10 ~~such~~ shall, prior to operation, register the ionizing radiation installation with the
11 department. No ionizing radiation installation may be operated thereafter unless
12 the site has been duly registered by January 1 of each year and a notice of the
13 registration is possessed by the person in control. ~~Every site having an ionizing~~
14 ~~radiation installation established in this state after July 20, 1985, shall be registered~~
15 ~~prior to its operation.~~ The application for registration shall be made on forms
16 provided by the department which shall be devised to obtain any information that
17 is considered necessary for evaluation of hazards. Multiple radiation sources at a
18 single radiation installation and under the control of one person shall be listed on a
19 single registration form. Registration fees shall be levied in accordance with sub. (3).
20 Registration alone ~~shall~~ does not imply approval of manufacture, storage, use,
21 handling, operation or disposal of the radiation installation or radioactive materials,
22 but ~~shall serve~~ serves merely to inform the department of the location and character
23 of radiation sources. ~~The department shall furnish the department of commerce with~~
24 ~~a copy of each amended and new registration.~~ Persons engaged in manufacturing,

1 demonstration, sale, testing or repair of radiation sources ~~shall not be~~ are not
2 required to list such sources on the registration form.

3 **SECTION 27.** 254.35 (2) of the statutes is amended to read:

4 254.35 (2) AMENDED REGISTRATION. If the person in control increases the
5 number of sources, source strength, rated output or energy of radiation produced in
6 any installation, he or she shall notify the department of the increase prior to
7 operation on the revised basis. The department shall record the change in the
8 registration. No registration is transferable from one premises to another or from
9 one person to another. If the person in control ~~transfers~~ intends to transfer control
10 of ownership of the radiation installation to another person ~~the registration also~~
11 ~~transfers to the other person, who, at least 15 days before the final transfer the~~
12 registrant shall notify the department of the transfer ~~within 15 days.~~ The
13 ~~department shall record the change in the~~ and the intended transferee shall file
14 under sub. (1) an application for registration. If any installation is discontinued, the
15 person in control shall notify the department within 30 days of the discontinuance.

16 **SECTION 28.** 254.35 (3) (title) of the statutes is amended to read:

17 254.35 (3) (title) ~~FEES~~ REGISTRATION FEES.

18 **SECTION 29.** 254.35 (3) (a) of the statutes is amended to read:

19 254.35 (3) (a) An annual registration fee under pars. (b) to (f) ~~(fm)~~ shall be
20 levied for each site registration under this section. An additional penalty fee of \$10
21 \$25, regardless of the number of X-ray tubes or generally licensed devices, shall be
22 required for each registration whenever the annual fee for renewal is not paid prior
23 to expiration of the registration. No additional fee may be required for recording
24 changes in the registration information.

25 **SECTION 30.** 254.35 (3) (b) of the statutes is amended to read:

1 254.35 (3) (b) For a ~~medical~~ site having an ionizing radiation installation
2 serving physicians and clinics, osteopaths and clinics, ~~and chiropractors or hospitals~~
3 that possesses radioactive materials in any quantity, the fee shall be at least ~~\$25~~ \$36
4 for each site and at least ~~\$30~~ \$44 for each X-ray tube.

5 **SECTION 31.** 254.35 (3) (c) of the statutes is amended to read:

6 254.35 (3) (c) For a ~~chiropractic~~, podiatric or veterinary site having an ionizing
7 radiation installation, the fee shall be at least ~~\$25~~ \$36 for each site and at least ~~\$30~~
8 \$44 for each X-ray tube.

9 **SECTION 32.** 254.35 (3) (d) of the statutes is amended to read:

10 254.35 (3) (d) For a dental site having an ionizing radiation installation, the
11 fee shall be at least ~~\$25~~ \$36 for each site and at least ~~\$20~~ \$30 for each X-ray tube.

12 **SECTION 33.** 254.35 (3) (f) of the statutes is amended to read:

13 254.35 (3) (f) For an industrial, school, research project or other site having an
14 ionizing radiation installation ~~and radioactive materials in any quantity~~, the fee
15 shall be at least ~~\$25~~ \$36 for each site and at least ~~\$30~~ \$44 for each X-ray tube.

16 **SECTION 34.** 254.35 (3) (fm) of the statutes is created to read:

17 254.35 (3) (fm) For any site that has generally licensed devices that are not
18 exempted by the department, the fee shall be at least \$100 for each site and at least
19 \$50 for each device that contains at least 370 MBq or 10 mCi of cesium-137; 37 MBq
20 or 1.0 mCi of cobalt-60; 3.7 MBq or 0.1 mCi of strontium-90; or 37 MBq or 1.0 mCi
21 of a transuranic.

22 **SECTION 35.** 254.35 (3) (g) of the statutes is amended to read:

23 254.35 (3) (g) The fees under this subsection shall be as stated unless the
24 department promulgates rules to increase the annual registration fee ~~after January~~

1 1, 1986, for a site having an ionizing radiation installation or, for an X-ray tube or
2 for generally licensed devices that are not exempted by the department.

3 SECTION 36. 254.35 (4) of the statutes is amended to read:

4 254.35 (4) EXEMPTIONS. ~~The department shall~~ After initial registration under
5 sub. (1), the department may exempt from annual registration any source licensed
6 by the nuclear regulatory commission and may exempt from registration any source
7 of radiation installation which of radiation that the department finds to be without
8 undue radiation hazard as determined by standards established by the national
9 committee on radiation protection and measurements or any comparable nationally
10 recognized agency established for the purpose of recommending standards for
11 radiation protection, and after the initial registration may exempt from subsequent
12 annual radiation requirements any source of radiation devoted primarily to
13 industrial purposes.

14 SECTION 37. 254.36 of the statutes is renumbered 254.34 (1) (am) and amended
15 to read:

16 254.34 (1) (am) ~~Radiation protection.~~ ~~The department shall promulgate a~~
17 ~~radiation protection code. Other departments and agencies of state government and~~
18 A rule identical to a rule specified under par. (a) may be promulgated by a state
19 agency other than the department and an ordinance identical to a rule specified
20 under par. (a) may be enacted by a local governmental units may adopt the identical
21 code unit, but no other rule, code or ordinance relating to this subject may be
22 promulgated or enacted may be promulgated or ordinance may be enacted that
23 differs from a rule under par. (a) and relates to the same subject area except as
24 provided under ss. 166.03 (2) (b) 6., 293.15 (8) and 293.25.

25 SECTION 38. 254.365 of the statutes is created to read:

1 **254.365 Licensing of radioactive material. (1) LICENSE REQUIRED.** No
2 person may possess, use, manufacture, transport, store, transfer or dispose of
3 radioactive material or a device or item of equipment that uses radioactive material
4 or may operate a site that uses radioactive material that is not under the authority
5 of the U.S. nuclear regulatory commission unless one of the following applies:

6 (a) The person has a specific license issued by the department.

7 (b) The person meets general license requirements.

8 (c) The person possesses a license issued by another state or by the U.S. nuclear
9 regulatory commission that is reciprocally recognized by the department.

10 (d) The person is exempted from licensure under sub. (7).

11 **(2) APPLICATION.** Application for a license under sub. (1) (a) or for reciprocal
12 recognition under sub. (1) (c) shall be made on forms provided by the department.

13 **(3) MODIFICATION OR TERMINATION OF LICENSE.** Within 30 days after any change
14 to the information on a license issued under this section, the licensee shall inform the
15 department of the change and the department shall record the changed information.
16 Within 30 days after termination of an activity licensed under this section, the person
17 in control of the activity shall notify the department. The department may require
18 that the person in control submit to the department for approval a plan for
19 decommissioning the activity.

20 **(4) RULES.** The department shall promulgate rules for all of the following:

21 (a) The issuance, modification, suspension, termination and revocation of
22 specific licenses under sub. (1) (a) under the standards specified in s. 254.34 (1) (a).

23 (b) The requirements for a general license under sub. (1) (b).

24 **(5) FEES AND CHARGES.** (a) The department may assess fees, the amounts of
25 which are prescribed by the department by rule, for any of the following:

- 1 1. Issuance of an initial or renewal specific license under sub. (1) (a).
- 2 2. Annual license maintenance.
- 3 3. Issuance of a license amendment.
- 4 4. Termination of a license.
- 5 5. Issuance of reciprocal recognition of a license for radioactive materials of
- 6 another state or the U.S. nuclear regulatory commission.

7 (b) The department may assess a late payment charge of 25% of the specific
8 license renewal fee, in addition to the fee under par. (a) for renewal of a specific
9 license, if payment for renewal of a specific license is not made within 30 days after
10 the license expiration date.

11 **(6) DENIAL, SUSPENSION OR REVOCATION OF LICENSURE.** The department may, after
12 a hearing under ch. 227, refuse to issue a license or suspend or revoke a license for
13 failure by the licensee to comply with this subchapter, rules promulgated by the
14 department under this subchapter or any condition of the license.

15 **(7) EXEMPTION.** The department may exempt from licensing requirements of
16 this section radioactive material that the department finds is without undue
17 radiation hazard.

18 **SECTION 39.** 254.37 (1) of the statutes is renumbered 254.37 (1) (intro.) and
19 amended to read:

20 **254.37 (1) NOTIFICATION OF VIOLATION AND ORDER OF ABATEMENT.** (intro.)
21 Whenever the department or ~~the department of commerce~~ finds, upon inspection and
22 examination, that a source of radiation as constructed, operated or maintained
23 results in a violation of this subchapter or of any rules promulgated under this
24 subchapter, ~~it~~ the department shall notify do all of the following:

1 (a) Notify the person in control that is causing, allowing or permitting the
2 violation as to the nature of the violation ~~and order.~~

3 (b) Order that, prior to a specified time, the person in control shall cease and
4 abate causing, allowing or permitting the violation and take such action as may be
5 necessary to have the source of radiation constructed, operated, or maintained in
6 compliance with this subchapter and rules promulgated under this subchapter.

7 **SECTION 40.** 254.37 (2) of the statutes is amended to read:

8 254.37 (2) ORDERS. The department ~~or the department of commerce~~ shall issue
9 and enforce such orders or modifications of previously issued orders as may be
10 required in connection with proceedings under this subchapter. The orders shall be
11 subject to review by the department upon petition of the persons affected. Whenever
12 the department ~~or the department of commerce~~ finds that a condition exists ~~which~~
13 that constitutes an immediate threat to health due to violation of this subchapter or
14 any rule or order promulgated under this subchapter, it may issue an order reciting
15 the existence of the threat and the findings pertaining to the threat. The department
16 ~~or the department of commerce~~ may summarily cause the abatement of the violation.

17 **SECTION 41.** 254.37 (3) of the statutes is amended to read:

18 254.37 (3) RULES. The department shall promulgate and enforce the rules
19 pertaining to ionizing radiation ~~in establishments principally engaged in furnishing~~
20 ~~medical, surgical, chiropractic and other health services to persons and animals. The~~
21 ~~department of commerce shall enforce the rules pertaining to ionizing radiation in~~
22 ~~industrial establishments. The department shall notify the department of commerce~~
23 ~~and deliver to it a copy of each new registration and at such time a decision shall be~~
24 ~~made as to which state agency shall enforce the rules pertaining to ionizing~~
25 radiation.

1 **SECTION 42.** 254.37 (4) of the statutes is amended to read:

2 254.37 (4) ~~ENFORCEMENT JURISDICTION. All orders issued under this subchapter~~
3 ~~shall be enforced by the attorney general.~~ The circuit court of Dane county shall have
4 jurisdiction to enforce the orders by injunctive and other appropriate relief.

5 **SECTION 43.** 254.38 (title) of the statutes is created to read:

6 **254.38 (title) Emergency authority.**

7 **SECTION 44.** 254.38 of the statutes is renumbered 254.38 (1) and amended to
8 read:

9 254.38 (1) **IMPOUNDING MATERIALS.** The department ~~or department of commerce~~
10 may impound or order the sequestration of sources of radiation in the possession of
11 any person who is not equipped to observe or who fails to observe safety standards
12 to protect health that are established in rules promulgated by the department ~~or the~~
13 ~~department of commerce.~~

14 **SECTION 45.** 254.38 (2) of the statutes is created to read:

15 254.38 (2) **EMERGENCY ORDERS.** If the department finds that an emergency
16 exists concerning a matter subject to regulation under this subchapter that requires
17 immediate action to protect the public health or safety, the department may issue an
18 emergency order without notice or hearing that recites the existence of the
19 emergency and requires such action as is necessary to mitigate the emergency. Any
20 person to whom the order is issued shall immediately comply with the order. A
21 person to whom an emergency order is issued shall be afforded a hearing within 30
22 days after receipt by the department of a written request for the hearing. An
23 emergency order is effective upon issuance and remains in effect for up to 90 days
24 after issuance, except that the order may be revoked or modified based on the results
25 of the hearing.

1 **SECTION 46.** 254.39 (2) of the statutes is amended to read:

2 254.39 (2) This subchapter does not apply to on-site activities of any nuclear
3 reactor plant licensed by the ~~nuclear regulatory commission~~ U.S. nuclear regulatory
4 commission.

5 **SECTION 47.** 254.45 of the statutes is repealed and recreated to read:

6 **254.45 Penalties. (1) GENERAL.** (a) Any person who violates this subchapter
7 or a rule promulgated under this subchapter or a condition of a license or registration
8 issued by the department under this subchapter may be required to forfeit not less
9 than \$100 nor more than \$100,000. Each day of continued violation constitutes a
10 separate offense.

11 (b) The amount of the forfeiture assessed under par. (a) shall be determined by
12 considering all of the following:

13 1. The wilfulness of the violation.

14 2. The person's previous violations, if any, of this subchapter, rules
15 promulgated under this subchapter or conditions of a license or registration issued
16 by the department under this subchapter.

17 3. The potential danger or actual or potential injury to the environment or to
18 public health caused by the violation.

19 4. The actual or potential costs of the damage or injury caused by the violation.

20 **(2) ASSESSMENT OF FORFEITURES; NOTICE.** The department may directly assess
21 forfeitures provided for in sub. (1). If the department determines that a forfeiture
22 should be assessed for a particular violation, the department shall send a notice of
23 assessment to the person. The notice shall specify the amount of the forfeiture
24 assessed and the violation and the statute or rule alleged to have been violated and
25 shall inform the person of the right to hearing under sub. (3).

1 **(3) HEARING.** A person upon whom a forfeiture is imposed may contest the
2 action by sending, within 10 days after receipt of notice of a contested action, a
3 written request for hearing under s. 227.44 to the division of hearings and appeals
4 created under s. 15.103 (1). The administrator of the division may designate a
5 hearing examiner to preside over the case and recommend a decision to the
6 administrator under s. 227.46. The decision of the administrator of the division shall
7 be the final administrative decision. The division shall commence the hearing within
8 30 days of receipt of the request for hearing and shall issue a final decision within
9 15 days after the close of the hearing. Proceedings before the division are governed
10 by ch. 227.

11 **(4) FORFEITURE PAYMENT AND DISPOSITION.** (a) A person against whom the
12 department has assessed a forfeiture shall pay the forfeiture to the department
13 within 10 days after receipt of the notice under sub. (2) or, if the person contests the
14 assessment, within 10 days after receipt of the final decision after exhaustion of
15 administrative review. If the person petitions for judicial review under ch. 227, the
16 person shall pay the forfeiture within 10 days after receipt of the final judicial
17 decision.

18 (b) The department shall remit all forfeitures paid to the state treasurer for
19 deposit in the school fund.

20 **(5) ENFORCEMENT.** The attorney general may bring an action in the name of the
21 state to collect any forfeiture imposed under this section if the forfeiture has not been
22 paid as required under sub. (4). The only issue to be contested in an action under this
23 subsection is whether the forfeiture has been paid.

24 **SECTION 48.** 281.01 (15) of the statutes is amended to read:

1 281.01 (15) “Solid waste” means any garbage, refuse, sludge from a waste
2 treatment plant, water supply treatment plant or air pollution control facility and
3 other discarded or salvageable materials, including solid, liquid, semisolid, or
4 contained gaseous materials resulting from industrial, commercial, mining and
5 agricultural operations, and from community activities, but does not include solids
6 or dissolved material in domestic sewage, or solid or dissolved materials in irrigation
7 return flows or industrial discharges which are point sources subject to permits
8 under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear
9 material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31
10 ~~(3)~~ (1).

11 **SECTION 49.** 285.01 (40) of the statutes is amended to read:

12 285.01 (40) “Solid waste” means any garbage, refuse, sludge from a waste
13 treatment plant, water supply treatment plant or air pollution control facility and
14 other discarded or salvageable materials, including solid, liquid, semisolid, or
15 contained gaseous materials resulting from industrial, commercial, mining and
16 agricultural operations, and from community activities, but does not include solids
17 or dissolved material in domestic sewage, or solid or dissolved materials in irrigation
18 return flows or industrial discharges which are point sources subject to permits
19 under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear
20 material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31
21 ~~(3)~~ (1).

22 **SECTION 50.** 289.01 (33) of the statutes is amended to read:

23 289.01 (33) “Solid waste” means any garbage, refuse, sludge from a waste
24 treatment plant, water supply treatment plant or air pollution control facility and
25 other discarded or salvageable materials, including solid, liquid, semisolid, or

1 contained gaseous materials resulting from industrial, commercial, mining and
2 agricultural operations, and from community activities, but does not include solids
3 or dissolved material in domestic sewage, or solid or dissolved materials in irrigation
4 return flows or industrial discharges which are point sources subject to permits
5 under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear
6 material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31
7 ~~(3)~~ (1).

8 **SECTION 51.** 295.11 (10) of the statutes is amended to read:

9 295.11 (10) "Solid waste" means any garbage, refuse, sludge from a waste
10 treatment plant, water supply treatment plant or air pollution control facility and
11 other discarded or salvageable materials, including solid, liquid, semisolid, or
12 contained gaseous materials resulting from industrial, commercial, mining and
13 agricultural operations, and from community activities, but does not include solids
14 or dissolved material in domestic sewage, or solid or dissolved materials in irrigation
15 return flows or industrial discharges which are point sources subject to permits
16 under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear
17 material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31
18 ~~(3)~~ (1).

19 **SECTION 9323. Initial applicability; health and family services.**

20 (1) TRANSFER OF RADIATION INSTALLATION. The treatment of section 254.35 (2) of
21 the statutes first applies to transfers of radiation installations that are made 16 days
22 after the effective date of this subsection.

23 (2) FORFEITURES FOR RADIATION VIOLATIONS. The treatment of section 254.45 of
24 the statutes first applies to violations committed on the effective date of this
25 subsection.

