

26:2D-2 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA 26:2D-2 et al ("Radiation Protection Act"- provide means for implementation of act

LAWS 1981 CHAPTER 296

Bill No. A968

Sponsor(s) Stewart & Herman

Date Introduced February 21, 1980

Committee: Assembly Agriculture and Environment

Senate Energy and Environment

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly June 16, 1980

Senate January 26, 1981

Date of approval October 9, 1981

Following statements are attached if available:

Sponsor statement Yes ~~No~~ (Below)

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ No

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

Sponsors' statement:

The purpose of this bill is to provide a more direct and economical means to implement the provisions of the "Radiation Protection Act" and acts supplementary thereto by enabling the Department of Environmental Protection to respond more effectively to varying degrees of violations and to use a more realistic means to obtain revenue.

6/22/81

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ASSEMBLY, No. 968

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 21, 1980

By Assemblymen STEWART and HERMAN

Referred to Committee on Agriculture and Environment

AN ACT concerning radiation protection, amending P. L. 1958, c. 116, P. L. 1971, c. 372 and P. L. 1977, c. 233, repealing section 11 of P. L. 1958, c. 116 and section 6 of P. L. 1971, c. 372 and supplementing Title 26 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 *1. Section 2 of P. L. 1958, c. 116 (C. 26:2D-2) is amended to
2 read as follows:

3 2. As used in this act, unless the context indicates another or
4 different meaning or intent:

5 (a) "Commission" means the Commission on Radiation Pro-
6 tection created pursuant to this act;

7 (b) "Department" means the Department of Environmental
8 Protection;

9 (c) "Unnecessary radiation" means the use *or presence* of
10 electromagnetic radiation including microwave, infrared, visible,
11 ultraviolet, X-ray, and gamma-ray; sonic, infrasonic, or ultrasonic
12 waves; and particle radiation including alphas, betas, high energy
13 electrons, neutrons, protons and other atomic or nuclear particles
14 in such manner as to be or tend to be injurious or dangerous to the
15 health of the people or the industrial or agriculture potentials of
16 the State, or to the ecology of the State and its wildlife.*

1 ***[1.]*** *2.* Section 7 of P. L. 1958, c. 116 (C. 26:2D-7) is
2 amended to read as follows:

3 7. The commission shall have the power to formulate, adopt,
4 promulgate, amend and repeal codes, rules and regulations as may
5 be necessary to prohibit and prevent unnecessary radiation**[**; pro-
6 vided, however, that no such code, rule or regulation and no such
7 amendment or repeal shall be adopted except after a public hearing

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

8 to be held after 30 days' prior notice thereof by public advertise-
 9 ment of the date, time and place of such hearing, in such a manner
 10 as may be provided by the commission, at which opportunity to
 11 be heard by the commission with respect thereto shall be given to
 12 the public; and provided, further, that no such code, rule or regu-
 13 lation and no such amendment or repeal shall be or become effec-
 14 tive until 60 days after the adoption thereof as aforesaid. Any
 15 person heard at such public hearing shall be given written notice
 16 of the determination of the commission] *in accordance with the*
 17 *provisions of the "Administrative Procedure Act," P. L. 1968,*
 18 *c. 410 (C. 52:14B-1 et seq.).*

1 ***[2.]*** *3.* Section 9 of P. L. 1958, c. 116 (C. 26:2D-9) is
 2 amended to read as follows:

3 9. The department shall:

4 (a) Administer this act and codes, rules or regulations promul-
 5 gated by the commission;

6 (b) Provide the commission with the necessary personnel re-
 7 quired to carry out its duties;

8 (c) Develop comprehensive policies and programs for the evalu-
 9 ation and determination of hazards associated with the use of
 10 radiation, and for their amelioration;

11 (d) Advise, consult, and cooperate with other agencies of the
 12 State, the Federal Government, other states and interstate agen-
 13 cies, and with affected groups, political subdivisions and industries;

14 (e) Accept and administer according to law loans, grants or
 15 other funds or gifts from the Federal Government and from other
 16 sources, public or private, for carrying out its functions under
 17 this act;

18 (f) Encourage, participate in or conduct studies, investigations,
 19 training, research and demonstrations relating to the control of
 20 radiation hazard, the measurement of radiation, the effects on
 21 health of exposure to radiation and related problems as it may
 22 deem necessary or advisable for the discharge of its duties under
 23 this act;

24 (g) Collect and disseminate health education information re-
 25 lating to radiation protection;

26 (h) Require registration of sources of radiation, and require
 27 records concerning sources of radiation to be kept in such manner
 28 as may be prescribed by codes, rules or regulations of the com-
 29 mission;

30 (i) Review plans and specifications on the design and shielding
 31 for radiation sources submitted pursuant to codes, rules or regu-
 32 lations of the commission for the purpose of determining possible
 33 radiation hazards;

34 (j) **[Inspect]** *Enter and inspect any bulding or place for the*
 35 *purpose of investigating an actual or suspected source of radia-*
 36 *tion and ascertaining compliance with this act or any rule, regu-*
 37 *lation or order promulgated or issued pursuant thereto and inspect*
 38 *radiation sources, their shielding and immediate surroundings and*
 39 *records concerning their operation for the determination of any*
 40 *possible radiation hazard;*

41 (k) Have power, to be exercised subject to codes, rules and
 42 regulations of the commission, to require, issue, renew, amend,
 43 suspend and revoke licenses for the construction, operation or
 44 maintenance of sources of radiation including byproduct materials,
 45 source materials and special nuclear materials in quantities not
 46 sufficient to form a critical mass. The codes, rules and regulations
 47 may provide for recognition of other State or Federal licenses,
 48 subject to the registration requirements prescribed by or under
 49 the authority of this act;

50 (l) Have the power in accordance with a fee schedule adopted
 51 as a rule or regulation in accordance with the "Administrative
 52 Procedure Act" P. L. 1968, c. 410 (C. 52:14B-1 et seq.), to estab-
 53 lish and charge fees for any of the services it performs, which fees
 54 shall be annual or periodic as the department shall determine. The
 55 fees charged by the department pursuant to this section shall **[not]**
 56 **[less than \$10.00 nor more than \$500.00]** based on criteria con-
 57 tained in the fee schedule. *The criteria shall reflect the actual*
 58 *or projected expense incurred by the department in the perform-*
 59 *ance of the service for which the fee is charged;*

60 (m) *Be empowered to issue orders for the implementation and*
 61 *enforcement of the provisions of this act or of any rule or regula-*
 62 *tion promulgated pursuant hereto.*

1 ***[3.]*** *4.* Section 13 of P. L. 1958, c. 116 (C. 26:2D-13) is
 2 amended to read as follows:

3 13. The department may bring a civil action in the Superior
 4 Court to prevent the violation of the provisions of this act or codes,
 5 rules or regulations promulgated by the commission and orders
 6 of the department and said court may proceed in the action in a
 7 summary manner or otherwise and may restrain in all such cases
 8 any person or legal entity from violating any of the provisions of
 9 this act or said codes, rules, regulations or orders.

10 *Any person who violates the provisions of this act or any rule,*
 11 *regulation or order promulgated or issued pursuant hereto or uses,*
 12 *removes, or disposes of any property in violation of an embargo*
 13 *imposed under the provisions of this act shall be liable to a penalty*
 14 *of not more than \$2,500.00 to be collected in a civil action by a*

15 *summary proceeding under "the penalty enforcement law"*
 16 *(N. J. S. 2A:58-1 et seq.) or in any case before a court of compe-*
 17 *tent jurisdiction wherein injunctive relief has been requested. If*
 18 *the violation is of a continuing nature, each day during which it*
 19 *continues shall constitute an additional, separate and distinct of-*
 20 *fense.*

21 *The department is authorized and empowered to compromise and*
 22 *settle any claim for a penalty under this section in an amount in*
 23 *the discretion of the department as may appear appropriate and*
 24 *equitable under all of the circumstances.*

1 ***[4.]*** *5.* Section 4 of P. L. 1971, c. 372 (C. 26:2D-11.1) is
 2 amended to read as follows:

3 4. Notwithstanding any other remedy available to the depart-
 4 ment, whenever an agent of the department finds or has probable
 5 cause to believe that any material, machine, appliance, apparatus
 6 or device, or any part thereof, is a radiation hazard or danger of
 7 such nature as to constitute a threat to public health or welfare,
 8 *or is being operated in a manner as to result in such a threat,*
 9 he may embargo such article by affixing thereto a tag or other
 10 appropriate marking, giving notice that such article is, or is sus-
 11 pected to be, a radiation hazard or danger and has been detained or
 12 embargoed, and warning all persons not to use, remove or dispose
 13 of such article by sale or otherwise until permission for use, re-
 14 moval or disposal is given by the department, *or he may cause*
 15 *any material, machine, appliance, apparatus or device to be*
 16 *secured or impounded.* It shall be a violation of this act for any
 17 person to remove or dispose of such detained or embargoed article
 18 by sale or otherwise without such permission.

19 *Within 10 days after embargoing or impounding any source*
 20 *of radiation, the department shall give notice to the person caus-*
 21 *ing the violation or hazardous condition prescribing circumstances*
 22 *under which the source of radiation will be returned to the custody*
 23 *of the person. If the person, within a reasonable time as may*
 24 *be fixed by the department, does not furnish satisfactory evidence*
 25 *to the department of present and intended future compliance with*
 26 *the conditions, the rights of the person, with respect to the source*
 27 *of radiation so secured or impounded, shall become the property*
 28 *of the State to be disposed of by the department on behalf of the*
 29 *State in any manner consistent with public health and safety.*

1 ***[5.]*** *6.* Section 5 of P. L. 1977, c. 233 (C. 26:2D-22) is
 2 amended to read as follows:

3 5. *Any person who violates any provision of this act shall be*
4 *liable to the penalties contained in P. L. 1958, c. 116. Any person*
5 *who violates any provision of this act shall be guilty of a [misdemeanor]*
6 *crime of the fourth degree. The State Police shall, and*
7 *any local police department may, enforce the provisions of P. L.*
8 *1977, c. 233 (C. 26:2D-18 et seq.).*

1 ***[6.]*** *7.* (New section) No person shall obstruct, hinder, delay
2 or interfere with, by force or otherwise, the performance by the
3 department, its personnel or any of its authorized agents of any
4 duty under the provisions of this act or refuse to permit the per-
5 sonnel or authorized agents to perform their duties by refusing them
6 upon proper presentation of a written order of the department,
7 entrance to any premises at reasonable hours.

1 ***[7.]*** *8.* The following acts and parts of acts are repealed:

2 a. P. L. 1958, c. 116, s. 11 (C. 26:2D-11);

3 b. P. L. 1971, c. 372, s. 6 (C. 26:2D-11.3).

1 ***[8.]*** *9.* This act shall take effect immediately.

ASSEMBLY AGRICULTURE AND ENVIRONMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 968
with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 22, 1980

The bill strenghtens the enforcement of the "Radiation Protection Act" by authorizing the department to respond more effectively to varying degrees of violations and to use more realistic means to obtain revenue.

The committee amended the definition of "unnecessary radiation" so as to authorize the department to enter facilities where higher levels of radiation are suspected, and, in general, to make the statute more generally applicable to all radiological threats.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 968

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: NOVEMBER 10, 1980

This bill amends various sections of the statutes concerning radiation protection in order to facilitate the proper enforcement thereof. These amendments (1) replace an outdated ceiling on fees which may be charged by the Department of Environmental Protection with a requirement that such fees reflect actual or projected expenses incurred by the department in performing a given service; (2) authorize the issuance of departmental orders for the implementation and enforcement of radiation protection statutes, rules and regulations; (3) revise the penalties for violations thereof; (4) establish a procedure for the return or forfeiture of embargoed or impounded sources of radiation; and (5) authorize the department to enter and inspect any building or place in order to investigate actual or suspected sources of radiation and to ascertain compliance with all relevant statutory and regulator requirements.

This bill also repeals § 11 of P. L. 1958, c. 116 (C. 26:2D-11) and § 6 of P. L. 1971, c. 372 (C. 26:2D-11.3). The relevant provisions of these sections are, in effect, reenacted via amendments to other sections of the law.