

IC 16-41-35

Chapter 35. Radiation: Radiation Control

IC 16-41-35-1

Public policy

Sec. 1. Whereas radiation may improve the health, welfare, and productivity of the public if properly utilized but may impair the health of the public and the industrial and agricultural potentials of Indiana if improperly utilized, it is declared to be the public policy of Indiana to encourage the constructive uses of radiation and to control harmful effects of radiation.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-2

Advisory commission

Sec. 2. As used in this chapter, "advisory commission" means the radiation control advisory commission.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-3

Atomic energy

Sec. 3. As used in this chapter, "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-4

Byproduct material

Sec. 4. As used in this chapter, "byproduct material" means any radioactive material, except special nuclear materials, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear materials.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-5

Electronic products

Sec. 5. As used in the chapter, "electronic products" means a manufactured product or device or a component part of a product or device that has an electronic circuit that can generate or emit a physical field of radiation.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-6

General license

Sec. 6. As used in this chapter, "general license" means a license effective under rules promulgated by the state department without filing an application to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing byproduct, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-7

Production facility

Sec. 7. As used in this chapter, "production facility" means:

- (1) any equipment or device capable of producing special nuclear material in a quantity significant to the common defense and security or in a manner that affects the health and safety of the public; or
- (2) any important component part especially designed for that equipment or device.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-8

Radiation

Sec. 8. As used in this chapter, "radiation" means the following:

- (1) Ionizing radiation, including gamma rays, x-rays, alpha particles, beta particles, and other atomic or nuclear particles or rays.
- (2) Electromagnetic radiation generated during the operation of electronic products.
- (3) Sonic, ultrasonic, or infrasonic waves that are emitted from an electronic product as a result of the operation of an electronic circuit in that product that may produce a hazard to health.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-9

Radiation machine

Sec. 9. As used in this chapter, "radiation machine" is any equipment or device that produces ionizing radiation when the associated control devices are operated.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-10

Radioactive material

Sec. 10. As used in this chapter, "radioactive material" is any solid, liquid, or gas material that emits radiation spontaneously.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-11

Source material

Sec. 11. As used in this chapter, "source material" means:

- (1) uranium, thorium, or any other material that the state department declares to be source material after the United States Nuclear Regulatory Commission has determined the material to be source material; or
- (2) ores containing at least one (1) of the materials described in subdivision (1) in the concentration that the state department declares to be source material after the United States Nuclear

Regulatory Commission has determined the material in that concentration to be source material.
As added by P.L.2-1993, SEC.24. Amended by P.L.144-1996, SEC.9.

IC 16-41-35-12

Special nuclear material

Sec. 12. As used in this chapter, "special nuclear material" means:
(1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the state department declares to be special nuclear material after the United States Nuclear Regulatory Commission has determined the material to be special nuclear material; or
(2) any material artificially enriched by any of the material described in subdivision (1).

As added by P.L.2-1993, SEC.24. Amended by P.L.144-1996, SEC.10.

IC 16-41-35-13

Specific license

Sec. 13. As used in this chapter, "specific license" means a license issued after application to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of or devices or equipment utilizing byproduct, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-14

Unnecessary radiation

Sec. 14. As used in this chapter, "unnecessary radiation" means the use of radiation in a manner that is injurious or dangerous to health, life, or property.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-15

Utilization facility

Sec. 15. As used in this chapter, "utilization facility" means:

- (1) any equipment or device, except an atomic weapon, capable of making use of special nuclear materials in a quantity significant to the common defense and security, or in a manner that affects the health and safety of the public, or peculiarly adapted for making use of atomic energy in a quantity significant to the common defense and security, or in a manner that affects the health and safety of the public; or
- (2) any important component part especially designed for such equipment or device.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-16

Advisory commission; creation

Sec. 16. The radiation control advisory commission is created as an advisory commission to the state department.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-17

Advisory commission; membership

Sec. 17. (a) The radiation control advisory commission consists of nine (9) members. The commissioner of the state department is an ex officio member of the advisory commission. The governor shall appoint the other eight (8) members as follows:

(1) One (1) member must be a physician who holds an unlimited license to practice medicine in Indiana and who limits practice to radiology.

(2) The other seven (7) members must be individuals with scientific training in at least one (1) of the following fields:

- (A) Law.
- (B) Engineering.
- (C) Health science.
- (D) Agriculture.
- (E) Medicine.
- (F) Dentistry.
- (G) Chiropractic.
- (H) Radiology.
- (I) Radiation physics.
- (J) Biology.
- (K) Industry.
- (L) Labor.
- (M) Atomic energy.
- (N) Environmental science.
- (O) Radiologic technology.

(b) Each appointment shall be made on the basis of recognized knowledge in the field of radiation, and the commission must fairly represent businesses or professions interested in the field of radiation.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-18

Advisory commission; terms of office

Sec. 18. The appointed members' terms of office are four (4) years, except that the terms of the first appointed members replacing the ex officio members expire at the end of two (2) years after the date of appointment.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-19

Advisory commission; vacancies

Sec. 19. If a vacancy occurs in the appointed membership, the governor shall appoint a member for the remainder of the term.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-20**Advisory commission; removal of members**

Sec. 20. The governor may remove an appointed member for cause.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-21**Advisory commission; chairman; staff**

Sec. 21. A chairman of the advisory commission shall be elected at the first meeting of the advisory commission and thereafter at the first meeting during each calendar year. The commissioner shall appoint from the staff of the state department a suitable individual to serve as secretary to the advisory commission.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-22**Advisory commission; meetings**

Sec. 22. The advisory commission shall meet at least one (1) time each year and at other times upon call by the commissioner of the state department or chairman of the advisory commission.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-23**Advisory commission; compensation**

Sec. 23. Each member of the advisory commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided in IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-24**Advisory commission; duties**

Sec. 24. The advisory commission shall do the following:

- (1) Review the policies and programs of the state department on radiation developed under this chapter.
- (2) Make recommendations to the state department.
- (3) Provide the state department with technical advice and assistance concerning permissible exposure levels, standards of practice, radiation instrumentation, and other technical matters.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-25**Inspections and investigations; assistance**

Sec. 25. The state department or the state department's agent may enter at all reasonable times any private or public property for the purpose of inspecting and investigating conditions relating to radiation control. The state department may call upon any state

officer, employee, board, department, school, university, or other state institution to receive any assistance considered necessary to carry out this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-26

Licenses; registration

Sec. 26. (a) The state department shall issue general or specific licenses for at least one (1) of the following:

- (1) Byproduct material.
- (2) Source material.
- (3) Special nuclear material.
- (4) Other radioactive materials occurring naturally or produced artificially.
- (5) Devices or equipment utilizing this material.

(b) A license shall be issued only when the state department finds that the items described under subsection (a) may produce radiation sufficient to result in hazard or injury to health, life, or property.

(c) The state department shall adopt rules under this chapter providing for granting, suspending, revoking, or amending licenses. No licensing of materials, devices, or equipment now under the jurisdiction of the United States Nuclear Regulatory Commission shall be made effective before the effective date of an agreement that discontinues the federal government's regulation of sources of radiation involved, as provided in section 27(c) of this chapter.

(d) A person who is not required to have a general or specific license may not produce radiation or produce, use, store, sell, or otherwise dispose of radioactive materials, radiation machines, or electronic products, unless the person registers in writing with the state department, giving the pertinent information the state department requires, in accordance with the procedures prescribed by the state department.

As added by P.L.2-1993, SEC.24. Amended by P.L.144-1996, SEC.11.

IC 16-41-35-27

Registration and license expiration; fees

Sec. 27. (a) A registration under section 26(d) of this chapter is effective until there is a change that may significantly increase the number of sources, source strength, or output of energy of radiation produced. A registration that includes at least one (1) source that subsequently requires licensing under section 26(a) of this chapter expires with respect to that particular source upon the effective date of the license. If a change occurs, the change shall be registered with the state department within thirty (30) days as an amendment to the original registration, unless exempted under rules adopted under this chapter.

(b) The state department shall specify the expiration date for a license in the license.

(c) The governor may, on behalf of the state, enter into an

agreement with the federal government providing for discontinuance of certain of the federal government's responsibilities with respect to sources of radiation and the assumption of those responsibilities by the state.

(d) A person who, on the effective date of an agreement under subsection (c), possesses a license issued by the federal government is considered to possess an equivalent license issued under this chapter that expires:

(1) ninety (90) days after receipt from the state department of a notice of expiration of the license; or

(2) on the date of expiration specified in the federal license;

whichever is earlier.

(e) The term of a license issued under this section by the state department is twenty-four (24) months.

(f) The license fee for a new or renewal license is two hundred fifty dollars (\$250).

As added by P.L.2-1993, SEC.24.

IC 16-41-35-28

Production, transportation, use, and disposition rules

Sec. 28. (a) The state department shall adopt rules under IC 4-22-2 concerning the production, transportation, use, storage, sale, or other disposition of radioactive material, radiation machines, or electronic products to do the following:

(1) Prohibit and prevent unnecessary radiation.

(2) Carry out this chapter.

(b) Standards relative to unnecessary radiation included in the rules must be in general conformance with the recommendations of the National Council on Radiation Protection and Measurements and performance standards promulgated by appropriate federal agencies.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-29

Radiation machines; operation; licenses; inspection; penalty

Sec. 29. (a) The state department shall adopt rules under IC 4-22-2 to regulate who may operate a radiation machine and what level of training and experience the operator must have. Rules adopted by the state department must exempt from testing to establish initial qualifications an individual who:

(1) holds a valid certificate issued by; and

(2) is currently registered with;

the American Registry of Radiologic Technologists.

(b) The state department may by rule exempt an individual who:

(1) is currently licensed in another state as a radiologic technologist; or

(2) performs the function of a radiologic technologist in another state that does not require the licensure of a radiologic technologist;

from testing to establish initial qualifications.

(c) The state department shall issue a license to an individual

meeting the requirements of the rules adopted under subsection (a) for a radiologic technologist upon the payment to the state department of a sixty dollar (\$60) fee and the cost of testing to establish initial qualifications. The license is valid for twenty-four (24) months. The state department shall establish a fee for the renewal or duplication of a license issued under this section not to exceed sixty dollars (\$60). In addition to the renewal fee, a penalty fee of sixty dollars (\$60) shall be imposed by the state department for processing an application for license renewal received after the expiration of the previous license. The state department may waive the penalty fee for a showing of good cause.

(d) Every owner of a radiation machine, including an industrial radiation machine, shall have the machine inspected in accordance with procedures and standards established by the state department. The state department shall adopt rules under IC 4-22-2 establishing the procedures and standards applicable to inspections of radiation machines.

As added by P.L.2-1993, SEC.24. Amended by P.L.104-2003, SEC.6; P.L.168-2003, SEC.3.

IC 16-41-35-30

Mammography rules

Sec. 30. The state department shall adopt rules under IC 4-22-2 concerning screening mammographies.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-1994, SEC.11.

IC 16-41-35-31

Design and shielding plans and specifications

Sec. 31. The state department may require the submission of plans and specifications on the design and shielding for radiation sources for the purpose of determining possible radiation hazards.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-32

Radiation hazard and protection knowledge acquisition and dissemination

Sec. 32. The state department shall provide facilities and personnel for inspection, investigation, and dissemination of knowledge concerning radiation hazards and protection.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-33

Application of chapter

Sec. 33. A person may not produce radiation or produce, use, store, sell, or otherwise dispose of radioactive materials, radiation machines, or electronic products, except in accordance with this chapter and rules adopted under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-34

Footwear fitting devices using radiation prohibited

Sec. 34. A person may not operate or maintain in Indiana a fitting device or machine that uses fluoroscopic, x-ray, or radiation principles for the purpose of fitting or selling footwear through commercial outlets.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-35**Authorized exposure to radiation**

Sec. 35. This chapter does not limit intentional exposure of persons to radiation for the purpose of diagnosis, therapy, and medical or dental research as authorized by law.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-36**Cooperation of state health department with other entities; acceptance and administration of funds**

Sec. 36. The state department shall advise, consult, and cooperate with other state agencies, the federal government, other states, interstate agencies, and affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter. The state department may accept and administer grants or other funds or gifts from the federal government and from other sources, public or private, for carrying out functions under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-37**Approval of local ordinances and resolutions**

Sec. 37. An ordinance or a resolution concerning unnecessary radiation adopted by a municipality, county, or local board of health is not effective until a certified copy of the ordinance or a resolution has been submitted to the state department and approved by the state health commissioner. An ordinance or a resolution may not be approved unless the ordinance or resolution is consistent with this chapter or a rule adopted under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-38**Application of laws**

Sec. 38. The powers, duties, and functions of the state department under this chapter do not affect the powers, duties, and functions of the state department or the water pollution control board under any other law.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-39**Transportation of nuclear waste**

Sec. 39. (a) Upon receiving advance notification, under 10 CFR 71.5a and 71.5b, of the transport of any nuclear waste to, through, or across the boundary of Indiana:

(1) the governor; or
(2) the governor's designee for the transport of nuclear waste; shall provide to the sheriff of each county through which the nuclear waste is to be transported the notification required by subsection (b).

(b) The notification provided to each sheriff must include the following information from the notification given to the governor or the governor's designee if the information has been made available to the governor or the governor's designee:

(1) The name, address, and telephone number of the shipper, carrier, and receiver of the nuclear waste shipment.

(2) A description of the nuclear waste contained in the shipment.

(3) The point of origin of the shipment and the seven (7) day period during which departure of the shipment is estimated to occur.

(4) The seven (7) day period during which arrival of the shipment at state boundaries is estimated to occur.

(5) The destination of the shipment and the seven (7) day period during which arrival of the shipment is estimated to occur.

(6) A point of contact with a telephone number for current shipment information.

(7) Information regarding necessary safety steps to be taken if an accident occurs during shipment of the nuclear waste.

(c) The notification prescribed by subsection (b) must be given in writing delivered by first class mail or by a faster means of delivery to the sheriff of each county through which the shipment of nuclear waste is to pass within twenty-four (24) hours after the governor or the governor's designee receives advance notification of the shipment under 10 CFR 71.5a and 71.5b.

(d) If the governor or the governor's designee is notified under 10 CFR 71.5a and 71.5b that the schedule for a shipment of nuclear waste will not be met or that a shipment of nuclear waste has been canceled, the governor or the governor's designee shall notify each sheriff previously notified about the shipment as to the delay or cancellation. The notification given by the governor or the governor's designee under this subsection must be provided under the same requirements prescribed in subsection (c) for the initial notification of sheriffs.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-40

Violations

Sec. 40. A person who:

(1) produces radiation; or

(2) produces, uses, stores, sells, or otherwise disposes of radioactive materials, radiation machines, or electronic products;

in violation of this chapter commits a Class B misdemeanor. Each day a violation continues, after notification in writing of the offense by the state department, constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-41

Enforcement

Sec. 41. The state department may bring an action at law or in equity to enforce this chapter, and the court in the action has jurisdiction to compel or enforce this chapter by injunction. The action shall be brought in the name of the state.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-42

Civil penalties and orders of compliance

Sec. 42. (a) In addition to other penalties provided under this chapter, the state department shall adopt rules under IC 4-22-2 that establish a schedule of civil penalties that may be levied upon a person for the violation of this chapter.

(b) A penalty included in the schedule of civil penalties adopted under this chapter may not exceed one thousand dollars (\$1,000) for each violation per day.

(c) The state department may issue an order of compliance, impose a civil penalty included in the schedule of civil penalties adopted under subsection (a), or both, against a person who:

(1) fails to comply with this section or a rule adopted under this section; or

(2) interferes with or obstructs the state department or the department's designated agent in the performance of duties under this section.

(d) An order of compliance may be issued under IC 4-21.5-3-6, IC 4-21.5-3-8, or IC 4-21.5-4. A civil penalty may be imposed only in a proceeding under IC 4-21.5-3-8.

(e) A proceeding commenced to impose a civil penalty may be consolidated with any other proceeding commenced to enforce this chapter or a rule adopted under this chapter.

As added by P.L.2-1993, SEC.24.