

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 796**

Introduced by Johnson, 37.

Read first time January 10, 2008

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to radiation control; to amend sections  
2 38-1907, 38-1915, 71-3503, 71-3505, 71-3507, 71-3508.03,  
3 and 71-3517, Revised Statutes Supplement, 2007; to  
4 change provisions relating to credentials; to provide  
5 for medical radiographer-computed tomography licenses;  
6 to change certain fees relating to X-ray machines;  
7 to eliminate credentialing provisions relating to radon  
8 measurement technicians and radon mitigation technicians;  
9 to provide for fingerprinting and criminal background  
10 checks as prescribed; to harmonize provisions; to provide  
11 operative dates; to repeal the original sections; and to  
12 declare an emergency.  
13 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 38-1907, Revised Statutes Supplement,  
2 2007, is amended to read:

3           38-1907 Medical radiographer means a person licensed ~~to~~  
4 ~~practice medical radiography~~ pursuant to subsection (1) of section  
5 38-1915 to practice medical radiography.

6           Sec. 2. Medical radiographer-computed tomography means a  
7 person licensed pursuant to subsection (2) of section 38-1915 to  
8 practice medical radiography.

9           Sec. 3. Section 38-1915, Revised Statutes Supplement,  
10 2007, is amended to read:

11           38-1915 ~~(1)~~ A (1)(a) Except as provided in subsection  
12 (2) of this section, a person licensed by the department, with  
13 the recommendation of the board, as a medical radiographer may  
14 practice medical radiography on any part of the human anatomy  
15 for interpretation by and under the direction of a licensed  
16 practitioner, excluding interpretative fluoroscopic procedures. An  
17 applicant for a license as a medical radiographer shall:

18           ~~(a)~~ (i) Complete an educational program in radiography  
19 approved by the board pursuant to subsection (1) of section  
20 38-1918;

21           ~~(b)~~ (ii) Complete an application in accordance with the  
22 Uniform Credentialing Act; and

23           ~~(c)~~ (iii) Successfully complete an examination approved  
24 by the board.

25           ~~(2)~~ (b) Presentation of proof of registration in

1 radiography with the American Registry of Radiologic Technologists  
2 is proof of meeting the requirements of subdivisions ~~(1)(a)~~  
3 (1)(a)(i) and ~~(e)~~ (iii) of this section.

4 (2) A person licensed as a medical radiographer-computed  
5 tomography may practice medical radiography only as it relates  
6 to computed tomography systems. An applicant for a license as a  
7 medical radiographer-computed tomography shall:

8 (a) Be certified by (i) the Nuclear Medicine Technology  
9 Certification Board or (ii) the American Registry of Radiologic  
10 Technologists in nuclear medicine technology; and

11 (b) Be certified by the American Registry of Radiologic  
12 Technologists in computed tomography.

13 Sec. 4. Section 71-3503, Revised Statutes Supplement,  
14 2007, is amended to read:

15 71-3503 For purposes of the Radiation Control Act, unless  
16 the context otherwise requires:

17 (1) Radiation means ionizing radiation and nonionizing  
18 radiation as follows:

19 (a) Ionizing radiation means gamma rays, X-rays, alpha  
20 and beta particles, high-speed electrons, neutrons, protons, and  
21 other atomic or nuclear particles or rays but does not include  
22 sound or radio waves or visible, infrared, or ultraviolet light;  
23 and

24 (b) Nonionizing radiation means (i) any electromagnetic  
25 radiation which can be generated during the operations of

1 electronic products to such energy density levels as to present  
2 a biological hazard to occupational and public health and safety  
3 and the environment, other than ionizing electromagnetic radiation,  
4 and (ii) any sonic, ultrasonic, or infrasonic waves which are  
5 emitted from an electronic product as a result of the operation of  
6 an electronic circuit in such product and to such energy density  
7 levels as to present a biological hazard to occupational and public  
8 health and safety and the environment;

9 (2) Radioactive material means any material, whether  
10 solid, liquid, or gas, which emits ionizing radiation  
11 spontaneously. Radioactive material includes, but is not  
12 limited to, accelerator-produced material, byproduct material,  
13 naturally occurring material, source material, and special nuclear  
14 material;

15 (3) Radiation-generating equipment means any manufactured  
16 product or device, component part of such a product or device,  
17 or machine or system which during operation can generate or emit  
18 radiation except devices which emit radiation only from radioactive  
19 material;

20 (4) Sources of radiation means any radioactive material,  
21 any radiation-generating equipment, or any device or equipment  
22 emitting or capable of emitting radiation or radioactive material;

23 (5) Undesirable radiation means radiation in such  
24 quantity and under such circumstances as determined from time  
25 to time by rules and regulations adopted and promulgated by the

1 department;

2 (6) Person means any individual, corporation,  
3 partnership, limited liability company, firm, association,  
4 trust, estate, public or private institution, group, agency,  
5 political subdivision of this state, any other state or  
6 political subdivision or agency thereof, and any legal successor,  
7 representative, agent, or agency of the foregoing;

8 (7) Registration means registration with the department  
9 pursuant to the Radiation Control Act;

10 (8) Department means the Department of Health and Human  
11 Services;

12 (9) Administrator means the administrator of radiation  
13 control designated pursuant to section 71-3504;

14 (10) Electronic product means any manufactured product,  
15 device, assembly, or assemblies of such products or devices which,  
16 during operation in an electronic circuit, can generate or emit a  
17 physical field of radiation;

18 (11) License means:

19 (a) A general license issued pursuant to rules and  
20 regulations adopted and promulgated by the department without the  
21 filing of an application with the department or the issuance of  
22 licensing documents to particular persons to transfer, acquire,  
23 own, possess, or use quantities of or devices or equipment  
24 utilizing radioactive materials;

25 (b) A specific license, issued to a named person upon

1 application filed with the department pursuant to the Radiation  
2 Control Act and rules and regulations adopted and promulgated  
3 pursuant to the act, to use, manufacture, produce, transfer,  
4 receive, acquire, own, or possess quantities of or devices or  
5 equipment utilizing radioactive materials; or

6 (c) A license issued to a radon measurement specialist,  
7 ~~radon measurement technician,~~ radon mitigation specialist, ~~radon~~  
8 ~~mitigation technician,~~ radon measurement business, or radon  
9 mitigation business;

10 (12) Byproduct material means:

11 (a) Any radioactive material, except special nuclear  
12 material, yielded in or made radioactive by exposure to the  
13 radiation incident to the process of producing or utilizing special  
14 nuclear material; and

15 (b) The tailings or wastes produced by the extraction  
16 or concentration of uranium or thorium from any ore processed  
17 primarily for its source material content, including discrete  
18 surface wastes resulting from uranium or thorium solution  
19 extraction processes. Underground ore bodies depleted by such  
20 solution extraction operations do not constitute byproduct  
21 material;

22 (13) Source material means:

23 (a) Uranium or thorium or any combination thereof in any  
24 physical or chemical form; or

25 (b) Ores which contain by weight one-twentieth of one

1 percent or more of uranium, thorium, or any combination thereof.

2 Source material does not include special nuclear material;

3 (14) Special nuclear material means:

4 (a) Plutonium, uranium 233, or uranium enriched in the  
5 isotope 233 or in the isotope 235 and any other material that  
6 the United States Nuclear Regulatory Commission pursuant to the  
7 provisions of section 51 of the federal Atomic Energy Act of 1954,  
8 as amended, determines to be special nuclear material but does not  
9 include source material; or

10 (b) Any material artificially enriched by any material  
11 listed in subdivision (14)(a) of this section but does not include  
12 source material;

13 (15) Users of sources of radiation means:

14 (a) Physicians using radioactive material or  
15 radiation-generating equipment for human use;

16 (b) Natural persons using radioactive material or  
17 radiation-generating equipment for education, research, or  
18 development purposes;

19 (c) Natural persons using radioactive material or  
20 radiation-generating equipment for manufacture or distribution  
21 purposes;

22 (d) Natural persons using radioactive material or  
23 radiation-generating equipment for industrial purposes; and

24 (e) Natural persons using radioactive material or  
25 radiation-generating equipment for any other similar purpose;

1           (16) Civil penalty means any monetary penalty levied on  
2 a licensee or registrant because of violations of statutes, rules,  
3 regulations, licenses, or registration certificates but does not  
4 include criminal penalties;

5           (17) Closure means all activities performed at a waste  
6 handling, processing, management, or disposal site, such as  
7 stabilization and contouring, to assure that the site is in a  
8 stable condition so that only minor custodial care, surveillance,  
9 and monitoring are necessary at the site following termination of  
10 licensed operation;

11           (18) Decommissioning means final operational activities  
12 at a facility to dismantle site structures, to decontaminate  
13 site surfaces and remaining structures, to stabilize and contain  
14 residual radioactive material, and to carry out any other  
15 activities to prepare the site for postoperational care;

16           (19) Disposal means the permanent isolation of low-level  
17 radioactive waste pursuant to the Radiation Control Act and rules  
18 and regulations adopted and promulgated pursuant to such act;

19           (20) Generate means to produce low-level radioactive  
20 waste when used in relation to low-level radioactive waste;

21           (21) High-level radioactive waste means:

22           (a) Irradiated reactor fuel;

23           (b) Liquid wastes resulting from the operation of the  
24 first cycle solvent extraction system or equivalent and the  
25 concentrated wastes from subsequent extraction cycles or the



1 equivalent in a facility for reprocessing irradiated reactor fuel;  
2 and

3 (c) Solids into which such liquid wastes have been  
4 converted;

5 (22) Low-level radioactive waste means radioactive waste  
6 not defined as high-level radioactive waste, spent nuclear fuel,  
7 or byproduct material as defined in subdivision (12)(b) of this  
8 section;

9 (23) Management of low-level radioactive waste means the  
10 handling, processing, storage, reduction in volume, disposal, or  
11 isolation of such waste from the biosphere in any manner;

12 (24) Source material mill tailings or mill tailings means  
13 the tailings or wastes produced by the extraction or concentration  
14 of uranium or thorium from any ore processed primarily for  
15 its source material content, including discrete surface wastes  
16 resulting from underground solution extraction processes, but  
17 not including underground ore bodies depleted by such solution  
18 extraction processes;

19 (25) Source material milling means any processing of ore,  
20 including underground solution extraction of unmined ore, primarily  
21 for the purpose of extracting or concentrating uranium or thorium  
22 therefrom and which results in the production of source material  
23 and source material mill tailings;

24 (26) Spent nuclear fuel means irradiated nuclear fuel  
25 that has undergone at least one year of decay since being used as

1 a source of energy in a power reactor. Spent nuclear fuel includes  
2 the special nuclear material, byproduct material, source material,  
3 and other radioactive material associated with fuel assemblies;

4 (27) Transuranic waste means radioactive waste material  
5 containing alpha-emitting radioactive elements, with radioactive  
6 half-lives greater than five years, having an atomic number greater  
7 than 92 in concentrations in excess of one hundred nanocuries per  
8 gram;

9 (28) Licensed practitioner means a person licensed to  
10 practice medicine, dentistry, podiatry, chiropractic, osteopathic  
11 medicine and surgery, or as an osteopathic physician;

12 (29) X-ray system means an assemblage of components for  
13 the controlled production of X-rays, including, but not limited to,  
14 an X-ray high-voltage generator, an X-ray control, a tube housing  
15 assembly, a beam-limiting device, and the necessary supporting  
16 structures. Additional components which function with the system  
17 are considered integral parts of the system;

18 (30) Licensed facility operator means any person or  
19 entity who has obtained a license under the Low-Level Radioactive  
20 Waste Disposal Act to operate a facility, including any person  
21 or entity to whom an assignment of a license is approved by the  
22 Department of Environmental Quality; and

23 (31) Deliberate misconduct means an intentional act or  
24 omission by a person that (a) would intentionally cause a licensee,  
25 registrant, or applicant for a license or registration to be

1 in violation of any rule, regulation, or order of or any term,  
2 condition, or limitation of any license or registration issued by  
3 the department under the Radiation Control Act or (b) constitutes  
4 an intentional violation of a requirement, procedure, instruction,  
5 contract, purchase order, or policy under the Radiation Control  
6 Act by a licensee, a registrant, an applicant for a license or  
7 registration, or a contractor or subcontractor of a licensee,  
8 registrant, or applicant for a license or registration.

9           Sec. 5. Section 71-3505, Revised Statutes Supplement,  
10 2007, is amended to read:

11           71-3505 Matters relative to radiation as they relate to  
12 occupational and public health and safety and the environment shall  
13 be a responsibility of the department. The department shall:

14           (1) Develop comprehensive policies and programs for the  
15 evaluation and determination of undesirable radiation associated  
16 with the production, use, storage, or disposal of radiation sources  
17 and formulate, adopt, promulgate, and repeal rules and regulations  
18 which may provide (a) for registration or licensure under section  
19 71-3507 or 71-3509, and (b) for registration or licensure of (i)  
20 any other source of radiation, (ii) persons providing services  
21 for collection, detection, measurement, or monitoring of sources  
22 of radiation, including, but not limited to, radon and its decay  
23 products, (iii) persons providing services to reduce the effects  
24 of sources of radiation, and (iv) persons practicing industrial  
25 radiography, and (c) for fingerprinting and a federal criminal

1 background check on persons with unescorted access to radionuclides  
2 of concern as specified by rule, ~~or~~ regulation, or order so as to  
3 reasonably protect occupational and public health and safety and  
4 the environment in a manner compatible with regulatory programs  
5 of the federal government. The department for identical purposes  
6 may also adopt and promulgate rules and regulations for the  
7 issuance of licenses, either general or specific, to persons  
8 for the purpose of using, manufacturing, producing, transporting,  
9 transferring, receiving, acquiring, owning, or possessing any  
10 radioactive material. Such rules and regulations may prohibit the  
11 use of radiation for uses found by the department to be detrimental  
12 to occupational and public health or safety or the environment  
13 and shall carry out the purposes and policies set out in sections  
14 71-3501 and 71-3502. Such rules and regulations shall not prohibit  
15 or limit the kind or amount of radiation purposely prescribed  
16 for or administered to a patient by doctors of medicine and  
17 surgery, dentistry, osteopathic medicine, chiropractic, podiatry,  
18 and veterinary medicine, while engaged in the lawful practice of  
19 such profession, or administered by other professional personnel,  
20 such as allied health personnel, medical radiographers, limited  
21 radiographers, nurses, and laboratory workers, acting under the  
22 supervision of a licensed practitioner. Violation of rules and  
23 regulations adopted and promulgated by the department pursuant to  
24 the Radiation Control Act shall be due cause for the suspension,  
25 revocation, or limitation of a license issued by the department.

1 Any licensee may request a hearing before the department on the  
2 issue of such suspension, revocation, or limitation. Procedures for  
3 notice and opportunity for a hearing before the department shall be  
4 pursuant to the Administrative Procedure Act. The decision of the  
5 department may be appealed, and the appeal shall be in accordance  
6 with the Administrative Procedure Act;

7 (2) Have the authority to accept and administer loans,  
8 grants, or other funds or gifts, conditional or otherwise, in  
9 furtherance of its functions, from the federal government and from  
10 other sources, public or private;

11 (3) Encourage, participate in, or conduct studies,  
12 investigations, training, research, and demonstrations relating to  
13 the control of sources of radiation;

14 (4) Collect and disseminate health education information  
15 relating to radiation protection;

16 (5) Make its facilities available so that any person or  
17 any agency may request the department to review and comment on  
18 plans and specifications of installations submitted by the person  
19 or agency with respect to matters of protection and safety for the  
20 control of undesirable radiation;

21 (6) Be empowered to inspect radiation sources and their  
22 shieldings and surroundings for the determination of any possible  
23 undesirable radiation or violations of rules and regulations  
24 adopted and promulgated by the department and provide the owner,  
25 user, or operator with a report of any known or suspected

1 deficiencies; and

2 (7) Collect a fee for emergency response or environmental  
3 surveillance, or both, offsite from each nuclear power plant equal  
4 to the cost of completing the emergency response or environmental  
5 surveillance and any associated report. In no event shall the  
6 fee for any nuclear power plant exceed the lesser of the  
7 actual costs of such activities or fifty-three thousand dollars  
8 per annum. Commencing July 1, 1997, the accounting division  
9 of the Department of Administrative Services shall recommend an  
10 inflationary adjustment equivalent which shall be based upon the  
11 Consumer Price Index for All Urban Consumers of the United States  
12 Department of Labor, Bureau of Labor Statistics, and shall not  
13 exceed five percent per annum. Such adjustment shall be applied to  
14 the annual fee for nuclear power plants. The fee collected shall be  
15 credited to the Health and Human Services Cash Fund. This fee shall  
16 be used solely for the purpose of defraying the direct costs of the  
17 emergency response and environmental surveillance at Cooper Nuclear  
18 Station and Fort Calhoun Station conducted by the department. The  
19 department may charge additional fees when mutually agreed upon for  
20 services, training, or equipment that are a part of or in addition  
21 to matters in this section.

22 Sec. 6. The department shall adopt and promulgate rules  
23 and regulations providing for fingerprinting and a federal criminal  
24 background check on persons with unescorted access to radionuclides  
25 of concern, as specified by rule, regulation, or order so as to

1 reasonably protect occupational and public health and safety and  
2 the environment in a manner compatible with regulatory programs of  
3 the federal government.

4 This section terminates on December 1, 2008.

5 Sec. 7. Section 71-3507, Revised Statutes Supplement,  
6 2007, is amended to read:

7 71-3507 (1) The department shall adopt and promulgate  
8 rules and regulations for the issuance, amendment, suspension,  
9 and revocation of general and specific licenses. Such licenses  
10 shall be for byproduct material, source material, special nuclear  
11 material, and radioactive material not under the authority of the  
12 federal Nuclear Regulatory Commission and for devices or equipment  
13 utilizing such materials. The rules and regulations shall provide:

14 (a) For written applications for a specific license  
15 which include the technical, financial, and other qualifications  
16 determined by the department to be reasonable and necessary  
17 to protect occupational and public health and safety and the  
18 environment;

19 (b) For additional written statements and inspections, as  
20 required by the department, at any time after filing an application  
21 for a specific license and before the expiration of the license to  
22 determine whether the license should be issued, amended, suspended,  
23 or revoked;

24 (c) That all applications and statements be signed by the  
25 applicant or licensee;

1           (d) The form, terms, and conditions of general and  
2 specific licenses;

3           (e) That no license or right to possess or utilize  
4 sources of radiation granted by a license shall be assigned or  
5 in any manner disposed of without the written consent of the  
6 department; and

7           (f) That the terms and conditions of all licenses are  
8 subject to amendment by rules, regulations, or orders issued by the  
9 department.

10           (2) The department may require registration or licensing  
11 of radioactive material not enumerated in subsection (1) of this  
12 section in order to maintain compatibility and equivalency with  
13 the standards and regulatory programs of the federal government or  
14 to protect the occupational and public health and safety and the  
15 environment.

16           (3) (a) The department shall require licensure of persons  
17 providing measurement and mitigation services of radon or its decay  
18 products in order to protect the occupational and public health and  
19 safety and the environment.

20           (b) The department shall adopt and promulgate rules  
21 and regulations establishing education, experience, training,  
22 examination, and continuing competency requirements for radon  
23 measurement specialists, ~~radon measurement technicians, radon~~  
24 ~~mitigation specialists,~~ and radon mitigation ~~technicians.~~  
25 specialists. Application for such licenses shall be made as



1 provided in the Uniform Credentialing Act. Such persons shall be  
2 credentialed in the same manner as an individual under subsection  
3 (1) of section 38-121 and shall be subject to disciplinary action  
4 pursuant to section 71-3517. Continuing competency requirements  
5 may include, but not be limited to, one or more of the  
6 continuing competency activities listed in section 38-145. Any  
7 radon measurement technician license issued prior to the operative  
8 date of this section shall remain valid as a radon measurement  
9 specialist license on and after such date until the date such  
10 radon measurement technician license would have expired. Such  
11 radon measurement specialist license shall be subject to rules and  
12 regulations adopted and promulgated by the department.

13 (c) The department shall adopt and promulgate rules and  
14 regulations establishing staffing, proficiency, quality control,  
15 reporting, worker health and safety, equipment, and record-keeping  
16 requirements for radon measurement businesses and radon mitigation  
17 businesses and mitigation system installation requirements for  
18 radon mitigation businesses.

19 (4) The department may exempt certain sources of  
20 radiation or kinds of uses or users from licensing or registration  
21 requirements established under the Radiation Control Act when  
22 the department finds that the exemption will not constitute a  
23 significant risk to occupational and public health and safety and  
24 the environment.

25 (5) The department may provide by rule and regulation

1 for the recognition of other state or federal licenses compatible  
2 and equivalent with the standards established by the department for  
3 Nebraska licensees.

4 (6) The department may accept accreditation for an  
5 industrial radiographer by a recognized independent accreditation  
6 body, a public agency, or the federal Nuclear Regulatory  
7 Commission, which has standards that are at least as stringent as  
8 those of the State of Nebraska, as evidence that the industrial  
9 radiographer complies with the rules and regulations adopted and  
10 promulgated pursuant to the act. The department may adopt and  
11 promulgate rules and regulations which list accreditation bodies,  
12 public agencies, and federal programs that meet this standard.

13 (7) The department may enter at all reasonable times  
14 upon any private or public property for the purpose of determining  
15 whether or not there is compliance with the act and rules and  
16 regulations adopted and promulgated pursuant to the act, except  
17 that entry into areas under the jurisdiction of the federal  
18 government shall be effected only with the concurrence of the  
19 federal government or its duly designated representative.

20 (8) The department shall cause to be registered with the  
21 department such sources of radiation as the department determines  
22 to be reasonably necessary to protect occupational and public  
23 health and safety and the environment as follows:

24 (a) The department shall, by public notice, establish  
25 a date on or before which date such sources of radiation shall

1 be registered with the department. ~~An~~ ~~7~~ ~~and the department shall~~  
2 ~~provide appropriate forms for such registration.~~ Each application  
3 for registration shall be either in writing or by electronic means  
4 and shall state such information as the department by rules or  
5 regulations may determine to be necessary and reasonable to protect  
6 occupational and public health and safety and the environment;

7 (b) Registration of sources of radiation shall be  
8 an initial registration with appropriate notification to the  
9 department in the case of alteration of equipment, acquisition of  
10 new sources of radiation, or the transfer, loss, or destruction of  
11 sources of radiation and shall include the registration of persons  
12 installing or servicing sources of radiation;

13 (c) Failure to register or reregister sources of  
14 radiation in accordance with rules and regulations adopted and  
15 promulgated by the department shall be subject to a fine of not  
16 less than fifty dollars nor more than two hundred dollars; and

17 (d) The department may provide by rule and regulation for  
18 reregistration of sources of radiation.

19 (9) The results of any surveys or inspections of sources  
20 of radiation conducted by the department shall be public records  
21 subject to sections 84-712 to 84-712.09. In addition, the following  
22 information shall be deemed confidential:

23 (a) The names of individuals in dosimetry reports;

24 (b) Emergency response procedures which would present a  
25 clear threat to security or disclose names of individuals; and

1           (c) Any other information that is likely to present  
2 a clear threat to the security of radioactive material. The  
3 department shall make such reports of results of surveys or  
4 inspections available to the owner or operator of the source  
5 of radiation together with any recommendations of the department  
6 regarding deficiencies noted.

7           (10) The department shall have the right to survey or  
8 inspect again any source of radiation previously surveyed without  
9 limitation of the number of surveys or inspections conducted on a  
10 given source of radiation.

11           (11) The department may enter into contracts with  
12 persons or corporations to perform the inspection of X-ray  
13 radiation-generating equipment or devices which emit radiation  
14 from radioactive materials and to aid the department in the  
15 administration of the act.

16           Sec. 8. Section 71-3508.03, Revised Statutes Supplement,  
17 2007, is amended to read:

18           71-3508.03 (1) The department shall establish by rule  
19 and regulation annual fees for the radioactive materials licenses,  
20 for inspections of radioactive materials, for the registration  
21 and inspection of radiation-generating equipment and other sources  
22 of radiation, and for radon measurement and mitigation business  
23 licenses and inspections of radon mitigation systems installations  
24 under the Radiation Control Act. The annual fee for registration  
25 and inspection of X-ray radiation generating equipment used to

1 diagnose conditions in humans or animals shall not exceed ~~seventy~~  
2 ~~dollars per X-ray machine.~~ (a) two hundred dollars per X-ray  
3 machine for the least complex types of X-ray machines, (b) five  
4 hundred dollars per X-ray machine for moderately complex types  
5 of X-ray machines, and (c) seven hundred fifty dollars per  
6 X-ray machine for the most complex types of X-ray machines.

7 The department shall also establish by rule and regulation  
8 additional fees for environmental surveillance activities performed  
9 by the department to assess the radiological impact of activities  
10 conducted by licensees and registrants. Such activities shall not  
11 duplicate surveillance programs approved by the federal Nuclear  
12 Regulatory Commission and conducted by entities licensed by such  
13 commission. No fee shall exceed the actual cost to the department  
14 for administering the act. The fees collected shall be remitted to  
15 the State Treasurer for credit to the Health and Human Services  
16 Cash Fund and shall be used solely for the purpose of defraying the  
17 direct and indirect costs of administering the act. The department  
18 shall collect such fees.

19 (2) The department may, upon application by an interested  
20 person or on its own initiative, grant such exemptions from  
21 the requirements of this section as it determines are in the  
22 public interest. Applications for exemption under this subsection  
23 may include, but shall not be limited to, the use of licensed  
24 materials for educational or noncommercial displays or scientific  
25 collections.

1           (3) When a registrant or licensee fails to pay  
2 the applicable fee, the department may suspend or revoke the  
3 registration or license or may issue an appropriate order.

4           (4) The department shall establish and collect fees for  
5 licenses for individuals engaged in radon detection, measurement,  
6 and mitigation as provided in sections 38-151 to 38-157.

7           Sec. 9. Section 71-3517, Revised Statutes Supplement,  
8 2007, is amended to read:

9           71-3517 (1) Any person who violates any of the provisions  
10 of the Radiation Control Act shall be guilty of a Class IV  
11 misdemeanor.

12           (2) In addition to the penalty provided in subsection  
13 (1) of this section, any person who violates any provision of the  
14 Radiation Control Act or any rule, regulation, or order issued  
15 pursuant to such act or any term, condition, or limitation of any  
16 license or registration certificate issued pursuant to such act  
17 shall be subject to:

18           (a) License revocation, suspension, modification,  
19 condition, or limitation;

20           (b) The imposition of a civil penalty; or

21           (c) The terms of any appropriate order issued by the  
22 department.

23           (3) Whenever the department proposes to subject a person  
24 to the provisions of subsection (2) of this section, the department  
25 shall notify the person in writing (a) setting forth the date,

1 facts, and nature of each act or omission with which the person  
2 is charged, (b) specifically identifying the particular provision  
3 or provisions of the section, rule, regulation, order, license, or  
4 registration certificate involved in the violation, and (c) of the  
5 sanction or order to be imposed. If a civil penalty is imposed, the  
6 notice shall include a statement that it can be collected by civil  
7 action. The notice shall be delivered to each alleged violator by  
8 personal service, by certified or registered mail to his or her  
9 last-known address, or by publication. Notice by publication shall  
10 only be made if personal service or service by mail cannot be  
11 effectuated. The sanction or order in the notice shall become final  
12 thirty days after the mailing of the notice unless the applicant,  
13 registrant, or licensee, within the thirty-day period, requests, in  
14 writing, a hearing before the department. If the notice is served  
15 by personal service or publication, the sanction or order shall  
16 become final thirty days after completion of such service unless  
17 the applicant, registrant, or licensee, within the thirty-day  
18 period, requests, in writing, a hearing before the department.

19 (4) Hearings held pursuant to subsection (3) of this  
20 section shall be held in accordance with rules and regulations  
21 adopted and promulgated by the department and shall provide for  
22 the alleged violator to present such evidence as may be proper.  
23 Witnesses may be subpoenaed by either party and shall be allowed  
24 fees at a rate prescribed by the rules and regulations of the  
25 department. A full and complete record shall be kept of the

1 proceedings.

2 (5) Following the hearing, the department shall determine  
3 whether the charges are true or not, and if true, the department  
4 may (a) issue a declaratory order finding the charges to be true,  
5 (b) revoke, suspend, modify, condition, or limit the license, (c)  
6 impose a civil penalty in an amount not to exceed ten thousand  
7 dollars for each violation, or (d) enter an appropriate order. If  
8 any violation is a continuing one, each day of such violation shall  
9 constitute a separate violation for the purpose of computing the  
10 applicable civil penalty and the amount of the penalty shall be  
11 based on the severity of the violation. A copy of such decision  
12 setting forth the finding of facts and the particular reasons upon  
13 which it is based shall be sent by either certified or registered  
14 mail to the alleged violator. The decision may be appealed, and  
15 the appeal shall be in accordance with the Administrative Procedure  
16 Act.

17 (6) Any civil penalty assessed and unpaid under  
18 subsection (5) of this section shall constitute a debt to the  
19 State of Nebraska which may be collected in the manner of a  
20 lien foreclosure or sued for and recovered in any proper form of  
21 action in the name of the State of Nebraska in the district court  
22 of the county in which the violator resides or owns property.  
23 The department shall, within thirty days from receipt, remit any  
24 collected civil penalty to the State Treasurer for distribution  
25 in accordance with Article VII, section 5, of the Constitution of



1 Nebraska.

2           (7) In addition to the provisions of this section,  
3 radon measurement specialists, ~~radon measurement technicians,~~  
4 ~~radon mitigation specialists,~~ and radon mitigation ~~technicians~~  
5 specialists shall be subject to the reporting, investigatory, and  
6 disciplinary provisions of sections 38-176 to 38-185, 38-1,106,  
7 38-1,109 to 38-1,126, and 38-1,137 to 38-1,139. In addition to the  
8 grounds for disciplinary action found in the Uniform Credentialing  
9 Act, a license issued to a specialist ~~or technician~~ may be  
10 disciplined for any violation of the Radiation Control Act or the  
11 rules and regulations adopted and promulgated under the act.

12           Sec. 10. Sections 6, 10, and 12 of this act become  
13 operative on their effective date. The other sections of this act  
14 become operative on December 1, 2008.

15           Sec. 11. Original sections 38-1907, 38-1915, 71-3503,  
16 71-3505, 71-3507, 71-3508.03, and 71-3517, Revised Statutes  
17 Supplement, 2007, are repealed.

18           Sec. 12. Since an emergency exists, this act takes effect  
19 when passed and approved according to law.