

BILL ANALYSIS

Senate Research Center
77R9819 MI-F

H.B. 1099
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Health & Human Services
5/10/2001
Engrossed

DIGEST AND PURPOSE

The Texas Radiation Control Act (Act), enacted in 1961 and recodified in 1989, establishes the regulatory framework and authority for the state agencies that regulate sources of radiation, encompassing the use, possession, and disposal of such sources. H.B. 1099 adds provisions which further regulatory enforcement and clarify certain sections of the Act to increase enforcement capability and provide authority to better serve the regulated community. The bill also authorizes administrative penalties to be used to prevent or mitigate radiation contamination for the protection of public health and safety.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Board of Health in SECTION 2 (Section 401.108, Health and Safety Code) and SECTION 9 (Section 401.430, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 401.003(17), Health and Safety Code, to redefine “radiation.”

SECTION 2. Amends Sections 401.108 and 401.110, Health and Safety Code, as follows:

Sec. 401.108. (a) Requires the applicant, before a license is issued or renewed by the Texas Natural Resources Conservation Commission (commission), to demonstrate to the commission (rather than the issuing agency) that the applicant is financially qualified to conduct the licensed activity, including any required decontamination, decommissioning, reclamation, and disposal. Deletes text regarding the Texas Department of Health (department). Requires the Texas Board of Health (board) by rule to require an applicant to demonstrate to the department that the applicant is financially qualified to conduct the licensed activity, including any required decontamination, decommissioning, reclamation, and disposal, before the department issues or renews a license.

(b) Requires a license holder to submit to the department or commission, as appropriate, at intervals required by board or commission rules or the license, proof of the license holder's financial qualifications.

(c) Requires the department or commission to reevaluate every five years the qualifications and security provided by a license holder under Subchapter F or Subchapter G.

Sec. 401.110. Authorizes the department or commission, in making a determination whether to grant, deny, amend, renew, revoke, suspend, or restrict a license or registration, to consider certain aspects of an applicant's or license holder's background.

SECTION 3. Amends Section 401.301, Health and Safety Code, by adding Subsections (d) and (e),

as follows:

(d) Authorizes the department to require that each person who holds a specific license issued by the department annually pay to the department an additional five percent of the appropriate annual fee set under Subsection (b). Requires fees collected under this subsection to be deposited to the credit of the radiation and perpetual care fund. Provides that the fees are not refundable.

(e) Requires the department to suspend assessment of a fee imposed under Subsection (d) if the amount of fees collected under that subsection reaches \$500,000. Requires the department, if the balance of fees collected subsequently is reduced to \$350,000 or less, to reinstitute assessment of the fee until the balance reaches \$500,000.

SECTION 4. Amends Section 401.305, Health and Safety Code, by amending Subsection (b) and adding Subsections (e), (f), and (g), as follows:

(b) Requires the department and commission each to deposit to the credit of the fund money and security they receive under this chapter, including an administrative penalty collected by the department under Sections 401.384-401.390 but excluding fees collected under Sections 401.301(a)-(c) (rather than 401.301) and 401.302. Requires interest earned on money in the fund to be credited to the fund.

(e) Authorizes the department to use money in the fund to pay for certain measures.

(f) Authorizes the department to provide, by the terms of a contract or lease entered into between the department and any person or by the terms of a license issued by the department to any person, for the decontamination, closure, decommissioning, reclamation, surveillance, or other care of a site or facility subject to department jurisdiction under this chapter as needed to carry out the purpose of this chapter.

(g) Provides that the existence of the radiation and perpetual care fund does not make the department liable for the costs of decontamination, transfer, transportation, reclamation, surveillance, or disposal of radioactive material arising from a license holder's abandonment of radioactive material, default on a lawful obligation, insolvency, or inability to meet the requirements of this chapter or department rules.

SECTION 5. Amends Section 401.381(a), Health and Safety Code, to provide that a person who causes, suffers, allows, or permits a violation of (rather than violates) this chapter, a department rule or order, or a license or registration condition is subject to a civil penalty of not less than \$100 or more than \$25,000 for each violation and for each day that a continuing violation occurs.

SECTION 6. Amends Section 401.384(a), Health and Safety Code, to authorize the department to assess an administrative (rather than a civil) penalty as provided by this section and Sections 401.385-401.390 (rather than 401.385-401.391) against a person who causes, suffers, allows, or permits a violation of a provision of this chapter relating to an activity under the department's jurisdiction, a rule or order adopted by the department under this chapter, or a condition of a license or registration issued by the department under this chapter.

SECTION 7. Amends Section 401.385, Health and Safety Code, to make a conforming change.

SECTION 8. Amends Sections 401.388(d) and (f), Health and Safety Code, to make conforming changes.

SECTION 9. Amends Section 401.430, Health and Safety Code, to require the board by rule to establish the routine inspection frequency for mammography systems that receive certification under this

subchapter. Deletes text requiring the department to inspect, at least once annually, each mammography system that receives a certification under this subchapter. Deletes text authorizing the department to conduct more frequent inspections than required under this section. Makes conforming and nonsubstantive changes.

SECTION 10. (a) Effective date: September 1, 2001.

(b) Makes application of Section 401.305(b), Health and Safety Code, as amended by this Act, prospective regarding the deposit of an administrative penalty collected under Sections 401.384-401.390, Health and Safety Code, on or after the effective date of this Act.

(c) Provides that Sections 401.381(a) and 401.384(a), Health and Safety Code, as amended by this Act, apply only to a violation committed on or after the effective date of this Act. Provides that, for purposes of this section, a violation is committed before the effective date of this Act if any element of the violation occurs before that date.

(d) Prohibits the Texas Department of Health from collecting the fee authorized by Section 401.301(d), Health and Safety Code, as added by this Act, as part of a fee any part of which was due before the effective date of this Act.