

NORTH CAROLINA GENERAL ASSEMBLY
1975 SESSION

CHAPTER 718
SENATE BILL 75

AN ACT TO REWRITE THE LAWS PERTAINING TO RADIATION PROTECTION PURSUANT TO THE RECOMMENDATIONS OF THE LEGISLATIVE RESEARCH COMMISSION STUDY ON RADIATION HAZARDS, AND TO AMEND THE RIOTS AND CIVIL DISORDER LAWS TO INCLUDE RADIOACTIVE MATERIALS WITHIN THEIR PURVIEW.

The General Assembly of North Carolina enacts:

Section 1. Chapter 104C as it appears in the 1973 Supplement to Volume 2D of the General Statutes of North Carolina is hereby rewritten to read as follows:

"§ 104C-1. **Title.** — This Chapter shall be known and may be cited as the 'North Carolina Radiation Protection Act.'

"§ 104C-2. **Scope.** — Except as otherwise specifically provided, this Chapter applies to all persons who receive, possess, use, transfer, own or acquire any source of radiation within the State of North Carolina; provided, however, that nothing in this Chapter shall apply to any person to the extent such person is subject to regulation by the United States Nuclear Regulatory Commission or its successors.

"§ 104C-3. **Declaration of policy.** — It is the policy of the State of North Carolina in furtherance of its responsibility to protect the public health and safety:

(a) To institute and maintain a program to permit development and utilization of sources of radiation for purposes consistent with the health and safety of the public; and

(b) To prevent any associated harmful effects of radiation upon the public through the institution and maintenance of a regulatory program for all sources of radiation, providing for: (1) a single, effective system of regulation within the State; (2) a system consonant insofar as possible with those of other states; and (3) compatibility with the standards and regulatory programs of the federal government for by-product, source and special nuclear materials.

"§ 104C-4. **Purpose.** — It is the purpose of this Chapter to effectuate the policies set forth in G.S. 104C-3 by providing for:

(a) A program of effective regulation of sources of radiation for the protection of the occupational and public health and safety;

(b) A program to promote an orderly regulatory pattern within the State, among the states and between the federal government and the State and facilitate intergovernmental cooperation with respect to use and regulation of sources of radiation to the end that duplication of regulation may be minimized; and

(c) A program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to sources of radiation.

"§ 104C-5. **Definitions.** — Unless a different meaning is required by the context, the following terms as used in this Chapter shall have the meanings hereinafter respectively ascribed to them:

(a) 'Agreement materials' means those materials licensed by the State under agreement with the United States Nuclear Regulatory Commission and which include by-product, source or special nuclear materials in a quantity not sufficient to form a critical mass, as defined by the Atomic Energy Act of 1954 as amended.

(b) 'Agreement state' means any state which has consummated an agreement with the United States Nuclear Regulatory Commission under the authority of Section 274 of the Atomic Energy Act of 1954 as amended, as authorized by compatible state legislation providing for acceptance by that state of licensing authority for agreement materials and the discontinuance of such licensing activities by the United States Nuclear Regulatory Commission.

(c) 'Atomic energy' means all forms of energy released in the course of nuclear fission or nuclear fusion or other atomic transformations.

(d) 'By-product material' means any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(e) 'Commission' means the Radiation Protection Commission.

(f) 'Department' means the State Department of Human Resources.

(g) 'Emergency' means any condition existing outside the bounds of nuclear operating sites owned or licensed by a federal agency, and further any condition existing within or outside of the jurisdictional confines of a facility licensed by the Department and arising from the presence of by-product material, source material, special nuclear materials, or other radioactive materials, which is endangering or could reasonably be expected to endanger the health and safety of the public, or to contaminate the environment.

(h) 'General license' means a license effective pursuant to regulations promulgated under the provisions of this Chapter without the filing of an application to transfer, acquire, own, possess, or use quantities of, or devices or equipment utilizing by-product, source, special nuclear materials, or other radioactive materials occurring naturally or produced artificially.

(i) 'Ionizing radiation' means gamma rays and x-rays, alpha and beta particles, high speed electrons, protons, neutrons, and other nuclear particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(j) 'Non-ionizing radiation' means radiation in any portion of the electromagnetic spectrum not defined as ionizing radiation, including, but not limited to, such sources as laser, maser or microwave devices.

(k) 'Person' means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this State, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States Nuclear Regulatory Commission, or any successor thereto, and other than federal government agencies licensed by the United States Nuclear Regulatory Commission, or any successor thereto.

(l) 'Radiation' means gamma rays and x-rays, alpha and beta particles, high speed electrons, protons, neutrons, and other nuclear particles, and electromagnetic radiation consisting of associated and interacting electric and magnetic waves including those with frequencies between three times ten to the eighth power cycles per second and three times ten to the twenty-fourth power cycles per second and wavelengths between one times ten to the minus fourteenth power centimeters and 100 centimeters.

(m) 'Radiation machine' means any device designed to produce or which produces radiation or nuclear particles when the associated control devices of the machine are operated.

(n) 'Radioactive material' means any solid, liquid, or gas which emits ionizing radiation spontaneously.

(o) 'Source material' means (1) uranium, thorium, or any other material which the Department declares to be source material after the United States Nuclear Regulatory Commission, or any successor thereto has determined the material to be such; or (2) ores containing one or more of the foregoing materials, in such concentration as the Department declares to be source material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material in such concentration to be source material.

(p) 'Special nuclear material' means (1) plutonium, uranium 233, uranium 235, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Department declares to be special nuclear material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material to be such, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(q) '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 by-product, source, special nuclear materials, or other radioactive materials occurring naturally or produced artificially. Nothing in this Chapter shall require the licensing of individual natural persons involved in the use of radiation machines or radioactive materials for medical diagnosis or treatment.

"§ 104C-6. Designation of State radiation protection agency. — The Department is hereby designated the State agency to administer a statewide radiation protection program consistent with the provisions of this Chapter.

"§ 104C-7. Radiation Protection Commission - creation and powers. — There is hereby created the North Carolina Radiation Protection Commission of the Department of Human Resources with the power to promulgate rules and regulations to be followed in the administration of a radiation protection program. All rules and regulations for radiation protection that were adopted by the Commission for Health Services and are not inconsistent with the provisions of this Chapter shall remain in full force and effect unless and until repealed or superseded by action of the Radiation Protection Commission. The Radiation Protection Commission is authorized:

(a) To advise the Department in the development of comprehensive policies and programs for the evaluation, determination, and reduction of hazards associated with the use of radiation;

(b) To adopt, promulgate, amend and repeal such rules, regulations and standards relating to the manufacture, production, transportation, use, handling, servicing, installation, storage, sale, lease, or other disposition of radioactive material and radiation machines as may be necessary to carry out the policy, purpose and provisions of this Chapter. To this end, the Commission is authorized to require licensing or registration of all persons who manufacture, produce, transport, use, handle, service, install, store, sell, lease, or otherwise dispose of radioactive material and radiation machines, as the Commission deems necessary to provide an adequate protection and supervisory program: provided, that prior to adoption of any regulation or standard, or amendment or repeal thereof, the Commission shall afford interested parties the opportunity, at a public hearing, as provided in G.S. 104C-13, to submit data or views orally or in writing. The recommendations of nationally recognized bodies in the field of radiation protection shall be taken into consideration in such standards relative to permissible dosage of radiation;

(c) To require all sources of ionizing radiation to be shielded, transported, handled, used, stored, or disposed of in such a manner to provide compliance with the provisions of this Chapter and rules, regulations and standards adopted hereunder;

(d) To require, on prescribed forms furnished by the Department, registration, periodic re-registration, licensing, or periodic re-licensing of persons to use, manufacture, produce, transport, transfer, install, service, receive, acquire, own, or possess radiation machines and other sources of radiation;

(e) To exempt certain sources of radiation or kinds of uses or users from the licensing or registration requirements set forth in this Chapter when the Commission determines that the exemption of such sources of radiation or kinds of uses or users will not constitute a significant risk to the health and safety of the public;

(f) To promulgate rules and regulations pursuant to this Chapter which may provide for recognition of other state and federal licenses as the Commission shall deem desirable, subject to such registration requirements as it may prescribe; and exercise all incidental powers necessary to carry out the provisions of this Chapter;

(g) To provide by rule or regulation for an electronic product safety program to protect the public health and safety, which program may authorize regulation and inspection of sources of non-ionizing radiation throughout the State.

"§ 104C-8. Radiation Protection Commission - members; selections; removal; compensation; quorum; services. — The Commission shall consist of 10 voting public members and 10 non-voting ex officio members. The 10 voting public members of the Commission shall be appointed by the Governor as follows:

- (1) One member who shall be actively involved in the field of environmental protection;
- (2) One member who shall be an employee of one of the licensed public utilities involved in the generation of power by atomic energy;
- (3) One member who shall have experience in the field of atomic energy other than power generation;
- (4) One member who shall be a scientist or engineer from the faculty of one of the institutions of higher learning in the State;
- (5) One member who shall have recognized knowledge in the field of radiation and its biological effects from the North Carolina Medical Society;
- (6) One member who shall have recognized knowledge in the field of radiation and its biological effects from the North Carolina Dental Society;
- (7) One member who shall have recognized knowledge in the field of radiation and its biological effects from the State at large.
- (8) One member who shall have recognized knowledge in the field of radiation and its biological effects and who shall be a practicing hospital administrator from the North Carolina Hospital Association.
- (9) One member who shall have recognized knowledge in the field of radiation and its biological effects from the North Carolina Chiropractic Association.
- (10) One member who shall have recognized knowledge in the clinical application of radiation, shall be a practicing radiologic technologist from the North Carolina Society of Radiologic Technologists, and shall be certified by the American Registry of Radiologic Technologists.
- (11) One member who shall have recognized knowledge in the clinical application of radiation and shall be a practicing podiatrist licensed by the North Carolina State Board of Podiatry Examiners.

Public members so appointed shall serve terms of office of four years. Four of the initial public members shall be appointed for two years, three members for three years, and three members for four years. Any appointment to fill a vacancy on the Commission created by the resignation dismissal, death or disability of a public member shall be for the balance of the unexpired term. At the expiration of each public member's term, the Governor shall re-appoint or replace the member with a member of like qualifications. At its first meeting on or after July first of each year, the Commission shall designate by election one of its public members as chairman and one of its public members as vice-chairman to serve through June thirtieth of the following year.

The 10 ex officio members shall be appointed by the Governor, shall be members or employees of the following State agencies or their successors, and shall serve at the Governor's pleasure:

- (1) the Utilities Commission;
- (2) the Commission for Health Services;

- (3) the Environmental Management Commission;
- (4) the Board of Transportation;
- (5) the Division of Civil Preparedness of the Department of Military and Veterans Affairs;
- (6) the radiation protection program within the Department of Human Resources;
- (7) the Department of Labor;
- (8) the Industrial Commission;
- (9) the Department of Insurance;
- (10) the Medical Care Commission.

The Governor shall have the power to remove any member from the Commission for misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-13.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the public members of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of the Department of Human Resources.

"§ 104C-9. Department of Human Resources - powers and functions. — The Department of Human Resources is authorized:

(a) To advise, consult and cooperate with other public agencies and with affected groups and industries;

(b) To encourage, participate in, or conduct studies, investigations, public hearings, training, research, and demonstrations relating to the control of sources of radiation, the measurement of radiation, the effect upon public health and safety of exposure to radiation and related problems;

(c) To require the submission of plans, specifications, and reports for new construction and material alterations on (1) the design and protective shielding of installations for radioactive material and radiation machines and (2) systems for the disposal of radioactive waste materials, for the determination of any radiation hazard and may render opinions, approve or disapprove such plans and specifications;

(d) To collect and disseminate information relating to the sources of radiation, including but not limited to: (1) maintenance of a record of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions, and revocations; and (2) maintenance of a record of registrants and licensees possessing sources of radiation requiring registration or licensure under the provisions of this Chapter, and regulations hereunder, and any administrative or judicial action pertaining thereto; and to develop and implement a responsible data management program for the purpose of collecting and analyzing statistical information necessary to protect the public health and safety. The Department may refuse to make public dissemination of information relating to the source of radiation within this State after the Department first determines that the disclosure of such information will contravene the stated policy and purposes of this Chapter and such disclosure would be against the health, welfare and safety of the public.

(e) To respond to any emergency which involves possible or actual release of radioactive material; and to perform or supervise decontamination and otherwise protect the public health and safety in any manner deemed necessary. This section does not in any way alter or change the provisions of Chapter 166 of the North Carolina General Statutes concerning response during an emergency by the Department of Military and Veterans Affairs or its successor.

(f) To develop and maintain a statewide environmental radiation program for monitoring the radioactivity levels in air, water, soil, vegetation, animal life, milk, and food as necessary to ensure protection of the public and the environment from radiation hazards.

"§ 104C-10. Licensing of by-product, source, and special nuclear materials and other sources of ionizing radiation. — (a) The Governor, on behalf of this State, is authorized to enter into agreements with the federal government providing for discontinuance of certain of the responsibilities of the federal government with respect to sources of ionizing radiation and the assumption thereof by this State.

(b) Upon the signing of an agreement with the Nuclear Regulatory Commission or its successor as provided in subsection (a) above, the Commission shall provide by rule or regulation for general or specific licensing of persons to use, manufacture, produce, transport, transfer, receive, acquire, own, or possess by-product, source, or special nuclear materials or devices, installations, or equipment utilizing such materials. Such rule or regulation shall provide for amendment, suspension, renewal or revocation of licenses. Each application for a specific license shall be in writing on forms prescribed by the Commission and furnished by the Department and shall state, and be accompanied by, such information or documents, including, but not limited to plans, specifications and reports for new construction or material alterations as the Commission may determine to be reasonable and necessary to decide the qualifications of the applicant to protect the public health and safety. The Commission may require all applications or statements to be made under oath or affirmation. Each license shall be in such form and contain such terms and conditions as the Commission may deem necessary. No license issued under the authority of this Chapter and no right to possess or utilize sources of radiation granted by any license shall be assigned or in any manner disposed of; and the terms and conditions of all licenses shall be subject to amendment, revision, or modification by rules, regulations, or orders issued in accordance with the provisions of this Chapter.

(c) Any person who, on the effective date of an agreement under subsection (a) above, possesses a license issued by the federal government shall be deemed to possess the same pursuant to a license issued under this Chapter, which shall expire either 90 days after receipt from the Department of a notice of expiration of such license, or on the date of expiration specified in the federal license, whichever is earlier.

"§ 104C-11. Inspections, agreements, and educational programs. — (a) Authorized representatives of the Department shall have the authority to enter upon any public or private property, other than a private dwelling, at all reasonable times for the purpose of determining compliance with the provisions of this Chapter and rules, regulations and standards adopted hereunder.

(b) After approval by the Commission, the Governor is authorized to enter into agreements with the federal government, other states, or interstate agencies, whereby this State will perform on a cooperative basis with the federal government, other states, or interstate agencies, inspections, emergency response to radiation accidents, and other functions related to the control of radiation.

(c) The Department is authorized to institute educational programs for the purpose of training or educating persons who may possess, use, handle, transport, or service radioactive materials or radiation machines.

"§ 104C-12. Records. — (a) The Commission is authorized to require each person who possesses or uses a source of radiation: (1) to maintain appropriate records relating to its receipt, storage, use, transfer, or disposal and maintain such other records as the Commission may require, subject to such exemptions as may be provided by the rules and regulations promulgated by the Commission; and (2) to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring may be required by the Commission, subject to such exemptions as may be provided by the rules and regulations

promulgated by the Commission. Copies of all records required to be kept by this subsection shall be submitted to the Department or its duly authorized agents upon request.

(b) The Commission is authorized to require that any person possessing or using a source of radiation furnish to each employee for whom personnel monitoring is required a copy of such employee's personal exposure record upon the request of such employee, at any time such employee has received radiation exposure in excess of limits established in the rules and regulations promulgated by the Commission, and upon termination of employment.

"§ 104C-13. Administrative procedures and judicial review. — (a) The Department may refuse to grant a license as provided in G.S. 104C-7 or G.S. 104C-10 to any applicant who does not possess the requirements or qualifications which the Commission may prescribe in rules and regulations. The Department may suspend, revoke, or amend any license in the event that the person to whom such license was granted violates any of the rules and regulations of the Commission, or ceases, or fails to have the reasonable facilities prescribed by the Commission: Provided, that before any order is entered denying an application for a license or suspending, revoking, or amending a license previously granted, the applicant or person to whom such license was granted shall be given notice and granted a hearing as provided in Chapter 150 of the North Carolina General Statutes.

(b) Whenever the Department in its opinion determines that an emergency exists requiring immediate action to protect the public health and safety the Department may, without notice or hearing, issue an order reciting the existence of such emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding any provision of this Chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, and on application to the Department shall be afforded a hearing within 10 days. On the basis of such hearing, the emergency order shall be continued, modified, or revoked within 30 days after such hearing, as the Department may deem appropriate under the evidence.

(c) Any applicant or person to whom a license was granted who shall be aggrieved by any order of the Department or its duly authorized agent denying such application or suspending, revoking, or amending such license may appeal directly to the superior court as provided in Chapter 150 of the North Carolina General Statutes.

"§ 104C-14. Impounding of materials. — (a) Authorized representatives of the Department shall have the authority in the event of an emergency to impound or order the impounding of sources of radiation in the possession of any person who is not equipped to observe or fails to observe the provisions of this Chapter or any rules or regulations promulgated by the Commission.

(b) The Department may release such sources of radiation to the owner thereof upon terms and conditions in accordance with the provisions of this Chapter and rules and regulations adopted hereunder or may bring an action in the appropriate superior court for an order condemning such sources of radiation and providing for the destruction or other disposition so as to protect the public health and safety.

"§ 104C-15. Transportation of radioactive materials. — (a) The Radiation Protection Commission is authorized to adopt, promulgate, amend, and repeal rules and regulations governing the transportation of radioactive materials in North Carolina, which, in the judgment of the Commission, shall promote the public health, safety, or welfare and protect the environment.

- (1) Such rules and regulations may include, but shall not be limited to, provisions for the use of signs designating radioactive material cargo; for the packing, marking, loading, and handling of radioactive materials, and the precautions necessary to determine whether the material when offered is in proper condition for transport, and may include designation of routes in this State which are to be used for the transportation of radioactive materials.

- (2) Such rules and regulations shall not include the carrier vehicle or its equipment, the licensing of packages, nor shall they apply to the handling or transportation of radioactive material within the confines of a facility licensed by or owned by a federal agency.
- (3) The Commission is authorized to adopt by reference, in whole or in part, such federal rules and regulations governing the transportation of radioactive material which are established by the United States Nuclear Regulatory Commission, the United States Department of Transportation, or the United States Postal Service (or any federal agency which is a successor to any of the foregoing agencies), as such federal rules may be amended from time to time.

(b) The Department is authorized to enter into agreements with the respective federal agencies designed to avoid duplication of effort and/or conflict in enforcement and inspection activities so that:

- (1) Rules and regulations adopted by the Commission pursuant to this section of this Chapter may be enforced, within their respective jurisdictions, by any authorized representatives of the Department of Human Resources and the Department of Transportation and Highway Safety, according to mutual understandings between such departments of their respective responsibilities and authorities.
- (2) The Department, through any authorized representative, is authorized to inspect any records of persons engaged in the transportation of radioactive materials during the hours of business operation when such records reasonably relate to the method or contents of packing, marking, loading, handling, or shipping of radioactive materials within the State.
- (3) The Department, through any authorized representative, may enter upon and inspect the premises or vehicles of any person engaged in the transportation of radioactive materials during hours of business operation, with or without a warrant, for the purpose of determining compliance with the provisions of this Chapter and the rules and regulations promulgated by the Commission.

(c) Upon a determination by the Department that any provision of this section, or the rules and regulations promulgated by the Commission, are being violated or that any practice in the transportation of radioactive materials constitutes a clear and imminent danger to the public health, property, or safety, it shall issue an order requiring correction as provided in G.S. 104C-13(b).

"§ 104C-16. Radiation protection fund — There is hereby established under the control and direction of the Department a Radiation Protection Fund which shall be used to defray the expenses of any project or activity for:

- (a) emergency response to and decontamination of radiation accidents as provided in G.S. 104C-9(e), or
- (b) perpetual maintenance and custody of radioactive materials as the Department may undertake.

In addition to any moneys that shall be appropriated or otherwise made available to it, the fund may be maintained by fees, charges, penalties or other moneys paid to or recovered by or on behalf of the Department under the provisions of this Chapter. Any moneys paid to or recovered by or on behalf of the Department as fees, charges, penalties or other payments authorized by this Chapter shall be paid to the Radiation Protection Fund in an amount equal to the sum expended for the projects or activities in subsections (a) and (b) above.

"§ 104C-17. Payments to State and local agencies. — Upon completion of any project or activity stated in G.S. 104C-16(a), and from time to time during any project or activity stated in G.S. 104C-16(b), each State and local agency that has participated by furnishing personnel,

equipment or material shall deliver to the Department a record of the expenses incurred by the agency. The amount of incurred expenses shall be disbursed by the Secretary of Human Resources to each such agency from the Radiation Protection Fund. Upon completion of any project or activity stated in G.S. 104C-16(a), and from time to time during any project or activity stated in G.S. 104C-16(b), the Secretary of Human Resources shall prepare a statement of all expenses and costs of the project or activity expended by the State and shall make demand for payment upon the person having control over the radioactive materials or the release thereof which necessitated said project or activity. Any person having control over the radioactive materials or the release thereof and any other person causing or contributing to an incident necessitating any project or activity stated in G.S. 104C-16 shall be directly liable to the State for the necessary expenses incurred thereby and the State shall have a cause of action to recover from any or all such persons. If the person having control over the radioactive materials or the release thereof shall fail or refuse to pay the sum expended by the State, the Secretary of Human Resources shall refer the matter to the Attorney General of North Carolina, who shall institute an action in the name of the State in the Superior Court of Wake County, or in his discretion, in the superior court of the county in which the project or activity was undertaken by the State, to recover such cost and expenses.

In any action instituted by the Attorney General under this section, a verified and itemized statement of the expenses incurred by the State in any project or activity stated in G.S. 104C-16 shall be filed with the complaint and shall constitute prima facie the amount due the State; and any judgment for the State thereon shall be for such amount in the absence of allegation and proof on the part of the defendant or defendants that the statement of expenses incurred by and the amount due the State is not correct because of an error in:

- (1) calculating the amount due, or
- (2) not properly crediting the account with any cash payment or payments or other satisfaction which may have been made thereon.

"§ 104C-18. Security for emergency response and perpetual maintenance costs. — (a) No person shall use, manufacture, produce, transport, transfer, receive, acquire, own or possess radioactive material until that person shall have procured and filed with the Department such bond, insurance or other security as the Commission may by regulation require. Such bond, insurance or other security shall:

- (1) run in favor of the Radiation Protection Fund in the amount of the estimated total cost as established by the Commission that may be incurred by the State in any project or activity stated in G.S. 104C-16, and
 - (2) have as indemnitor on such bond or insurance an insurance company licensed to do business in the State of North Carolina.
- (b) The Commission may from time to time:
- (1) cause an audit to be made of any person that insures itself by means of other security as provided for in subsection (a) above;
 - (2) amend or modify the estimated total cost for security established pursuant to this section; and
 - (3) provide by regulation for the discontinuance of indemnification by one insurer and the assumption thereof by another insurer, as the Commission deems necessary to carry out the provisions of this Chapter and rules and regulations adopted and promulgated hereunder.

"§ 104C-19 Fees. — In order to meet the anticipated costs of administering the educational and training programs in G.S. 104C-11(c) and of enforcing and carrying out the inspection provisions in G.S. 104C-7(g) and G.S. 104C-11(a), the Department is authorized to charge and collect such reasonable fees as the Commission may by rule or regulation establish.

"§ 104C-20 Prohibited uses. — It shall be unlawful for any person to use, manufacture, produce, transport, transfer, receive, acquire, own or possess any source of radiation unless

licensed, registered or exempted by the Department in accordance with the provisions of this Chapter and the rules and regulations adopted and promulgated hereunder.

"§ 104C-21 Conflicting laws. — Ordinances, resolutions or regulations, now or hereafter in effect, of the governing body of a municipality or county or board of health relating to by-product, source and special nuclear materials shall not be superseded by this Chapter: Provided, that such ordinances or regulations are and continue to be consistent and compatible with the provisions of this Chapter, as amended, and rules and regulations promulgated by the Commission.

"§ 104C-22. Tort claims against persons rendering emergency assistance. — Any and all tort claims against any person which arise while that person is rendering assistance during emergency (1) at the request of any authorized representative of the State of North Carolina or (2) pursuant to a mutual radiological assistance agreement as provided for in G.S. 104C-11(b), shall constitute claims against the state; and the disposition thereof shall be governed by the provisions of Article 31 of Chapter 143 of the General Statutes. In any civil action brought against said person, the provisions of Article 31A of Chapter 143 of the General Statutes shall apply as if such person were an employee of this State.

"§ 104C-23 Penalties. — Any person who violates the provisions of G.S. 104C-15 or G.S. 104C-20, or who hinders, obstructs, or otherwise interferes with any authorized representative of the Department in the discharge of his official duties in making inspections as provided in G.S. 104C-11, or in impounding materials as provided in G.S. 104C-14, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by law."

Sec. 2. G.S. 131-126.3, as it appears in the 1974 Replacement Volume 3B of the General Statutes of North Carolina, is amended by deleting the second sentence thereof.

Sec. 3. G.S. 97-2(1) and G.S. 97-13(b), as they appear in the 1972 Replacement Volume 2D of the General Statutes of North Carolina, are amended by deleting the word "ionizing" wherever it appears.

Sec. 4. G.S. 97-53(15), as it appears in the 1973 Supplement to Volume 2D of the General Statutes of North Carolina, is amended by deleting the word "ionizing" therefrom.

Sec. 5. G.S. 14-288.1(2), as it appears in the 1969 Replacement Volume 1B of the General Statutes of North Carolina, is amended by inserting a comma and the words "radioactive material or device, as defined in G.S. 14-288. 8(c)(5)," between the words "incendiary device" and "or any instrument" in the second line thereof.

Sec. 6. G.S. 14-288.8(c), as it appears in the 1969 Replacement Volume 1B of the General Statutes of North Carolina, is amended by adding a new subsection (5) to read as follows:

"(5) Radioactive material, which means any solid, liquid or gas which emits or may emit ionizing radiation spontaneously or which becomes capable of producing radiation or nuclear particles when controls or triggering mechanisms of any associated device are operable."

Sec. 7. G.S. 14-288.8(c)(1), as it appears in the 1969 Replacement Volume 1B of the General Statutes, is amended by reinserting between the words "poisonous gas" and the colon (:), the words "or radioactive material," and by deleting the word "or" which immediately precedes the word "poison".

Sec. 8. Section 1 of this act shall become effective July 1, 1975, and shall expire June 30, 1981.

Sec. 9. Sections 2 through 7 of this act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.