



## 93RD GENERAL ASSEMBLY

### State of Illinois

#### 2003 and 2004

Introduced 02/04/04, by Thomas Holbrook

#### SYNOPSIS AS INTRODUCED:

420 ILCS 44/5  
420 ILCS 44/10  
420 ILCS 44/15  
420 ILCS 44/20  
420 ILCS 44/25  
420 ILCS 44/30  
420 ILCS 44/35  
420 ILCS 44/45  
420 ILCS 44/50  
420 ILCS 44/55  
420 ILCS 44/60  
420 ILCS 44/65  
420 ILCS 44/70

Amends the Radon Industry Licensing Act. Changes references in the Act from the "Department of Nuclear Safety" to the "Illinois Emergency Management Agency. Provides that it is grounds for disciplinary action against a licensee to fail to pay child support orders. Makes other changes. Effective immediately.

LRB093 18304 BDD 44009 b

1 AN ACT concerning public health.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Radon Industry Licensing Act is amended by  
5 changing Sections 5, 10, 15, 20, 25, 30, 35, 45, 50, 55, 60,  
6 65, and 70 as follows:

7 (420 ILCS 44/5)

8 Sec. 5. Legislative declaration. The General Assembly  
9 declares that it is in the interest of the people of Illinois  
10 to establish a comprehensive program for determining the extent  
11 to which radon and radon progeny are present in dwellings and  
12 other buildings in Illinois at concentrations ~~levels~~ that pose  
13 a potential risk to the occupants and for determining measures  
14 that can be taken to reduce and prevent such risk. The General  
15 Assembly also finds that public concerns over the dangers from  
16 radon and radon progeny may give rise to unscrupulous practices  
17 that exploit those concerns but do not mitigate the dangers  
18 from radon and radon progeny. It is therefore declared to be  
19 the public policy of this State that in order to safeguard the  
20 health, property, and public welfare of its citizens, persons  
21 engaged in the business of measuring ~~detecting~~ the presence of  
22 radon or radon progeny in dwellings and reducing the presence  
23 of radon and radon progeny in the indoor atmosphere shall be  
24 regulated by the State through licensing requirements.

25 (Source: P.A. 90-262, eff. 7-30-97.)

26 (420 ILCS 44/10)

27 Sec. 10. Primary responsibility with Illinois Emergency  
28 Management Agency ~~Department of Nuclear Safety~~. The Illinois  
29 Emergency Management Agency ~~Department~~ shall have primary  
30 responsibility for coordination, oversight, and implementation  
31 of all State functions in matters concerning the presence,

1 effects, measurement, and mitigation of risks of radon and  
2 radon progeny in dwellings and other buildings. The Department  
3 of Natural Resources, the Environmental Protection Agency, the  
4 Department of Public Health, and other State agencies shall  
5 consult and cooperate with the Agency ~~Department~~ as requested  
6 and as necessary to fulfill the purposes of this Act.

7 (Source: P.A. 90-262, eff. 7-30-97.)

8 (420 ILCS 44/15)

9 Sec. 15. Definitions. As used in this Act, unless the  
10 context requires otherwise:

11 (a) "Agency" means the Illinois Emergency Management  
12 Agency ~~"Department" means the Illinois Department of Nuclear~~  
13 ~~Safety.~~

14 (b) "Client" means any person who contracts for measurement  
15 or mitigation services.

16 (c) "Director" means the Director of the Illinois Emergency  
17 Management Agency.

18 (d) ~~(b)~~ "Interfere" means to adversely or potentially  
19 adversely impact the successful completion of an indoor radon  
20 measurement by changing the radon or radon progeny  
21 concentrations or altering the performance of measurement  
22 equipment or an indoor radon mitigation system installation or  
23 operation.

24 (e) ~~(c)~~ "Laboratory analysis" means the act of analyzing  
25 the determining radon or radon progeny concentrations with in  
26 air, water, soil, or passive radon testing devices, or the act  
27 of calibrating radon or radon progeny measurement devices, or  
28 the act of exposing radon or radon progeny devices to known  
29 concentrations of radon or radon progeny as a compensated  
30 service.

31 (f) ~~(d)~~ "Mitigation" means the act of repairing or altering  
32 a building or building design for the purpose in whole or in  
33 part of reducing the concentration of radon in the indoor  
34 atmosphere.

35 (g) ~~(e)~~ "Person" means entities, including, but not limited

1 to, an individual, company, corporation, firm, group,  
2 association, partnership, joint venture, trust, or government  
3 agency or subdivision.

4 (h) ~~(f)~~ "Radon" means a gaseous radioactive decay product  
5 of uranium or thorium.

6 (i) ~~(g)~~ "Radon contractor" or "contractor" means a person  
7 licensed to perform radon or radon progeny mitigation or to  
8 perform ~~radon~~ measurements of ~~to detect~~ radon or radon progeny  
9 in an indoor atmosphere.

10 (j) ~~(h)~~ "Radon progeny" means any combination of the  
11 radioactive decay products of radon.

12 (Source: P.A. 90-262, eff. 7-30-97.)

13 (420 ILCS 44/20)

14 Sec. 20. General powers.

15 (a) The Agency ~~Department~~ may undertake projects to  
16 determine whether and to what extent radon and radon progeny  
17 are present in dwellings and other buildings, to determine to  
18 what extent their presence constitutes a risk to public health,  
19 and to determine what measures are effective in reducing and  
20 preventing the risk to public health.

21 (b) In addition to other powers granted under this Act, the  
22 Agency ~~Department~~ is authorized to:

23 (1) Establish a program for measuring radon or radon  
24 progeny in dwellings and other buildings.

25 (2) Conduct surveys and studies in cooperation with the  
26 Department of Natural Resources and the Department of  
27 Public Health to determine the distribution and  
28 concentration of radon or radon progeny in dwellings and  
29 other buildings and the associated health risk and to  
30 evaluate measures that may be used to mitigate a present or  
31 potential health risk.

32 (3) Enter into dwellings and other buildings with the  
33 consent of the owner or occupant to engage in monitoring  
34 activities or to conduct remedial action studies or  
35 programs.

1 (4) Enter into contracts for projects undertaken  
2 pursuant to subsection (a).

3 (5) Enter into agreements with other departments,  
4 agencies, and subdivisions of the federal government, the  
5 State, and units of local government to implement this Act.

6 (6) Establish training and educational programs.

7 (7) Apply for, accept, and use grants or other  
8 financial assistance and accept and use gifts of money or  
9 property to implement this Act.

10 (8) Provide technical assistance to persons and to  
11 other State departments, agencies, political subdivisions,  
12 units of local government, and school districts.

13 (9) Prescribe forms for application for a license  
14 ~~licensure~~.

15 (10) Establish the minimum qualifications for a  
16 license ~~licensure~~, including requirements for examinations  
17 or performance testing, and issue licenses to persons found  
18 to be qualified.

19 (10.5) Investigate any unlicensed activity.

20 (11) Conduct hearings or proceedings to revoke,  
21 suspend, or refuse to issue or renew a license, or assess  
22 civil penalties.

23 (12) Adopt rules for the administration and  
24 enforcement of this Act.

25 (13) Establish by rule fees to recover the cost of the  
26 ~~application and inspection fees for the licensing~~ program.

27 (Source: P.A. 92-387, eff. 8-16-01.)

28 (420 ILCS 44/25)

29 Sec. 25. License requirement. Beginning January 1, 1998, no  
30 person shall sell a device or perform a service for  
31 compensation to detect the presence of radon or radon progeny  
32 in the indoor atmosphere, perform laboratory analysis, or  
33 perform a service to reduce the presence of radon or radon  
34 progeny in the indoor atmosphere unless the person has been  
35 licensed by the Agency ~~Department~~. The application procedures

1 for a license licensure shall be established by rule of the  
2 Agency Department. This Section does not apply to retail stores  
3 that only sell or distribute radon sampling devices but are not  
4 engaged in a relationship with the client for other services  
5 such as home inspection or representation as in a real estate  
6 transaction and that do not perform laboratory analysis,  
7 measurement, or mitigation services. This Section does not  
8 apply to persons selling or distributing, but not placing,  
9 radon sampling devices supplied by a laboratory if the results  
10 of the laboratory analysis are reported directly to the owner  
11 or occupant of the building sampled.

12 (Source: P.A. 90-262, eff. 7-30-97.)

13 (420 ILCS 44/30)

14 Sec. 30. Reporting of information. Within 45 days after  
15 testing for radon or radon progeny, a person performing the  
16 testing shall report to his or her client ~~the owner or occupant~~  
17 ~~of the building~~ the results of the testing. In addition, if the  
18 client is not the owner or occupant of the building, a person  
19 shall report to the owner or occupant upon request. To the  
20 extent that the testing results contain information pertaining  
21 to the medical condition of an identified individual or the  
22 concentration level of radon or radon progeny in an identified  
23 dwelling, information obtained by the Agency Department  
24 pursuant to this Act is exempt from the disclosure requirements  
25 of the Freedom of Information Act, except that the Department  
26 shall make the information available to the identified  
27 individual or the owner or occupant on request.

28 (Source: P.A. 90-262, eff. 7-30-97.)

29 (420 ILCS 44/35)

30 Sec. 35. Penalties.

31 (a) A person required to be licensed under Section 25 of  
32 this Act who sells a device or performs a service without being  
33 properly licensed under this Act may be assessed a civil  
34 penalty by the Agency not to the exclusion of any other penalty

1 ~~authorized by law shall, in addition to any other penalty~~  
2 ~~provided by law, pay a civil penalty to the Department~~ in an  
3 amount not to exceed \$5,000, for each offense, as determined by  
4 the Agency ~~Department~~. Any person assessed a civil penalty  
5 under this Section shall be afforded an opportunity for hearing  
6 in accordance with Agency ~~Department~~ regulations prior to final  
7 action by the Agency ~~Department~~. The civil penalty must be paid  
8 within 30 days after the order becomes a final and binding  
9 administrative determination.

10 (b) A person who violates a provision of this Act shall be  
11 guilty of a business offense and may ~~shall~~ be fined not less  
12 than \$500 nor more than \$1,000 for the first offense and shall  
13 be guilty of a Class A misdemeanor for a subsequent offense.  
14 Each day that a violation continues constitutes a separate  
15 offense. A licensed radon contractor found guilty of a  
16 violation of a provision of this Act may ~~shall automatically~~  
17 have his or her license terminated by the Agency ~~Department~~.

18 (Source: P.A. 92-387, eff. 8-16-01.)

19 (420 ILCS 44/45)

20 Sec. 45. Grounds for disciplinary action. The Agency  
21 ~~Department~~ may refuse to issue or to renew, or may revoke,  
22 suspend, ~~place on probation, reprimand~~ or take other  
23 disciplinary action as the Agency ~~Department~~ may deem proper,  
24 including fines not to exceed \$1,000 for each violation, with  
25 regard to any license for any one or combination of the  
26 following causes:

27 (a) Violation of this Act or its rules.

28 (b) Conviction of a crime under the laws of any United  
29 States jurisdiction that is a felony or a misdemeanor, an  
30 essential element of which is dishonesty, or of any crime that  
31 directly relates to the practice of detecting or reducing the  
32 presence of radon or radon progeny.

33 (c) Making a misrepresentation for the purpose of obtaining  
34 a license.

35 (d) Professional incompetence or gross negligence in the

1 practice of detecting or reducing the presence of radon or  
2 radon progeny.

3 (e) Gross malpractice, prima facie evidence of which may be  
4 a conviction or judgment of malpractice in a court of competent  
5 jurisdiction.

6 (f) Aiding or assisting another person in violating a  
7 provision of this Act or its rules.

8 (g) Failing, within 60 days, to provide information in  
9 response to a written request made by the Agency Department  
10 that has been sent by ~~certified or registered~~ mail to the  
11 licensee's last known address.

12 (h) Engaging in dishonorable, unethical, or unprofessional  
13 conduct of a character likely to deceive, defraud, or harm the  
14 public.

15 (i) Habitual or excessive use or addiction to alcohol,  
16 narcotics, stimulants, or any other chemical agent or drug that  
17 results in the inability to practice with reasonable judgment,  
18 skill, or safety.

19 (j) Discipline by another United States jurisdiction or  
20 foreign nation, if at least one of the grounds for the  
21 discipline is the same or substantially equivalent to those set  
22 forth in this Section.

23 (k) Directly or indirectly giving to or receiving from a  
24 person, ~~firm, corporation, partnership, or association~~ any  
25 fee, commission, rebate, or other form of compensation for a  
26 professional service not actually or personally rendered.

27 (l) A finding by the Agency ~~Department~~ that the licensee  
28 has violated the terms of a license, ~~after having his or her~~  
29 ~~license placed on probationary status, has violated the terms~~  
30 ~~of probation.~~

31 (m) Conviction by a court of competent jurisdiction, either  
32 within or outside of this State, of a violation of a law  
33 governing the practice of detecting or reducing the presence of  
34 radon or radon progeny if the Agency ~~Department~~ determines  
35 after investigation that the person has not been sufficiently  
36 rehabilitated to warrant the public trust.



1 (n) A finding by the Agency Department that a license  
2 ~~licensure~~ has been applied for or obtained by fraudulent means.

3 (o) Practicing or attempting to practice under a name other  
4 than the full name as shown on the license or any other  
5 authorized name.

6 (p) Gross and willful overcharging for professional  
7 services, including filing false statements for collection of  
8 fees or moneys for which services are not rendered.

9 (q) Failure to file a return or to pay the tax, penalty, or  
10 interest shown in a filed return, or to pay any final  
11 assessment of tax, penalty, or interest, as required by a tax  
12 Act administered by the Department of Revenue, until such time  
13 as the requirements of any such tax Act are satisfied.

14 (r) Failure to repay ~~The Department shall deny an original~~  
15 ~~or renewal license under this Act to a person who has defaulted~~  
16 ~~on an educational loans loan~~ guaranteed by the Illinois Student  
17 Assistance State Scholarship Commission, as provided in  
18 Section 2005-85 of the Department of Revenue Law of the Civil  
19 Administrative Code of Illinois. However, the Agency  
20 ~~Department~~ may issue an original or renewal license if the  
21 person in default has established a satisfactory repayment  
22 record as determined by the Illinois State Scholarship  
23 Commission.

24 (s) Failure to meet child support orders, as provided in  
25 Section 10-65 of the Illinois Administrative Procedure Act.

26 (Source: P.A. 90-262, eff. 7-30-97.)

27 (420 ILCS 44/50)

28 Sec. 50. Summary suspension. The Director may summarily  
29 suspend the license of a radon contractor without a hearing,  
30 simultaneously with the institution of proceedings for a  
31 hearing, if the Director finds that evidence in his or her  
32 possession indicates that continuation of the contractor in  
33 practice would constitute an imminent danger to the public. If  
34 the Director summarily suspends a license without a hearing, a  
35 hearing by the Agency Department shall be held within 30 days

1 after the suspension has occurred and shall be concluded  
2 without appreciable delay.

3 (Source: P.A. 90-262, eff. 7-30-97.)

4 (420 ILCS 44/55)

5 Sec. 55. Liability. The Agency ~~Department~~ and other persons  
6 under contract or agreement with the Agency ~~Department~~ under  
7 this Act, and their officers, agents, and employees, shall not  
8 be liable for conduct in the course of administering or  
9 enforcing this Act unless the conduct was malicious.

10 (Source: P.A. 90-262, eff. 7-30-97.)

11 (420 ILCS 44/60)

12 Sec. 60. Deposit of moneys. All moneys received by the  
13 Agency ~~Department~~ under this Act shall be deposited into the  
14 Radiation Protection Fund and are not refundable. Moneys  
15 deposited into the Fund may be used by the Agency ~~Department~~,  
16 pursuant to appropriation, for the administration and  
17 enforcement of this Act.

18 (Source: P.A. 90-262, eff. 7-30-97.)

19 (420 ILCS 44/65)

20 Sec. 65. Illinois Administrative Procedure Act. The  
21 provisions of the Illinois Administrative Procedure Act are  
22 hereby expressly adopted and shall apply to all administrative  
23 rules and procedures of the Agency ~~Department~~ under this Act,  
24 except that Section 5-35 of the Illinois Administrative  
25 Procedure Act, relating to procedures for rulemaking, does not  
26 apply to the adoption of any rule required by federal law in  
27 connection with which the Agency ~~Department~~ is precluded from  
28 exercising any discretion.

29 (Source: P.A. 92-651, eff. 7-11-02.)

30 (420 ILCS 44/70)

31 Sec. 70. Administrative Review Law. All final  
32 administrative decisions of the Agency ~~Department~~ under this

1 Act shall be subject to judicial review under the provisions of  
2 the Administrative Review Law and its rules. The term  
3 "administrative decision" is defined as in Section 3-101 of the  
4 Code of Civil Procedure.

5 (Source: P.A. 90-262, eff. 7-30-97.)

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.