

AN ACT concerning public health.

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

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

(420 ILCS 44/5)

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

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

(420 ILCS 44/10)

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

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

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

(420 ILCS 44/15)

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

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

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

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

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

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

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

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

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

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

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

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

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

(420 ILCS 44/20)

Sec. 20. General powers.

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

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

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

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

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

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

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

(6) Establish training and educational programs.

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

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

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

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

(10.5) Investigate any unlicensed activity.

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

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

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

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

(420 ILCS 44/25)

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

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

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

(420 ILCS 44/30)

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

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

(420 ILCS 44/35)

Sec. 35. Penalties.

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

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

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

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

(420 ILCS 44/45)

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

(a) Violation of this Act or its rules.

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

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

(d) Professional incompetence or gross negligence in the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(r) Failure to repay ~~The Department shall deny an original or renewal license under this Act to a person who has defaulted on an educational loans loan~~ guaranteed by the Illinois Student Assistance State Scholarship Commission, as provided in Section 80 of the Nuclear Safety Law of 2004. However, the Agency ~~Department~~ may issue an original or renewal license if the person in default has established a satisfactory repayment record as determined by the Illinois Student Assistance State Scholarship Commission.

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

(t) Failure to pay a fee or civil penalty properly assessed by the Agency.

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

(420 ILCS 44/50)

Sec. 50. Summary suspension. The Director may summarily suspend the license of a radon contractor without a hearing, simultaneously with the institution of proceedings for a hearing, if the Director finds that evidence in his or her possession indicates that continuation of the contractor in practice would constitute an imminent danger to the public. If the Director summarily suspends a license without a hearing, a

hearing by the Agency ~~Department~~ shall be held within 30 days after the suspension has occurred and shall be concluded without appreciable delay.

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

(420 ILCS 44/55)

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

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

(420 ILCS 44/60)

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

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

(420 ILCS 44/65)

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

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

(420 ILCS 44/70)

Sec. 70. Administrative Review Law. All final

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

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

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