

CHAPTER 82

[Substitute Senate Bill No. 6575]

NUCLEAR OPERATIONS—LIABILITY COVERAGE REQUIREMENTS

AN ACT Relating to liability requirements for nuclear operations; amending RCW 43.200.200, 43.200.210, and 70.98.095; adding a new section to chapter 70.98 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 191, Laws of 1986 and RCW 43.200.200 are each amended to read as follows:

(1) The director of the department of ecology shall periodically review the potential for bodily injury and property damage in the packaging, shipping, transporting, treatment, storage, and disposal of commercial low-level radioactive materials under licenses or permits issued by the state.

~~(2) ((The director shall, upon the completion of each review, determine by rule the minimum amount of liability coverage that is adequate to protect the state and its citizens from all claims, suits, losses, damages, or expenses on account of injuries to persons and property damage arising or growing out of the packaging, shipping, transporting, treatment, storage, and disposal of commercial low-level radioactive materials.~~

~~(3))~~ Except as otherwise provided in subsection (7) of this section, the director shall require ((the maximum amount of)) each permit holder to maintain liability coverage ((available from private sources, including)) in an amount that is adequate to protect the state and its citizens from all claims, suits, losses, damages, or expenses on account of injuries to persons and property damage arising or growing out of the packaging, shipping, transporting, treatment, storage, and disposal of commercial low-level radioactive materials. The liability coverage may be in the form of insurance, cash, surety bonds, corporate guarantees, and other acceptable instruments((, unless the director determines that a lesser amount is adequate to protect the state and its citizens pursuant to this section)).

~~((4))~~ (3) In making the determination of the appropriate level of liability coverage, the director shall consider:

(a) The nature and purpose of the activity and its potential for injury and damages to or claims against the state and its citizens;

(b) The current and cumulative manifested volume and radioactivity of material being packaged, transported, buried, or otherwise handled;

(c) The location where the material is being packaged, transported, buried, or otherwise handled, including the proximity to the general public and geographic features such as geology and hydrology, if relevant; and

(d) The legal defense cost, if any, that will be paid from the required liability coverage amount.

~~((5))~~ (4) The director may establish different levels of required liability coverage for various classes of ~~((license or))~~ permit holders.

~~((6))~~ (5) The director shall establish by rule the instruments or mechanisms by which a person may demonstrate liability coverage as required by RCW 43.200.210 ~~((and 70.98.095))~~. Any instrument or mechanism approved as an alternative to liability insurance shall provide the state and its citizens with a level of financial protection at least as great as would be provided by liability insurance.

~~((7))~~ (6) The director shall complete the first review and determination, and report the results to the legislature, by December 1, 1987. At least every five years thereafter, the director shall conduct a new review and determination and report its results to the legislature.

(7)(a) The director by rule may exempt from the requirement to provide liability coverage a class of permit holders if the director determines that the exemption of that class will not pose a significant risk to persons or property and will not pose substantial financial risk to the state.

(b) The director may exempt from the requirement to provide liability coverage an individual permit holder if the director determines that the cost of obtaining that coverage for that permit holder would impose a substantial financial hardship on the person and that failure to maintain the coverage will not pose a significant risk to persons or property and will not pose a substantial financial risk to the state.

Sec. 2. Section 2, chapter 191, Laws of 1986 and RCW 43.200.210 are each amended to read as follows:

(1)(a) The department of ecology shall require that any person who holds or applies for a ~~((license or))~~ permit under this chapter ~~((or))~~ indemnify and hold harmless the state from claims, suits, damages, or expenses on account of injuries to or death of persons and property, arising or growing out of any operations and activities for which the person holds the license or permit, and any necessary or incidental operations~~((, and))~~.

(b) Except for a permit holder not required to maintain liability insurance coverage under RCW 43.200.200(7), the department shall require any person who holds or applies for a permit under this chapter to demonstrate that the person has and maintains liability coverage for the operations for which the state has been indemnified and held harmless pursuant to this section. The agency shall require coverage in an amount determined by the director of the department of ecology pursuant to RCW 43.200.200.

(2) The department of ecology shall suspend the license ~~((or permit))~~ of any person required by this section to hold and maintain liability coverage who fails to demonstrate compliance with this section. The ~~((license or))~~ permit shall not be reinstated until the person demonstrates compliance with this section.

(3) The department of ecology shall require (a) that any person required to maintain liability coverage maintain with the agency current copies of any insurance policies, certificates of insurance, or any other documents used to comply with this section, (b) that the agency be notified of any changes in the insurance coverage or financial condition of the person, and (c) that the state be named as an insured party on any insurance policy used to comply with this section.

NEW SECTION. Sec. 3. A new section is added to chapter 70.98 RCW to read as follows:

(1) Except as otherwise provided in subsection (5) of this section, the secretary shall require each permit or license holder to maintain liability coverage in an amount that is adequate to protect the state and its citizens from all claims, suits, losses, damages, or expenses on account of injuries to persons and property damage arising or growing out of the packaging, shipping, transporting, treatment, storage, and disposal of commercial low-level radioactive materials. The liability coverage may be in the form of insurance, cash, surety bonds, corporate guarantees, and other acceptable instruments.

(2) In making the determination of the appropriate level of liability coverage, the secretary shall consider:

(a) The nature and purpose of the activity and its potential for injury and damages to or claims against the state and its citizens;

(b) The current and cumulative manifested volume and radioactivity of material being packaged, transported, buried, or otherwise handled;

(c) The location where the material is being packaged, transported, buried, or otherwise handled, including the proximity to the general public and geographic features such as geology and hydrology, if relevant;

(d) The report prepared by the department of ecology pursuant to RCW 43.200.200; and

(e) The legal defense cost, if any, that will be paid from the required liability coverage amount.

(3) The secretary may establish different levels of required liability coverage for various classes of permit or license holders.

(4) The secretary shall establish by rule the instruments or mechanisms by which a person may demonstrate liability coverage as required by RCW 70.98.095. Any instrument or mechanism approved as an alternative to liability insurance shall provide the state and its citizens with a level of financial protection at least as great as would be provided by liability insurance.

(5)(a) The secretary by rule may exempt from the requirement to provide liability coverage a class of permit or license holders if the secretary determines that the exemption of that class will not pose a significant risk to persons or property and will not pose substantial financial risk to the state.

(b) The secretary may exempt from the requirement to provide liability coverage an individual permit or license holder if the secretary determines that the cost of obtaining that coverage for that license or permit or license holder would impose a substantial financial hardship on the person and that failure to maintain the coverage will not pose a significant risk to persons or property and will not pose a substantial financial risk to the state.

Sec. 4. Section 3, chapter 191, Laws of 1986 and RCW 70.98.095 are each amended to read as follows:

(1)(a) The radiation control agency shall require that any person who holds or applies for a license or permit under this chapter (~~((a))~~) indemnify and hold harmless the state from claims, suits, damages, or expenses on account of injuries to or death of persons and property, arising or growing out of any operations or activities for which the person holds the license or permit, and any necessary or incidental operations(~~((and))~~).

(b) Except for a license or permit holder who the secretary has exempted from maintaining liability coverage pursuant to section 3(5) of this act, the radiation control agency shall require any person who holds or applies for a license or permit under this chapter to demonstrate that the person has and maintains liability coverage for the operations for which the state has been indemnified and held harmless pursuant to this section. The agency shall require coverage in an amount determined by the ~~((director of the department of ecology pursuant to RCW 43.200.200))~~ secretary pursuant to section 3 of this act.

(2) The radiation control agency shall suspend the license or permit of any person required by this section to hold and maintain liability coverage who fails to demonstrate compliance with this section. The license or permit shall not be reinstated until the person demonstrates compliance with this section.

(3) The radiation control agency shall require (a) that any person required to maintain liability coverage maintain with the agency current copies of any insurance policies, certificates of insurance, or any other documents used to comply with this section, (b) that the agency be notified of any changes in the insurance coverage or financial condition of the person, and (c) that the state be named as an insured party on any insurance policy used to comply with this section.

NEW SECTION. Sec. 5. The department of ecology and the department of health shall study and report to the legislature on methods by which persons who hold licenses or permits for the packaging, shipping, transporting, treatment, storage, and disposal of commercial low-level radioactive materials under licenses or permits issued by the state and who are unable to obtain liability coverage required by the state may be provided with that coverage. The study shall be completed and the report submitted

to the energy and utilities committees of the senate and the house of representatives not later than December 1, 1990.

Passed the Senate March 5, 1990.

Passed the House February 27, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 83

[Substitute House Bill No. 2524]

BOARD OF PHARMACY—EXTENSION—REVISION OF DUTIES

AN ACT Relating to the board of pharmacy; amending RCW 18.64.005; creating a new section; and repealing RCW 43.131.249 and 43.131.250.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 98, Laws of 1935 as last amended by section 409, chapter 9, Laws of 1989 1st ex. sess. and RCW 18.64.005 are each amended to read as follows:

STATE BOARD OF PHARMACY—POWERS AND DUTIES.

The board shall:

(1) Regulate the practice of pharmacy and enforce all laws placed under its jurisdiction;

(2) Prepare or determine the nature of, and supervise the grading of, examinations for applicants for pharmacists' licenses;

(3) Establish the qualifications for licensure of pharmacists or pharmacy interns;

(4) Conduct hearings for the revocation or suspension of licenses, permits, registrations, certificates, or any other authority to practice granted by the board, which hearings may also be conducted by an administrative law judge appointed under chapter 34.12 RCW;

(5) Issue subpoenas and administer oaths in connection with any hearing, or disciplinary proceeding held under this chapter or any other chapter assigned to the board;

(6) Assist the regularly constituted enforcement agencies of this state in enforcing all laws pertaining to drugs, controlled substances, and the practice of pharmacy, or any other laws or rules under its jurisdiction;

(7) Promulgate rules for the dispensing, distribution, wholesaling, and manufacturing of drugs and devices and the practice of pharmacy for the protection and promotion of the public health, safety, and welfare. Violation of any such rules shall constitute grounds for refusal, suspension, or revocation of licenses or any other authority to practice issued by the board;

(8) Adopt rules establishing and governing continuing education requirements for pharmacists and other licensees applying for renewal of licenses under this chapter;