Chapter 453

1961 REPLACEMENT PART
(1963 reprint)

Drugs, Poisons, Caustics and Corrosives; Radiation Sources

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REGULATIONS CONCERNING PREPARATION AND SALE OF POISONS AND OTHER DANGEROUS SUBSTANCES

453.010 Definitions for ORS 453.010 to 453.160. (1) As used in ORS 453.010 to 453.160, unless the context requires otherwise:

(a) "Poison" includes all articles enumerated and defined in ORS 453.060, 453.090 and 453.110.

(b) "Deadly poison" means any drug, chemical or preparation which, according to standard works on medicine, toxicology or materia medica is liable to be destructive to adult human life, or as promulgated by the State Board of Pharmacy.

(2) The definitions of ORS 689.010 apply to ORS 453.010 to 453.160.

453.020 Manufacture and sale of drugs to conform to standards; substitutions prohibited; file of prescriptions. (1) No person shall manufacture, compound or sell or offer for sale or cause to be manufactured, compounded, sold or offered for sale any medicine, compound or preparation for internal or external use under or by a name recognized in the Pharmacopoeia, Formulary or New and Nonofficial Remedies which differs from the standard of strength and purity specified therein as official at the time of manufacture, compounding, sale or offering for sale.

(2) No person shall manufacture, compound, sell or offer for sale, or cause to be manufactured, sold or offered for sale, any drug, medicine, chemical or pharmaceutical preparation, the strength and purity of which falls below the professed standard of strength and purity under which it is sold.

(3) No person, being requested by means of a prescription or otherwise to sell, furnish or compound any drug, medicine, chemical or pharmaceutical preparation, shall substitute or cause to be substituted therefor without notification to the prescriber or purchaser, any other drug, medicine, chemical or pharmaceutical preparation.

(4) No pharmacist or any other person, requested by means of a prescription, shall substitute for a specified brand named product without the expressed authorization of the prescriber.

(5) Each licensed pharmacy shall keep on file as evidence of compliance with this section, the original prescriptions received and filled at its place of business, filed in such manner as will readily be accessible for inspection by the board or its duly authorized agent.

[Amended by 1953 c.64 §2]

453.030 Necessity for drug and poison label; required data; change of requirements. (1) Except as otherwise specifically provided by law, no person shall sell or dispense at retail any drug, medicine or poison without affixing to the box, bottle, vessel or package containing the drug, medicine or poison, a clear and legible label, either printed or written, bearing the name of the article with the name and the place of business of the registered pharmacist, owner or manager.

(2) Labeling specifications regarding any substance, drug, chemical, poison or medicine controlled by ORS 453.010 to 453.160 may be changed or exemption granted by the board in form of special permit as the board may judge to be in the best interests of public safety.

453.040 Record of poison sales; sales to be made only by registered pharmacist. (1) No person shall sell or deliver, or cause to be sold or delivered, any poisons or any caustic or corrosive substances specified in ORS 453.010 to 453.160, 453.210, 689.010 to 689.340 and 689.410 to 689.640, without making or causing to be made an entry in a book kept solely for that purpose, stating the date and hour of the sale, the name and address and the signature of the purchaser, the kind and quantity of the poison sold, a statement by the purchaser of the purpose for which it is required, and the name of the dispenser, who must be a duly registered pharmacist or duly registered assistant pharmacist.

(2) The poison register shall be in the form of columns with the following headings:

(a) Date and hour.
(b) Name of purchaser.
(c) Residence.
(d) Kind and quantity.
(e) Purpose of use.
(f) Means of identification.
(g) Signature of purchaser.
(h) Signature of druggist.

(3) The poison register shall always be open for inspection by the proper authorities and shall be preserved for at least five years after the date of the last entry.

(4) Official poison register books will be furnished by the board only to registered pharmacists.

453.050 Sale of poisons to minors. No person shall sell or deliver any poison to a minor under 18 years of age without the written order of an adult.

453.060 Distributing certain poisons without labeling prohibited. No person shall vend, sell, give away or furnish, or cause to be vended, sold, given away or furnished, either directly or indirectly, any arsenic and its preparations, white precipitate, red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnine, essential oil of bitter almonds, aconite, belladonna, nux vomica, oil of savin, oil of tansy, ergot, cotton root, cantharides, carbolic acid (phenol), corrosive sublimate, corrosive sublimate tablets, antiseptic tablets containing corrosive sublimate, and other deadly poisons in original packages or otherwise without labeling the box, vessel or bottle in which the poison is contained with:

(1) The name of the article.

(2) The word "poison."

(3) The name and place of business of the seller.

453.070 False representations by purchasers of certain poisons prohibited. No person shall give a fictitious name or make any false representations to the seller or dealer when buying any of the poisons listed in ORS 453.060.

453.080 Sale of certain poisons to persons not aware of its poisonous character prohibited. No person shall deliver or sell any of the poisons listed in ORS 453.060 unless upon inquiry it be found that the purchaser is aware of its poisonous character.

453.090 Sale of certain poisons only by registered pharmacist; sale without labeling prohibited. Except as otherwise specifically provided by law, no person shall sell or deliver to any person any cocculus, conium, cotton root bark, digitalis, henbane, nux vomica, veratrum (hellebore), chloroform, ether, barbituric acid or its derivatives, salts of barium, lead salts, oxalic acid, mineral acids, iodine, tincture of iodine, compound solution of cresol, creosote, acetic acid, salicylic acid, croton oils, oils of pennyroyal, rue, savin and tansy, or any other drug, chemical substance or preparation which, according to standard works on medicine, materia medica or toxicology, while not considered toxic in doses of five grains or less, is nevertheless liable to be destructive to human life in doses of 60 grains or less, without plainly labeling with:

(1) The name of the article in English.

(2) The word "poison."

(3) The name and place of business of the dispenser.

[Amended by 1953 c.351 §2]

453.100 Sale of certain poisons prohibited unless for a lawful purpose and purchaser is aware of its poisonous character. No person shall sell or deliver to any person any of the poisons listed in ORS 453.090 without having learned by due inquiry that such person is aware of the poisonous character thereof and that it is desired for a lawful purpose.

453.110 Regulations concerning sale of certain poisons. (1) No person shall sell strychnine, arsenic, completely denatured alcohol, methyl alcohol (methanol), or any other deadly poison that the board may designate from time to time by promulgation under ORS 689.620 and 689.630, without absolute identification on the part of the purchaser thereof by automobile driver's license or other positive identification bearing purchaser's signature, or personal identification, and then only when the same has been properly packaged, labeled and fully registered according to the pharmacy law.

(2) Completely denatured alcohol, methyl alcohol (methanol), canned heat or solidified forms of denatured alcohol must be labeled in accordance with federal regulations and must state on the label the federal formula number and the percentage of methanol, if any, contained therein. Methyl alcohol (methanol) in any concentration greater than five percent must be labeled methanol with the percentage of methanol stated on the label and must carry the antidote for methanol. The label shall be in conformity with federal regulations.

(3) Stores and shops other than retail pharmacies may sell completely denatured alcohol or methyl alcohol (methanol) in quantities of not less than one gallon only in original containers and only when properly labeled by distiller or wholesale distributor and bearing also seller's label. Name and address of seller must be applied by label on the container. Record of such wholesale quantities must be kept by the seller and information including date, means of identification and purported use.

(4) Retail sales of completely denatured alcohol, methyl alcohol (methanol), canned

heat and other solidified forms of denatured alcohol, in quantities of less than one gallon will be confined to registered pharmacists and registration of same must be made in their official poison register.

(5) Local police authorities shall furnish to all retail druggists licensed to sell completely denatured alcohol, methyl alcohol (methanol), canned heat and other solidified forms of denatured alcohol within their respective localities twice each year the names of known addicts and a statement prohibiting sale to them.

(6) Sellers of denatured alcohol, methyl alcohol (methanol) only are exempted from the shopkeepers' license provision of the pharmacy law.

(7) Distributors and transporters, stores and shops, other than retail pharmacies may deliver, or sell carbolic acid (phenol) for commercial use only in quantities of not less than 15 gallons but only when the container is properly labeled by the manufacturer or wholesale distributor and also bears a label containing the name and address of the seller or deliverer. Record of sales or deliveries of quantities of 15 gallons or more of carbolic acid (phenol) shall be kept by the seller and deliverer. The record shall contain information, including the date, name of purchaser or person receiving the delivery and purported use.

(8) A distributor, transporter, store or shop shall not by reason of the delivery or sale of carbolic acid (phenol) in quantities of 15 gallons or more become subject to the shopkeepers' license provision of the pharmacy law. Retail sales of carbolic acid (phenol) in quantities of less than 15 gallons shall be confined to registered pharmacies and registration of such sales shall be made on their official poison register.

[Amended by 1953 c.351 §2]

453.120 Exemption of poisons dispensed under a prescription. (1) Whenever poisons are dispensed in accordance with a written prescription by a licensee of the State Board of Medical Examiners, dentists or veterinarians, and such written prescription is filed and retained by the pharmacist as required by ORS 453.020, the requirements of ORS 453.040 to 453.160 are satisfied and the pharmacist shall affix a poison label only when the prescribing licensee of the State Board of Medical Examiners, dentists or veterinarians so directs.

(2) ORS 453.040 to 453.160 do not apply to the dispensing of physicians prescriptions of any poisons.

453.130 Application to the manufacture or wholesale sales of poisons. Nothing in ORS 453.040 to 453.160 applies to the manufacture, making or selling at wholesale any poisons, except as therein provided, but each box, vessel or package, other than physicians' prescriptions, in which the poison is contained shall be labeled as provided in ORS 453.040 to 453.160.

453.140 Certain medicinal narcotics and other medicinal preparations exempted. The provisions of ORS 453.010 to 453.160, 689.010 to 689.340 and 689.410 to 689.640, governing the sale and distribution of poisons, unless otherwise specifically provided by law, do not apply to the sale or distribution of compounds, preparations or remedies which do not contain more than two grains of opium, or more than one-fourth grain of morphine, or more than one-eighth grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if solid or semisolid preparations, in one avoirdupois ounce; or to liniments, ointments or other preparations which are prepared for external use only, when sold or distributed for use as medicines.

453.150 Sale of antifreeze by garages and filling stations not affected. ORS 453.010 to 453.160, 689.010 to 689.340 and 689.410 to 689.640, shall not be construed to interfere with or prevent the legitimate sale of completely denatured alcohol, methyl alcohol (methanol) by garages and filling stations, when used for antifreeze purposes and poured directly into the radiator of any automobile or motor vehicle by the seller thereof.

453.160 Sale of alcohols for beverage purposes prohibited. No person shall knowingly sell, furnish or give away or cause to be sold, furnished or given away completely denatured alcohol, methyl alcohol (methanol), canned heat or other solidified forms of denatured alcohol, or any preparation containing those substances, to be used for beverage purposes.

453.170 Sale of poisons restricted or prohibited by rule; list of regulated poisons. (1) When, in the opinion of the State Board of Pharmacy, it is in the interest of the public health and morals, it may restrict or

prohibit the retail sale of any poison or alcoholic mixture by rules adopted by it, not inconsistent with law and to be applicable to all persons alike.

(2) The board, upon request, shall furnish any dealer with a list of all articles, preparations and compounds, the sale of which is prohibited or regulated pursuant to this section.

453.180 to 453.200 [Reserved for expansion]

DISTRIBUTION AND SALE OF CAUSTIC OR CORROSIVE ACIDS, ALKALIS AND OTHER SIMILAR SUBSTANCES

453.210 Definitions for ORS 453.210 to 453.240. As used in ORS 453.210 to 453.240, unless the context otherwise requires:

(1) "Dangerous caustic or corrosive substance" means the following substances:

(a) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of 10 percent or more.

(b) Sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H_2SO_4) in a concentration of 10 percent or more.

(c) Nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of five percent or more.

(d) Carbolic acid (C_6H_5OH), otherwise known as phenol, and any preparation containing carbolic acid in a concentration of five percent or more.

(e) Oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($H_2C_4O_4$) in a concentration of 10 percent or more.

(f) Any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 percent or more.

(g) Acetic acid or any preparation containing free or chemically unneutralized acetic acid ($HC_2H_3O_2$) in a concentration of 20 percent or more.

(h) Hypochlorous acid, either free or combined, and any preparation containing the same concentration so as to yield 10 percent or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime.

(i) Potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of 10 percent or more.

(j) Sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of 10 percent or more.

(k) Silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate ($AgNO_3$) in a concentration of five percent or more.

(L) Ammonia water and any preparation yielding free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and hartshorn, in a concentration of five percent or more.

(2) "Misbranded parcel, package or container" means a retail parcel, package or container of any dangerous caustic or corrosive substance for household use not bearing a conspicuous, easily legible label or sticker, containing:

(a) The name of the article.

(b) The name and place of business of the manufacturer, packer, seller or distributor.

(c) The word "POISON," running parallel with the main body of reading matter on said label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than 24-point size, unless there is on said label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker.

(d) Directions for treatment in case of accidental personal injury by the dangerous caustic or corrosive substance.

453.220 Sales in misbranded packages prohibited. No person shall sell, barter or exchange, or receive, hold, pack, display or offer for sale, barter or exchange any dangerous caustic or corrosive substance in a misbranded parcel, package or container.

453.230 Proceedings for seizure and confiscation of misbranded goods; disposition; redelivery. (1) Any dangerous caustic or corrosive substance in a misbranded parcel, package or container suitable for household use that is being sold, bartered or exchanged, or held, displayed or offered for sale, barter or exchange, shall be liable to be proceeded against in any circuit court of the state within the jurisdiction of which the same is found and seized for confiscation by the sheriff of the county in which the same

is found. If such substance is condemned as misbranded, by the court, it shall be disposed of by destruction or sale, as the court may direct. If sold, the proceeds, less the actual costs and charges, shall be paid over to the State Board of Pharmacy, but such substance shall not be sold contrary to the laws of the state. However, upon the payment of the costs of such proceedings and the execution and delivery of a good and sufficient bond to the effect that such substance will not be unlawfully sold or otherwise disposed of, the court may by order direct that such substance be delivered to the owner thereof.

(2) The condemnation proceedings under this section shall conform as near as may be to proceedings provided for in ORS 471.660 and 471.665.

453.240 Enforcement of statute by State Board of Pharmacy. The State Board of Pharmacy shall enforce ORS 453.210 to 453.240. The board may approve and register such brands and labels intended for use under ORS 453.210 to 453.240 as may be submitted to it for that purpose and as may in its judgment conform to the requirements of those statutes. However, in any prosecution under ORS 453.210 to 453.240, the fact that any brand or label involved in the prosecution has not been submitted to the board for approval, or if submitted, has not been approved by it, is immaterial.

453.250 to 453.300 [Reserved for expansion]

PROHIBITING SALE OF DRUGS BY VENDING MACHINES AND SALE OF ADULTERATED DRUGS

453.310 Dispensing of drugs by automatic vending devices prohibited. (1) No drugs shall be dispensed to the public by means of automatic vending machines.

(2) As used in this section:

(a) "Drugs" includes all medicine and preparations recognized in the United States Pharmacopoeia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of either man or animals.

(b) "Automatic vending machine" means any mechanical device or contrivance whereby the purchaser is able to secure drugs without the aid or assistance of another party.

453.320 Sale of adulterated drugs prohibited. No person shall adulterate for the purpose of sale any drug or medicine in such manner as to render the same injurious to health, or knowingly sell or offer for sale any such adulterated drug or medicine.

453.330 to 453.600 [Reserved for expansion]

RADIATION SOURCES

453.605 Definitions for ORS 453.605 to 453.745. In ORS 453.605 to 453.745, unless the context requires otherwise:

(1) "Board" means the State Board of Health.

(2) "Byproduct material" means radioactive material, other than special nuclear material, that is yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(3) "'Federal Government" means the United States or any agency or instrumentality of the United States.

(4) "General license" means a license, effective under regulations of the board without the filing of an application, to acquire, own, possess, use or transfer a device or equipment that produces radiation, or a quantity of, or a device or equipment that utilizes, byproduct material, source material, special nuclear material or other radioactive material that occurs naturally or is produced artificially.

(5) "Person" means any of the following other than the United States Atomic Energy Commission or any successor thereto:

(a) Individual, group, association, firm, partnership, corporation, trust, estate, agency or public or private institution;

(b) Political subdivision or agency of this state;

(c) State other than this state or any political subdivision or agency of a state other than this state; or

(d) The legal successor, representative, agent or agency of a person listed in paragraphs (a) to (c) of this subsection.

(6) "Radiation" means gamma rays, X-rays, alpha particles, beta particles, neutrons, protons, high-speed electrons and other nuclear particles, but "radiation" does not include sound waves, radio waves, visible light, infra-red light or ultra-violet light.

(7) "Source material" means:

(a) Uranium, thorium or any other material which the board declares to be essential to the production of special nuclear material by an order made after the United

States Atomic Energy Commission or any successor thereto has determined the material to be source material; or

(b) Ore that contains such a concentration of one or more materials mentioned in paragraph (a) of this subsection that the board declares the ore to be essential to the production of special nuclear material by an order made after the United States Atomic Energy Commission or any successor thereto has determined such ore to be source material.

(8) "Special nuclear material" means any of the following that is not source material:

(a) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, or any other material which the board declares to be capable of releasing substantial quantities of atomic energy by an order made after the United States Atomic Energy Commission or any successor thereto has determined the material to be special nuclear material.

(b) Material artificially enriched by any material mentioned in paragraph (a) of this subsection.

(9) "Specific license" means a license, issued after application, to receive, acquire, own, possess, use, manufacture, produce or transfer a device or equipment that produces radiation, or a quantity of, or a device or equipment that utilizes, byproduct material, source material or special nuclear material or other radioactive material that occurs naturally or is produced artificially.

(10) "X-ray machine" means a device or equipment that produces radiation when in operation but does not utilize byproduct material, source material, special nuclear material or other radioactive material that occurs naturally or is produced artifically.
[1961 c.664 §3]

453.610 [1957 c.399 §2; repealed by 1961 c.664 §16]

453.615 Statement of policy. It is the policy of the State of Oregon in furtherance of its responsibility to protect the public health and safety:

(1) To institute and maintain a regulatory program for radiation sources so as to provide for:

(a) Compatibility with the standards and regulatory programs of the Federal Government;

(b) An integrated effective system of regulation within the state; and

(c) A system consonant in so far as possible with those of other states; and

(2) To institute and maintain a program to permit development and utilization of radiation sources for peaceful purposes consistent with the health and safety of the public.
[1961 c.664 §1]

453.620 [1957 c.399 §1; repealed by 1961 c.664 §16]

453.625 Purpose of ORS 453.605 to 453.745. It is the purpose of ORS 453.605 to 453.745 to effectuate the policies set forth in ORS 453.615 by providing for:

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

(2) A program to promote an orderly regulatory pattern within the state, among the states and between the Federal Government and this state and to facilitate intergovernmental cooperation with respect to use and regulation of radiation sources to the end that duplication of regulation may be minimized;

(3) A program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to byproduct materials, source materials and special nuclear materials; and

(4) A program to permit maximum utilization of radiation sources consistent with the health and safety of the public.
[1961 c.664 §2]

453.630 [1957 c.399 §§3, 4; repealed by 1961 c.664 §16]

453.635 State Board of Health as State Radiation Control Agency; duties. (1) The State Board of Health is the State Radiation Control Agency, but ORS 453.605 to 453.745 do not apply to a radiation source while it is being transported on a railroad car or in a motor vehicle subject to and in conformity with rules and regulations adopted by the Public Utility Commissioner of Oregon. Except with respect to a radiation source being so transported, to protect occupational and public health and safety against radiation hazards the board shall:

(a) Develop programs to evaluate hazards associated with the use of radiation sources; and

(b) With due regard for compatibility with the regulatory programs of the Federal Government, promulgate standards and make reasonable regulations relating to registration, licensing, use, handling, transport, storage, disposal and control of radiation sources,

including but not limited to byproduct materials, source materials and special nuclear materials.

(2) To protect occupational and public health and safety against radiation hazards the board or its authorized representative may:

(a) Advise, consult and cooperate with other agencies of this state, the Federal Government, other states, interstate agencies, political subdivisions of this state or other states and with groups concerned with control of radiation sources;

(b) Encourage, participate in or conduct studies, investigations, training, research or demonstrations relating to control of radiation sources;

(c) Accept and administer loans, grants or other funds or gifts, conditional or otherwise, from the Federal Government or from any other source, public or private;

(d) Collect and disseminate information relating to control of radiation sources; and

(e) Subject to any applicable provision of the State Civil Service Law, appoint officers and employes and prescribe their duties and fix their compensation.
[1961 c.664 §4]

453.640 [1957 c.399 §5; repealed by 1961 c.664 §16]

453.645 Radiation Advisory Committee; composition; expenses. The board shall appoint a Radiation Advisory Committee to advise the board on matters relating to radiological health and radiation protection. The committee shall consist of eight persons who because of their training and experience are qualified to advise the board on such matters and they shall serve at the pleasure of the board. The members of the Radiation Advisory Committee shall receive no compensation for their services as members, but, subject to any other applicable law regulating mileage, traveling and other expenses for state officers, shall receive their actual and necessary traveling and other expenses incurred in the performance of their official duties.
[1961 c.664 §4a]

453.650 [1957 c.399 §6; repealed by 1961 c.664 §16]

453.655 License or registration required for radiation source. When under ORS 453.605 to 453.745 a license or registration or both, as the case may be, is required for that purpose, no person shall receive, acquire, own, possess, use, manufacture, produce or transfer any radiation source without the license or registration or both, as the case may be.
[1961 c.664 §6]

453.665 Licenses; application; modifications; exemptions. (1) Subject to subsection (2) of this section, the board shall provide for the issuance, allowance, modification, amendment, revision, suspension and revocation of general and specific licenses that relate to byproduct materials, source materials or special nuclear materials and to devices or equipment that utilize any of those materials. The board shall not require a specific license for the use of an X-ray machine within the limits of his license by a licensed dentist, chiropodist or veterinarian or by a person licensed to practice medicine, surgery, osteopathy, chiropractic, naturopathy or any other system or method of healing. Otherwise the board may require registration or a general or specific license or both registration and a general or specific license with respect to any radiation source.

(2) (a) Each application for a specific license shall be in writing and shall state such information as the board by regulation determines both to be necessary to decide the applicant's technical, insurance, financial or other qualifications and to be reasonable and necessary to protect occupational and public health and safety. At any time after the filing of the application for and before the expiration of a specific license the board may require further written statements, and may cause such inspections to be made as the board considers necessary, to determine whether the license should be granted, denied, modified, amended, revised, suspended or revoked. An application for a specific license or any statement relating to that application or to any license pursuant thereto shall be signed by the applicant or licensee. The board may require any such application or statement to be made under oath or affirmation.

(b) Each license shall be in such form and contain such terms and conditions as the board considers necessary to protect the occupational and public health and safety.

(c) No general or specific license or right to possess or use a radiation source under a general or specific license may be assigned in any manner without the approval of the board.

(d) The terms and conditions of any general or specific license may be modified, amended or revised by regulation or order.

(e) Subject to any requirement for registration, the board may by regulation recognize a license from any other state or from the Federal Government as compliance with a license requirement of this section or of ORS 453.635.

(f) When the board finds that a radiation source, a use of a radiation source, a user of a radiation source or a class of such sources, uses or users will not constitute a significant risk to the health and safety of the public, the board may exempt the source, use, user or class, as the case may be, from any requirement for registration or a license.
[1961 c.664 §5]

453.675 Assumption by state of Federal Government's responsibility regarding radiation sources; effect of federal licenses. (1) When in his opinion such agreements will promote public health and safety and assist in the peaceful uses of radiation sources, the Governor on behalf of this state shall enter into agreements with the Federal Government providing for discontinuance of certain of the Federal Government's responsibilities with respect to radiation sources and the assumption thereof by this state.

(2) When a person immediately before the effective date of an agreement under subsection (1) of this section has a license from the Federal Government to do anything which relates to byproduct material, source material or special nuclear material and which on the effective date of the agreement is subject to the control of this state, he shall be considered to have a like license under ORS 453.605 to 453.745 until the expiration date specified in the license from the Federal Government or until the end of the ninetieth day after the person receives notice from the board that the license will be considered expired, whichever is earlier.
[1961 c.664 §7]

453.685 Entry on property for inspection purposes; issuance of warrant; liability for entry. (1) The board or its authorized representative may enter at any reasonable time upon any private or public property, with the permission of the owner or custodian, to determine whether there is compliance with ORS 453.605 to 453.745 and regulations lawfully issued pursuant thereto. When such permission is not obtained or given, if the board or its authorized representative has grounds to believe that a violation of ORS 453.605 to 453.745 or regulations lawfully issued pursuant thereto exists, the board or representative may apply to the proper judicial officer for a warrant to enter upon the property for purposes of inspection, search or seizure consonant with the scope of ORS 453.605 to 453.745; except that in a case where the board or representative has grounds to believe that a violation of ORS 453.605 to 453.745 or regulations pursuant thereto exists which presents a clear and present danger to the health, safety or security of the state or its citizens, the board or its representative may make such entry of property as is reasonable to abate the danger involved and for that purpose.

(2) Upon application to the proper judicial officer for a warrant to enter property under this section, the judicial officer shall forthwith summarily determine whether or not grounds to issue such warrant exists, and if he finds such exists, he shall immediately issue a warrant authorizing entry by the board or its authorized representative upon the described property for the purposes of ORS 453.605 to 453.745. No member or authorized representative of the board shall be liable for injury or damage resulting from action taken or authorized by such member or representative in good faith and without malice under the apparent authority of this section, even though such action is later judicially determined to be unlawful.
[1961 c.664 §8]

453.695 Records concerning radiation source; notice of exposure to radiation source. (1) When the board by regulation so requires, any person who possesses or uses a radiation source shall cause to be made, in the manner prescribed by the board, records relating to the receipt, storage, transfer and disposition of the source and to such other matters as the board prescribes.

(2) Any person who possesses or uses a radiation source shall cause to be made, in the manner prescribed by the board, records showing the radiation exposure of any individual who is affected by such possession or use and for whom the board by regulation requires personnel monitoring.

(3) (a) Each person who possesses or uses a radiation source and who has reason to believe that any individual has received from that source radiation exposure in excess of the maximum permissible exposure established for an individual by regulations of the board shall give that individual notice of the

possible exposure with a copy of any record of the exposure.

(b) Any person who possesses or uses a radiation source and who, in connection with that possession or use, employs an individual for whom the board by regulation requires personnel monitoring, in addition to any requirement of paragraph (a) of this subsection shall, if the individual so requests or if regulations of the board so require, give the individual a copy of the individual's personnel monitoring exposure record annually and at the end of the employment.

(4) Upon the request of the board or its authorized representative, the custodian of any record required by this section shall give a copy of that record to the board or its authorized representative.
[1961 c.664 §10]

453.705 Impounding radiation source upon violation. When a radiation source is in the possession, custody or control of any person who is not equipped to observe or who fails to observe any applicable provision of or regulation pursuant to ORS 453.605 to 453.745, upon the issuance of an emergency order under ORS 453.725 the board or its authorized representative may cause that source to be impounded.
[1961 c.664 §11]

453.715 Injunction against violation. When the board in writing notifies the Attorney General that, in the judgment of the board, a person has engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of or regulation pursuant to ORS 453.605 to 453.745, if the board so requests, the Attorney General shall apply to the circuit court for the county of that person's residence for an order enjoining such act or practice, or for an order directing compliance; and upon a showing by the board that that person has engaged or is about to engage in any such act or practice, the court may grant a permanent or temporary injunction or restraining order or other order.
[1961 c.664 §12]

453.725 Hearings on regulations, orders and licenses. (1) The procedures under ORS 453.605 to 453.745 apply in lieu of any like procedures that otherwise may be applicable under ORS 183.310 to 183.510.

(2) Notwithstanding any contrary provision of ORS 183.310 to 183.510, upon request of any person whose interest may be affected the board or its authorized representative shall admit that person as a party, and give that person an opportunity for a hearing, in a proceeding to:

(a) Issue or modify a regulation relating to the control of radiation sources;

(b) Allow, grant, suspend, modify, amend, revise or revoke a general or specific license; or

(c) Determine compliance with or grant exemption from a regulation of the board.

(3) Notwithstanding any contrary provision of ORS chapter 183:

(a) When the board or its authorized representative finds that an emergency requires immediate action to protect the public health or safety against radiation, the board or its authorized representative may, without notice or hearing, issue a regulation or order reciting the existence of the emergency and requiring that such action be taken as is necessary to meet the emergency. The regulation or order takes effect immediately; and any person to whom the regulation or order applies shall comply therewith immediately.

(b) Within 30 days after receiving an application for a hearing from a person to whom a regulation or order under paragraph (a) of this subsection applies the board or its authorized representative shall give that person a hearing. Within 30 days after the completion of the hearing the board or its authorized representative shall, on the basis of that hearing, continue, modify or revoke the regulation or order.

(4) A final order entered in a proceeding under subsection (1) or (2) of this section is subject to judicial review in the manner provided in ORS 183.480 to 183.500.
[1961 c.664 §13]

453.735 ORS 453.605 to 453.745 and regulations of board supersede contrary laws or regulations. Each provision of ORS 453.605 to 453.745 or regulations pursuant thereto supersedes any inconsistent provision of any ordinance, resolution, regulation, rule or order of any county, city, other political subdivision or public corporation of this state.
[1961 c.664 §14]

453.745 Intergovernmental cooperation to control radiation sources. (1) Subject to the approval of the Governor, to protect the public health and safety and to assist in the peaceful uses of radiation sources the board may cooperate with the Federal Government, other states or interstate agencies to perform

functions, including inspection, that relate to control of radiation sources.

(2) The board may institute programs to qualify personnel to carry out the provisions of ORS 453.605 to 453.745 and may make those personnel available for participation with the Federal Government, other states or interstate agencies in any program in furtherance of the purposes of ORS 453.605 to 453.745.

[1961 c.664 §9]

453.750 to 453.980 [Reserved for expansion]

PENALTIES

453.990 Penalties. (1) Violation of ORS 453.020 is punishable, upon conviction, by a fine of not less than $20 nor more than $50 and the cost of prosecution for the first offense. Each subsequent offense is punishable, upon conviction, by a fine of not less than $25 nor more than $100.

(2) Any sale in violation of the rules and regulations of the board, as provided in subsection (1) of ORS 453.030, is punishable, upon conviction, by a fine of not less than $20 nor more than $100.

(3) Violation of ORS 453.040 to 453.150 is punishable, upon conviction, by a fine of not less than $20 nor more than $100 or by imprisonment for not more than 30 days, or both.

(4) Violation of ORS 453.050, 453.090 or 453.100 is punishable, upon conviction, by a fine of not less than $20 nor more than $100 and the cost of prosecution of each offense.

(5) Violation of ORS 453.160 is a felony and is punishable, upon conviction, by a fine of not less than $200 nor more than $500 or by imprisonment in the penitentiary for not more than five years, or both. The penalties in this subsection do not supplant, mitigate or diminish the penalties provided by law for a person found guilty of manslaughter.

(6) Any sale in violation of the rules or regulations made under ORS 453.170 is punishable, upon conviction, by a fine of not less than $25 nor more than $500.

(7) Violation of ORS 453.210 to 453.240 is punishable, upon conviction, by a fine of not more than $200, or by imprisonment for not more than 90 days, or by both.

(8) Violation of ORS 453.310 is punishable, upon conviction, by a fine of not more than $100, or imprisonment in the county jail for not more than 90 days, or by both.

(9) Violation of ORS 453.320 is punishable, upon conviction, by a fine of not less than $50 nor more than $500 or by imprisonment in the county jail for not less than three months nor more than one year. Moreover, the adulterated drugs or medicines shall be forfeited and destroyed.

(10) Any person who knowingly violates any provision of or any regulation pursuant to ORS 453.605 to 453.745 shall be punished, upon conviction, as for a misdemeanor.

[Subsection (10) enacted as 1961 c.664 §15]

453.992 Jurisdiction. Circuit courts, justice courts and district courts have concurrent original jurisdiction to try causes arising out of violations of ORS 453.010 to 453.160.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1961.

Sam R. Haley
Legislative Counsel

CHAPTERS 454 AND 455

[Reserved for expansion]