

LEGISLATIVE BILL 1047

Approved by the Governor March 28, 1986

Introduced by Wesely, 26

AN ACT relating to fees; to amend sections 39-669.11, 42-121.01, and 71-5306, Reissue Revised Statutes of Nebraska, 1943, and sections 71-1116, 71-2619, 71-4305, and 71-4624, Revised Statutes Supplement, 1984; to authorize the Department of Health to establish certain fees; to change provisions relating to fees; to harmonize provisions; to create a fund; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 39-669.11, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-669.11. Any test made under the provisions of section 39-669.08, if made in conformity with the requirements of this section, shall be competent evidence in any prosecution under a state statute or city or village ordinance involving operating a motor vehicle while under the influence of alcoholic liquor, or involving driving or being in actual physical control of a motor vehicle with an amount of alcohol in the blood in violation of a statute or a city or village ordinance. Tests to be considered valid shall have been performed according to methods approved by the Department of Health and by an individual possessing a valid permit issued by such department for such purpose. The department is authorized to approve satisfactory techniques or methods and to ascertain the qualifications and competence of individuals to perform such tests and to issue permits which shall be subject to termination or revocation at the discretion of the department. A permit fee may be established by regulation by the department which shall not exceed the actual cost of processing the initial permit. Such fee shall be charged annually to each permit holder.

The fees shall be used to defray the cost of processing and issuing the permits and other expenses incurred by the department in carrying out this section. The fee shall be deposited in the state treasury and credited to the Department of Health Cash Fund as a

laboratory service fee.

Sec. 2. That section 42-121.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-121.01. For the purposes of section sections 42-121, to 42-128, if a standard serological test for syphilis is performed by the Department of Health, a fee not to exceed five dollars per test shall be charged for may be established by regulation by the department to defray no more than the actual cost of such laboratory test performed by the department. Such fee shall be deposited in the State Treasury state treasury and credited to the Department of Health Cash Fund.

Sec. 3. That section 71-1116, Revised Statutes Supplement, 1984, be amended to read as follows:

71-1116. Every physician, or other person authorized by law to practice obstetrics, who will shall be attending pregnant women in the state for conditions relating to their pregnancy during the period of gestation or at delivery shall, in the case of every woman so attended, take or cause to be taken a sample of the blood of such woman at the time of the first examination; and shall submit such sample to an approved laboratory for a standard serological test for syphilis. Every other person permitted by law to attend pregnant women in the state, but not permitted by law to take blood samples, shall cause such a sample of the blood of such pregnant women to be taken by a physician, duly licensed to practice either medicine and surgery; or obstetrics, or other person authorized by law to take such sample of blood and have such sample submitted to an approved laboratory for a standard serological test for syphilis. The results of all such laboratory tests shall be reported to the Director of Health on standard forms prescribed and furnished by the Department of Health. For the purpose of this section, a standard serological test shall be a test for syphilis approved by the Director of Health; and shall be made at a laboratory approved to make such tests by the Director of Health. Such laboratory tests, as are required by this section, shall be made on request at the Department of Health laboratory. A fee may be established by regulation by the department not to exceed seven dollars per test shall be charged to defray no more than the actual cost of such tests. Such fee shall be deposited in the state treasury and credited to the Department of Health Cash Fund. In reporting every birth and

stillbirth, physicians, and others required to make such reports, shall state on the portion of the certificate entitled For Medical and Health Use Only whether a blood test for syphilis has been made upon a specimen of blood taken from the woman who bore the child for which a birth or stillbirth certificate is filed, and the approximate date when the specimen was taken. No 7 PROVIDED, that no birth certificate shall show the result of such test. If no test was made, the reason shall be stated. The department shall provide the necessary clerical, printing, and other expenses in carrying out the provisions of this section.

Sec. 4. That section 71-2619, Revised Statutes Supplement, 1984, be amended to read as follows:

71-2619. (1) The Department of Health may by regulation establish fees to defray the costs of providing specimen containers, shipping outfits, and related supplies, and fees to defray the costs of certain laboratory examinations as requested by individuals, firms, corporations, or governmental agencies in the state. Fees for the provision of certain classes of shipping outfits or specimen containers shall be no more than the actual cost of materials, labor, and delivery. Fees for the provision of shipping outfits may be made when no charge is made for service.

(2) Fees may be established by regulation for such examinations shall include chemical or microbiological examinations of various categories of water samples. Fees established for examination of water to ascertain qualities for domestic, culinary, and associated uses shall not exceed the following amounts be set to defray no more than the actual cost of the tests in the following categories: (a) Each inorganic inorganic chemical assays; assay, twelve dollars; (b) each organic pollutants; pollutant, twenty dollars; and (c) bacteriological examination to indicate sanitary quality as coliform density by membrane filter test; or equivalent test, 7 ten dollars.

(2) Combinations of different tests or groups of tests submitted together, as specified by regulation, may be offered at rates less than those set for individual tests as allowed in this section.

(3) Fees for examinations of water from lakes, streams, impoundments, or similar sources, from wastewaters, or from ground water for industrial or agricultural purposes may be made at fees charged in amounts established therefor, by regulation but shall

not to exceed one and one half times the limits set by department regulation for examination of domestic waters, as provided in this section-

(4) Fees may be established by regulation for chemical or microbiological examinations of various categories of samples to defray no more than the actual cost of testing. Such fees may be charged for:

(a) Any specimen submitted for radiochemical analysis or characterization;

(b) Any material submitted for chemical characterization or quantitation; and

(c) Any material submitted for microbiological characterization.

(5) (3) Fees may be established by regulation for the examinations of certain categories of biological and clinical specimens to defray no more than the actual costs of testing, except that such fees shall not exceed fifteen dollars- Such fees may be charged for examinations pursuant to law or departmental regulation of:

(a) Any specimen submitted for chemical examination for assessment of health status or functional impairment;

(b) Any specimen submitted for microbiological examination which is not related to direct human contact with the microbiological agent; and

(c) A specimen submitted for microbiological examination or procedure by an individual, firm, corporation, or governmental unit other than the Department of Health.

(4) (6) The department shall not charge fees for tests that include microbiological isolation, and identification examination, or other laboratory examination for the following:

(a) A contagious disease when the Department of Health is authorized by law or regulations to directly supervise the prevention, control, or surveillance of such contagious disease;

(b) Any emergency when the health of the people of any part of the state is menaced or exposed pursuant to section 71-502; and

(c) When adopting or enforcing special quarantine and sanitary regulations authorized by the department.

(7) Combinations of different tests or groups of tests submitted together may be offered at rates less than those set for individual tests as allowed in this section and shall defray the actual costs.

(8) Fees may be established by regulation to

defray no more than the actual costs of conducting qualifying inspections in order to make laboratory agreements between the department and laboratories other than the Department of Health Laboratory for the purpose of conducting analyses of drinking water as prescribed in section 71-5306. The inspection fees shall be collected on an annual schedule from those laboratories which enter into an agreement with the department for the purpose of conducting laboratory analyses of water. Such fees shall not exceed the amount in the following categories: (a) Bacteriological examination agreement, one hundred and fifty dollars; (b) inorganic chemical analyses agreement, one hundred dollars; (c) heavy metal analyses agreement, two hundred dollars; (d) organic chemical analyses agreement, two hundred dollars; and (e) radiochemical analyses agreement, two hundred dollars.

(5) Fees for provision of certain classes of shipping outfits or specimen containers, when no charge is made for services, may be made as established by regulation to defray no more than the actual cost of materials, labor, and delivery. No such fee shall exceed five dollars per unit.

(6) (9) All fees collected pursuant to this section shall be deposited in the state treasury and credited to the Department of Health Cash Fund.

Sec. 5. That section 71-4305, Revised Statutes Supplement, 1984, be amended to read as follows:

71-4305. (1) The Department of Health shall make at least one inspection every year of each swimming pool to determine that such swimming pool complies with the minimum sanitary and safety requirements.

(2) The owner and operator of any swimming pool shall submit such operation and analytical records as may be requested at any time by the Department of Health to determine the sanitary and safety condition of the swimming pool.

(3) The Department of Health may charge the owners or operators of swimming pools an inspection fee for each inspection made under the provisions of this section or section 71-4306. Such fee shall be sixty dollars for Class B swimming pools. The distinction between Class A and Class B swimming pools shall be prescribed by regulation by the Department of Health. An additional one hundred dollar fee shall be charged for any second reinspection made of the same facility within six months from the date of the first inspection.

(4) Individuals tested at swimming pool

operator clinics conducted by the Department of Health shall be charged an examination fee of five dollars. The Department of Health shall charge engineering firms, swimming pool owners and operators, and other appropriate parties fees established by regulation for the review of plans and specifications of a swimming pool, the issuance of a license or permit, the provision of swimming pool operator testing services, the inspection of a swimming pool, and any other services rendered at a rate which defrays no more than the actual cost of the services provided. All fees shall be paid as a condition of annual renewal of licensure or of continuance of licensure.

All fees collected under this section shall be deposited in the Department of Health Cash Fund. The Department of Health shall not charge a municipal corporation an inspection fee for an inspection of a swimming pool owned by such municipal corporation.

Sec. 6. That section 71-4624, Revised Statutes Supplement, 1984, be amended to read as follows:

71-4624. (1) The application for the first or initial annual license shall be submitted with the requirements mentioned in section 71-4623, accompanied by the following appropriate fees, for the following categories of mobile home parks: (a) These having facilities for less than four mobile homes, twenty-five dollars; (b) those having facilities for four to fifteen mobile homes, fifty dollars; (c) those having facilities for sixteen to twenty-five mobile homes, seventy-five dollars; (d) those having facilities for twenty-six to fifty mobile homes, one hundred dollars; (e) those having facilities for fifty-one to one hundred mobile homes, one hundred twenty-five dollars; and (f) those having facilities for more than one hundred mobile homes, one hundred seventy-five dollars. Such license fees shall be paid for each of the categories as a condition of annual renewal of licensure. The Department of Health by regulation shall charge engineering firms, mobile home park owners and operators, and other appropriate parties fees established by regulation for the review of plans and specifications of a mobile home park, the issuance of a license or permit, the inspection of a mobile home park, and any other services rendered at a rate which defrays no more than the actual costs of the services provided. All fees shall be paid as a condition of annual renewal of licensure or of continuance of licensure.

(2) All license fees collected by the

department shall be paid into the state treasury and shall be credited by the State Treasurer to the Mobile Home Park Fund, which fund is hereby created. Such fund shall be used by the department for the purpose of administering the provisions of sections 71-4621 to 71-4634 the Uniform Standard Code for Mobile Home Parks.

(3) When any application is received, the department shall cause the mobile home park and appurtenances thereto to be inspected by representatives of the department. When such inspection has been made and the department finds that all of the provisions of the Uniform Standard Code for Mobile Home Parks sections 71-4621 to 71-4634 and the rules, regulations, and standards of the department have been met by the applicant, the department shall issue an annual license. Inspection by the department or its authorized representatives at any time of a mobile home park shall be is a condition of continued licensure.

Sec. 7. That section 71-5306, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5306. To carry out the provisions and purposes of sections 71-5301 to 71-5313 the Nebraska Safe Drinking Water Act, the director may:

(1) Enter into agreements, contracts, or cooperative arrangements, under such terms as are deemed appropriate, with other state, federal, or interstate agencies or with municipalities, educational institutions, local health departments, or other organizations, entities, or individuals;

(2) Require all laboratory analyses to be performed at the Department of Health Laboratory, or at any other laboratory which has entered into an agreement with the Department of Health therefor, and establish and collect fees for making laboratory analyses of water samples pursuant to sections 71-2618 to 71-2621, except that the provisions of subsection (4) (6) of section 71-2619, shall not apply for purposes of sections 71-5301 to 71-5313 the Nebraska Safe Drinking Water Act. Inspection fees for making other laboratory agreements shall be established and collected pursuant to sections 71-2618 to 71-2621;

(3) Receive financial and technical assistance from an agency of the federal government or from any other public or private agency;

(4) Enter the premises of a public water supply system at any time for the purpose of conducting monitoring, making inspections, or collecting water samples for analysis;

(5) Delegate those responsibilities and duties as deemed appropriate for the purpose of administering the requirements of ~~sections 71-5301 to 71-5313~~ the Nebraska Safe Drinking Water Act, including entering into agreements with designated agents which shall perform specifically delegated responsibilities and possess specifically delegated powers; and

(6) Require the owner and operator of a public water supply system to establish and maintain records, make reports, and provide information as the department may reasonably require by regulation to enable it to determine whether such owner or operator has acted or is acting in compliance with ~~the provisions of sections 71-5301 to 71-5313~~ the Nebraska Safe Drinking Water Act and rules and regulations adopted pursuant thereto. The department or its designated agent shall have access at all times to such records and reports; and

(7) Assess by regulation a fee for any review of plans and specifications pertaining to a public water supply system governed by section 71-5305 and a fee for any issuance or reissuance of a certificate of competency issued pursuant to sections 71-5307 to 71-5309 in order to defray no more than the actual cost of the services provided.

All such fees collected by the Department of Health shall be paid into the state treasury and shall be credited to the Safe Drinking Water Act Cash Fund, which is hereby created. Such fund shall be used by the department for the purpose of administering the Nebraska Safe Drinking Water Act.

Sec. 8. That original sections 39-669.11, 42-121.01, and 71-5306, Reissue Revised Statutes of Nebraska, 1943, and sections 71-1116, 71-2619, 71-4305, and 71-4624, Revised Statutes Supplement, 1984, are repealed.