SECURITY ACT FOR NUCLEAR ENERGY

Act 113 of 2014

AN ACT to create the security act for nuclear energy; and to clarify the rights and duties of officers providing security at nuclear generating facilities.

History: 2014, Act 113, Eff. July 9, 2014

The People of the State of Michigan enact:

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780.941 Rights and duties of officer providing security at nuclear generating facility; notice of authorization; immunity from civil liability; modification of common law; definitions.

Sec. 1.

(1) An officer providing security at a nuclear generating facility may use physical force, other than deadly physical force, against another individual if that officer providing security honestly and reasonably believes that the physical force, other than deadly physical force, is necessary to prevent or terminate that other individual's unlawful trespass at that nuclear generating facility under section 552 of the Michigan penal code, 1931 PA 328, MCL 750.552.

(2) An officer providing security at a nuclear generating facility may use physical force, including deadly physical force, against another individual if the officer providing security honestly and reasonably believes that the use of physical force, including deadly physical force, is necessary to prevent or terminate an individual from breaking and entering or attempting to break and enter into the business premises of a nuclear generating or nuclear storage building or structure with the intent to commit a crime involving the infliction or threatened infliction of serious physical harm to any individual, or to deter a threat of radiological sabotage or a threat of theft or diversion of special nuclear material.

(3) Notwithstanding any other provision of this act, an officer providing security at a nuclear generating facility may threaten to use physical force, including deadly physical force, if the officer providing security honestly and reasonably believes it is necessary to protect himself or herself or another individual against another individual's potential use of physical force, including deadly physical force, or to deter a threat of radiological sabotage or a threat of theft or diversion of special nuclear material.

(4) Notice of the authorization provided in subsection (2) shall be conspicuously posted at all entrances to the business premises of a nuclear generating or nuclear storage building or structure and at intervals along the perimeter in such a manner as to provide reasonable notice of that authorization to persons about to enter.

(5) An officer providing security at a nuclear generating facility, the employer of an officer providing security at a nuclear generating facility, and the owner and the operator of a nuclear generating facility are immune from civil liability for the conduct of an officer providing security at a nuclear generating facility that is lawful under this section.

(6) Except as provided in this section, this section does not modify the common law of this state in existence on the effective date of this act regarding the use of deadly force.

(7) As used in this section:

(a) "Business premises of a nuclear generating or nuclear storage building or structure" means a building or other structure used to generate electricity using nuclear power, or that is used to store special nuclear material associated with or resulting from generating electricity using nuclear power. Business premises of a nuclear generating or nuclear storage building or structure include any appurtenant building or structure and any barrier or barrier system surrounding that building or structure or appurtenant building or structure that is designed to protect against radiological sabotage or theft or diversion of special nuclear material that is required to be designated and posted against trespassing under 42 USC 2278a, or any other substantially equivalent federal law.

(b) "Nuclear generating facility" means 1 or more of the following:

(i) A facility that is located in this state that generates electricity using nuclear power for sale, directly or indirectly, to the public.

(ii) A facility that is located in this state that was formerly used to generate electricity using nuclear power for sale, directly or indirectly, to the public, and that stores special nuclear material.

(iii) The land surrounding a facility described in subparagraph (i) or (ii) that is in the possession of the facility

owner or operator.

(iv) Any nuclear generating or nuclear storage building or structure on land described in subparagraph (iii).

(c) "Officer providing security at a nuclear generating facility" means a security officer employed by or under contract with a nuclear generating facility who is employed as part of any security plan approved by the United States nuclear regulatory commission or its successor agency and who is performing his or her duties under that plan.

(d) "Special nuclear material" means material capable of a self-sustaining fission chain reaction.

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