

SENATE BILL No. 26

February 5, 1991, Introduced by Senators SCHWARZ, DE GROW, GAST, VAUGHN, HOLMES and WELBORN and referred to the Committee on Labor.

A bill to regulate levels of asbestos and asbestos containing material in educational facilities and to designate conditions under which response actions may be conducted.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Asbestos" means a group of naturally occurring minerals
3 that separate into fibers, including chrysotile, amosite, crocid-
4 olite, asbestiform anthophyllite, asbestiform tremolite, and
5 asbestiform actinolite.

6 (b) "Asbestos containing material" means any material or
7 product containing 1% or more asbestos.

8 (c) "Cost" means the discounted present value of all antici-
9 pated future expenditures associated with a course of action in
10 an area where asbestos removal is being requested.

1 (d) "Demolition" means the razing or taking out of any
2 load-supporting structural member accompanied by the removal of
3 asbestos containing material.

4 (e) "Educational facility" means a building owned, leased,
5 or under the control of a public or nonpublic K-6, K-8, or K-12
6 school system.

7 (f) "Encapsulate" means the sealing of asbestos or asbestos
8 containing material by means of the spraying of liquid sealant or
9 any other suitable sealing method.

10 (g) "Enclosure" means an airtight, impermeable permanent
11 barrier around asbestos containing material designed to prevent
12 the release of friable fibers of asbestos containing material
13 into the air.

14 (h) "Friable", when referring to asbestos containing materi-
15 al, means material which can, by hand pressure, be crumbled, pul-
16 verized, or reduced to powder when dry.

17 (i) "Operations and maintenance plan" means a program of
18 work practices to maintain asbestos or friable asbestos contain-
19 ing material in good condition, to ensure the cleanup of asbestos
20 or friable asbestos containing material previously released, and
21 to prevent further release of asbestos or asbestos containing
22 material by minimizing and controlling damage or disturbance of
23 asbestos or asbestos containing material.

24 (j) "Removal" means the taking out or stripping of asbestos
25 or asbestos containing material from an existing structure.

1 (k) "Renovation" means the removal or stripping of asbestos
2 or asbestos containing material used on any pipe, duct, boiler,
3 tank, reactor, turbine, furnace, or structural member.

4 Sec. 3. (1) The measurement of asbestos levels shall be
5 made by either or both of the following methods:

6 (a) Optical phase contrast microscopy in the manner
7 described in the measurement protocol provided by the United
8 States occupational safety and health administration in 29
9 C.F.R. 1910.

10 (b) Transmission electron microscopy in the manner described
11 in the measurement protocol provided by the United States envi-
12 ronmental protection agency in 40 C.F.R. 763 but recording only
13 those fibers greater than 5 microns in length.

14 (2) If a question arises as to the presence of fibers that
15 may not be asbestos, a measurement made by transmission electron
16 microscopy shall be considered controlling.

17 Sec. 5. Educational facilities shall comply with the stan-
18 dards contained in the asbestos hazard emergency response act,
19 title II of the toxic substance control act, Public Law 94-469,
20 15 U.S.C. 2641 to 2654, regarding the implementation of opera-
21 tions and maintenance plans for educational facilities found to
22 contain asbestos or asbestos containing material.

23 Sec. 7. (1) Except as provided in subsection (2), asbestos
24 or asbestos containing material shall not be removed from an edu-
25 cational facility unless 1 or more of the following circumstances
26 exist:

1 (a) The removal is required under the clean air act, chapter
2 360, 69 Stat. 322, 43 U.S.C. 7401 to 7428, 7450 to 7459, 7470 to
3 7479, 7491, 7501 to 7508, 7521 to 7525, 7541 to 7550, 7571 to
4 7574, 7601 to 7622, 7624 to 7626, and 7641 to 7642, due to the
5 breaking up of asbestos or asbestos containing material during
6 renovation or demolition.

7 (b) The removal is required under the asbestos hazard emer-
8 gency response act, 15 U.S.C. 2641 to 2654, title II of the toxic
9 substance control act, Public Law 94-469 under conditions where
10 asbestos or asbestos containing material is significantly damaged
11 friable surface asbestos containing material, where there is sig-
12 nificantly damaged thermal insulation found to have asbestos con-
13 taining material, or where there is significantly damaged friable
14 miscellaneous asbestos containing material for which enclosure,
15 encapsulation, or other response actions described in 40
16 C.F.R. 763.90 are considered to be insufficient to protect human
17 health and the environment.

18 (c) The exposure level of asbestos fibers that are 5 microns
19 or longer in length in an educational facility exceeds .05 fibers
20 per cubic centimeter of air calculated as an 8-hour weighted
21 average during periods of normal building occupancy as determined
22 by the testing methods described in section 3 and conducted not
23 less than 6 months after the implementation of an operation and
24 maintenance plan.

25 (d) The cost of an operations and maintenance plan exceed
26 the cost of removal and removal complies with standards as
27 mandated under the asbestos hazard emergency response act, title

1 II of the toxic substance control act, Public Law 94-469, 15
2 U.S.C. 2641 to 2654.

3 (2) A licensed asbestos abatement contractor or a person
4 exempt from licensure under the asbestos abatement contractor
5 licensing act, Act No. 135 of the Public Acts of 1986, being sec-
6 tions 338.3101 to 338.3319 of the Michigan Compiled Laws, may
7 remove asbestos or asbestos containing material which is inciden-
8 tal to normal maintenance or repair.