

SENATE BILL NO. 894

February 18, 1998, Introduced by Senator SHUGARS and referred to the Committee on Human Resources, Labor and Veterans Affairs.

A bill to amend 1986 PA 135, entitled "Asbestos abatement contractors licensing act," by amending the title and sections 103, 207, 211, 217, 220, and 221 (MCL 338.3103, 338.3207, 338.3211, 338.3217, 338.3220, and 338.3221), the title as amended by 1990 PA 2 and sections 103, 207, and 220 as amended and section 221 as added by 1993 PA 55.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

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An act to provide for the licensing and regulation of asbes-

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tos abatement contractors; to create the asbestos abatement con-

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tractors licensing board; to ~~establish the~~ PRESCRIBE CERTAIN

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powers and duties of the department of ~~public health and~~

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CONSUMER AND INDUSTRY SERVICES; TO ESTABLISH THE POWERS AND

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DUTIES OF the asbestos abatement contractors licensing board; to

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create an asbestos abatement fund and to provide for expenditures

1 from the fund; to provide for the promulgation of rules; to
2 provide for certain fees; and to provide for penalties and civil
3 fines.

4 Sec. 103. As used in this act:

5 (a) "Administrative procedures act of 1969" means ~~Act~~
6 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to~~
7 ~~24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 TO
8 24.328.

9 (b) "Asbestos" means a group of naturally occurring minerals
10 that separate into fibers, including chrysotile, amosite, crocid-
11 olite, anthophyllite, tremolite, and actinolite.

12 (c) "Asbestos abatement contractor" means a business entity
13 that is licensed under this act and that carries on the business
14 of asbestos abatement on the premises of another business entity
15 and not on the asbestos abatement contractor's premises.

16 (d) "Asbestos abatement project" means any activity involv-
17 ing persons working directly with the demolition, renovation, or
18 encapsulation of friable asbestos materials.

19 (e) "Board" means the asbestos abatement contractors licens-
20 ing board created in section 201.

21 (f) "Business entity" means a person, partnership, firm,
22 association, corporation, sole proprietorship, public or private
23 agency, or other legal entity.

24 (g) "Construction contractor" means a business entity that,
25 pursuant to a contract with the owner or lessee of real property,
26 provides an improvement to that property.

1 (h) "Construction subcontractor" means a business entity
2 that, pursuant to a contract with a person other than the owner
3 or lessee of the real property, performs any part of a construc-
4 tion contractor's contract for an improvement to that property.

5 (i) "Demolition" means the razing or taking out of any
6 load-supporting structural member and any related removing or
7 stripping of friable asbestos materials.

8 (j) "Department" means the department of ~~public health~~
9 CONSUMER AND INDUSTRY SERVICES.

10 (k) "Encapsulate" means the sealing of friable asbestos
11 materials by means of the spraying of liquid sealant or any other
12 suitable sealing method.

13 (l) "Friable asbestos material" means any material that con-
14 tains more than 1% asbestos by weight and that can be crumbled,
15 pulverized, or reduced to powder when dry, by hand pressure.

16 (m) "License" means an authorization issued by the depart-
17 ment upon recommendation by the board for demolition, renovation,
18 encapsulation, or removal of asbestos.

19 (n) "Neutral party" means a business entity that is not part
20 of the asbestos abatement contractor's primary or secondary
21 family and is not legally associated to any business operated by
22 the asbestos abatement contractor.

23 (o) "Removal" means the taking out or stripping of asbestos
24 from an existing structure.

25 (p) "Renovation" means the removal or stripping of friable
26 asbestos materials used on any pipe, duct, boiler, tank, reactor,

1 turbine, furnace, or structural member. Renovation does not
2 include any of the following:

3 (i) An operation necessitated by a nonroutine failure of
4 equipment.

5 (ii) An unplanned operation resulting from a sudden unex-
6 pected event.

7 (iii) An operation in which load-supporting structural mem-
8 bers are wrecked or taken out.

9 (q) "Structural member" means any load-supporting member,
10 including, but not limited to, beams and load-supporting walls,
11 or any nonsupporting member, including, but not limited to, ceil-
12 ings and nonload-supporting walls.

13 (r) "Working day" means any day other than a Saturday,
14 Sunday, or state legal holiday.

15 Sec. 207. (1) Except as otherwise provided in subsection
16 (2), an asbestos abatement contractor shall not engage in any
17 activity involving the demolition, renovation, or encapsulation
18 of friable asbestos materials without first receiving a license
19 from the department.

20 (2) ~~Until June 1, 1998, the~~ THE licensing requirement of
21 subsection (1) does not apply to any of the following if engaged
22 in an asbestos abatement project that is incidental to the pri-
23 mary licensed trade and involves not more than 160 square feet or
24 260 linear feet of friable asbestos materials:

25 (a) A business entity licensed under the electrical adminis-
26 trative act, ~~Act No. 217 of the Public Acts of 1956, being~~

1 ~~sections 338.881 to 338.892 of the Michigan Compiled Laws 1956~~
2 PA 217, MCL 338.881 TO 338.892.

3 (b) A business entity licensed under the Forbes mechanical
4 contractors act, ~~Act No. 192 of the Public Acts of 1984, being~~
5 ~~sections 338.971 to 338.988 of the Michigan Compiled Laws 1984~~
6 PA 192, MCL 338.971 TO 338.988.

7 (c) A business entity licensed under ~~Act No. 266 of the~~
8 ~~Public Acts of 1929, being sections 338.901 to 338.917 of the~~
9 ~~Michigan Compiled Laws 1929 PA 266, MCL 338.901 TO 338.917.~~

10 (d) A business entity licensed as a residential builder or a
11 residential maintenance and alteration contractor under article
12 24 of the occupational code, ~~Act No. 299 of the Public Acts of~~
13 ~~1980, being sections 339.2401 to 339.2412 of the Michigan~~
14 ~~Compiled Laws 1980 PA 299, MCL 339.2401 TO 339.2412.~~

15 Sec. 211. (1) Within 15 working days after receiving a
16 license application, the department shall acknowledge receipt of
17 the application and notify the applicant of any deficiency in the
18 application. Within 60 calendar days after receiving a completed
19 application, including all additional information requested by
20 the department, the department shall issue a license ~~by certi-~~
21 ~~fied mail or shall~~ OR deny the license application. The license
22 shall contain a statement in bold print that the issuance of a
23 license does not infer asbestos indemnification coverage.

24 (2) The department shall deny a license application if the
25 department determines that the applicant has not demonstrated the
26 ability to comply with either of the following:

1 (a) The applicable requirements and procedures established
2 by the department and the board ~~pursuant to~~ UNDER this act.

3 (b) Other state and federal law pertaining to the health and
4 safety aspects of asbestos demolition, renovation, and
5 encapsulation.

6 (3) If the department denies a license, the department shall
7 return to the applicant the application fee, less \$25.00.

8 (4) Proceedings for the denial of a license ~~pursuant to~~
9 UNDER this act shall be in accordance with the administrative
10 procedures act of 1969.

11 Sec. 217. (1) Unless the department revokes or suspends a
12 license, the license shall remain in effect for 1 year from the
13 date of issuance.

14 (2) The department shall renew a license annually if the
15 asbestos abatement contractor satisfies the following
16 conditions:

17 (a) Submits a completed application for a renewal on forms
18 provided by the department no sooner than 90 days before the
19 license expires and not later than 30 days before the license
20 expires. AN APPLICATION FOR RENEWAL THAT IS RECEIVED AFTER THE
21 TIME PERIOD DESCRIBED IN THIS SUBDIVISION SHALL BE TREATED AS AN
22 INITIAL APPLICATION AND SHALL REQUIRE PAYMENT OF AN INITIAL
23 LICENSE FEE, RATHER THAN A RENEWAL LICENSE FEE.

24 (b) Pays to the department the license renewal fee as speci-
25 fied in section 209.

26 (c) Has complied with all applicable requirements of this
27 act and the rules promulgated under this act.

1 Sec. 220. (1) ~~Until June 1, 1998, an~~ AN asbestos
2 abatement contractor shall notify the department in writing of
3 all of the following at least 10 days before beginning an asbes-
4 tos abatement project exceeding 10 linear feet or 15 square feet,
5 or both, of friable asbestos materials:

6 (a) The name and address of the owner of the building or
7 structure.

8 (b) The location of the building or structure where the
9 asbestos abatement project will be performed.

10 (c) The schedule for the starting and completion of the
11 asbestos abatement project which may not exceed 1 year in
12 length.

13 (d) The amount of friable asbestos materials that will be
14 removed or encapsulated.

15 (2) ~~Until June 1, 1998, if~~ IF during the course of a
16 project and after a written contract is executed, a business
17 entity that is exempt from licensure under section 207(2) and
18 whose primary licensed trade is not that of an asbestos abatement
19 contractor discovers that the removal or encapsulation of asbes-
20 tos in an amount exceeding 10 linear feet or 15 square feet, or
21 both, is required, that business entity shall notify the depart-
22 ment of the asbestos abatement project before asbestos removal
23 begins. Not more than 10 days after the discovery, the business
24 entity shall provide written notification to the department in
25 the manner described in subsection (1)(a) to (d).

26 (3) ~~Until June 1, 1998, an~~ AN asbestos abatement
27 contractor providing written notification to the department

1 pursuant to subsection (1) for an asbestos abatement project
2 shall include a fee equal to 1% of the price of the contract for
3 the asbestos abatement project and shall make available upon the
4 request of the department a copy of the contract for the asbestos
5 abatement project. All fees collected pursuant to this subsec-
6 tion shall be deposited in the asbestos abatement fund created in
7 subsection (5).

8 (4) ~~Until June 1, 1998, in~~ IN the case of a business
9 entity that provides notice under subsection (2) for an asbestos
10 abatement project that is incidental to the business entity's
11 primary licensed trade and where asbestos is actually removed by
12 that business entity, the primary licensed trade contractor shall
13 include a fee of 1% of the asbestos abatement project portion of
14 the contract price and shall make available upon the request of
15 the department a copy of that portion of the contract covering
16 the asbestos abatement. All fees collected pursuant to this sub-
17 section shall be deposited in the asbestos abatement fund created
18 in subsection (5).

19 (5) The asbestos abatement fund is created and ~~—, until~~
20 ~~June 1, 1998,~~ shall exist in the state treasury and shall
21 receive revenue as provided in this act and other revenue as the
22 legislature may provide. The state treasurer shall direct the
23 investment of the fund. All interest and earnings of the fund
24 shall be retained by the fund. Money in the fund at the close of
25 the fiscal year shall remain in the fund and shall not revert to
26 the general fund.

1 (6) Money in the asbestos abatement fund created in
2 subsection (5) shall be used by the department only for the
3 asbestos-related responsibilities of the department under this
4 act which includes, but is not limited to, the inspection of
5 asbestos abatement projects and the education of asbestos abate-
6 ment contractors. It does not include use of the fund by the
7 department for asbestos abatement projects on state owned
8 property.

9 (7) Not later than October 1 of each year, ~~and until~~
10 ~~June 1, 1998,~~ the department shall report to the legislature and
11 the applicable committees in the house of representatives and the
12 senate on the amount of money generated by the fees charged under
13 this section. The report shall include the number of asbestos
14 abatement projects inspected and the number of citations issued
15 for violations of this act and other applicable laws, rules, and
16 regulations.

17 (8) ~~Until June 1, 1998, emergency~~ EMERGENCY asbestos
18 abatement projects resulting from equipment failure or malfunc-
19 tions are exempt from the 10-day written advance notice imposed
20 under this section. The written notice in emergency situations
21 shall be provided within 48 hours after the commencement of the
22 asbestos abatement project except that the business entity shall
23 contact the department telephonically immediately or as soon as
24 possible after the discovery of the emergency situation.

25 Sec. 221. (1) ~~Until June 1, 1998, except~~ EXCEPT as pro-
26 vided by this subsection, a building or structure owner or lessee
27 shall have a post abatement air monitoring check performed by a

1 qualified neutral party completely independent of the asbestos
2 abatement contractor at all asbestos abatement project sites
3 involving a negative pressure enclosure as specified by 29
4 C.F.R. 1926.58 (e)(6) that involve 10 or more linear feet or 15
5 or more square feet of friable asbestos materials. If the asbes-
6 tos abatement contractor and the building or structure owner or
7 lessee agree, the owner or lessee may have the post abatement air
8 monitoring check required by this subsection performed by
9 in-house personnel or by the asbestos abatement contractor.

10 (2) Whenever feasible, unless waived by the building or
11 structure owner or lessee, the post abatement air monitoring
12 check required by this section shall make use of aggressive air
13 sampling methods as described in unit III.B.7.d. to appendix A to
14 subpart E of part 763 of title 40 of the code of federal regula-
15 tions, which is adopted in this act by reference.

16 (3) Upon request by the department, a post abatement air
17 monitoring check taken pursuant to this section shall be reported
18 to the department.

19 (4) After completion of the asbestos abatement project, the
20 level of asbestos fibers per cubic centimeter of air that are
21 more than 5 micrometers in length when sampled and analyzed
22 according to method 7400 entitled "fibers" issued by the national
23 institute of occupational safety and health (NIOSH) on 2/15/84
24 and revised on 5/15/89 which was published in the NIOSH manual of
25 analytical methods, 3rd edition, shall not exceed 0.05 asbestos
26 fibers at the asbestos abatement project site.