

ASBESTOS ABATEMENT CONTRACTORS LICENSING ACT (EXCERPT)

Act 135 of 1986

CHAPTER III

338.3301 Duties of department.

Sec. 301. The department, with the advice of the board, shall do all of the following:

- (a) Administer this act.
- (b) Issue licenses.

(c) Promulgate rules as may be necessary for the orderly conduct of its affairs in relation to this act and for the administration of this act pursuant to the administrative procedures act of 1969.

History: 1986, Act 135, Eff. July 2, 1986.

Compiler's note: Sec. 317 of this act provides: "The licensing provisions of this act shall take effect 3 months after the effective date of this act."

For transfer of authority, powers, duties, functions, and responsibilities of the asbestos abatement contractors licensing board to the director of the Michigan state department of public health, see E.R.O. No. 1994-1, compiled at MCL 333.26322 of the Michigan Compiled Laws.

338.3303 Receiving or initiating complaints of alleged violations.

Sec. 303. The department shall receive or initiate complaints of alleged violations of this act or rules promulgated under this act and take action with respect to alleged violations or complaints as prescribed by this act.

History: 1986, Act 135, Eff. July 2, 1986.

Compiler's note: Sec. 317 of this act provides: "The licensing provisions of this act shall take effect 3 months after the effective date of this act."

338.3305 Investigation; grounds for denying, suspending, or revoking license; applicability.

Sec. 305. (1) The department, in its own discretion, upon a recommendation by the board, or upon the written complaint of an aggrieved party or of a state agency or political subdivision, may investigate the acts of an asbestos abatement contractor under this act. After an investigation, the department may deny, suspend, or revoke a license issued under this act if an asbestos abatement contractor is found to be not in compliance with this act or the rules promulgated under this act. In addition, the department may deny, suspend, or revoke a license for any of the following:

(a) A willful or negligent act that causes any person to be exposed to asbestos in violation of this act, a rule promulgated under this act, or other state or federal law pertaining to the public health and safety aspects of asbestos demolition, renovation, and encapsulation.

(b) Falsification of records.

(c) Continued failure to obtain or renew a license.

(d) Deliberate misrepresentation of an act in applying for a license.

(e) Permitting any person who has not received the proper training and certification under state or federal law to come in contact with asbestos or be responsible for an asbestos abatement project.

(2) If the license of a business entity is denied, suspended, or revoked under this act, the denial, suspension, or revocation applies to each partner, trustee, director, officer, or person exercising control of the business entity.

History: 1986, Act 135, Eff. July 2, 1986;—Am. 1993, Act 55, Imd. Eff. June 8, 1993.

Compiler's note: Sec. 317 of this act provides: "The licensing provisions of this act shall take effect 3 months after the effective date of this act."

338.3306 Issuance of subpoena by circuit court.

Sec. 306. Upon application by the attorney general or a party to a contested case, the circuit court may issue a subpoena requiring a person to appear before a hearings examiner in the contested case or before the department in an investigation and be examined with reference to a matter within the scope of that contested case or investigation and to produce books, papers, or documents pertaining to that contested case or investigation.

History: Add. 1993, Act 55, Imd. Eff. June 8, 1993.

338.3307 Monetary civil penalties; issuance, contents, and delivery of citation.

Sec. 307. (1) The department, upon recommendation by the board, shall promulgate pursuant to the administrative procedures act of 1969, a schedule of monetary civil penalties of not more than \$10,000.00 for each violation or day that the violation continues which may be assessed for a specified violation of this act or

a rule promulgated under this act. For a violation of the licensing provision in section 207, the department shall establish monetary civil penalties in substantial compliance with the United States environmental protection agency's civil penalty policy for asbestos demolition and renovation but not more than \$25,000.00 for each violation or day that the violation continues.

(2) If the department believes that a person has violated this act or a rule promulgated under this act, the department may issue a citation at that time or not later than 90 days after discovery of the alleged violation. The citation shall be written and shall state with particularity the nature of the violation, including reference to the section of this act or the rule alleged to have been violated, the civil penalty established for the violation, if any, and the right to appeal the citation pursuant to section 309. The citation shall be personally delivered or sent by registered mail to the alleged violator.

History: 1986, Act 135, Eff. July 2, 1986.

Compiler's note: Sec. 317 of this act provides: "The licensing provisions of this act shall take effect 3 months after the effective date of this act."

338.3309 Petition for administrative hearing; notice; attendance of employee representative; affirming, dismissing, or modifying citation; judicial review; finality, payment, and recovery of civil penalty; conduct of administrative hearings.

Sec. 309. (1) Not later than 20 days after receipt of a citation issued pursuant to section 307, the alleged violator may petition the department for an administrative hearing which shall be held before the board or the board's designated representative within 30 days after receipt of the petition. The department shall notify the alleged violator's employees or employee representative that an administrative hearing will be held and the date, time, and place of the hearing. The alleged violator shall permit the attendance of an employee representative at the administrative hearing. After the administrative hearing, the director of the department may affirm, dismiss, or modify the citation.

(2) An alleged violator aggrieved by a decision of the director of the department under this section may petition the circuit court of the county in which the violation was alleged to have occurred for review. The petition shall be filed not later than 60 days following receipt of the director's final decision.

(3) A civil penalty becomes final if a petition for an administrative hearing or review is not received within the time specified in this section. A civil penalty imposed under this act shall be payable to the department for deposit with the general fund. A civil penalty may be recovered in a civil action brought in the county in which the violation occurred or the defendant resides.

(4) Administrative hearings under this section shall be conducted pursuant to the administrative procedures act of 1969.

History: 1986, Act 135, Eff. July 2, 1986.

Compiler's note: Sec. 317 of this act provides: "The licensing provisions of this act shall take effect 3 months after the effective date of this act."

338.3311 Violation as misdemeanor; penalty; prosecution.

Sec. 311. Notwithstanding the provisions of sections 307 and 309, any asbestos abatement contractor who engages in the trade or business of asbestos abatement without a license as provided for by this act or any person who violates this act or any rules promulgated under this act and who fails to correct the violation after notice is guilty of a misdemeanor, punishable by a fine of not more than \$500.00, and upon conviction for a subsequent offense, not more than \$1,000.00, or imprisonment for not more than 6 months, or both. A violation of this act may be prosecuted by either the attorney general or the prosecuting attorney of the judicial district in which the violation was committed.

History: 1986, Act 135, Eff. July 2, 1986.

Compiler's note: Sec. 317 of this act provides: "The licensing provisions of this act shall take effect 3 months after the effective date of this act."

338.3313 Application of other sanctions, penalties, or provisions not precluded.

Sec. 313. The application of sanctions under this act shall not preclude the application of other sanctions, penalties, or provisions of any other federal, state, or political subdivision.

History: 1986, Act 135, Eff. July 2, 1986.

338.3315 Annual report.

Sec. 315. The department shall submit to the legislature and the governor an annual report on the status of the licensing of asbestos abatement contractors.

History: 1986, Act 135, Eff. July 2, 1986.

338.3317 Effective date of licensing provisions.

Sec. 317. The licensing provisions of this act shall take effect 3 months after the effective date of this act.

History: 1986, Act 135, Eff. July 2, 1986.

338.3319 Conditional effective date.

Sec. 319. This act shall not take effect unless Senate Bill No. 770 of the 83rd Legislature is enacted into law.

History: 1986, Act 135, Eff. July 2, 1986.

Compiler's note: Senate Bill No. 770, referred to in Sec. 319, was filed with the Secretary of State on July 2, 1986, and became P.A. 1986, No. 147, Imd. Eff. July 2, 1986.