
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1207 Session of
1989

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APRIL 18, 1989

REFERRED TO COMMITTEE ON LABOR RELATIONS, APRIL 18, 1989

AN ACT

1 Requiring licensing of persons engaged in asbestos-related
2 occupations; providing guidelines for asbestos removal
3 operations; granting regulatory powers to the Department of
4 Labor and Industry; creating the Asbestos Control Advisory
5 Committee; providing for public education; providing for
6 penalties; and making an appropriation.

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10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Short title.

13 This act shall be known and may be cited as the Asbestos
14 Licensing and Removal Act.

15 Section 2. Legislative findings and intent.

16 The General Assembly finds that improperly performed asbestos
17 removal and other asbestos control measures create unnecessary
18 and undesirable public health hazards. Exposure to airborne
19 asbestos fibers has been shown to cause significant increases in
20 the incidence of diseases such as asbestosis, lung cancer,
21 mesothelioma and other malignancies. Substantial amounts of
22 asbestos materials have been used in buildings for fireproofing,
23 insulation, soundproofing, decoration and other purposes. The
24 presence of airborne asbestos in concentrations far exceeding
25 background ambient levels has been found in buildings where
26 friable asbestos materials are present, but especially where
27 these materials have become damaged or eroded, or where they
28 have been disturbed by maintenance or renovation work. Efforts
29 to prevent exposure to asbestos by removing asbestos or
30 employing other remedial measures can result in increased

1 exposure for building occupants and the general public if the
2 abatement work is not performed in accordance with procedures
3 designed to prevent human and environmental contamination. It
4 is, therefore, the intent of this act to protect the public
5 health by preventing exposure to asbestos in buildings through
6 regulation of asbestos abatement and renovation or demolition
7 activity which damages or disturbs asbestos materials.

8 Section 3. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Air monitoring." The process of sampling and measuring the
13 fiber content of a known volume of air in a known period of
14 time.

15 "Asbestos." Asbestifoam varieties of chrysotile,
16 crocidolite, amosite, actinolite, anthophyllite and tremolite.

17 "Asbestos abatement." An activity designed to control fiber
18 release from asbestos material and prevent asbestos exposure,
19 including removal, enclosure or encapsulation of asbestos
20 materials.

21 "Asbestos-containing material." A substance which contains
22 more than 1% asbestos by weight.

23 "Asbestos contractor." A business or individual who
24 contracts to perform asbestos abatement or renovation, repair or
25 demolition work involving asbestos materials.

26 "Asbestos inspection report." A document prepared by an
27 independent certified asbestos investigator concerning the
28 presence and condition of asbestos material in a building.

29 "Asbestos project supervisor." A person employed by an
30 asbestos contractor or building owner to supervise asbestos

1 project activities.

2 "Asbestos worker." A person who directly performs or
3 supervises asbestos abatement or renovation, repair or
4 demolition work involving asbestos materials.

5 "Authorized employee representative." A person designated by
6 an employee to represent the employee or a designated
7 representative of an employee organization recognized or
8 certified to represent the employee.

9 "Building." A public or private commercial, industrial or
10 institutional structure or a residential structure which
11 contains four or more dwelling units.

12 "Building occupants." Employees, tenants or other persons
13 who live or work in, or utilize the services offered in, a
14 building.

15 "Building owner." The owner of a building or the owner's
16 authorized representative.

17 "Certified asbestos worker." A person who has completed an
18 approved training or review course and has received a training
19 certificate.

20 "Containment bag." A plastic bag specifically designed to
21 permit the removal of asbestos insulation material without
22 releasing fibers into the air.

23 "Department." The Department of Labor and Industry of the
24 Commonwealth.

25 "Discriminatory action." An action taken by an employer
26 which adversely affects an employee with respect to any terms or
27 conditions or employment or opportunity for promotion. The term
28 includes, but is not limited to, dismissal, layoff, suspension,
29 demotion, transfer of job or location, reduction in wages,
30 changes in hours of work, or reprimand.

1 "Emergency situation." A condition requiring immediate
2 removal or repair of less than 80 square feet of friable
3 asbestos material or less than 20 linear feet of asbestos pipe
4 covering where the failure to remove or repair such material
5 would result in the shutting down of mechanical systems or
6 manufacturing equipment.

7 "Employee." A person currently employed, laid off,
8 terminated with reemployment rights or on leave of absence who
9 is permitted or suffered to work by an employer.

10 "Employer." An individual, person, partnership, association,
11 corporation, proprietorship, the Commonwealth or any of its
12 political subdivisions, or an agency, authority, board or
13 commission created by the Commonwealth or a political
14 subdivision, which permits or suffers another to work.

15 "Encapsulation." The spraying or coating of exposed asbestos
16 materials with an approved sealant to prevent the release of
17 asbestos fibers.

18 "Friable asbestos-containing material." An asbestos material
19 that, when dry, can be crumbled, pulverized or reduced to powder
20 by hand pressure, including an asbestos material rendered
21 friable by asbestos project activity.

22 "HEPA." A high efficiency particulate absolute filter
23 capable of filter efficiency at 99.97% of a test aerosol with an
24 average particle size of three-tenths microns.

25 "Incidental asbestos project." A project that disturbs or
26 damages any of the following:

27 (1) Five square feet or less of friable asbestos
28 material at one location.

29 (2) One linear foot or less of asbestos pipe covering at
30 one location.

1 "Independent certified asbestos project inspector." A
2 technically qualified person who is approved by the Department
3 of Labor and Industry and employed or retained by a building
4 owner to identify the presence and evaluate the condition of
5 asbestos material in a building, and who is not associated with
6 the asbestos contractor on the project.

7 "Independent certified laboratory." An analytical testing
8 laboratory which is approved by the Department of Labor and
9 Industry to analyze bulk, dust or air samples for asbestos, and
10 which is not associated with the contractor performing the
11 asbestos work on the project.

12 "License." An authorization issued by the Department of
13 Labor and Industry permitting a contractor to engage in the
14 business of asbestos abatement or renovation, repair or
15 demolition work involving asbestos materials.

16 "Location." A work area in which an asbestos project is
17 undertaken, and, where contiguous minor asbestos project work
18 areas may be combined practicably for the purpose of meeting the
19 standards for major asbestos projects, the combination of minor
20 asbestos project work areas shall comprise one location.

21 "Major asbestos project." A project involving, within one
22 year, the removal, enclosure or encapsulation of, or a
23 renovation, repair or demolition work which disturbs or damages,
24 either 80 square feet or more of, friable asbestos material from
25 ceilings, walls, structural members, mechanical components or
26 other surfaces of a building; or 40 linear feet or more of
27 asbestos pipe covering within a single building or at one
28 location.

29 "Minor asbestos project."

30 (1) A project involving, within one year, the removal,

enclosure or encapsulation of, or renovation, repair or demolition work which disturbs or damages, one of the following:

(i) More than 12 but less than 80 square feet of friable asbestos material at one location.

(ii) More than three but less than 40 linear feet of asbestos pipe covering at one location.

(2) An asbestos project in a private residence involving more than 12 square feet of friable asbestos material, or more than three linear feet of asbestos pipe covering, regardless of the amount of asbestos removed, enclosed, encapsulated, disturbed or damaged.

"Permit." An authorization issued by the Department of Labor and Industry permitting a contractor or another person to commence a major asbestos project.

"Person." An individual, natural person, syndicate, association, partnership, firm, corporation, institution, trustee, agency, authority, department, bureau or other legal entity.

"Private residence." A private residential structure which contains less than four dwelling units.

"Reoccupancy standard." A maximum allowable concentration of airborne asbestos fibers established by the Department of Labor and Industry for reoccupancy of a building or a portion of it following completion of an asbestos project.

"Small asbestos project." A project involving the removal, enclosure or encapsulation of or renovation, repair or demolition work which disturbs or damages any of the following:

(1) More than five but not more than 12 square feet of friable asbestos material at one location.

1 (2) More than one but not more than three linear feet of
2 asbestos pipe covering at one location.

3 "Secretary." The Secretary of Labor and Industry of the
4 Commonwealth.

5 Section 4. Licensing.

6 (a) General rule.--To ensure that asbestos work is performed
7 properly, in a manner which protects building occupants and the
8 general public from exposure to asbestos, a contractor shall be
9 licensed by the department prior to engaging in an asbestos
10 project.

11 (b) Regulations.--The department shall establish and publish
12 regulations governing the qualifications and standards for the
13 issuance and renewal of an asbestos contractor's license.

14 Standards and qualifications shall, at a minimum, include:

15 (1) Successful completion of approved training and
16 review courses required by this act and certification by the
17 department.

18 (2) Use of certified asbestos workers.

19 (3) Use of appropriate equipment and materials.

20 (c) Life of license.--Licenses shall be valid for one year,
21 renewable at a fee to be set by the department.

22 (d) Application requirements.--Applicants for a license or
23 license renewal shall provide, in addition to any other
24 information required, a complete record of all violations,
25 penalties and other sanctions imposed, in regard to asbestos
26 project activity during the previous 12 months, by the
27 Commonwealth, its political subdivisions or another
28 jurisdiction.

29 (e) Issuance.--The department may issue a license if the
30 department has certified, in writing, that the applicant meets

1 the qualifications established by the department. The department
2 shall renew a license unless the department has certified, in
3 writing, that the applicant has not met the qualifications and
4 standards established by the department. The department shall
5 review annually the compliance record of all asbestos
6 contractors.

7 (f) License denial, suspension or revocation.--The
8 department, upon finding that an asbestos contractor has failed
9 to comply with the provisions of this act and regulations
10 promulgated under it, shall deny, suspend or revoke a license or
11 refuse to renew a license, until the contractor is found to be
12 in compliance with this act.

13 Section 5. Permits and notifications.

14 (a) Major projects.--A contractor or other person may
15 commence a major asbestos project if he has obtained a permit
16 for that project from the department.

17 (b) Minor projects.--A contractor or other person may
18 commence a minor asbestos project subsequent to providing
19 notification of the project to the department. Notification
20 shall be provided to the department at least 24 hours before the
21 project begins, in a manner prescribe by the department by
22 regulation.

23 (c) Annual permits.--Employers with ongoing, in-house
24 asbestos abatement projects involving continuous or intermittent
25 asbestos work performed by the employer's own employees may
26 apply for an annual permit rather than for a project permit each
27 time asbestos work commences. Project permit fees shall be based
28 on the estimated cost of the asbestos abatement portion of the
29 project but shall be no less than 2% of the first \$50,000 and an
30 additional 1% of any amount over \$50,000. The minimum fee shall

1 be \$100.

2 (d) Requirements.--The department shall establish, by
3 regulation, the requirements for obtaining a permit. The
4 requirements shall include, but not be limited to:

5 (1) Use of certified asbestos workers.

6 (2) Use of appropriate equipment and materials.

7 (e) Applications.--Permit applications shall include, but
8 not be limited to, the following information:

9 (1) Name and address of the contractor or other person
10 responsible for the asbestos project.

11 (2) Name and address of the independent certified
12 asbestos project inspector.

13 (3) Name and address of the independent certified
14 laboratory.

15 (4) Name and address of the asbestos waste transporter.

16 (5) Name and address of the asbestos waste disposal
17 facility.

18 (6) Name and address of the building owner.

19 (7) Location of the building.

20 (8) Description of the asbestos project, including the
21 amount and location of asbestos materials.

22 (9) Description of procedures and equipment that will be
23 used to comply with the asbestos project standards
24 established by this act, including any alternative equivalent
25 methods proposed for work area preparation.

26 (10) Estimated cost of the project.

27 (11) Scheduled starting and completion dates.

28 (f) Issuance.--The department may issue a permit if the
29 department has certified, in writing, that the applicant has met
30 the requirements established by the department. In addition, the

1 department shall impose upon a permit the terms and conditions
2 it deems necessary to ensure compliance with the provisions of
3 this act or regulations promulgated under it.

4 (g) Project modifications.--After a permit has been issued,
5 the applicant shall notify the department, in advance, of
6 changes in the asbestos project not accounted for in the permit
7 application and shall submit an amended permit application
8 before project completion.

9 (h) Permit denial, suspension or revocation.--The
10 department, upon finding that a person has failed to comply with
11 the provisions of this act or regulations promulgated under it,
12 shall deny, suspend or revoke a permit until the applicant is
13 found to be in compliance with this act.

14 (i) Additional requirements for annual permit holders.--

15 (1) Employers exempted by an annual permit from
16 obtaining project permits shall notify the department at
17 least 24 hours prior to commencing and completing an asbestos
18 project activity except in emergency situations requiring
19 immediate abatement action. In emergency situations,
20 employers shall notify the department as soon as possible.

21 (2) Asbestos project activity shall comply with major
22 project standards, except that mandatory department
23 preinspections and final inspections are not required.

24 (3) The department shall conduct inspections to
25 determine compliance with the standards and procedures
26 established by this act and the regulations promulgated under
27 it.

28 (4) Employees engaged in ongoing, in-house abatement
29 projects are subject to the training and certification
30 requirements and, where applicable, any other duties and

responsibilities imposed by this act.

(5) Fees for annual permits shall be set by the department.

Section 6. Certification.

(a) Asbestos workers.--

(1) No person shall directly perform or supervise an asbestos abatement, renovation, repair or demolition work which disturbs or damages asbestos materials unless that person has been properly trained and certified by the department.

(2) The department shall certify each person who has completed an approved training or review course and has been awarded a training certificate or who has been exempted from completing an initial training course by the department. At the time of certification, the department shall provide all persons certified to perform work on asbestos projects with written information on the relationship between smoking and asbestos exposure.

(3) Each asbestos worker, supervisor and contractor shall complete, or qualify as exempted from completing, an initial training course in order to obtain initial certification and shall complete an annual review course in order to renew the certification. A person who fails to renew the certification of three or more consecutive years shall be required to complete an initial training course in order to be recertified.

(4) Certification by the department shall be valid for one year from completion of an approved training or review course. The department shall have the power to set and collect fees for certification.

1 (5) The employer shall ensure that each asbestos worker
2 engaged in an asbestos project is currently certified by the
3 department.

4 (6) The department shall issue to each certified
5 asbestos worker an identification card valid for one year
6 from completion of an approved training or review course.
7 Asbestos workers shall have their identification cards in
8 their possession while working on an asbestos project.

9 (7) The following persons are exempted from completing
10 initial training courses, but are required to complete annual
11 review courses thereafter:

12 (i) Experienced asbestos workers who have
13 successfully completed appropriate training programs if
14 the training programs have been reviewed and approved by
15 the department.

16 (ii) A person who has fulfilled the certification
17 requirements of another jurisdiction if the certification
18 requirements have been reviewed and approved by the
19 department.

20 (8) The department shall promulgate regulations which
21 establish criteria for reviewing and approving training
22 programs and certification requirements.

23 (9) The department shall revoke or suspend its
24 certification of an asbestos worker who fails to comply with
25 the provisions of this act or the regulations promulgated
26 under it.

27 (b) Asbestos project inspectors.--

28 (1) Asbestos project inspectors employed or retained by
29 building owners to perform air sampling and visual
30 inspections on major asbestos projects shall be certified

1 annually by the department.

2 (2) The department shall establish criteria for approval
3 of asbestos project inspectors.

4 (3) Certification shall be valid for one year. The
5 department shall have the power to set and collect fees for
6 certification.

7 (c) Analytical testing laboratories.--

8 (1) Laboratories that perform analysis of bulk, dust or
9 air samples for asbestos shall be certified annually by the
10 department.

11 (2) The department shall establish criteria for approval
12 of analytical testing laboratories.

13 (3) Certification shall be valid for one year. The
14 department shall have the power to set and collect fees for
15 certification.

16 Section 7. Training.

17 (a) Annual program certification.--Asbestos training
18 programs shall be certified annually by the department.

19 (b) Regulation.--The department shall promulgate regulations
20 which establish criteria for approval of training programs,
21 including, but not limited to, instructors, curricula and
22 examinations.

23 (c) Fees.--The department shall have the power to set and
24 collect fees for certification.

25 (d) Instructors.--Initial training and review courses shall
26 be taught by technically qualified individuals.

27 (e) Course completion evidence.--Asbestos training programs
28 shall issue a training certificate to a person who completes an
29 initial training or review course.

30 (f) Written examination necessary.--The successful

1 completion of a training course shall include passage of a
2 written examination.

3 (g) Classroom instruction.--An initial training course shall
4 be Environmental Protection Agency approved and shall provide at
5 least 24 hours of instruction until June 1, 1990, and 32 hours
6 of instruction after that date. Classroom instruction shall
7 include, but not be limited to, the following topics:

8 (1) Recognition of asbestos material, including its
9 physical character and uses.

10 (2) Health hazards of asbestos, including the
11 relationship between asbestos exposure, smoking and disease.

12 (3) Permissible asbestos exposure limits established or
13 recommended by OSHA, NIOSH and other agencies or professional
14 organizations.

15 (4) Worker protection, including respiratory protection,
16 protective clothing, decontamination procedures, air
17 monitoring, medical surveillance and personal hygiene.

18 (5) Use and care of respirators, including the
19 protection afforded, fitting and testing procedures,
20 maintenance and cleaning.

21 (6) Work practices, including work area preparation,
22 procedures and equipment for reducing airborne asbestos
23 fibers, waste cleanup and disposal, and work area
24 decontamination.

25 (7) Requirements, procedures and standards of the
26 department.

27 (8) Negative air pressure systems and procedures.

28 (h) Practicum.--In addition to classroom instruction, an
29 initial training course shall provide at least 16 hours of
30 actual experience in asbestos work practices through a simulated

1 asbestos project and individual instructions and practice in the
2 use and fit testing of respirators.

3 (i) Review.--A review course shall provide at least eight
4 hours of review of topics covered in the initial training
5 course, incorporating any new developments in asbestos abatement
6 procedures and equipment.

7 Section 8. Standards for major asbestos projects.

8 The department shall promulgate regulations which establish
9 standards for major asbestos projects in order to protect the
10 health and safety of building occupants and the general public
11 by preventing the dispersion of asbestos fibers through a
12 building or into the environment. Standards shall include, but
13 not be limited to, the following requirements:

14 (1) Work area preparation:

15 (i) Appropriate caution signs shall be posted at all
16 entrances to the asbestos project work area and waste
17 storage area at all times during the asbestos project,
18 until the reoccupancy standard has been met.

19 (ii) All furniture, equipment, fixtures and other
20 movable objects shall be HEPA-vacuumed and, where
21 feasible, wet-cleaned and removed from the work area.

22 (iii) Other objects that cannot be removed shall be
23 HEPA-vacuumed and, where feasible, wet-cleaned and
24 covered with plastic sheeting taped in place.

25 (iv) Except to allow for entry of air necessary to
26 maintain negative pressure, the work area shall be
27 isolated for the duration of the asbestos project by
28 completely enclosing the work area and sealing off all
29 doors, windows, ducts and other openings with plastic
30 sheeting taped in place.

1 (v) Ventilation systems into or out of the work area
2 shall be shut down.

3 (vi) An effective airlock chamber which will prevent
4 contamination outside the work area shall be constructed
5 at the entrance to the work area.

6 (vii) Walls shall be covered by at least four-mil
7 thick plastic sheeting taped in place. Floors shall be
8 covered by at least two layers of six-mil thick plastic
9 sheeting taped in place.

10 (viii) A series of three enclosed areas connected to
11 the work area and separated by sealable barriers shall be
12 constructed in order to prevent asbestos workers from
13 carrying asbestos outside the work area on their bodies,
14 clothing or equipment. The area shall include:

15 (A) An equipment area for removal of
16 contaminated protective clothing and storage of
17 contaminated equipment, clothing and other items.

18 (B) A walk-through shower area where, after
19 leaving the work area and removing their protective
20 clothing in the equipment area, workers shower to
21 remove all asbestos from their bodies.

22 (C) A clean area where, before entering the work
23 area, workers change from street clothes into clean
24 protective clothing and respirators and store their
25 street clothes in lockers.

26 (ix) A negative pressure system shall be established
27 with HEPA-filtered exhaust units that achieve a rate of
28 at least one air change in the work area every 15 minutes
29 and maintain negative air pressure in the work area at
30 all times in order to prevent airborne asbestos fibers

1 from escaping the work area.

2 (x) Building occupants shall be removed from any
3 floor where an asbestos project is in progress, unless
4 the work area is separated completely either by an
5 airtight physical barrier, such as a wall, or by a
6 plastic barrier with the work area under negative
7 pressure.

8 (xi) The department may approve alternative
9 equivalent methods for work area preparation proposed in
10 the permit application.

11 (2) Asbestos project procedures:

12 (i) No person may enter the work area during an
13 asbestos project without proper equipment, clothing and
14 training.

15 (ii) The contractor or supervisor shall provide all
16 authorized persons who enter the work area with required
17 protective clothing and equipment, in accordance with
18 applicable Federal regulations. The clothing shall be
19 disposable protective clothing, including full-body
20 coveralls, head and foot covers, gloves and appropriate
21 respirators, not disposable paper dust masks, approved by
22 NIOSH for asbestos exposure.

23 (iii) The contractor or supervisor shall ensure
24 that:

25 (A) Protective clothing and equipment is
26 properly used.

27 (B) Respirators are used, fitted and worn in a
28 proper manner.

29 (C) Workers wear protective clothing and
30 appropriate respirators in the work area and in other

1 contaminated areas at all times.

2 (D) Workers refrain from eating, drinking and
3 smoking in the work area and in other contaminated
4 areas.

5 (E) Workers remove asbestos debris from clothing
6 and equipment before leaving the work area; remove
7 protective clothing and leave contaminated clothing,
8 equipment and other materials in the equipment area;
9 and shower before entering the clean area.

10 (iv) Appropriate air monitoring to determine worker
11 exposure shall be conducted for all asbestos workers not
12 covered by the OSHA Asbestos Standards.

13 (v) Removal procedures shall include the following:

14 (A) Asbestos materials shall be thoroughly
15 wetted with an appropriate wetting solution before
16 being removed, in order to minimize the amount of
17 asbestos fibers in the air which could escape the
18 work area.

19 (B) Dry removal of asbestos materials shall be
20 permitted only when wet removal is not feasible and
21 only with the approval of the department.

22 (C) Containment bag techniques shall be used to
23 the maximum extent feasible for removal of asbestos
24 pipe insulation or other appropriate asbestos
25 materials. The department may approve alternative,
26 equivalent methods for work area preparation proposed
27 in the permit application when containment bag
28 techniques are used.

29 (vi) Encapsulation procedures shall include the
30 following:

1 (A) Encapsulation shall be permitted only in
2 areas where there is minimal activity and where
3 asbestos materials are not damaged, deteriorated,
4 delaminated, readily accessible to building occupants
5 or likely to be disturbed by building maintenance
6 activity.

7 (B) Only encapsulants approved by the department
8 may be used to encapsulate asbestos materials.

9 (C) The department shall maintain a list of
10 approved encapsulants.

11 (D) Asbestos materials that have been
12 encapsulated shall be clearly labeled with a hazard
13 warning prescribed by the department. Labeling shall
14 remain in place as long as the encapsulated asbestos
15 materials remain intact.

16 (vii) Waste disposal procedures shall include the
17 following:

18 (A) As asbestos materials are removed, they
19 shall be thoroughly wetted and placed into plastic
20 disposal bags.

21 (B) Asbestos-contaminated materials such as
22 plastic sheeting, clothing and other items shall be
23 placed into plastic disposal bags.

24 (C) Plastic disposal bags shall be sealed,
25 cleaned and, while being removed from the work area,
26 placed into approved six-mil thick plastic disposal
27 bags, which shall be sealed, labeled in accordance
28 with applicable EPA regulations and transported to an
29 approved waste disposal facility.

30 (D) Asbestos contaminated materials likely to

1 penetrate the asbestos disposal bags shall also be
2 placed into fiber drums, which shall be sealed,
3 labeled in accordance with applicable EPA
4 regulations, and cleaned before being removed from
5 the work area and transported to an approved
6 hazardous waste disposal facility.

7 (E) The department shall promulgate regulations
8 which establish procedures for the disposal of large
9 asbestos-contaminated structural or mechanical
10 components which cannot be handled according to the
11 procedures specified in this section.

12 (F) There shall be no visible emission of
13 asbestos during transport of asbestos waste.

14 (viii) Work area cleanup procedures shall include
15 the following:

16 (A) After all asbestos abatement work has been
17 completed, but before the plastic containment
18 barriers are removed, all surfaces in the work area
19 shall be HEPA-vacuumed and, where feasible, wet-
20 cleaned with an appropriate solution. When surfaces
21 have dried, they shall be HEPA-vacuumed.

22 (B) After thorough cleaning, such that no
23 visible residue remains, all surfaces within a
24 building from which asbestos material has been
25 removed and all plastic sheeting shall be sprayed,
26 where feasible, with an appropriate sealant.

27 (C) The sequence of wet and dry cleaning shall
28 be repeated in 24-hour intervals until no residue is
29 visible and, based on aggressive air monitoring
30 conducted after all surfaces have dried, the airborne

1 asbestos levels do not exceed the reoccupancy
2 standard established by the department.

3 (ix) No structural or mechanical surfaces from which
4 asbestos has been removed shall be reinsulated with
5 asbestos materials.

6 (x) Air monitoring procedures shall include the
7 following:

8 (A) The building owner shall retain an
9 independent certified asbestos project inspector to
10 monitor the level of airborne asbestos fibers inside
11 and outside the work area during the course of the
12 asbestos project.

13 (B) Air sampling and analysis shall be conducted
14 according to the latest NIOSH method, if a standard
15 NIOSH protocol has been established.

16 (C) Air samples shall be analyzed by an
17 independent certified laboratory by appropriate
18 analytic methods. Testing results shall be forwarded
19 directly to the department and to the independent
20 certified asbestos project inspector and shall be
21 posted outside the work area so that they are readily
22 accessible to asbestos workers and their authorized
23 representatives.

24 (D) Air samples shall be taken before, during
25 and after asbestos abatement and analyzed as follows:

26 (I) Initial samples shall be taken before
27 asbestos abatement begins to establish prevalent
28 airborne asbestos levels.

29 (II) Project samples shall be taken inside
30 and outside the work areas on a daily basis while

1 asbestos abatement is occurring in order to
2 monitor the work area and detect any escape of
3 fibers.

4 (III) Initial and project samples shall be
5 analyzed by methods prescribed by the asbestos
6 project inspector.

7 (IV) Clearance samples shall be taken inside
8 and outside the work area, after final cleanup,
9 to determine whether airborne asbestos levels
10 exceed the reoccupancy standard.

11 (V) Clearance samples shall be analyzed by
12 electron microscopy, unless the asbestos project
13 inspector certifies that an alternate analytic
14 method provides adequate assurance that airborne
15 asbestos levels will not exceed the reoccupancy
16 standard and the department concurs in writing.

17 (VI) The department shall promulgate
18 regulations which establish criteria for approval
19 of alternate analytic methods.

20 (xi) The department shall establish a standard for
21 maximum allowable increase in airborne asbestos levels
22 outside the work area. If testing results show that the
23 standard has been exceeded, the asbestos contractor or
24 supervisor shall immediately halt asbestos work and
25 implement remedial measures prescribed by the asbestos
26 project inspector and shall notify the building owner and
27 the department.

28 (xii) The department shall establish a reoccupancy
29 standard setting a maximum airborne asbestos level no
30 higher than one one-hundredth fiber per cubic centimeter

1 of air or the ambient level outside the building,
2 whichever is greater. After final cleanup, the asbestos
3 project work area shall not be unsealed or reoccupied
4 until air testing results, based on aggressive air
5 monitoring, show that airborne asbestos levels do not
6 exceed the standard.

7 (xiii) A building owner shall not permit an asbestos
8 project work area, including any part of the building
9 evacuated during an asbestos project, to be occupied
10 until the department has certified, in writing, that the
11 following conditions have been met:

12 (A) The asbestos project inspector has certified
13 that, based on a visual inspection, the area contains
14 no visible dust or debris.

15 (B) The asbestos project inspector certifies
16 that, based on the results of aggressive air
17 monitoring, the airborne asbestos level in the work
18 area does not exceed the reoccupancy standard
19 established by the department.

20 (C) The department, based on a visible
21 inspection, has determined that the area contains no
22 visible dust or debris.

23 (D) The department has determined that the air
24 monitoring required to establish that the reoccupancy
25 standard has been met has been performed in
26 accordance with applicable regulations and
27 procedures.

28 (E) The contractor or supervisor has submitted
29 an amended permit application for any project changes
30 and evidence of the final, total cost of the asbestos

1 abatement portion of the project.

2 (xiv) The department may promulgate regulations
3 which establish alternate standards for renovation,
4 repair or demolition projects involving nonfriable
5 asbestos materials that may be rendered friable by
6 project activity, and for projects involving the repair
7 or enclosure of friable asbestos materials where the
8 asbestos materials are not disturbed by the process of
9 repair or enclosure.

10 Section 9. Standards for minor asbestos projects.

11 The department shall promulgate regulations which establish
12 standards for minor, small and incidental asbestos projects in
13 order to protect the health and safety of occupants of private
14 residences and the general public by preventing the dispersion
15 of asbestos fibers through a building or into the environment.
16 These standards shall include, but not be limited to, the
17 following requirements:

18 (1) Work area preparation:

19 (i) For minor and small projects, appropriate
20 caution signs shall be posted at the entrances to the
21 asbestos project work area and waste storage area at all
22 times during the asbestos project, until the reoccupancy
23 standard has been met.

24 (ii) For minor and small projects, furniture,
25 equipment, fixtures and other movable objects shall be
26 HEPA-vacuumed and, where feasible, wet-cleaned and
27 removed from the work area.

28 (iii) For minor and small projects, other objects
29 that cannot be removed shall be HEPA-vacuumed and, where
30 feasible, wet-cleaned and covered with plastic sheeting

1 taped in place.

2 (iv) For minor projects, the work area shall be
3 isolated for the duration of the asbestos project by
4 completely enclosing the work area and sealing off doors,
5 windows, ducts and other openings with plastic sheeting
6 taped in place.

7 (v) For minor projects, floors, walls and other
8 surfaces shall be covered with plastic sheeting, as
9 specified by the major project standards, taped in place.

10 (vi) For minor and small projects, a sealable
11 barrier of plastic sheeting shall be constructed at the
12 entrance to the work area.

13 (vii) For minor and small projects, ventilation
14 systems into or out of the work area shall be shut down.

15 (viii) For minor and small projects, building
16 occupants shall be removed from any floor where an
17 asbestos project is in progress unless the work area is
18 completely enclosed and sealed off from other areas.

19 (2) Asbestos project procedures for minor and small
20 projects:

21 (i) No person shall enter the work area during an
22 asbestos project without proper equipment, clothing and
23 training.

24 (ii) The contractor or supervisor shall provide all
25 authorized persons who enter the work area with required
26 protective clothing and equipment required for major
27 asbestos projects and shall ensure that it is used
28 properly.

29 (iii) The contractor or supervisor shall ensure that
30 all workers remove asbestos debris from clothing and

1 equipment before leaving the work area.

2 (iv) The contractor or supervisor shall ensure that
3 appropriate air monitoring to determine worker exposure
4 shall be conducted for asbestos workers not covered by
5 the OSHA Asbestos Standard.

6 (v) The contractor or supervisor shall ensure the
7 removal, enclosure, encapsulation, waste disposal, work
8 area cleanup and reinsulation procedures required for
9 major asbestos projects are followed.

10 (vi) Air monitoring procedures shall include the
11 following:

12 (A) Air monitoring shall be conducted both
13 inside and outside the work area in accordance with
14 the methods and procedures established by the
15 department.

16 (B) Air sampling and analysis shall be conducted
17 according to the latest NIOSH method, if a standard
18 NIOSH protocol has been established.

19 (C) Air samples shall be analyzed by an
20 independent certified laboratory by appropriate
21 analytic methods.

22 (D) The asbestos contractor or supervisor shall
23 immediately halt asbestos work and implement remedial
24 measures if air testing results show any increase in
25 airborne asbestos levels outside the work area which
26 exceeds the standard set for major asbestos projects.

27 (E) The department shall establish a reoccupancy
28 standard setting a maximum airborne asbestos level no
29 higher than one one-hundredth fiber per cubic
30 centimeter of air or the ambient level outside the

1 building, whichever is greater.

2 (F) After final cleanup, the asbestos project
3 work area shall not be unsealed or reoccupied until
4 air testing results, based on aggressive air
5 monitoring, show that airborne asbestos levels do not
6 exceed the reoccupancy standard.

7 (vii) The asbestos project work area, including any
8 part of the building evacuated during an asbestos
9 project, shall not be unsealed or reoccupied until the
10 contractor or supervisor certifies each of the following:

11 (A) Based on a visual inspection, the area
12 contains no visible dust or debris.

13 (B) Based on the results of aggressive air
14 monitoring, the airborne asbestos level in the area
15 does not exceed the reoccupancy standard.

16 (viii) The department may promulgate regulations
17 which establish alternate standards for renovation,
18 repair and demolition projects involving nonfriable
19 asbestos materials that may be rendered friable by
20 project activity, and for projects involving the repair
21 or enclosure of friable asbestos materials where the
22 asbestos materials are not disturbed by the process of
23 repair or enclosure.

24 Section 10. Administration.

25 (a) Office of Asbestos Control.--Except as otherwise
26 provided by this act, the department may administer and enforce
27 the provisions of this act and the regulations promulgated under
28 it. In order to help implement, monitor and enforce the
29 provisions of this act, there shall be created within the
30 department the Office of Asbestos Control.

(b) Advisory committee created.--The Asbestos Control Advisory Committee is hereby created to advise the secretary with respect to the rules and regulations of the department and other procedures, standards, criteria, guidelines or related matters assigned to it by the secretary.

(c) Advisory committee membership.--The advisory committee shall be composed of nine members appointed by the secretary as follows:

(1) Two members shall represent construction contractors and shall each have a minimum of two years experience in asbestos abatement.

(2) Two members shall represent construction unions whose members are engaged in asbestos abatement.

(3) Two members shall represent the public interest and shall be members of environmental organizations with expertise on asbestos issues.

(4) One member shall represent building owners.

(5) One member shall be an environmental consultant and shall have a minimum of three years experience in consulting on asbestos abatement.

(6) One member shall represent the Department of Health.

(d) Proposal of act; related regulations.--Within six months of the effective date of this act, the Asbestos Control Advisory Committee, in conjunction with the department, shall propose to the secretary the rules and regulations and other operating procedures, standards, criteria and guidelines which the advisory committee deems necessary for the administration, implementation and enforcement of the provisions of this act.

The department shall adopt rules and regulations it deems necessary to administer, implement and enforce the provisions of

1 this act within 60 days of the receipt of the draft rules and
2 regulations from the advisory committee.

3 Section 11. Inspections.

4 (a) Without notice inspections.--Without prior notice, the
5 department is authorized to conduct inspections and take air
6 samples as are necessary to determine compliance with the
7 requirements, procedures and standards established under this
8 act.

9 (b) Standard inspections.--In addition, for major asbestos
10 projects, the department shall conduct the following
11 inspections:

12 (1) After initial work area preparation has been
13 completed, but before asbestos abatement, renovation or
14 demolition has commenced, the department shall inspect to
15 ensure that the work area is properly contained and that all
16 necessary equipment and procedures are in place to protect
17 building occupants and the general public from exposure to
18 asbestos. The contractor or supervisor shall not commence
19 asbestos work until approval has been obtained from the
20 department.

21 (2) After final work area cleanup has been completed,
22 but before the plastic containment barriers have been
23 removed, the department shall inspect to ensure that the work
24 area contains no visible dust or debris. In order to protect
25 building occupants and the general public from exposure to
26 asbestos, the contractor or supervisor shall not remove the
27 plastic containment barriers until approval has been obtained
28 from the department.

29 (c) Notice for standard inspections.--The asbestos
30 contractor or supervisor shall notify the department at least 72

1 hours prior to the time when preinspections and final
2 inspections are requested. Department personnel shall be
3 available to conduct required inspections at times other than
4 normal working hours when necessary in order to expedite
5 asbestos project completion. The department shall conduct
6 required inspections at the time requested, but in no event
7 later than 24 hours after the time requested.

8 (d) Hazardous conditions inspections.--A person who becomes
9 aware of a hazardous condition arising out of an asbestos
10 project may petition the department for an immediate inspection.

11 (e) Project inspectors.--For major asbestos projects, an
12 independent certified asbestos project inspector shall be
13 employed or retained by the building owner to monitor the
14 asbestos project, to perform all required initial, project and
15 clearance air sampling, and to conduct visual inspections during
16 the course of the asbestos project in order to protect building
17 occupants and the general public from exposure to asbestos.

18 (1) The asbestos project inspector shall have the
19 authority to direct the asbestos contractor or asbestos
20 project supervisor to correct violations of the standards and
21 procedures established under this act and regulations
22 promulgated under it. If the asbestos contractor or
23 supervisor fails to correct a violation as directed by the
24 asbestos project inspector, the inspector shall notify the
25 department immediately.

26 (2) The asbestos project inspector shall keep written
27 records on the asbestos project, including records of visual
28 inspections, air monitoring and violations, and immediately
29 report any serious or repeated violations of the provisions
30 of this act or regulations promulgated under it to the

1 department. The asbestos project inspector may recommend to
2 the department suspension of asbestos project activity,
3 removal of asbestos workers from the work area or evacuation
4 of the building in order to protect building occupants and
5 the general public from exposure to asbestos.

6 Section 12. Enforcement.

7 (a) General rule.--No person shall cause, suffer, permit or
8 allow an asbestos project to be performed in violation of a
9 provision of this act or regulations promulgated under it. In
10 addition, no person shall cause, suffer, permit or allow the
11 performance of any acts or operations in violation of any orders
12 issued by the department pursuant to this act and regulations
13 promulgated under it.

14 (b) Violations.--The department shall have the power to
15 issue an order requiring compliance with this act or regulations
16 promulgated under it. An order shall be served personally or by
17 certified mail at the last known address of the persons
18 violating the provisions of this act or regulations promulgated
19 under it. In cases of a violation of asbestos project standards,
20 a copy of the order shall also be served personally or by
21 certified mail at the last known address upon the registered
22 building owner and shall be posted on the premises.

23 (c) Hazardous conditions.--Where the department determines
24 that a hazardous condition exists due to the failure to comply
25 with the provisions of this act and regulations promulgated
26 under it, the department, in addition to invoking other
27 sanctions available to it, may invoke any of the following
28 remedies:

29 (1) Issue an order to immediately correct the hazardous
30 condition and to cease any other asbestos project activity

1 until the condition is corrected.

2 (2) Remove any asbestos workers, except those needed to
3 abate the hazard, from the project work area until the
4 condition is corrected in order to prevent further project
5 activity.

6 (3) Evacuate appropriate portions of the building until
7 the condition is corrected.

8 (4) Certify the existence of a nuisance per se, and
9 abate and remove the violation or contract for its abatement
10 and removal, charge the cost of the abatement and removal to
11 the person responsible for the hazardous condition, and
12 collect the cost by lien or any other means as may be
13 authorized by law.

14 (5) Apply to an appropriate court for relief by
15 injunction or restraining order against any person
16 responsible for the hazardous condition.

17 (d) Penalties.--In addition to the sanctions or remedial
18 orders provided in this section, a person who either fails to
19 comply with the requirements of this act and regulations
20 promulgated under it, or fails to obey an order issued by the
21 department, may be subject to any of the following penalties:

22 (1) Suspension or revocation, or both, of permits issued
23 under the provisions of this act.

24 (2) Imposition of a fine of not less than \$150 nor more
25 than \$300.

26 (3) Imprisonment for a period of up to 90 days.

27 (4) Suspension or revocation of licenses issued under
28 the provisions of this act.

29 (5) Issuance of an order to cease any asbestos project
30 activity immediately.

(6) Initiation of legal action or proceedings in a court of competent jurisdiction.

(e) Continued violations.--Each day a violation continues to exist shall constitute a separate violation for which a separate penalty shall be imposed.

Section 13. Appeals and hearings.

(a) Filing.--Any person aggrieved by an order, decision or other sanction imposed by the department may file an appeal with the secretary or his designated representative within five days after receipt of notice of the order, decision or sanction. A hearing shall be held promptly on each appeal filed.

(b) Automatic stay.--While an appeal is pending, compliance with a decision, order or sanction shall not be required unless the department has determined and certified in writing that the violation was intentional or that there exists a hazardous condition which requires immediate compliance with the department's order so as to eliminate a public health hazard.

Section 14. Public education.

(a) General program.--The department shall conduct a program of public education on asbestos hazards in buildings. This program shall include, but not be limited to, the distribution of educational materials to the general public and to occupants of buildings with asbestos hazards.

(b) Content.--Educational programs and materials developed or authorized by the department shall include, but not be limited to, the uses of asbestos materials in buildings, the health effects of asbestos exposure, the recognition of asbestos hazards, proper asbestos control methods, recommended air monitoring procedures and the requirements of this act.

(c) Brochure.--The department shall distribute to all

1 property owners a brochure on asbestos in buildings, which shall
2 include the content set forth in subsection (b).

3 (d) Certified persons available in industry.--The department
4 shall also make available lists of all licensed contractors,
5 certified asbestos project inspectors, certified laboratories
6 and certified training programs.

7 (e) Standards of the department.--The department shall also
8 make available technical information regarding proper asbestos
9 control methods, asbestos project standards and other
10 requirements of this act to building owners and asbestos
11 contractors, supervisors and workers.

12 Section 15. Right to refuse hazardous work.

13 (a) General rule.--After notifying the employer and the
14 department, an employee who is not an asbestos worker may refuse
15 to work without loss of pay in an area where it is reasonable to
16 believe that a hazardous asbestos condition has been created
17 which violates asbestos project standards, until the department
18 determines that no violation was committed or that the violation
19 has been corrected. An employee may not refuse to work, without
20 loss of pay, if the employer provides a reasonable alternative
21 work area.

22 (b) Emergency inspection.--The department shall conduct an
23 inspection within 24 hours after notice of a request for
24 inspection under this section.

25 Section 16. Discriminatory and retaliatory actions.

26 (a) Prohibition.--A person may not discriminate or take
27 retaliatory action against a person who exercises in good faith
28 a right established by this act or a regulation promulgated
29 under it.

30 (b) Complaints.--A person claiming to be aggrieved by a

1 discriminatory or retaliatory action may file a complaint with
2 the department. If the secretary or the secretary's designated
3 representative, after investigation, determines that probable
4 cause existed for the allegations in the complaint, the
5 department shall serve notice of a hearing date, together with a
6 copy of its findings, upon all interested parties.

7 (c) Burden of proof.--At the hearing, it shall be the
8 respondent's burden to prove that the alleged discriminatory
9 action was not undertaken in retaliation for the exercise of a
10 right provided under this act.

11 (d) Determination.--The secretary or the secretary's
12 designated representative, upon finding a violation of this act,
13 shall enter an order to make whole the person against whom the
14 discriminatory or retaliatory action was taken and may impose a
15 fine in the amount of \$300. In addition, the secretary may
16 impose other penalties and sanctions set forth in section 12 if
17 the secretary deems them necessary and appropriate.

18 (e) Appeal.--A person aggrieved by the findings of the
19 department under this section may file an appeal in accordance
20 with section 13.

21 Section 17. Appropriation.

22 The sum of \$1,000,000, or as much thereof as may be
23 necessary, is hereby appropriated to the Department of Labor and
24 Industry to be used in administering, implementing and enforcing
25 the provisions of this act.

26 Section 18. Severability.

27 The provisions of this act are severable. If any provision of
28 this act or its application to any person or circumstance is
29 held invalid, the invalidity shall not affect other provisions
30 or applications of this act which can be given effect without

1 the invalid provision or application.

2 Section 19. Miscellaneous provisions.

3 (a) Preemption of Federal law.--If a provision of this act
4 conflicts with a Federal law pertaining to an asbestos project,
5 the provision shall not apply to the extent that it is preempted
6 by the Federal law.

7 (b) Confidential information.--Nothing in this act shall
8 obligate the disclosure of information or documents by State
9 officers and employees which may be regarded as confidential or
10 privileged under Federal law.

11 Section 20. Effective date.

12 This act shall take effect in six months.