

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1161 Session of
1993

INTRODUCED BY SAURMAN, ARMSTRONG, TRELLO, HERSHEY AND GEIST,
APRIL 19, 1993

REFERRED TO COMMITTEE ON CONSERVATION, APRIL 19, 1993

AN ACT

1 Requiring accreditation of persons performing asbestos remedial
2 actions; prohibiting conflicts of interest among asbestos
3 consultants; and providing for maximum allowable asbestos
4 levels in public access areas.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Asbestos in
9 Public Buildings Act.

10 Section 2. Legislative findings and declarations.

11 The General Assembly finds and declares as follows:

12 (1) Significant public concern exists about the presence
13 of asbestos-containing construction materials in public
14 buildings, concern that has resulted in pressures to remove
15 all these materials.

16 (2) Numerous studies of buildings have determined that
17 the presence of these materials rarely causes prevailing
18 asbestos exposure levels in these buildings to be higher than

1 the levels of asbestos in outdoor air and that these
2 extremely low prevailing levels of asbestos in building air
3 rarely pose significant risk to occupant health and safety.

4 (3) Numerous studies further indicate that removal of
5 asbestos-containing materials from buildings, if conducted
6 improperly, will increase human asbestos exposures and, even
7 if conducted properly, may lead to no reduction in prevailing
8 building exposures.

9 (4) Existing Federal statutes, including the
10 Occupational Safety and Health Act of 1970 (Public Law 91-
11 596, 29 U.S.C. § 651 et seq.) and the Clean Air Act (Public
12 Law 95-95, 42 U.S.C. § 7401 et seq.), establish controls to
13 protect workers involved in asbestos remedial actions. Proper
14 use of these controls requires trained consultants,
15 contractors and workers.

16 (5) The public should be informed as to the nature of
17 risks posed by asbestos-containing materials in buildings and
18 protected from remedial actions that may increase these
19 risks.

20 Section 3. Definitions.

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

24 "Asbestos consultant." A person who, for compensation,
25 inspects property to identify asbestos-containing materials,
26 determines risks or determines the need for related remedial
27 action.

28 "Department." The Department of Environmental Resources of
29 the Commonwealth.

30 "Public access area." An area in a building within which

1 public access is not restricted.

2 Section 4. Accreditation of persons performing asbestos
3 remedial actions.

4 (a) General rule.--A person shall not commence or continue
5 to perform asbestos remedial actions unless he has been
6 accredited by the department. The department shall adopt rules
7 governing the accreditation of these persons. These rules shall
8 include categories of accreditation and shall specify
9 appropriate education, experience and training requirements. The
10 rules shall establish separate categories of accreditation for
11 consultants, contractors and workers. These rules shall be at
12 least as stringent as the accreditation plan required under the
13 Asbestos Hazard Emergency Response Act of 1986 (Public Law 99-
14 519, 15 U.S.C. § 2641) and regulations adopted pursuant thereto.

15 (b) Effect of application.--A person who applies for
16 accreditation in the worker category may engage in asbestos
17 remedial actions as though he were accredited in the worker
18 category for up to 90 days after the date he submits his
19 application. A person whose application is rejected may not
20 continue to engage in asbestos remedial actions under this
21 subsection.

22 (c) Persons exempt.--The following persons are exempt from
23 the accreditation requirements:

24 (1) The owner or operator of a building, other than
25 school buildings subject to the provisions of the Asbestos
26 Hazard Emergency Response Act of 1986, and his permanent
27 employees when performing asbestos remedial actions in
28 nonpublic access areas of the building.

29 (2) A person performing asbestos remedial actions in his
30 personal residence.

(3) A person involved in the application, enclosure, encapsulation, repair or removal of asbestos-containing exterior roofing, flooring and siding materials.

(d) Fees.--The department shall establish and collect asbestos remedial action accreditation and annual renewal fees to support the asbestos program.

Section 5. Conflicts of interest.

(a) General rule.--If an asbestos consultant has made an inspection for related remedial action:

(1) The consultant shall disclose orally and in writing if it is owned or has any common ownership, or any financial relationship whatsoever, including, but not limited to, commissions or referral fees, with an entity in the business of performing the corrective work.

(2) The asbestos consultant or any employee, subsidiary or any company with common ownership shall not require, as a condition of performing the inspection, that the consultant also perform any corrective work on the property that was recommended in the report.

(b) Corrective work.--This section does not prohibit an asbestos consultant or a contractor that has contracted to perform corrective work after the report of another company has indicated the presence of asbestos or the need for relating remedial action from making its own inspection prior to performing that corrective work or from making an inspection to determine whether the corrective measures were successful and, if not, thereafter performing additional corrective work.

(c) Penalty.--A violation of this section is a misdemeanor of the third degree punishable by a fine of not less than \$3,000 and not more than \$5,000, or by imprisonment in the county jail

1 for not more than one year, or both.

2 Section 6. Maximum allowable asbestos level.

3 (a) General rule.--The maximum allowable asbestos level in
4 public access areas of any building shall be 0.01 asbestos
5 fibers longer than five microns per cubic centimeter of air
6 calculated as an eight-hour time-weighted average and measured
7 during periods of normal building occupancy.

8 (b) Measurement.--The maximum allowable asbestos level may
9 be measured either by optical phase contrast microscopy as
10 described in the measurement protocol provided by the United
11 States Occupational Safety and Health Administration in 29 CFR
12 1910 or by transmission electron microscopy as described in the
13 measurement protocol provided by the United States Environmental
14 Protection Agency in 40 CFR 763, but counting only those
15 asbestos fibers longer than five microns. Measurements by the
16 Environmental Protection Agency transmission electron microscopy
17 measurement shall be controlling given the specificity of this
18 method to distinguish asbestos from nonasbestos fibers.

19 Section 7. Effective date.

20 This act shall take effect immediately.