
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 371 Session of
1989

INTRODUCED BY GREENLEAF, CORMAN, ANDREZESKI AND SALVATORE,
FEBRUARY 3, 1989

SENATOR FISHER, ENVIRONMENTAL RESOURCES AND ENERGY, AS AMENDED,
OCTOBER 3, 1989

AN ACT

1 Providing for the handling of asbestos-containing waste; and
2 conferring powers and duties on the Department of
3 Environmental Resources.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Asbestos
8 Waste Disposal Act.

9 Section 2. Declaration of policy.

10 The General Assembly finds and declares as follows:

11 (1) Substantial amounts of asbestos materials are being
12 removed from schools and buildings throughout this
13 Commonwealth.

14 (2) Exposure to asbestos fibers and particles in the air
15 has been linked, by reputable medical and scientific
16 authorities, to a significant increase in the incidence of
17 disease, such as asbestosis, bronchogenic carcinoma,
18 mesothelioma and other malignancies.

(3) Present storage, containment, transportation and disposal methods of asbestos-containing waste do not meet acceptable standards and, therefore, constitute a potential significant health hazard.

(4) The purpose of this act is to provide for the proper storage, containment, transportation and disposal of asbestos-containing waste to ensure that exposure to asbestos fibers is limited or nonexistent.

Section 3. Definitions.

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

"Active waste disposal site." A disposal site other than an inactive site.

"Adequately wetted." Sufficiently mixed or coated with water or an aqueous solution to prevent dust emissions.

"Asbestos." The asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite and actinolite-tremolite.

"Asbestos-containing waste ~~materials~~." Waste that contains commercial asbestos and is generated by a source subject to 40 CFR Part 61, Subpart M. The term includes asbestos mill tailings, asbestos waste from control devices, friable asbestos waste material and bags or containers that previously contained commercial asbestos. As applied to demolition and renovation operations, the term includes only friable asbestos waste and asbestos waste from control devices.

"Asbestos material." Asbestos or material containing asbestos.

"Asbestos mill." A facility engaged in converting, or in any

1 intermediate step in converting, asbestos ore into commercial
2 asbestos. Outside storage of asbestos material is not considered
3 a part of the asbestos mill.

4 "Asbestos tailings." Solid waste that contains asbestos and
5 is a product of asbestos mining or milling operations.

6 "Asbestos waste from control devices." Waste material that
7 contains asbestos and is collected by a pollution control
8 device.

9 "Commercial asbestos." Asbestos that is extracted from
10 asbestos ore.

11 "Demolition." The wrecking or taking out of a load-
12 supporting structural member of a facility, together with
13 related handling operations.

14 "Department." The Department of Environmental Resources of
15 the Commonwealth.

16 "Emergency renovation operation." A renovation operation
17 that was not planned but results from a sudden, unexpected
18 event. The term includes operations necessitated by nonroutine
19 failures of equipment.

20 "Fabricating." Processing of a manufactured product that
21 contains commercial asbestos. The term does not include
22 processing at temporary sites for the construction or
23 restoration of facilities.

24 "Facility." An institutional, commercial or industrial
25 structure, installation or building. The term excludes apartment
26 buildings having four or less dwelling units.

27 "Facility component." A pipe, duct, boiler, tank, reactor,
28 turbine or furnace at or in a facility or a structural member of
29 a facility.

30 "Friable asbestos material." Material containing more than

1 1% asbestos by weight that hand pressure can crumble, pulverize
2 or reduce to powder when dry.

3 "Inactive waste disposal site." A disposal site or portion
4 of it where additional asbestos-containing waste material will
5 not be deposited and where the surface is not disturbed by
6 vehicular traffic.

7 "Manufacturing." The combining of commercial asbestos or, in
8 the case of woven friction products, the combining of textiles
9 containing commercial asbestos, with other material, including
10 commercial asbestos, and the processing of this combination into
11 a product.

12 "Outside air." The air outside buildings and structures.

13 "Particulate asbestos material." Finely divided particles of
14 asbestos material.

15 "Planned renovation operations." A renovation operation, or
16 a number of such operations, in which the amount of friable
17 asbestos material that will be removed or stripped within a
18 given period of time can be predicted. Individual nonscheduled
19 operations are included if a number of such operations can be
20 predicted to occur during a given period of time based on
21 operating experience.

22 "Remove." To take out friable asbestos materials from a
23 facility.

24 "Renovation." Altering one or more facility components. The
25 term does not include operations in which load-supporting
26 structural members are wrecked or taken out.

27 "Roadways." Surfaces on which motor vehicles travel. The
28 term includes highways, roads, streets, parking areas and
29 driveways.

30 "Strip." To take off friable asbestos materials from part of

1 a facility.

2 "Structural member." A load-supporting member of a facility,
3 such as beams and load-supporting walls, or a nonload-supporting
4 member, such as ceilings and nonload-supporting walls.

5 "Visible emissions." Emissions containing particulate
6 asbestos material that are visually detectable without the aid
7 of instruments. The term does not include condensed uncombined
8 water vapor.

9 SECTION 4. POWERS AND DUTIES OF ENVIRONMENTAL QUALITY BOARD. <—

10 THE ENVIRONMENTAL QUALITY BOARD SHALL HAVE THE POWER AND ITS
11 DUTY SHALL BE TO PROMULGATE ANY REGULATIONS NEEDED TO ACCOMPLISH
12 THE PURPOSES AND CARRY OUT THE PROVISIONS OF THIS ACT.

13 SECTION 5. POWERS AND DUTIES OF DEPARTMENT OF ENVIRONMENTAL
14 RESOURCES.

15 THE DEPARTMENT OF ENVIRONMENTAL RESOURCES SHALL HAVE THE
16 POWER AND ITS DUTY SHALL BE TO ENFORCE THE PROVISIONS OF THIS
17 ACT AND TO DEVELOP THE REGULATIONS AND PROCEDURES NECESSARY TO
18 IMPLEMENT THIS ACT.

19 Section 4 6. Storage and containment. <—

20 (a) General rule.--Friable ~~asbestos-containing~~ ASBESTOS- <—
21 CONTAINING waste shall either be processed or formed into
22 nonfriable forms, treated with water (wetted), or treated by
23 another method approved by the department.

24 (b) Storage.--After wetting, friable asbestos-containing
25 waste shall be sealed in leak-proof containers while wet.
26 Sealing shall be interpreted as rendering the container
27 sufficiently closed from the outside air as far as storage,
28 transportation and disposal is concerned so that no leak occurs
29 which could cause visible asbestos emission to the outside air.

30 (1) The following two container forms are acceptable for

1 the proper storage of asbestos-containing waste:

2 (i) Multiple leak-proof plastic bags with 12 mils
3 cumulative thickness.

4 (ii) Single/multiple leak-proof plastic bags with
5 six mils cumulative thickness enclosed in a steel or
6 cardboard drum.

7 (2) The containers specified in paragraph (1) shall be
8 labeled. The labels shall be printed in letters of sufficient
9 size and contrast as to be readily visible and legible. They
10 shall bear one of the following warnings:

11 CAUTION

12 Contains Asbestos

13 Avoid Opening or Breaking Container

14 Breathing Asbestos is Hazardous to Your Health

15 CAUTION

16 Contains Asbestos Fibers

17 Avoid Creating Dust

18 Breathing Asbestos May Cause Serious Bodily Harm

19 (3) The requirements of this subsection are in addition
20 to those required by the Federal Environmental Protection
21 Agency's National Emission Standards for Hazardous Air
22 Pollutants, 40 CFR 61, Subpart M; 25 Pa. Code Ch. 75
23 (relating to solid waste management); and other relevant
24 State or Federal statutes and regulations.

25 (c) Exceptions.--

26 (1) Nonfriable asbestos-containing waste does not
27 require processing treatment or special packaging as long as
28 the waste is not rendered friable at any stage.

29 (2) The department may approve an alternative storage
30 method if the ~~waste~~ quantity or physical form OF ASBESTOS-

<—

1 CONTAINING WASTE does not lend itself to storage under
2 subsection (b). No visible emissions ~~should~~ SHALL occur due <—
3 to the alternative methods.

4 Section ~~5~~ 7. Transportation. <—

5 (a) General rule.--

6 (1) The asbestos-containing waste material shall be
7 transported in a vehicle without compaction and in a manner
8 which will not create visible emission to the outside air. If
9 asbestos is transported with other waste, it shall be done in
10 such a manner that the asbestos is segregated from the other
11 waste to ensure the safe handling and disposal without the
12 risk of commingling.

13 (2) The vehicle transporting asbestos-containing waste
14 shall be covered by a tarp in all cases, UNLESS THE VEHICLE <—
15 HAS SOLID ROOF, SIDE, FRONT AND REAR PANELS.

16 (3) Friable asbestos shall be removed from demolition
17 waste prior to bulk transportation.

18 (b) Recordkeeping.--

19 (1) Before accepting wastes, a transporter shall
20 determine if the waste is properly wetted and containerized.

21 (2) A transporter shall require a chain-of-custody form
22 signed by the generator. The chain-of-custody form shall
23 include:

24 (i) The name and address of the generator.

25 (ii) The name and address of the pickup site.

26 (iii) The estimated quantity of asbestos-containing
27 waste.

28 (iv) The types of containers used.

29 (v) The destination of the waste.

30 (vi) The signature of the disposal site operator

1 upon delivery at a waste disposal facility.

2 (c) Other law.--The transportation of ~~asbestos-containing~~ <—
3 ASBESTOS-CONTAINING waste shall conform to the applicable <—
4 requirements found in 40 CFR 61, Subpart M; 25 Pa. Code Ch. 75
5 (relating to solid waste management); and other relevant State
6 or Federal statutes and regulations.

7 Section ~~6~~ 8. Disposal. <—

8 (a) Selecting disposal site.--Asbestos-containing waste
9 shall be disposed of at a site which has a special permit issued
10 by the department to receive such waste. The department shall
11 specify in the permit the maximum quantity of the asbestos-
12 containing waste which may be received per day and in total.

13 (b) Receiving asbestos-containing waste.--

14 (1) A disposal site approved for receipt of asbestos-
15 containing waste shall receive notification from the
16 generator that the load contains asbestos.

17 (2) The disposal site operator shall:

18 (i) Inspect the loads to verify that ~~asbestos~~ <—
19 ASBESTOS-CONTAINING waste is properly contained in leak- <—
20 proof containers and labeled appropriately.

21 (ii) Contact the Federal Environmental Protection
22 Agency AND THE DEPARTMENT if the operator believes the <—
23 asbestos-containing waste is in a condition that may cause
24 significant fiber release during disposal.

25 (iii) After verification that the load is
26 acceptable, sign the chain-of-custody form to release the
27 asbestos-containing waste from the hauler.

28 (c) Waste disposition and covering.--

29 (1) The permitted disposal site shall be required to
30 cover friable asbestos-containing waste immediately upon

1 ~~receipt at~~ DISPOSITION IN the disposal facility. <—

2 (2) Asbestos-containing waste shall be covered in one of
3 the following ways:

4 (i) With at least ~~six~~ 12 inches of compacted <—
5 nonasbestos-containing material.

6 (ii) With a resinous or petroleum-based dust
7 suppression agent that effectively binds dust and
8 controls wind erosion. This agent shall be used as
9 recommended for the particular dust suppression agent.

10 Other equally effective dust suppression agents may be
11 used upon prior approval by the Federal Environmental
12 Protection Agency.

13 (3) No asbestos-containing waste ~~may be allowed to~~ SHALL <—
14 be stored onsite. If the cover requirements cannot be met, no
15 asbestos-containing waste may be accepted at the ~~facility~~ <—
16 DISPOSAL SITE UNTIL THE COVER REQUIREMENT CAN BE MET. <—

17 (4) Asbestos-containing waste shall be deposited into
18 segregated cells. Asbestos-containing waste may not be mixed
19 directly with other wastes. There shall be a separate area of
20 the facility for asbestos-containing waste disposal.

21 (5) Covering asbestos-containing waste shall be
22 accomplished in a manner to ensure that there will be no
23 visible emissions caused by disturbing or puncturing the
24 asbestos-containing waste containers.

25 (6) Final closure of a cell containing asbestos waste
26 shall be as follows:

27 (i) The disposal facility shall cover the cell
28 containing asbestos waste with at least an additional 30
29 inches of compacted nonasbestos material to provide a ~~36~~ <—
30 42-inch final cover.

1 (ii) To control erosion of the final cover, the area
2 shall be properly graded and vegetated.

3 (d) Controlling public access.--

4 (1) Sites which dispose of asbestos-containing waste
5 shall be required to erect and maintain fencing around the
6 perimeter of the sections of the sites where asbestos-
7 containing waste is deposited. The fencing shall be at least
8 six feet high, and it shall be topped with a barb wire guard
9 to deter public access.

10 (2) Access to the facilities shall be limited to one or
11 two entrances with gates that can be locked if left
12 unattended.

13 (3) Warning signs shall be displayed at all entrances
14 and at intervals of 330 feet or less along the property line
15 at the site. The warning signs shall:

16 (i) Be posted in such a manner and location that a
17 person can easily read the legend.

18 (ii) Conform to the requirements of 51-cm. x 36-cm.
19 (20" x 14") upright formal signs specified in 29 CFR
20 1910.145(d)(4).

21 (iii) Display the following legend in the lower
22 panel with letter sizes and styles of a visibility at
23 least equal to those specified in this subparagraph.

24 Legend	Size
25 Asbestos Waste	2.5 cm. (1 inch) Sans
26 Disposal Site	Serif, Gothic or Block
27 Do Not Create Dust	1.9 cm. (3/4 inch) Sans
28	Serif, Gothic or Block
29 Breathing Asbestos	14 Point Gothic

30 is Hazardous to

1 Your Health

2 (e) Conveyance of disposal site property.--The grantor, in a
3 deed for the conveyance of property in which asbestos-containing
4 waste is presently being disposed, property which has ever been
5 used for the disposal of asbestos by the grantor or property
6 which to the grantor's actual knowledge has been used for
7 asbestos disposal shall include in the property description
8 section of the deed an acknowledgment of asbestos-containing
9 waste disposal and a notice warning against excavation of the
10 disposal site. The acknowledgment shall include, but not be
11 limited to, to the extent the information is available, the
12 surface area size and tract location of the disposed waste.
13 These requirements shall be made part of the deed for future
14 conveyances or transfers of the subject property. The warranty
15 in the deed shall not be applicable to the surface area size and
16 exact location of the disposed asbestos-containing waste.

17 (f) Other law.--The disposal of asbestos-containing waste
18 shall conform to the applicable requirements found in 40 CFR 61,
19 Subpart M, and other relevant State or Federal statutes and
20 regulations.

21 Section 7 9. Demolition.

22 (a) General rule.--~~Removable~~ FRIABLE asbestos concentrations
23 shall be removed from ~~the buildings or~~ A FACILITY PRIOR TO
24 DEMOLITION OR FROM demolition wastes before storage,
25 transportation ~~and disposal at demolition waste sites~~ OR
26 DISPOSAL AT A DISPOSAL SITE.

27 (b) Exception.--A variance to subsection (a) may be
28 considered if the asbestos concentrations involved are
29 nonfriable or are in such small quantity that the removal is
30 either impractical or unnecessary AND DO NOT POSE A THREAT TO

1 PUBLIC HEALTH.

2 Section 8 10. Applicability of Federal and State laws and
3 regulations.

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4 If the requirements of this act conflict with Federal or
5 State statutes and regulations, the requirements of this act
6 shall apply if they are not less restrictive than Federal
7 statutes and regulations.

8 Section 9 11. Disapproval.

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9 The department may disapprove or rescind a prior approval if
10 any of the following applies:

11 (1) The requirements of this act are not met.

12 (2) Waste characteristics are different from those
13 provided in submitted documents.

14 (3) Waste is handled in an environmentally unsound
15 manner.

16 (4) Waste disposal, alone or in conjunction with other
17 waste, would create a nuisance, harm or hazard to the public
18 or the environment.

19 (5) Conditions of the request by the applicant or the
20 approval by the department conflict with the act of July 7,
21 1980 (P.L.380, No.97), known as the Solid Waste Management
22 Act, or relevant Federal regulations.

23 SECTION 12. ENFORCEMENT AND PENALTIES.

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24 (A) ENFORCEMENT.--THE DEPARTMENT MAY ISSUE SUCH ORDERS TO
25 PERSONS AS IT DEEMS NECESSARY TO AID IN THE ENFORCEMENT OF THE
26 PROVISION OF THIS ACT. ANY ORDER ISSUED UNDER THIS ACT SHALL
27 TAKE EFFECT UPON NOTICE, UNLESS THE ORDER SPECIFIES OTHERWISE.
28 AN APPEAL TO THE ENVIRONMENTAL HEARING BOARD SHALL NOT ACT AS A
29 SUPERSEDEAS. THE POWER OF THE DEPARTMENT TO ISSUE AN ORDER UNDER
30 THIS ACT IS IN ADDITION TO ANY OTHER REMEDY WHICH MAY BE

1 AFFORDED TO THE DEPARTMENT PURSUANT TO THIS ACT OR ANY OTHER
2 ACT.

3 (B) PENALTIES.--

4 (1) A PERSON WHO VIOLATES ANY PROVISION OF THIS ACT, ANY
5 REGULATION PROMULGATED HEREUNDER OR ANY ORDER ISSUED
6 HEREUNDER COMMITS A SUMMARY OFFENSE PUNISHABLE BY A FINE OF
7 NOT LESS THAN \$100 NOR MORE THAN \$1,000 AND, IN DEFAULT OF
8 THE PAYMENT OF SUCH FINE, SHALL BE SENTENCED TO IMPRISONMENT
9 FOR NOT MORE THAN 30 DAYS.

10 (2) ANY PERSON WHO, AFTER A CONVICTION OF A SUMMARY
11 OFFENSE FOR ANY VIOLATION OF THIS ACT, VIOLATES ANY PROVISION
12 OF THIS ACT, ANY REGULATION PROMULGATED HEREUNDER OR AN ORDER
13 ISSUED HEREUNDER COMMITS A MISDEMEANOR OF THE SECOND DEGREE
14 AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT
15 LESS THAN \$2,500, NOR MORE THAN \$25,000 FOR EACH VIOLATION OR
16 TO IMPRISONMENT FOR A PERIOD OF NOT MORE THAN TWO YEARS, OR
17 BOTH.

18 (3) EACH VIOLATION FOR EACH SEPARATE DAY AND EACH
19 VIOLATION OF ANY PROVISION OF THIS ACT, ANY REGULATION
20 PROMULGATED HEREUNDER OR ANY ORDER ISSUED HEREUNDER SHALL
21 CONSTITUTE A SEPARATE OFFENSE.

22 (C) ACTIONS IN EQUITY.--A DISTRICT ATTORNEY MAY BRING AN
23 ACTION IN EQUITY IN A COURT OF COMPETENT JURISDICTION FOR AN
24 INJUNCTION TO RESTRAIN ANY AND ALL VIOLATIONS OF THIS ACT OR THE
25 REGULATIONS PROMULGATED HEREUNDER.

26 Section ~~10~~ 13. Effective date.

27 This act shall take effect in 60 days.

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