



HOUSE BILL No. 4604

April 1, 1993, Introduced by Reps. Shugars, Jamian, Horton and Stille and referred to the Committee on Public Health.

A bill to amend sections 103, 207, 209, 220, and 305 of Act No. 135 of the Public Acts of 1986, entitled as amended "Asbestos abatement contractors licensing act," section 207 as amended and section 220 as added by Act No. 2 of the Public Acts of 1990, being sections 338.3103, 338.3207, 338.3209, 338.3220, and 338.3305 of the Michigan Compiled Laws; and to add section 221.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 103, 207, 209, 220, and 305 of Act
2 No. 135 of the Public Acts of 1986, section 207 as amended and
3 section 220 as added by Act No. 2 of the Public Acts of 1990,
4 being sections 338.3103, 338.3207, 338.3209, 338.3220, and
5 338.3305 of the Michigan Compiled Laws, are amended and section
6 221 is added to read as follows:

1 Sec. 103. As used in this act:

2 (a) "Administrative procedures act of 1969" means Act
3 No. 306 of the Public Acts of 1969, being sections 24.201 to
4 24.328 of the Michigan Compiled Laws.

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

8 (c) "Asbestos abatement contractor" means a ~~person, part-~~
9 ~~nership, firm, association, corporation, sole proprietorship,~~
10 ~~public or private agency, or other legal~~ BUSINESS entity ~~—~~
11 ~~which~~ THAT carries on the business of asbestos abatement on the
12 premises of another business entity and not on the asbestos
13 abatement contractor's premises.

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

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

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

22 (g) "Construction contractor" means a ~~person, partnership,~~
23 ~~firm, association, corporation, sole proprietorship, public or~~
24 ~~private agency, or other legal~~ BUSINESS entity ~~—, who~~ 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 ~~person,~~
2 ~~partnership, firm, association, corporation, sole proprietorship,~~
3 ~~public or private agency, or other legal~~ BUSINESS entity ~~who~~
4 THAT, pursuant to a contract with a person ~~—~~ other than the
5 owner or lessee of the real property, performs any part of a con-
6 struction contractor's contract for an improvement to that
7 property.

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

11 (j) "Department" means the department of public health.

12 (k) "Encapsulate" means the sealing of friable asbestos
13 materials by means of the spraying of liquid sealant or any other
14 method that causes friable asbestos to become airborne.

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

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

21 (N) "NEUTRAL PARTY" MEANS A BUSINESS ENTITY THAT IS NOT PART
22 OF THE ASBESTOS ABATEMENT CONTRACTOR'S PRIMARY OR SECONDARY
23 FAMILY AND IS NOT LEGALLY ASSOCIATED TO ANY BUSINESS OPERATED BY
24 THE ASBESTOS ABATEMENT CONTRACTOR.

25 (O) ~~(n)~~ "Removal" means the taking out or stripping of
26 asbestos from an existing structure.

1 (P) ~~(o)~~ "Renovation" means the removal or stripping of
2 friable asbestos materials used on any pipe, duct, boiler, tank,
3 reactor, turbine, furnace, or structural member. Renovation does
4 not include any of the following:

5 (i) An operation necessitated by a nonroutine failure of
6 equipment.

7 (ii) An unplanned operation resulting from a sudden unex-
8 pected event.

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

11 (Q) ~~(p)~~ "Structural member" means any load-supporting
12 member, including, but not limited to, beams and load-supporting
13 walls, or any nonsupporting member, including, but not limited
14 to, ceilings and nonload-supporting walls.

15 (R) ~~(q)~~ "Working day" means any day other than a Saturday,
16 Sunday, or state legal holiday.

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

22 (2) ~~Until June 1, 1993, the~~ THE licensing requirement of
23 subsection (1) ~~shall~~ DOES not apply to any of the following if
24 engaged in an asbestos abatement project ~~which~~ THAT is inciden-
25 tal to the primary licensed trade and involves not more than 160
26 square feet or 260 linear feet of friable asbestos materials:

1 (a) A ~~person or~~ business entity licensed under the
2 electrical administrative act, Act No. 217 of the Public Acts of
3 1956, being sections 338.881 to 338.892 of the Michigan Compiled
4 Laws.

5 (b) A ~~person or~~ business entity licensed under the Forbes
6 mechanical contractors act, Act No. 192 of the Public Acts of
7 1984, being sections 338.971 to 338.988 of the Michigan Compiled
8 Laws.

9 (c) A ~~person or~~ business entity licensed under Act No. 266
10 of the Public Acts of 1929, being sections 338.901 to 338.917 of
11 the Michigan Compiled Laws.

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

17 Sec. 209. (1) To apply for or ~~to~~ renew a license, an
18 asbestos abatement contractor shall do all of the following:

19 (a) Submit a completed application to the department on
20 forms provided by the department. The asbestos abatement con-
21 tractor shall state on the application whether or not the asbes-
22 tos abatement contractor has liability insurance.

23 (b) Pay the fee required by subsection (2).

24 (c) Submit proof of ~~worker's~~ WORKERS' compensation
25 insurance.

26 (d) Submit proof that ~~an employee or agent~~ ALL EMPLOYEES
27 AND AGENTS of an asbestos abatement contractor who ~~is~~ ARE

1 responsible for, or ~~actually~~ ARE involved in, an asbestos
 2 abatement project ~~has~~ HAVE received ~~any~~ training ~~required~~
 3 ~~under state or federal law~~ AND BECOME ACCREDITED AS ASBESTOS
 4 ABATEMENT WORKERS OR ASBESTOS ABATEMENT CONTRACTORS AND SUPERVI-
 5 SORS AS REQUIRED UNDER THE ASBESTOS WORKERS ACCREDITATION ACT,
 6 ACT NO. 440 OF THE PUBLIC ACTS OF 1988, BEING SECTIONS 338.3401
 7 TO 338.3418 OF THE MICHIGAN COMPILED LAWS.

8 (2) A license or renewal fee shall be paid as follows:

9 Number of employees

10 to be engaged in

| 11 <u>asbestos abatement projects</u> | <u>License fee</u> | <u>License renewal fee</u> |
|---------------------------------------|--------------------|----------------------------|
| 12 4 or less | \$200.00 | \$100.00 |
| 13 5 or more | \$400.00 | \$300.00 |

14 Sec. 220. (1) ~~Until June 1, 1993, an~~ AN asbestos abate-

15 ment contractor shall notify the department in writing of all of
 16 the following at least 10 days before beginning an asbestos
 17 abatement project exceeding 10 linear feet or 15 square feet, or
 18 both, of friable asbestos materials:

19 (a) The name and address of the owner of the building or
 20 structure.

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

23 (c) The schedule for the starting and completion of the
 24 asbestos abatement project which may not exceed 1 year in
 25 length.

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

1 (2) ~~Until June 1, 1993, if~~ IF during the course of a
2 project and after a written contract is executed, a ~~person or~~
3 business entity that is exempt from licensure under
4 section 207(2) and whose primary licensed trade is not that of an
5 asbestos abatement contractor discovers that the removal or
6 encapsulation of asbestos in an amount exceeding 10 linear feet
7 or 15 square feet, or both, is required, that ~~person or~~ busi-
8 ness entity shall notify the department of the asbestos abatement
9 project before asbestos removal begins. Not more than 10 days
10 after the discovery, the ~~person or~~ business entity shall pro-
11 vide written notification to the department in the manner
12 described in subsection (1)(a) to (d).

13 (3) ~~Until June 1, 1993, a person~~ AN ASBESTOS ABATEMENT
14 CONTRACTOR providing written notification to the department pur-
15 suant to subsection (1) for an asbestos abatement project shall
16 include a fee ~~that shall be~~ equal to 1% of the price of the
17 contract for the asbestos abatement project and shall make avail-
18 able upon the request of the department a copy of the contract
19 for the asbestos abatement project. All fees collected pursuant
20 to this ~~section~~ SUBSECTION shall be deposited in the asbestos
21 abatement fund created in subsection (5).

22 (4) ~~Until June 1, 1993, in~~ IN the case of a ~~person or~~
23 business entity ~~who~~ THAT provides notice under subsection (2)
24 for an asbestos abatement project that is incidental to the
25 ~~person's or~~ business entity's primary licensed trade and where
26 asbestos is actually removed by that ~~person or~~ business entity,
27 the primary licensed trade contractor shall include a fee of 1%

1 of the asbestos abatement project portion of the contract price
2 and shall make available upon the request of the department a
3 copy of that portion of the contract covering the asbestos
4 abatement. All fees collected pursuant to this ~~section~~
5 SUBSECTION shall be deposited in the asbestos abatement fund cre-
6 ated in subsection (5).

7 (5) The asbestos abatement fund is created and ~~, until~~
8 ~~June 1, 1993,~~ shall exist in the state treasury and shall
9 receive revenue as provided in this act and other revenue as the
10 legislature may provide. The state treasurer shall direct the
11 investment of the fund. All interest and earnings of the fund
12 shall be retained by the fund. Money in the fund at the close of
13 the fiscal year shall remain in the fund and shall not revert to
14 the general fund.

15 (6) Money in the asbestos abatement fund created in
16 subsection (5) shall be used by the department only for the
17 asbestos-related responsibilities of the department under this
18 act which ~~shall include~~ INCLUDES, BUT IS NOT LIMITED TO, the
19 inspection of asbestos abatement projects and the education of
20 asbestos abatement contractors. ~~but shall~~ IT DOES not include
21 use of the fund by the department for asbestos abatement projects
22 on state owned property.

23 (7) Not later than October 1 of each year, ~~after the year~~
24 ~~of the effective date of the amendatory act that added this sub-~~
25 ~~section and until June 1, 1993,~~ the department shall report to
26 the legislature and the applicable committees in the house of
27 representatives and the senate on the amount of money generated

1 by the fees charged under this section. The report shall include
2 the number of asbestos abatement projects inspected and the
3 number of citations issued for violations of this act and other
4 applicable laws, rules, and regulations.

5 (8) ~~Until June 1, 1993, emergency~~ EMERGENCY asbestos
6 abatement projects resulting from equipment failure or malfunc-
7 tions are exempt from the 10-day written advance notice imposed
8 under this section. The written notice in emergency situations
9 shall be provided within 48 hours after the commencement of the
10 asbestos abatement project except that the ~~person or~~ business
11 entity shall contact the department telephonically immediately or
12 as soon as possible after the discovery of the emergency
13 situation.

14 SEC. 221. (1) A BUILDING OR STRUCTURE OWNER SHALL HAVE A
15 POST ABATEMENT AIR MONITORING CHECK PERFORMED BY A NEUTRAL PARTY
16 COMPLETELY INDEPENDENT OF THE ASBESTOS ABATEMENT CONTRACTOR AT
17 ALL ASBESTOS ABATEMENT PROJECT SITES INVOLVING A NEGATIVE PRES-
18 SURE ENCLOSURE AS SPECIFIED BY 29 C.F.R. 1926.58 (e)(6) THAT
19 INVOLVE 10 OR MORE LINEAR FEET OR 15 OR MORE SQUARE FEET OR FRIA-
20 BLE ASBESTOS MATERIALS. IF THE ASBESTOS ABATEMENT CONTRACTOR AND
21 HIS OR HER CUSTOMER AGREE, THE CUSTOMER MAY CAUSE THE POST ABATE-
22 MENT AIR MONITORING CHECK REQUIRED BY THIS SECTION TO BE
23 PERFORMED.

24 (2) WHENEVER FEASIBLE, THE POST ABATEMENT AIR MONITORING
25 CHECK REQUIRED BY THIS SECTION SHALL MAKE USE OF AGGRESSIVE AIR
26 SAMPLING METHODS AS DESCRIBED IN UNIT III.B.7.d. TO APPENDIX A TO

1 SUBPART E OF PART 763 OF TITLE 40 OF THE CODE OF FEDERAL
2 REGULATIONS, WHICH IS ADOPTED IN THIS ACT BY REFERENCE.

3 (3) UPON REQUEST BY THE DEPARTMENT, A POST ABATEMENT AIR
4 MONITORING CHECK TAKEN PURSUANT TO THIS SECTION SHALL BE REPORTED
5 TO THE DEPARTMENT.

6 (4) AFTER COMPLETION OF THE ASBESTOS ABATEMENT PROJECT, THE
7 LEVEL OF ASBESTOS FIBERS PER CUBIC CENTIMETER OF AIR THAT ARE
8 MORE THAN 5 MICROMETERS IN LENGTH WHEN SAMPLED AND ANALYZED
9 ACCORDING TO METHOD 7400 ENTITLED "FIBERS" ISSUED BY THE NATIONAL
10 INSTITUTE OF OCCUPATIONAL SAFETY AND HEALTH (NIOSH) ON 2/15/84
11 AND REVISED ON 5/15/89 WHICH WAS PUBLISHED IN THE NIOSH MANUAL OF
12 ANALYTICAL METHODS, 3RD EDITION, SHALL NOT EXCEED 0.01 ASBESTOS
13 FIBERS AT THE ASBESTOS ABATEMENT PROJECT SITE.

14 Sec. 305. (1) The department, in its own discretion, ~~or~~
15 upon a recommendation by the board, or upon the written complaint
16 of an aggrieved party or of a state agency or political subdivi-
17 sion, may investigate the acts of an asbestos abatement contrac-
18 tor under this act. ~~The~~ AFTER AN INVESTIGATION, THE department
19 may deny, suspend, or revoke a license issued under this act if
20 an asbestos abatement contractor is NOT found to be ~~not~~ in com-
21 pliance with this act or the rules promulgated under this act.
22 In addition, the department may deny, suspend, or revoke a
23 license for any of the following:

24 (a) ~~Willful~~ A WILLFUL or negligent ~~acts which cause~~ ACT
25 THAT CAUSES any person to be exposed to asbestos in violation of
26 this act, ~~the rules~~ A RULE promulgated under this act, or other

1 state or federal law pertaining to the public health and safety
2 aspects of asbestos demolition, renovation, and encapsulation.

3 (b) Falsification of records.

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

5 (d) Deliberate misrepresentation of ~~acts~~ AN ACT in apply-
6 ing for a license.

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

11 (2) IF THE LICENSE OF A BUSINESS ENTITY IS DENIED, SUS-
12 PENDED, OR REVOKED UNDER THIS ACT, THE DENIAL, SUSPENSION, OR
13 REVOCATION APPLIES TO EACH PARTNER, TRUSTEE, DIRECTOR, OFFICER,
14 OR PERSON EXERCISING CONTROL OF THE BUSINESS ENTITY.