

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 944

H.P. 703 House of Representatives, March 25, 1987
Reference to the Committee on Energy and Natural
Resources suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative BOST of Orono.

Cosponsored by Senator USHER of Cumberland,
Representatives MICHAUD of East Millinocket and HOLLOWAY of
Edgecomb.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT to Ensure Safe Abatement of Asbestos
Hazards.

1
2
3

4 **Emergency preamble.** Whereas, Acts of the Legis-
5 lature do not become effective until 90 days after
6 adjournment unless enacted as emergencies; and

7 Whereas, the identification and correction of
8 asbestos-related problems in both public and private
9 buildings are a matter of significant concern as a
10 public health hazard; and

11 Whereas, the State is undertaking a major asbes-
12 tos identification and removal program financed with
13 bonds approved in public referendum; and

1 3. Asbestos abatement contractor. "Asbestos
2 abatement contractor" means a business entity or pub-
3 lic entity that engages in, or intends to engage in
4 asbestos abatement activities and that employs or in-
5 volves one or more asbestos abatement project super-
6 visor for asbestos abatement activities.

7 4. Asbestos abatement design and instruction
8 consultant. "Asbestos abatement design and instruc-
9 tion consultant" means a person engaged in preparing
10 and supervising the implementation of facility plans
11 for the removal or abatement of asbestos. These ac-
12 tivities include, but are not limited to, the per-
13 formance of air quality and bulk sampling; advising
14 building owners, contractors and project supervisors
15 on health impacts of asbestos abatement activities;
16 and conducting training courses. This category of
17 specialists includes, but is not limited to, engi-
18 neers, architects, health professionals, industrial
19 hygienists, private consultants or other individuals
20 involved in asbestos risk assessment or regulatory
21 activities.

22 5. Asbestos abatement project supervisor. "As-
23 bestos abatement project supervisor" means a person
24 with responsibility for the supervision of asbestos
25 abatement activities. Those persons include, but are
26 not limited to, abatement project supervisors em-
27 ployed by contractors, employees of governmental or
28 public entities who coordinate or directly supervise
29 asbestos abatement activities performed by public
30 schools, governmental or other public employees in a
31 school district, governmental or other public build-
32 ings and project supervisors employed as consultants
33 to monitor and direct abatement contractors.

34 6. Asbestos abatement worker. "Asbestos abate-
35 ment worker" means an employee of an asbestos manage-
36 ment contractor engaged in asbestos abatement activi-
37 ties under the supervision of an asbestos abatement
38 project supervisor.

39 7. Asbestos - containing material. "Asbestos -
40 containing material" means any material containing
41 asbestos in quantities equal to or greater than 1% by
42 weight.

1 8. Asbestos evaluation specialist. "Asbestos
2 evaluation specialist" means a person responsible
3 for:

4 A. Applying existing rules and standards at a
5 specific location to determine the health hazards
6 associated with the presence of friable asbestos
7 materials; or

8 B. Establishing or monitoring procedures during
9 asbestos abatement activities in order to protect
10 employee and public health from the hazards asso-
11 ciated with exposure to asbestos.

12 9. Business entity. "Business entity" means a
13 partnership, firm, association, corporation, sole
14 proprietorship or other business concern.

15 10. Certificate. "Certificate" means a document
16 issued by the Department of Environmental Protection
17 to an individual affirming that the individual has
18 successfully completed the training and other re-
19 quirements set forth in this chapter to qualify as an
20 asbestos project manager, an asbestos evaluation spe-
21 cialist or asbestos abatement specialist.

22 11. Commissioner. "Commissioner," unless other-
23 wise specified, means the Commissioner of Environmen-
24 tal Protection.

25 12. Employee. "Employee" means every person who
26 may be permitted, required or directed by an employer
27 in consideration of direct or indirect gain or prof-
28 it, to engage in any employment.

29 13. Friable. "Friable" means materials which
30 may be crumbled or pulverized, when dry, by hand
31 pressure. These materials include materials located
32 behind barrier systems and materials which have been
33 rendered friable through manipulation.

34 14. License. "License" means a document issued
35 by the Department of Environmental Protection to a
36 business entity or public entity affirming that the
37 entity has met the requirements set forth in this
38 chapter to engage in asbestos abatement activities as
39 an asbestos abatement contractor.

1 15. Person. "Person" means any individual,
2 business entity, governmental body or other public or
3 private entity.

4 16. Public entity. "Public entity" means the
5 State, any of its political subdivisions or any agen-
6 cy or instrumentality of either.

7 §1272. Prohibitions

8 Unless otherwise provided in this section:

9 1. License or certificate required. No person
10 may engage in any asbestos abatement activities in
11 the State unless licensed or certified pursuant to
12 this chapter; and

13 2. Notification required. No person may engage
14 in any planned asbestos abatement project that in-
15 volves more than 100 linear feet of pipe covered or
16 coated with asbestos-containing material or more than
17 100 square feet of asbestos-containing material un-
18 less notification is given the commissioner in writ-
19 ing at least 10 working days before beginning any on-
20 site work that has the potential to release asbestos
21 fibers.

22 §1273. Licensing and certification

23 The commissioner shall develop a program which
24 establishes criteria and procedures for the licensing
25 or certification of the following.

26 1. Asbestos abatement contractor. To qualify
27 for a license, an applicant shall show evidence sat-
28 isfactory to the commissioner that:

29 A. Each employee or agent within its employ who
30 will come in contact with asbestos or will be re-
31 sponsible for an asbestos abatement project:

32 (1) Is familiar with all applicable state
33 and federal standards for asbestos abatement
34 projects; and

35 (2) Has successfully completed a course of
36 instruction for their particular category,

1 which has been certified pursuant to section
2 1274, and is capable of complying with all
3 applicable standards of the State, the
4 United States Environmental Protection Agen-
5 cy and the United States Occupational Safety
6 and Health Administration;

7 B. It has access to at least one asbestos dis-
8 posal site approved by the Department of Environ-
9 mental Protection that is sufficient for the de-
10 posit of all asbestos waste that it will generate
11 during the term of the license;

12 C. It possesses a work program that prevents the
13 contamination or recontamination of the environ-
14 ment and protects the public health from the haz-
15 ards of exposure to asbestos;

16 D. It possesses evidence of certification under
17 subsection 4 of each individual employee or agent
18 who will be responsible for other employees who
19 may come in contact with friable
20 asbestos-containing materials;

21 E. It possesses evidence of certification of all
22 other employees as required by subsection 5; and

23 F. It possesses a worker protection and medical
24 monitoring program consistent with requirements
25 established by the Maine Board of Occupational
26 Safety and Health Protection if the contractor is
27 a public entity, and a worker protection program
28 consistent with the requirements of the United
29 States Occupational Safety and Health Administra-
30 tion if the contractor is a business entity.

31 2. Asbestos abatement design and instruction
32 consultant. All designs or plans for asbestos abate-
33 ment, which involve the establishment of standards
34 for the maintenance of in-place asbestos or
35 asbestos-containing materials or which involve abate-
36 ment in conjunction with modification to facilities
37 or their component systems shall be developed by an
38 asbestos abatement design consultant.

39 A. To qualify for receipt of certification, an
40 applicant shall show evidence satisfactory to the
41 commissioner that:

1 (1) The applicant is a registered profes-
2 sional engineer or a registered architect
3 and is recognized as such within the State
4 and has fulfilled the requirements for cer-
5 tification as an asbestos abatement project
6 supervisor set forth in subsection 4;

7 (2) The applicant has obtained a bachelor's
8 degree from an accredited 4-year college or
9 university with a specialization in engi-
10 neering, architecture or life sciences, has
11 at least one year's experience in asbestos
12 abatement activities and has fulfilled the
13 requirements for certification as an asbes-
14 tos project supervisor set forth in subsec-
15 tion 4; or

16 (3) The applicant has a minimum of 5 years
17 of experience in the design and implementa-
18 tion of asbestos management and removal pro-
19 grams. The commissioner may require an ap-
20 plicant seeking to qualify on the basis of
21 experience to provide references from other
22 professionals certified under this subsec-
23 tion and may require the applicant to pass a
24 written examination administered by the com-
25 missioner.

26 3. Asbestos evaluation specialist. All evalua-
27 tions of health hazards associated with the presence
28 of friable asbestos materials to determine the need
29 for an asbestos abatement project and to assure a
30 completed project meets prescribed standards, shall
31 be conducted by an asbestos evaluation specialist
32 certified pursuant to the requirements of this sec-
33 tion.

34 A. To qualify for certification, an applicant
35 shall show evidence satisfactory to the commis-
36 sioner that:

37 (1) The applicant has passed a course or
38 program approved by the commissioner which
39 assures competence in proper air sampling
40 techniques and a full understanding of the
41 characteristics and hazards of friable as-
42 bestos; and

1 (2) The applicant has fulfilled the re-
2 quirements for certification as an asbestos
3 abatement project supervisor set forth in
4 subsection 4.

5 4. Asbestos abatement project supervisors. All
6 persons supervising the conduct of asbestos abatement
7 activities shall be certified as asbestos project su-
8 pervisors. To qualify for certification, an appli-
9 cant shall show evidence satisfactory to the commis-
10 sioner that:

11 A. The applicant has satisfactorily completed a
12 training course certified by the commissioner as
13 appropriate for a person supervising asbestos
14 abatement workers in the conduct of an asbestos
15 abatement activity;

16 B. The applicant is, or is likely to be, in a
17 position which requires supervisory responsibili-
18 ty for one or more asbestos abatement projects;
19 and

20 C. The applicant has participated in or observed
21 at least one asbestos abatement project in addi-
22 tion to the training required in this subsection.

23 5. Asbestos abatement worker. All employees en-
24 gaged in asbestos abatement activities and not other-
25 wise certified under this chapter shall be certified
26 as asbestos abatement workers. To qualify for certi-
27 fication, an applicant shall show evidence satisfac-
28 tory to the commissioner that he has completed a
29 training course certified by the commissioner as ap-
30 propriate for the safe and proper removal, encapsu-
31 lation or handling of asbestos. The commissioner
32 shall provide for interim certification for a period
33 not to exceed 30 days upon completion of a worker
34 safety orientation program approved by the commis-
35 sioner.

36 §1274. Certification of training courses

37 The commissioner, after consultation with the
38 Commissioner of Administration and the Commissioner
39 of Labor, shall develop rules establishing criteria
40 and procedures for the certification of training

1 courses and examinations which shall ensure the qual-
2 ifications of applicants for certification as re-
3 quired in this chapter. These rules shall be promul-
4 gated by the Department of Environmental Protection
5 in accordance with Title 5, chapter 375. To qualify
6 for certification, a training course shall contain a
7 combination of class instruction, practical applica-
8 tion and safety procedures of a length and content
9 which, to the satisfaction of the commissioner, shall
10 ensure adequate training for the level and type of
11 responsibility for each named certification category.

12 §1275. Reciprocity agreement

13 The commissioner is authorized to develop reci-
14 procity agreements with other states when the states
15 have established licensing and certification require-
16 ments that are at least as stringent as those set
17 forth in this chapter.

18 §1276. Support services

19 The Department of Administration shall provide
20 supporting services to the Department of Environmen-
21 tal Protection for the implementation of this chap-
22 ter, including:

23 1. Training records. Maintenance of training
24 records for employees of public and private entities
25 intending to undertake asbestos abatement activities
26 in the State;

27 2. Evaluation of applications. Assisting in
28 the evaluation of applications for licensing or cer-
29 tification for compliance with this chapter and sub-
30 sequent rules, upon request of the commissioner;

31 3. Evaluation of training programs. Evaluation,
32 development and management of training programs which
33 are appropriate for applicants attempting to comply
34 with the provisions of this chapter and subsequent
35 rules; and

36 4. Maintenance of project records. Maintenance
37 of records of asbestos abatement projects conducted
38 or supervised by the Department of Administration,
39 the contractors and employees involved in the

1 projects and any citations or violations of law that
2 may have occurred in completing these projects.

3 §1277. Fees

4 The following fees are established for each li-
5 cence and certification category to be paid annually.
6 The fees shall be paid upon application to the com-
7 missioner and deposited in the Maine Environmental
8 Protection Fund.

9 1. Fees established. The fees are:

10 A. Asbestos abatement contractor: \$500;

11 B. Asbestos abatement design and instruction
12 consultant: \$500;

13 C. Asbestos evaluation specialist: \$500;

14 D. Asbestos project supervisor: \$50; and

15 E. Asbestos abatement worker: \$25.

16 2. Exemptions. The fees in this section shall
17 not apply to public entities and their employees.

18 3. Fee limit. A person applying for certifica-
19 tion under more than one category shall pay only the
20 fee for the highest category.

21 §1278. Renewal

22 Each license or certificate issued under this
23 chapter shall expire one year after the date of is-
24 sue. Licensees or certificate holders may apply to
25 the Department of Environmental Protection for the
26 renewal of a license or certificate. No renewal
27 shall be granted if the application is received more
28 than 2 years following expiration of the previously
29 issued license or certificate.

30 To qualify for renewal of a license or certifi-
31 cate, the applicant shall submit:

32 1. Fee. The appropriate fee as prescribed in
33 section 1277;

1 2. Training. Evidence of completion of any con-
2 tinuing education or training that may be required by
3 rules promulgated by the commissioner; and

4 3. Disclosure. A signed statement disclosing
5 any violations of asbestos abatement standards for
6 which the applicant may have been cited by a regula-
7 tory agency of the Federal Government or the State.
8 If no citations were received during the previous
9 year, that fact shall be stated. The disclosure
10 shall include evidence that all penalties and fees
11 assessed to the applicant are paid in full.

12 §1279. Standard of acceptable work practice

13 The Board of the Department of Environmental Pro-
14 tection shall promulgate rules, subject to Title 5,
15 chapter 375, which establish criteria and procedures
16 of acceptable work practices for licensees and cer-
17 tificate holders engaged in the following asbestos
18 hazard abatement activities.

19 1. Removal; encapsulation; enclosure. For any
20 asbestos project that involves more than 100 linear
21 feet of pipe covered or coated with
22 asbestos-containing material for 100 square feet of
23 asbestos-containing material used to cover or coat
24 any duct, boiler, tank, reactor, turbine, structure,
25 structural member or structural component, the com-
26 missioner shall consider the following:

27 A. Proper work practices for the removal of
28 asbestos-containing materials;

29 B. Proper work practices for the encapsulation
30 of asbestos-containing materials;

31 C. Proper work practices for enclosure of
32 asbestos-containing materials;

33 D. Proper work practices for the demolition of a
34 structure or position of a structure which con-
35 tains structural members or components of or cover-
36 ed by asbestos-containing material;

37 E. Proper work practices for the storage, trans-
38 port and disposal of asbestos-containing materi-
39 als; and

1 F. Administrative penalties and cessation of op-
2 erations to ensure compliance with this subsec-
3 tion.

4 2. Other activities. For any asbestos project
5 not subject to the specific considerations of subsec-
6 tion 1, reasonable precautions to prevent the release
7 of asbestos to the environment shall be made. At a
8 minimum, the following precautions shall be consid-
9 ered:

10 A. Construction of adequate barriers to contain
11 asbestos fibers released within the work area;

12 B. Wetting of all asbestos-containing material
13 prior to removal and during collection;

14 C. Use of high efficiency particulate air vacuum
15 equipment and wet cleaning techniques to clean up
16 the work area following abatement until there is
17 no visible residue;

18 D. Containing waste in appropriately labeled
19 impermeable containers; and

20 E. Proper storage, transfer and disposal to an
21 approved landfill facility in a manner that does
22 not release asbestos fibers into the air.

23 §1280. Emergency provisions

24 In an emergency that results from a sudden, unex-
25 pected event that is not a planned asbestos abatement
26 project, the commissioner may waive the requirements
27 for a license or certificate. For the purposes of
28 this section, emergency includes operations necessi-
29 tated by nonroutine failures of equipment or by ac-
30 tions of fire and emergency medical personnel pursu-
31 ant to duties within their official capacities. Any
32 person who performs an asbestos abatement activity
33 under emergency conditions shall notify the commis-
34 sioner within 3 days after performance of that activ-
35 ity.

36 §1281. Standard of conduct

1 The Board of Environmental Protection shall
2 promulgate rules which establish standards of accept-
3 able professional conduct for licensees and certifi-
4 cate holders engaged in asbestos abatement activi-
5 ties, as well as specific acts and omissions that
6 constitute grounds for the reprimand of any licensee
7 or certificate holder, the suspension or revocation
8 of a license or certificate or the denial of the re-
9 newal of a license or certificate.

10 §1282. Interim procedures

11 In developing a program to implement this chap-
12 ter, the commissioner shall provide for interim li-
13 censing and certification procedures to ensure a
14 transition period of not less than 180 days before
15 the application of the requirements established in
16 this chapter.

17 §1283. Assistance from other departments

18 The Commissioner of Administration, the Commis-
19 sioner of Labor and the Commissioner of Human Ser-
20 vices shall assist the Commissioner of Environmental
21 Protection in the enforcement of the licensing and
22 certification requirements of this chapter.

23 Allocation. The following funds are allocated
24 from the Maine Environmental Protection Fund to carry
25 out the purposes of this Act.

	<u>1988-89</u>	<u>1989-90</u>
26		
27	<u>ENVIRONMENTAL PROTEC-</u>	
28	<u>TION, DEPARTMENT OF</u>	
29	Bureau of Air Quality	
30	Positions	(5)
31	Personal Services	\$108,518
32	All Other	34,032
33	Capital Expenditures	30,450
34		
35	Total	<u>\$173,000</u> <u>\$151,627</u>

36 Emergency clause. In view of the emergency cited
37 in the preamble, this Act shall take effect when ap-

1 proved.

2 STATEMENT OF FACT

3 The purpose of this bill is to establish a pro-
4 gram of licensure and certification to ensure that
5 asbestos abatement activities are carried out to the
6 highest professional standards. Only in this manner
7 can the safety of the workers and the general public
8 be assured. The program will be developed and admin-
9 istered by the Department of Environmental Protection
10 in cooperation with the Department of Administration
11 and the Department of Labor.

12 The program requires a license for asbestos re-
13 moval contractors and training certification for all
14 workers in abatement activities. Only these licensed
15 contractors with certified employees could conduct
16 abatement activities. The department will develop
17 training programs with assistance from the other de-
18 partments. The department will also develop stan-
19 dards to govern work practices which must be main-
20 tained in order to keep the license or certification
21 valid.

22 The program will be self-supporting on the basis
23 of reasonable license and certification fees.

24 1245031887