

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 937, L.D. 1357, Bill, "An Act to Amend the Laws Pertaining to Asbestos Removal"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 38 MRSA §1271, last ¶, as enacted by PL 1987, c. 448, §1-C, is amended to read:

The purpose of this chapter is to provide a flexible means by which the State, acting through the Department of Environmental Protection, may ensure that those engaged in the management and abatement of friable asbestos-containing materials are properly trained, supervised and directed to protect the public health.

Sec. 2. 38 MRSA §1272, sub-§2, as amended by PL 1989, c. 325, §1, is further amended to read:

2. Asbestos abatement activity. "Asbestos abatement activity" means activity involving the removal, renovation, demolition, enclosure, repair, encapsulation, handling, transportation or disposal of friable asbestos-containing materials in an amount greater than 3 square feet or 3 linear feet. "Asbestos abatement activity" includes the design, monitoring and inspection of any asbestos-containing material in an amount greater than 3 square feet or 3 linear feet.

Sec. 3. 38 MRSA §1272, sub-§3, as enacted by PL 1987, c. 448, §1-C, is amended to read:

3. Asbestos abatement contractor. "Asbestos abatement contractor" means a business entity that engages in, or intends to engage in, asbestos abatement activities as a business service

2 on property which that it does not own and that employs or
3 involves one or more asbestos abatement project supervisors,
4 asbestos abatement design consultants or evaluation specialists,
5 asbestos air monitors or asbestos inspectors for asbestos
6 abatement activities.

8 **Sec. 4. 38 MRSA §1272, sub-§§6-A and 6-B** are enacted to read:

10 **6-A. Asbestos air monitor.** "Asbestos air monitor" means a
11 person responsible for applying applicable rules and standards at
12 a specific location by monitoring procedures during asbestos
13 abatement activities in order to protect the public health from
14 the hazards associated with exposure to asbestos.

16 **6-B. Asbestos analytical laboratory.** "Asbestos analytical
17 laboratory" means a public or private entity that scientifically
18 analyzes samples of solids, liquids or gases to determine the
19 presence and concentration of asbestos fibers.

20 **Sec. 5. 38 MRSA §1272, sub-§7,** as enacted by PL 1987, c. 448,
21 §1-C, is amended to read:

23 **7. Asbestos-containing material.** "Asbestos-containing
24 material" means any material containing asbestos in quantities
25 equal to or greater than 1% by weight volume.

27 **Sec. 6. 38 MRSA §1272, sub-§8,** as enacted by PL 1987, c. 448,
28 §1-C, is repealed.

30 **Sec. 7. 38 MRSA §1272, sub-§§8-A, 8-B and 8-C** are enacted to
31 read:

33 **8-A. Asbestos consultant.** "Asbestos consultant" means a
34 business entity that engages in, or intends to engage in, the
35 design or monitoring of asbestos abatement activities.

37 **8-B. Asbestos inspector.** "Asbestos inspector" means a
38 person whose activities include, but are not limited to,
39 collecting bulk samples and assessing the potential for exposure
40 associated with the presence of asbestos-containing material.

42 **8-C. Asbestos professional.** "Asbestos professional" means
43 a person licensed and certified by the commissioner to work in
44 the asbestos abatement field, including, but not limited to, an
45 asbestos abatement worker, asbestos abatement project supervisor,
46 an asbestos air monitor, an asbestos inspector and an asbestos
47 consultant.

48 **Sec. 8. 38 MRSA §1272, sub-§10,** as affected by PL 1989, c.
49 890, Pt. A, §40 and amended by Pt. B, §216, is further amended to
50 read:

2 **10. Certificate.** "Certificate" means a document issued by
the commissioner affirming that an individual has successfully
4 completed the training and other requirements set forth in this
chapter to qualify as an asbestos ~~project manager,~~ abatement
6 design consultant, an asbestos abatement project supervisor, an
asbestos abatement worker, an asbestos air monitor or an asbestos
8 evaluation specialist or asbestos abatement specialist inspector,
whether held by an individual, business or public entity.

10 **Sec. 9. 38 MRSA §1272, sub-§13,** as enacted by PL 1987, c. 448,
§1-C, is repealed and the following enacted in its place:

12 **13. Friable.** "Friable" means materials that, when dry,
14 have the potential to readily release asbestos fibers when
crumbled, pulverized, handled, deteriorated or subjected to
16 mechanical, physical or chemical processes. It also means
previously nonfriable material that has deteriorated or has been
18 processed to the extent that, when dry, it may readily release
asbestos fibers.

20 **Sec. 10. 38 MRSA §1272, sub-§15-A** is enacted to read:

22 **15-A. Owner.** "Owner" means any person who owns, leases,
24 operates, controls or supervises any building, structure or
facility having asbestos-containing materials.

26 **Sec. 11. 38 MRSA §1273, sub-§2,** as enacted by PL 1987, c. 448,
28 §1-C, is amended to read:

30 **2. Notification required.** No A person or owner may not
engage in any planned asbestos abatement project that involves
32 more than 100 over 3 linear feet of pipe covered or coated with
asbestos-containing material or more than 100 or 3 square feet
34 of friable asbestos-containing material unless notification is
given that person or owner notifies the commissioner in writing
36 at least 10 working calendar days before beginning any on-site
work, including on-site preparation work, that has the potential
38 to release asbestos fibers.

40 **Sec. 12. 38 MRSA §1273, sub-§4,** as amended by PL 1989, c. 325,
§5, is further amended to read:

42 **4. Exemption.** Asbestos Persons undertaking asbestos
44 abatement activities undertaken in single-unit residential
buildings shall be are exempt from the licensing and
46 certification requirements of this section if the activities are
limited to heating equipment and performed by persons licensed
48 by the Oil and Solid Fuel Board under Title 32, chapter 33, to
install, repair, remove or service heating equipment. This
50 exemption does not apply to notification or work practices
requirements under this chapter or to disposal requirements under
52 chapter 13. Asbestos abatement activities related to disposal

2 undertaken at licensed asbestos disposal sites are exempt from
the requirements of this section.

4 Sec. 13. 38 MRSA §1274, as affected by PL 1989, c. 890, Pt.
A, §40 and amended by Pt. B, §219, is repealed.

6 Sec. 14. 38 MRSA §1274-A is enacted to read:

8 §1274-A. Certification and licensing requirements

10 The board may adopt and amend rules necessary to govern the
12 certification and licensing of asbestos abatement contractors,
14 asbestos abatement design consultants, asbestos inspectors,
16 asbestos air monitors, asbestos abatement project supervisors,
18 asbestos abatement workers, asbestos consultants, asbestos
analytical laboratories and other persons undertaking asbestos
abatement activities.

20 Sec. 15. 38 MRSA §1275, sub-§3, as enacted by PL 1989, c. 630,
§7, is amended to read:

22 3. Transition. Training courses conducted by, and
24 instructors employed by, ~~firms~~ a firm with in-house asbestos
26 abatement units contracting for asbestos removal with the Federal
Government are considered certified under this section pending
28 review for certification if the firm has submitted to the
commissioner by March 1, 1990, a training course that meets
training requirements set forth in this chapter.

30 Sec. 16. 38 MRSA §1277, sub-§§2 and 3, as enacted by PL 1987,
32 c. 448, §1-C, are amended to read:

34 2. Evaluation of applications. Assistance in the
evaluation of applications for licensing or certification for
36 compliance with this chapter and subsequent rules, upon request
of the commissioner; and

38 3. Evaluation of training programs. Evaluation,
40 development and management of training programs which are
appropriate for applicants attempting to comply with the
42 provisions of this chapter and subsequent rules; and.

44 Sec. 17. 38 MRSA §1277, sub-§4, as enacted by PL 1987, c. 448,
§1-C, is repealed.

46 Sec. 18. 38 MRSA §1278, sub-§1, as amended by PL 1989, c. 630,
48 §8, is further amended to read:

50 1. Fees established. The following fees are established
for each license and certification category to be paid annually.

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2 The fees shall ~~must~~ be paid upon application to the commissioner
and deposited in the Maine Environmental Protection Fund.

4 A. The fees are:

- 6 (1) Asbestos abatement contractor: \$250;
- 8 (1-A) In-house asbestos abatement unit: \$250;
- 10 (2) Asbestos abatement design consultant: \$50;
- 12 (2-A) Asbestos inspector: \$50;
- 14 (3) Asbestos evaluation-specialist air monitor: \$50;
- 16 (4) Asbestos abatement project supervisor: \$50; and
- 18 (5) Asbestos abatement worker: \$25-;
- 20 (6) Asbestos consultant: \$250;
- 22 (7) Asbestos analytical laboratory: \$250;
- 24 (8) Asbestos abatement training provider: \$500 or the
26 equivalent value of training of department personnel;
and
- 28 (9) Other categories of asbestos abatement
30 professionals: \$50.

32 B. A business, in-house asbestos abatement unit or public
entity may pay the certification fee and receive
34 certificates for one or more positions in each category on
an annual basis. Employees filling the certified positions
36 at any time during the one-year period must be qualified
under terms of this chapter and, if qualified, must receive
written evidence of certification. The business, in-house
38 asbestos abatement unit or public entity shall notify the
commissioner within 5 working days of any changes of the
40 persons holding its certified positions and provide all
information requested by the commissioner to show that new
42 employees meet the requirements for certification pursuant
to this chapter.

44 C. A person applying for certification under more than one
46 category shall pay only the fee for the highest category and
\$25 for each additional category.

48 **Sec. 19. 38 MRSA §1280, sub-§1**, as affected by PL 1989, c.
50 890, Pt. A, §40 and amended by Pt. B, §224, is further amended to
read:

52

1. Removal; demolition; encapsulation; enclosure; repair; handling; or transportation. For any asbestos project activity that involves more than 100 3 linear feet of pipe covered or coated with asbestos-containing material or 100 3 square feet of friable asbestos-containing material used to cover or coat any duct, boiler, tank, reactor, turbine, structure, structural member or structural component, the board shall consider the following:

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

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

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

D. Proper work practices for the demolition of a structure or position of a structure which contains structural members or components of or covered by asbestos-containing materials;

E. Proper work practices for the storage, transport and disposal of asbestos-containing materials; and

F. Administrative penalties and cessation of operations to ensure compliance with this subsection;

G. Air monitoring, bulk and air sample analysis and criteria governing public access to sites where asbestos abatement activity has occurred; and

H. Asbestos abatement, monitoring, inspection, design and analysis activities.

In adopting these rules, the board shall consider cost-effective methods and alternatives that do not sacrifice public or worker health or safety.

FISCAL NOTE

	1991-92	1992-93
REVENUES		
Other Funds	\$5,000	\$5,000

This bill establishes several new categories of fees for asbestos licensing and certification. These new fees will increase dedicated revenue to the Maine Environmental Protection Fund by \$5,000 annually beginning in fiscal year 1991-92. Costs

2 associated with the Department of Environmental Protection
adopting rules to develop criteria and requirements for
4 certification and licensing of asbestos abatement contractors and
other abatement professionals will be absorbed within existing
6 budgeted resources of the department.'

8
10 **STATEMENT OF FACT**

12 This amendment removes all the transfer of duties from the
commissioner to the department.

14 The amendment also defines several new categories of
asbestos abatement entities and workers. The term "friable" is
16 redefined to include nonfriable materials that deteriorate or are
treated in such a way that they release asbestos fibers.

18 This amendment also requires notification of any removal
20 project involving over 3 linear or 3 square feet of friable
asbestos-containing material.

22 Certification and licensing requirements are repealed from
24 this chapter and a requirement is enacted to require the board to
develop criteria and requirements by rule.

26 New categories of certified and licensed asbestos abatement
28 workers and entities are charged license fees. A person applying
for certification under more than one category is charged an
30 additional \$25 fee.

32 The board is required to develop rules relating to air
monitoring, bulk sample analysis, access to work sites and other
34 activities. A requirement that these requirements are
cost-effective is also included.

36 The amendment also includes a fiscal note.

Reported by the Committee on Energy and Natural Resources
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