

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



STATE LAW LIBRARY
AUGUSTA, MAINE

115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1357

H.P. 937

House of Representatives, March 28, 1991

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script, reading 'Ed Pert'.

EDWIN H. PERT, Clerk

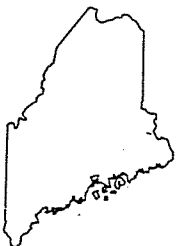
Presented by Representative LARRIVEE of Gorham.

Cosponsored by Representative COLES of Harpswell and Representative SIMPSON of Casco.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Amend the Laws Pertaining to Asbestos Removal.



Be it enacted by the People of the State of Maine as follows:

2 **Sec. 1. 38 MRSA §1271, last ¶**, as enacted by PL 1987, c. 448,
4 §1-C, is amended to read:

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

18 **Sec. 2. 38 MRSA §1272, sub-§2**, as amended by PL 1989, c. 325,
20 §1, is further amended to read:

22 **2. Asbestos abatement activity.** "Asbestos abatement
24 activity" means activity involving the removal, ~~renewation~~
26 demolition, enclosure, repair, encapsulation, handling,
28 transportation or disposal of friable asbestos-containing
30 materials in an amount greater than 3 square feet or 3 linear
32 feet.

34 **Sec. 3. 38 MRSA §1272, sub-§3**, as enacted by PL 1987, c. 448,
36 §1-C, is amended to read:

38 **3. Asbestos abatement contractor.** "Asbestos abatement
40 contractor" means a business entity that engages in, or intends
42 to engage in, asbestos abatement activities as a business service
44 on property which that it does not own and that employs or
46 involves one or more asbestos abatement project supervisors,
48 design consultants ~~or evaluation specialists~~, air monitors or
50 inspectors for asbestos abatement activities.

52 **Sec. 4. 38 MRSA §1272, sub-§6-A** is enacted to read:

54 **6-A. Asbestos air monitor.** "Asbestos air monitor" means a
56 person responsible for applying applicable rules and standards at
58 a specific location by monitoring procedures during asbestos
60 abatement activities in order to protect the public health from
62 the hazards associated with exposure to asbestos.

64 **Sec. 5. 38 MRSA §1272, sub-§7**, as enacted by PL 1987, c. 448,
66 §1-C, is amended to read:

68 **7. Asbestos-containing material.** "Asbestos-containing
70 material" means any material containing asbestos in quantities
72 equal to or greater than 1% by weight volume.

74 **Sec. 6. 38 MRSA §1272, sub-§8**, as enacted by PL 1987, c. 448,
76 §1-C, is repealed.

78 **Sec. 7. 38 MRSA §1272, sub-§8-A** is enacted to read:

2 **8-A. Asbestos inspector.** "Asbestos inspector" means a
3 person whose activities include, but are not limited to,
4 collecting bulk samples and assessing the potential for exposure
5 associated with the presence of asbestos-containing material.

6
7 **Sec. 8. 38 MRSA §1272, sub-§10,** as affected by PL 1989, c.
8 890, Pt. A, §40 and amended by Pt. B, §216, is further amended to
9 read:

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

19 **Sec. 9. 38 MRSA §1272, sub-§11-A** is enacted to read:

20
21 **11-A. Demolition.** "Demolition" means the wreckage or
22 removal of any load-supporting structural member of a facility
23 together with any related handling operations.

24
25 **Sec. 10. 38 MRSA §1272, sub-§13,** as enacted by PL 1987, c.
26 448, §1-C, is amended to read:

27
28 **13. Friable.** "Friable" means materials which that may be
29 crumbled or pulverized, when dry, by hand pressure,---~~These~~
30 ~~materials-include-materials-located-behind-barrier-systems-and~~
31 ~~materials-which-have-been-rendered-friable-through-manipulation,~~
32 including previously nonfriable material after that material
33 becomes damaged to the extent that, when dry, it may be crumbled,
34 pulverized or reduced to powder by hand pressure.

35 **Sec. 11. 38 MRSA §1272, sub-§15-A** is enacted to read:

36
37 **15-A. Owner.** "Owner" means any person who owns, leases,
38 operates, controls or supervises any building, structure or
39 facility having asbestos-containing materials.

40
41 **Sec. 12. 38 MRSA §1273, sub-§2,** as enacted by PL 1987, c. 448,
42 §1-C, is amended to read:

43
44 **2. Notification required.** ~~No-person-may-engage-in-any~~ The
45 department must receive notification on all asbestos abatement
46 projects over 3 linear or 3 square feet within 3 days of the
47 starting dates of the projects. Any planned asbestos abatement
48 project that involves more than 100 260 linear feet of pipe
49 covered or coated with asbestos-containing material or more than
50 100 160 square feet of asbestos-containing material unless

2 requires notification is given the commissioner to the department
in writing at least 10 working calendar days before beginning any
4 on-site work that has the potential to release asbestos fibers.
The receipt of the notification must be acknowledged in writing
6 by the department.

8 **Sec. 13. 38 MRSA §1273, sub-§4**, as amended by PL 1989, c. 325,
§5, is further amended to read:

10 **4. Exemption.** Asbestos abatement activities undertaken in
single-unit residential buildings ~~shall be~~ are exempt from the
12 licensing and certification requirements of this section if
limited to less than 3 linear or 3 square feet of
14 asbestos-containing insulation on heating equipment and performed
by persons licensed by the Oil and Solid Fuel Board under Title
16 32, chapter 33, to install, repair, remove or service heating
equipment. An exemption may not be granted regarding
18 notification, work practices or disposal requirements under this
section. Asbestos abatement activities related to disposal
20 undertaken at licensed asbestos disposal sites are exempt from
the requirements of this section.

22 **Sec. 14. 38 MRSA §1274**, as affected by PL 1989, c. 890, Pt.
24 A, §40 and amended by Pt. B, §219, is further amended to read:

26 **§1274. Licensing and certification**

28 The ~~commissioner~~ department shall administer a program,
pursuant to adopted criteria and procedures, for the licensing or
30 certification of the following.

32 **1. Asbestos abatement license.** To qualify for a license as
an asbestos abatement contractor or in-house asbestos abatement
34 unit, an applicant ~~shall~~ must show evidence satisfactory to the
~~commissioner~~ department that:

36 A. Each employee or agent within its employ who will come
38 in contact with asbestos or will be responsible for an
asbestos abatement project:

40 (1) Is familiar with all applicable state and federal
42 standards for asbestos abatement projects; and

44 (2) Has successfully completed a course of instruction
for that employee's or agent's particular category that
46 has been certified pursuant to section 1275, and is
capable of complying with all applicable standards of
48 the State, the United States Environmental Protection
Agency and the United States Occupational Safety and
50 Health Administration;

2 B. It has access to at least one asbestos disposal site
4 approved by the department that is sufficient for the
deposit of all asbestos waste that it will generate during
the term of the license;

6 C. It possesses a work program that prevents the
8 contamination or recontamination of the environment and
protects the public health from the hazards of exposure to
asbestos;

10 D. It possesses evidence of certification under subsection
12 4 of each individual employee or agent who will be
responsible for other employees who may come in contact with
14 friable asbestos-containing materials;

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

18 F. It possesses a worker protection and medical monitoring
20 program consistent with requirements established by the
Maine Board of Occupational Safety and Health Protection if
22 the contractor or in-house asbestos abatement unit is a
public entity and a worker protection program consistent
24 with the requirements of the United States Occupational
Safety and Health Administration if the contractor or
26 in-house asbestos abatement unit is a business entity.

28 The department shall develop a program that establishes criteria
30 and procedures for the licensing or certification of consultants
and analytical laboratories.

32 **2. Asbestos abatement design.** All designs or plans for
asbestos abatement shall over 3 linear or 3 square feet must be
34 developed by an asbestos abatement design consultant.

36 A. To qualify for receipt of certification, an applicant
shall must show evidence satisfactory to the ~~commissioner~~
38 department that that applicant has:

40 (1) Fulfilled the requirements for certification as an
asbestos abatement project supervisor set forth in
42 subsection 4;

44 (2) A minimum of 2 years of experience in the design
and implementation of asbestos management and removal
46 projects; and

48 (3) Successfully completed an examination administered
approved by the ~~commissioner~~ department for this
50 category.

2 B. All modifications to facilities or structures and to
their component systems, which may occur in conjunction with
4 an asbestos abatement project shall must be designed in
accordance with applicable state and municipal building
6 codes.

8 3. **Asbestos inspector.** All evaluations of public health
hazards associated with the presence of friable asbestos
materials to determine the need for an asbestos abatement project
10 ~~and to ensure that a completed project meets prescribed standards~~
~~shall be conducted by an asbestos evaluation specialist~~ must be
12 performed by an asbestos inspector certified pursuant to the
requirements of this section.

14 A. To qualify for certification, an applicant shall must
16 show evidence satisfactory to the ~~commissioner~~ department
that:

18 (1) The applicant has passed a course or program
20 approved by the ~~commissioner~~ which assures department
that ensures competence in ~~proper air sampling~~
22 ~~techniques and~~ asbestos inspections and a full
understanding of the characteristics and hazards of
24 friable asbestos; and

26 (2) The applicant has fulfilled the requirements for
certification as an asbestos abatement project
28 supervisor set forth in subsection 4.

30 3-A. Asbestos air monitor. To ensure that an asbestos
abatement project meets prescribed standards, monitoring must be
32 conducted by an asbestos air monitor certified pursuant to the
requirements of this section.

34 A. To qualify for certification, an applicant must show
36 evidence satisfactory to the department that:

38 (1) The applicant has passed a course or program
approved by the department that ensures competence in
40 proper air sampling techniques and a full understanding
of the characteristics and hazards of friable asbestos;
42 and

44 (2) The applicant has fulfilled the requirements for
certification as an asbestos abatement project
46 supervisor set forth in subsection 4.

48 4. **Asbestos abatement project supervisors.** All persons
supervising the conduct of asbestos abatement activities shall
50 must be certified as asbestos abatement project supervisors. To
qualify for receipt of certification, an applicant shall must
52 show evidence satisfactory to the ~~commissioner~~ department that:

2 A. The applicant has satisfactorily completed a training
course certified by the ~~commissioner~~ department as
4 appropriate for a person supervising asbestos abatement
workers in the conduct of an asbestos abatement activity;
6 and

8 B. The applicant has participated in ~~or~~-observed at least
one asbestos abatement project and has worked under the
10 direction of a certified asbestos abatement project
supervisor for at least 4 months in addition to the training
12 required in this subsection.

14 5. Asbestos abatement worker. All employees engaged in
asbestos abatement activities and not otherwise certified under
16 this chapter shall must be certified as asbestos abatement
workers. To qualify for certification, an applicant shall must
18 show evidence satisfactory to the ~~commissioner~~ department that
the applicant has completed 32 hours of training in a training
20 course certified by the ~~commissioner~~ department as appropriate
for the safe and proper removal, encapsulation or handling of
22 asbestos.

24 Sec. 15. 38 MRSA §1275, sub-§§1 and 2, as enacted by PL 1987,
c. 448, §1-C, are amended to read:

26 1. Course requirements. To qualify for certification, a
28 training course shall must contain a combination of class
instruction, practical application and public health procedures
30 of a length and content which, to the satisfaction of the
~~commissioner~~ department, shall ensure adequate training for the
32 level and type of responsibility for each named certification
category.

34 2. Instructors. All courses certified under this section
36 shall must be conducted by instructors whose training and
experience is are determined by the ~~commissioner~~ department to be
38 appropriate for the subject matter being taught and the level of
certification category for which the course is designed. All
40 courses shall must be designed and conducted under the guidance
of an asbestos abatement design consultant.

42 Sec. 16. 38 MRSA §1275, sub-§3, as enacted by PL 1989, c. 630,
44 §7, is amended to read:

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

2 **Sec. 17. 38 MRSA §1276**, as enacted by PL 1987, c. 448, §1-C,
is amended to read:

4 **§1276. Reciprocity agreement**

6 The ~~commissioner~~ department may develop reciprocity
8 agreements with other states when the states have established
licensing and certification requirements that are at least as
10 stringent as those set forth in this chapter.

12 **Sec. 18. 38 MRSA §1277, first ¶**, as affected by PL 1989, c.
890, Pt. A, §40 and amended by Pt. B, §220, is further amended to
14 read:

16 The Department of Administration shall provide supporting
services to the ~~commissioner~~ department for the implementation of
18 this chapter, including:

20 **Sec. 19. 38 MRSA §1277, sub-§§2 and 3**, as enacted by PL 1987,
c. 448, §1-C, are amended to read:

22 **2. Evaluation of applications.** Assistance in the
24 evaluation of applications for licensing or certification for
compliance with this chapter and subsequent rules, upon request
26 of the ~~commissioner~~ department; and

28 **3. Evaluation of training programs.** Evaluation,
development and management of training programs which are
30 appropriate for applicants attempting to comply with the
provisions of this chapter and subsequent rules; ~~and~~.

32 **Sec. 20. 38 MRSA §1277, sub-§4**, as enacted by PL 1987, c. 448,
34 §1-C, is repealed.

36 **Sec. 21. 38 MRSA §1278, sub-§1**, as amended by PL 1989, c. 630,
§8, is further amended to read:

38 **1. Fees established.** The following fees are established
40 for each license and certification category to be paid annually.
The fees shall must be paid upon application to the ~~commissioner~~
42 department and deposited in the Maine Environmental Protection
Fund for the purpose of administering this chapter.

44 A. The fees are:

46 (1) Asbestos abatement contractor, consultant entity
48 or asbestos analytical entity: \$250;

50 (1-A) In-house asbestos abatement unit: \$250;

52 (2) Asbestos abatement design consultant: \$50;

- 2 (2-A) Asbestos inspector: \$50;
- 4 (3) Asbestos evaluation-specialist air monitor: \$50;
- 6 (4) Asbestos abatement project supervisor: \$50; and
- 8 (5) Asbestos abatement worker: \$25.

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

24 C. A person applying for certification under more than one
26 category shall pay only the fee for the highest category.

28 **Sec. 22. 38 MRSA §1278, sub-§2, ¶A**, as amended by PL 1989, c.
 630, §9, is further amended to read:

30 A. The ~~fees-are~~ fee is:

32 (1) ~~Projects For a project involving more than 100 160~~
34 ~~square feet or 100 260 linear feet,--but-less-than-1,000~~
 ~~square--feet--or--5,000--linear--feet,---\$100;--and : \$200.~~
36 Single-unit residential buildings are exempt from this
 fee.

38 (2) ~~Projects-involving-more-than-1,000-square-feet--or~~
40 ~~5,000-linear-feet+--\$200.~~

42 **Sec. 23. 38 MRSA §1279, first ¶**, as affected by PL 1989, c.
 890, Pt. A, §40 and amended by Pt. B, §221, is further amended to
44 read:

46 Each license or certificate issued under this chapter
48 expires one year after the date of issue. Licensees or
 certificate holders may must apply to the ~~commissioner~~ department
 for the renewal of a license or certificate. No renewal may be
50 granted if the application is received more than 2 years
 following expiration of the previously issued license or
52 certificate.

2 **Sec. 24. 38 MRSA §1279, sub-§2**, as affected by PL 1989, c.
3 890, Pt. A, §40 and amended by Pt. B, §222, is further amended to
4 read:

5 **2. Training.** Evidence of completion of any continuing
6 education or training that may be required by rules promulgated
7 by the ~~board~~ department; and

8 **Sec. 25. 38 MRSA §1280, sub-§1**, as affected by PL 1989, c.
9 890, Pt. A, §40 and amended by Pt. B, §224, is further amended to
10 read:

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

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

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

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

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

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

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

32 **Sec. 26. 38 MRSA §1280, sub-§3** is enacted to read:

33 **3. Rule-making authority.** The board shall promulgate rules
34 to make encapsulation and enclosure more cost effective without
35 sacrificing health and safety.

36 **Sec. 27. 38 MRSA §1281**, as enacted by PL 1987, c. 448, §1-C,
37 is amended to read:

38 **§1281. Emergency provisions**

2 In an emergency that results from a sudden, unexpected event
that is not a planned asbestos abatement project, the
4 ~~commissioner~~ department may waive the requirements for a license
or certificate. For the purposes of this section, emergency
6 includes operations necessitated by nonroutine failures of
equipment or by actions of fire and emergency medical personnel
8 pursuant to duties within their official capacities. Any person
who performs an asbestos abatement activity, which activity would
normally require notification pursuant to section 1273,
10 subsections 2 and 3, under emergency conditions, shall notify the
~~commissioner~~ department by phone within one working day and in
12 writing within 3 days after performance of that activity.

14 Sec. 28. 38 MRSA §1283, as enacted by PL 1987, c. 448, §1-C,
is amended to read:

16 **§1283. Interim procedures**

18 In developing a program to implement this chapter, the
20 ~~commissioner~~ department shall provide for interim licensing and
certification procedures to ensure a transition period of not
22 less than 180 days before the application of the requirements
established in this chapter.

24 Sec. 29. 38 MRSA §§1285 and 1286 are enacted to read:

26 **§1285. Rules on clearance**

28 The board shall promulgate rules on mandatory clearance, air
30 monitoring, analysis and release criteria.

32 **§1286. Reporting**

34 The department shall file an annual report to the
Legislature and publish the report in the Daily Kennebec
36 Journal. The report must include the number of inspections made
and the number of citations issued.

38
40 **STATEMENT OF FACT**

42 This bill amends the current laws regulating the licensing,
certification and scope of work involving asbestos abatement
44 activities. The bill requires that the Department of
Environmental Protection establish procedures by which
46 consultants and analytical laboratories become licensed. The
evaluation specialist category is replaced with asbestos
48 inspector and air monitor categories. Notification to the
department is required for any project over 3 linear or 3 square
50 feet. Permit fees are increased to \$200 for all projects greater
than 160 square or 260 linear feet and single-unit residential
52 facilities are exempted. Subtrades involved in asbestos

- abatement activities are required to conform to present law.
- 2 Demolition as an asbestos abatement activity is defined and
notification required. Reporting by the department is required
- 4 and the department is authorized to create, by rule, air
clearance criteria.