

STATE OF NEW YORK

7440--A

R.R. 501

1989-1990 Regular Sessions

IN ASSEMBLY

March 28, 1989

Introduced by M. of A. BARBARO, DANIELS -- Multi-Sponsored by -- M. of A. ABBATE, CROWLEY, Del TORO, DUGAN, HILL, MARSHALL, MARTINEZ, MAVER-SOHN, TOCCI -- (at request of the Department of Labor) -- read once and referred to the Committee on Labor -- reported and referred to the Committee on Rules -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote considered, bill amended, ordered re-printed and restored to third reading

AN ACT to amend the labor law and the education law, in relation to standards for conducting asbestos projects and repealing certain provisions of the labor law relating thereto and further in relation to asbestos demolition surveys

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Section 900 of the labor law, as added by chapter 775 of
- 2 the laws of 1986, is amended to read as follows:
- 3 § 900. Legislative findings and declaration. The legislature hereby
- 4 finds and declares that exposure to asbestos fibers, a known carcino-
- 5 genic agent, creates a serious risk to the public health and safety. The
- 6 legislature also finds that the public is more frequently exposed to
- 7 these risks as a result of an increasing number of rehabilitation and
- 8 reconstruction projects on buildings containing asbestos or asbestos
- 9 materials.
- 10 The legislature finds that the risks associated with asbestos are ex-
- 11 acerbated by the improper and uninformed manner in which some contrac-
- 12 tors and their employees handle asbestos. Improper [removal of materials
- 13 containing asbestos] design, implementation or inspection of asbestos
- 14 projects creates unnecessary health and safety hazards which are detri-
- 15 mental to the state's interest, and that of its citizens.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [] is old law to be omitted.

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1 1. It shall be unlawful for any contractor to engage in an asbestos
2 project unless such contractor has a valid asbestos handling license is-
3 sued by the commissioner. Such license will not be issued without evi-
4 dence of successful completion by the contractor, or a supervisor desig-
5 nated to act as the contractor's agent, of an approved asbestos safety
6 program which is, at the least, equivalent to the U.S. Environmental
7 Protection Agency Model Accreditation Plan (40 CFR Part 763) and the
8 submission of any additional information which the commissioner may
9 require.

10 4. It shall be unlawful for any contractor to engage in or to permit a
11 person employed by the contractor, including but not limited to han-
12 dlers, project designers, inspectors and management planners, to engage
13 in work on an asbestos project [involving the installation, removal, en-
14 capsulation, application or enclosure of asbestos or asbestos material
15 or the disturbance of friable asbestos] or to supervise persons engaging
16 in [such] work on an asbestos project unless each such person and super-
17 visor has a valid asbestos handling certificate. Such certificate will
18 not be issued without evidence of successful completion by each such
19 person of an approved asbestos safety program and the submission of any
20 additional information which the commissioner may require.

21 5. Any person employed on an asbestos project [whose work involves the
22 installation, removal, encapsulation, application or enclosure of any
23 asbestos or asbestos material or the disturbance of friable asbestos,]
24 or the [supervision] supervisor of [such work,] any person engaged in
25 work on an asbestos project or any other person who is otherwise
26 required by law or regulation to obtain an asbestos handler's certifi-
27 cate shall have in his or her possession at all times during the work on
28 the project a copy of the asbestos handling certificate issued to the
29 person by the commissioner.

30 § 5. Subdivisions 1 and 4 of section 903 of the labor law, as added by
31 chapter 775 of the laws of 1986, are amended to read as follows:

32 1. All applications for asbestos handling licenses or certificates
33 shall be submitted in writing on forms furnished by the commissioner and
34 shall contain such information which the commissioner may require. An
35 application for an asbestos handling license shall contain a verified
36 statement by the contractor or its duly authorized representative that
37 all persons employed by the contractor on any asbestos project whose
38 duties involve the [installation,] removal, encapsulation, [application
39 or] enclosure [of asbestos or asbestos materials] or [the] disturbance
40 of friable asbestos, or any handling of asbestos material that may
41 result in the release of asbestos fiber or the supervision thereof,
42 shall have valid asbestos handling certificates and that the contractor
43 will abide by all the rules and regulations promulgated pursuant to this
44 article. The commissioner shall have the authority to deny the issuance
45 or renewal of a license for good cause shown, including the applicant's
46 serious violation of state, federal or local laws with regard to the
47 applicant's conduct of any job involving asbestos or asbestos material.

48 4. An asbestos handling license shall be valid for a period of one
49 year from the date of issuance and may be renewed on conditions set by
50 the commissioner related to additional training.

51 § 6. Subdivision 6 of section 903 of the labor law is renumbered sub-
52 division 8 and two new subdivisions 6 and 7 are added to read as
53 follows:

54 6. The renewal fee for an asbestos handling certificate shall be ten
55 dollars, which shall accompany each certificate renewal application.

1 ited to (1) standards for asbestos projects including methods of remov-
2 ing, encapsulating, enclosing or disturbing friable asbestos and stan-
3 dards for any handling of asbestos material which may result in the
4 creation of friable asbestos or any handling of asbestos material that
5 may result in the release of asbestos fibers, as shall be necessary to
6 protect the public health and safety and shall include regulations which
7 will permit such disturbance that results from actions that are neces-
8 sary to abate an emergency which poses an immediate threat to safety or
9 the public health; (2) standards for asbestos projects and in-plant
10 operations setting licensing and certification requirements; and (3)
11 standards for asbestos projects and in-plant operations setting goal air
12 monitoring and clearance requirements, including those necessary to in-
13 sure that asbestos work is properly designated as an in-plant operation
14 as defined in subdivision twelve of section nine hundred one of this
15 chapter.

16 § 11. Subdivision 3 of section 909 of the labor law, as added by chap-
17 ter 775 of the laws of 1986, is amended to read as follows:

18 3. If, after an investigation and a formal hearing, the commissioner
19 finds that a contractor has violated any provision of this article or
20 any rule or regulation promulgated hereunder within three years of the
21 last assessment of [the] a civil penalty against the contractor under
22 this article, or has been found to have committed serious violations of
23 other state, federal or local laws with regard to the contractor's con-
24 duct of any asbestos project or has otherwise demonstrated a lack of
25 responsibility in the conduct of any job involving asbestos or asbestos
26 material of such seriousness as to warrant the revocation of the
27 contractor's license, the commissioner may, by an order which describes
28 in detail the nature of the violation or violations, revoke the
29 contractor's asbestos handling license and such contractor shall not be
30 eligible to apply for a new asbestos handling license for a period of up
31 to two years.

32 § 12. Subdivisions 4 and 5 of section 434 of the education law, sub-
33 division 4 as amended and subdivision 5 as added by chapter 775 of the
34 laws of 1986, are amended to read as follows:

35 4. To require contractors engaged in [the installation, removal, ap-
36 plication, enclosure or encapsulation of asbestos or asbestos materials
37 or disturbance of friable asbestos] asbestos projects, as defined in ar-
38 ticle thirty of the labor law, in schools to possess an asbestos han-
39 dling license issued pursuant to [article thirty of the labor] such law.

40 5. To require [employees and supervisory personnel employed by such
41 contractors in the installation, removal, application, enclosure, or en-
42 capsulation of asbestos or asbestos material or the disturbance of fri-
43 ble asbestos] individuals, including contractors, handlers, project
44 designers, inspectors and management planners, involved with asbestos
45 projects, as defined in article thirty of the labor law, in schools, to
46 possess an asbestos handling certificate issued pursuant to [article
47 thirty of the labor] such law.

48 § 13. Subdivisions 6, 7 and 8 of section 241 of the labor law, as
49 amended by chapter 670 of the laws of 1980, are amended to read as
50 follows:

51 6. All areas in which construction, excavation or demolition work is
52 being performed shall be so constructed, shored, equipped, guarded, ar-
53 ranged, operated and conducted as to provide reasonable and adequate
54 protection and safety to the persons employed therein or lawfully fre-
55 quenting such places. The [board] commissioner may make rules to carry
56 into effect the provisions of this subdivision, and the owners and con-

1 tions required pursuant to this act shall be promulgated no later than
2 240 days from the date this act shall have become a law;
3 (b) the provisions of sections thirteen and fourteen of this act shall
4 take effect on the two hundred tenth day after it shall have become a
5 law. All regulations necessary to implement the amendments made to the
6 labor law pursuant to such sections shall be promulgated by the commis-
7 sioner of labor on or before the date such sections take effect
8 hereunder.