

hunting license in order to use the big game permit during the period covered by the permit in the year following issuance of the big game permit.

Passed the Senate March 9, 1989.

Passed the House April 12, 1989.

Approved by the Governor April 22, 1989.

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CHAPTER 154

[Substitute Senate Bill No. 5681]

ASBESTOS PROJECTS

AN ACT Relating to asbestos projects; reenacting and amending RCW 49.26.013, 49.26.016, 49.26.100, 49.26.110, 49.26.120, 49.26.125, 49.26.130, and 49.26.901; reenacting RCW 49.26.115 and 49.26.150; creating a new section; making appropriations; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The purpose of this act is to make corrections to chapter 271, Laws of 1988, and to ensure that the changes made in that chapter meet the constitutional requirements of Article II, section 19 of the state Constitution.

Sec. 2. Section 7, chapter 271, Laws of 1988 and RCW 49.26.013 are each reenacted and amended to read as follows:

(1) Any owner or owner's agent who allows or authorizes any construction, renovation, remodeling, maintenance, repair, or demolition project which has a reasonable possibility, as defined by the department, of disturbing or releasing asbestos into the air, shall perform or cause to be performed, using practices approved by the department, a good faith inspection to determine whether the proposed project will disturb or release any material containing asbestos into the air.

An inspection under this section is not required if the owner or owner's agent is reasonably certain that asbestos will not be disturbed or assumes that asbestos will be disturbed by a project which involves construction, renovation, remodeling, maintenance, repair, or demolition and takes the maximum precautions as ~~((required))~~ specified by all applicable federal and state requirements.

(2) Except as provided in RCW 49.26.125, the owner or owner's agent shall prepare and maintain a written report describing each inspection, or a statement of assumption of the presence or reasonable certainty of the absence of asbestos, ~~((shall be included as part of the written notice of the asbestos project required in RCW 49.26.120:))~~ and shall make a copy of the written report or statement ((shall be given to)) available upon written or oral request to: (1) The department of labor and industries; (2) contractors; and (3) the collective bargaining representatives or employee representatives, if any, of employees who may be exposed to any asbestos or material

containing asbestos. A copy shall be posted as prescribed by the department in a place that is easily accessible to such employees.

Sec. 3. Section 8, chapter 271, Laws of 1988 and RCW 49.26.016 are each reenacted and amended to read as follows:

(1) Any owner or owner's agent who allows the start of any construction, renovation, remodeling, maintenance, repair, or demolition without first (a) conducting the inspection and ~~((submitting))~~ preparing and maintaining the report of the inspection, or ~~((submitting))~~ preparing and maintaining a statement of assumption of the presence or reasonable certainty of the absence of asbestos, as required under RCW 49.26.013; and (b) ~~((submitting))~~ preparing and maintaining the additional written description of the project as required under RCW 49.26.120 shall be subject to a mandatory fine of not less than two hundred fifty dollars for each violation. Each day the violation continues shall be considered a separate violation. In addition, any construction, renovation, remodeling, maintenance, repair, or demolition which was started without meeting the requirements of RCW 49.26.013 and RCW 49.26.120 shall be halted immediately and cannot be resumed before meeting such requirements. ~~((Any costs resulting from the halt of the project incurred by contractors or other parties affected by the halt of the project shall be paid by the owner or the owner's agent.))~~

(2) It is the responsibility of any contractor registered under chapter 18.27 RCW to request ~~((in writing))~~ a copy of the written report or statement required under RCW 49.26.013 from the owner or the owner's agent. No contractor may commence any construction, renovation, remodeling, maintenance, repair or demolition project without receiving the copy of the written report or statement from the owner or the owner's agent. Any contractor who begins any project without the copy of the written report or statement shall be subject to a mandatory fine of not less than two hundred and fifty dollars per day. Each day the violation continues shall be considered a separate violation.

(3) Any partnership, firm, corporation or sole proprietorship that begins any construction, renovation, remodeling, maintenance, repair, or demolition without meeting the requirements of RCW 49.26.013 and the notification requirement under RCW 49.26.120 shall lose the exemptions provided in RCW 49.26.110 and 49.26.120 for a period of not less than six months.

(4) The certificate of any asbestos contractor who knowingly violates any provision of this chapter or any rule adopted under this chapter shall be revoked for a period of not less than six months.

(5) The penalties imposed in this section are in addition to any penalties under RCW 49.26.140.

Sec. 4. Section 1, chapter 387, Laws of 1985 as amended by section 6, chapter 271, Laws of 1988 and RCW 49.26.100 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout (~~RCW 49.26.100 through 49.26.140~~) this chapter.

(1) "Asbestos project" means the construction, demolition, repair, maintenance, remodeling, or renovation of any public or private building or mechanical piping equipment or systems involving the demolition, removal, encapsulation, salvage, or disposal of material, or outdoor activity, releasing or likely to release asbestos fibers into the air.

(2) "Department" means the department of labor and industries.

(3) "Director" means the director of the department of labor and industries or the director's designee.

(4) "Person" means any individual, partnership, firm, association, corporation, sole proprietorship, or the state of Washington or its political subdivisions.

~~((4))~~ (5) "Certified asbestos supervisor" means an individual who is certified by the department to supervise an asbestos project.

~~((5))~~ (6) "Certified asbestos worker" means an individual who is certified by the department to work on an asbestos project.

~~((6))~~ (7) "Certified asbestos contractor" means any partnership, firm, association, corporation or sole proprietorship registered under chapter 18.27 RCW that submits a bid or contracts to remove or encapsulate asbestos for another and is certified by the department to remove or encapsulate asbestos.

~~((7))~~ (8) "Owner" means the owner of any public or private building, structure, facility or mechanical system, or the agent of such owner, but does not include individuals who work on asbestos projects on their own single-family residences no part of which is used for any commercial purpose.

Sec. 5. Section 2, chapter 387, Laws of 1985 as amended by section 10, chapter 271, Laws of 1988 and RCW 49.26.110 are each reenacted and amended to read as follows:

(1) No employee or other individual is eligible to do work governed by this chapter unless issued a certificate by the department except, in the case of an asbestos project undertaken by any partnership, firm, corporation or sole proprietorship which has not lost this exemption under RCW 49.26.016(3), and conducted in its own facility and by its own employees (~~(under the direct, on-site supervision of a certified asbestos supervisor. For the purposes of this chapter, on-site supervision shall include all activities taking place in the performance of a contract at one project location)~~). In cases excepted under this section(~~;~~):

(a) Direct, on-site supervision by a certified asbestos supervisor shall be required for asbestos projects performed at one project location by workers who are not certified.

(b) If a project is conducted using only certified workers or if a certified worker functions as a foreman or lead person, supervision can be performed in the regular course of a supervisor's duties and need not be direct and on-site.

(c) The partnership, firm, corporation or sole proprietorship shall submit a written description to the department of the kinds of asbestos projects expected to be undertaken and the procedures to be used in undertaking asbestos projects, which description shall demonstrate competence in performing the work in compliance with the requirements of this chapter, rules adopted under this chapter, and any other requirements of law for the safe demolition, removal, encapsulation, salvage, and disposal of asbestos.

(2) To qualify for a certificate: (a) Certified asbestos workers and supervisors must have successfully completed a training course of at least thirty hours, provided or approved by the department, on the health and safety aspects of the removal and encapsulation of asbestos including but not limited to the federal and state standards regarding protective clothing, respirator use, disposal, air monitoring, cleaning, and decontamination, and shall meet such additional qualifications as may be established by the department by rule for the type of certification sought; and (b) all applicants for certification as asbestos workers or supervisors must pass an examination in the type of certification sought which shall be provided or approved by the department. These requirements are intended to represent the minimum requirements for certification and shall not preclude contractors or employers from providing additional education or training. The department may require the successful completion of annual refresher courses provided or approved by the department for continued certification as an asbestos worker or supervisor.

(3) The department shall provide for the reciprocal certification of any individual trained to engage in asbestos projects in another state when the prior training is shown to be substantially similar to the training required by the department. Nothing shall prevent the department from requiring such individuals to take an examination or refresher course before certification.

~~((2))~~ (4) The department may deny, suspend, or revoke a certificate, as provided under RCW 49.26.140, for failure of the holder to comply with any requirement of this chapter or chapter 49.17 RCW, or any rule adopted under those chapters, or applicable health and safety standards and regulations. In addition to any penalty imposed under RCW 49.26.016, the department may suspend or revoke any certificate issued under this chapter for a period of not less than six months upon the following grounds:

- (a) The certificate was obtained through error or fraud; or
- (b) The holder thereof is judged to be incompetent to carry out the work for which the certificate was issued.

Before any certificate may be denied, suspended, or revoked, the holder thereof shall be given written notice of the department's intention to do so,

mailed by registered mail, return receipt requested, to the holder's last known address. The notice shall enumerate the allegations against such holder, and shall give him or her the opportunity to request a hearing before the department. At such hearing, the department and the holder shall have opportunity to produce witnesses and give testimony.

~~((3))~~ (5) A denial, suspension, or revocation order may be appealed to the board of industrial insurance appeals within fifteen working days after the denial, suspension, or revocation order is entered. The notice of appeal may be filed with the department or the board of industrial insurance appeals. The board of industrial insurance appeals shall hold the hearing in accordance with procedures established in RCW 49.17.140. Any party aggrieved by an order of the board of industrial insurance appeals may obtain superior court review in the manner provided in RCW 49.17.150.

(6) Each person certified under this chapter shall display, upon the request of an authorized representative of the department, valid identification issued by the department.

Sec. 6. Section 11, chapter 271, Laws of 1988 and RCW 49.26.115 are each reenacted to read as follows:

Before working on an asbestos project, a contractor shall obtain an asbestos contractor's certificate from the department and shall have in its employ at least one certified asbestos supervisor who is responsible for supervising all asbestos projects undertaken by the contractor and for assuring compliance with all state laws and regulations regarding asbestos. The contractor shall apply for certification renewal every year. The department shall ensure that the expiration of the contractor's registration and the expiration of his or her asbestos contractor's certificate coincide.

Sec. 7. Section 4, chapter 387, Laws of 1985 as amended by section 12, chapter 271, Laws of 1988 and RCW 49.26.120 are each reenacted and amended to read as follows:

(1) No person may assign any employee, contract with, or permit any individual or person to remove or encapsulate asbestos in any facility unless performed by a certified asbestos worker and under the direct, on-site supervision of a certified asbestos supervisor except, in the case of an asbestos project undertaken by any partnership, firm, corporation or sole proprietorship which has not lost this exemption under RCW 49.26.016(3), and conducted in its own facility and by its own employees (~~under the direct, on-site supervision of a certified asbestos supervisor~~). In cases excepted under this section(~~;~~):

(a) Direct, on-site supervision by a certified asbestos supervisor shall be required for asbestos projects performed at one project location by workers who are not certified.

(b) If a project is conducted using only certified workers or if a certified worker functions as a foreman or lead person, supervision can be performed in the regular course of a supervisor's duties and need not be direct and on-site.

(c) The partnership, firm, corporation or sole proprietorship shall submit a written description to the department of the kinds of asbestos projects expected to be undertaken and the procedures to be used in undertaking asbestos projects, which description shall demonstrate competence in performing the work in compliance with the requirements of this chapter, rules adopted under this chapter, and any other requirements of law for the safe demolition, removal, encapsulation, salvage, and disposal of asbestos.

(2) The department shall require persons undertaking asbestos projects to provide written notice to the department before the commencement of the project except as provided in RCW 49.26.125. The notice shall include a written description containing such information as the department requires by rule (~~(, including the written report or statement required under RCW 49.26.013)~~). The department may by rule allow a person to report multiple projects at one site in one report. The department shall by rule (~~(clarify)~~) establish the procedure and criteria by which a person will be considered to have attempted to meet the prenotification requirement.

((2)) (3) The department shall (~~by rule, after consultation~~) consult with the state fire protection policy board, and may establish any additional policies and procedures for municipal fire department and fire district personnel who clean up sites after fires which have rendered it likely that asbestos has been or will be disturbed or released into the air.

Sec. 8. Section 13, chapter 271, Laws of 1988 and RCW 49.26.125 are each reenacted and amended to read as follows:

Prenotification to the department under RCW 49.26.120(~~(, including submission of the report or statement required under RCW 49.26.013)~~) shall not be required for:

(1) (a) Any asbestos project involving less than (~~(eleven)) forty-eight~~ square feet of surface area, or less than ten linear feet of pipe unless the surface area of the pipe is greater than (~~(eleven)) forty-eight~~ square feet. The person undertaking such a project shall keep the reports, or statements, and written descriptions required under RCW 49.26.013 and 49.26.120 which shall be available upon request (~~(by)~~) of the department. Employees and employee representatives (~~(shall be notified as required)~~) may request such reports under RCW 49.26.013(2).

(b) The director may waive the prenotification requirement upon written request of an owner for large-scale, on-going projects. In granting such a waiver, the director shall require the owner to provide prenotification if significant changes in personnel, methodologies, equipment, work site, or work procedures occur or are likely to occur. The director shall further require annual resubmittal of such notification.

(c) The director, upon review of an owner's reports, work practices, or other data available as a result of inspections, audits, or other authorized activities, may reduce the size threshold for prenotification required by this section. Such a change shall be based on the director's determination that significant problems in personnel, methodologies, equipment, work site, or work procedures are creating the potential for violations of this chapter or asbestos requirements under chapter 49.17 RCW. The new prenotification requirements shall be given in writing to the owner and shall remain in effect until modified or withdrawn in writing by the director.

(2) Emergency projects (~~which are defined as emergencies by the rules of the department~~).

(a) As used in this section, "emergency project" means a project that was not planned and results from a sudden, unexpected event, and does not include operations that are necessitated by nonroutine failure of equipment or systems.

(b) Emergency projects which disturb or release any material containing asbestos into the air shall be reported to the department within three working days after the commencement of the project in the manner otherwise required under this chapter. ((The person's employees and)) A notice shall be clearly posted adjacent to the work site describing the nature of the emergency project. The employees' collective bargaining representatives, or employee representatives, or designated representatives, if any, shall be notified of the emergency as soon as possible by the person undertaking the emergency project.

Incremental phasing in the conduct or design of asbestos projects or otherwise designing or conducting asbestos projects of a size less than forty-eight square feet, or other threshold for exemption as provided under this section, with the intent of avoiding prenotification requirements is a violation of this chapter.

Sec. 9. Section 3, chapter 387, Laws of 1985 as last amended by section 15, chapter 271, Laws of 1988 and RCW 49.26.130 are each reenacted and amended to read as follows:

(1) The department shall administer this chapter.

(2) The director of the department shall adopt, in accordance with chapters ~~((34.04))~~ 34.05 and 49.17 RCW, rules necessary to carry out this chapter.

(3) The department shall prescribe fees for the issuance and renewal of certificates, including recertification, and the administration of examinations, and for the review of training courses.

(4) The asbestos account is hereby established in the state treasury. All fees collected under this chapter shall be deposited in the account. Moneys in the account shall be spent after appropriation only for costs incurred by

the department in the administration and enforcement of this chapter. Disbursements from the account shall be on authorization of the director of the department or the director's designee.

Sec. 10. Section 16, chapter 271, Laws of 1988 and RCW 49.26.150 are each reenacted to read as follows:

Any employee who notifies the department of any activity the employee reasonably believes to be a violation of this chapter or any rule adopted under this chapter or who participates in any proceeding related thereto shall have the same rights and protections against discharge or discrimination as employees are afforded under chapter 49.17 RCW.

Sec. 11. Section 19, chapter 271, Laws of 1988 and RCW 49.26.901 are each reenacted and amended to read as follows:

Sections 15, as reenacted and amended in 1989, and 18 ~~((of this act))~~, chapter 271, Laws of 1988, are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect ~~((immediately))~~ as of March 24, 1988. Sections 6 through ~~((14))~~ 8, 10 through 13, and 16, ((and 17 of this act)) chapter 271, Laws of 1988, as reenacted or amended and reenacted in 1989, shall take effect as of January 1, 1989. ~~((The department of labor and industries may immediately take such steps as are necessary to ensure that sections 6 through 18 of this act are implemented on those dates:))~~

NEW SECTION. Sec. 12. There is appropriated from the accident and medical aid funds to the department of labor and industries in a ratio consistent with other department appropriations for the biennium ending June 30, 1991, the sum of two hundred twenty-six thousand three hundred forty-three dollars, or as much thereof as may be necessary, to carry out the purposes of this act. Repayment shall be made from the asbestos account to the accident and medical aid funds of any moneys appropriated by law to implement this act.

NEW SECTION. Sec. 13. There is appropriated from the accident and medical aid funds to the department of labor and industries in a ratio consistent with other department appropriations for the biennium ending June 30, 1991, the sum of one million one hundred forty-five thousand one hundred eighty-eight dollars, or as much thereof as may be necessary, to increase enforcement of workplace asbestos requirements under chapter 49.17 RCW.

NEW SECTION. Sec. 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 15. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 10, 1989.

Passed the House April 12, 1989.

Approved by the Governor April 22, 1989.

Filed in Office of Secretary of State April 22, 1989.

CHAPTER 155

[Senate Bill No. 5143]

BALLOTS—CANDIDATE'S NAMES—PLACEMENT

AN ACT Relating to ballot pages and the placement of candidates' names thereon; and amending RCW 29.34.085.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 143, Laws of 1983 as amended by section 8, chapter 295, Laws of 1987 and RCW 29.34.085 are each amended to read as follows:

No voting device may contain the names of candidates for the offices of United States representative, state senator, state representative, county council, or county commissioner in more than one district (~~or the names of candidates for the office of precinct committee officer in more than one precinct~~). In all (~~even-year state~~) general elections, (~~voting devices shall be grouped by precinct and physically separated from the voting devices containing ballot pages for other precincts. For all other~~) primaries, and special elections, in each polling place the voting devices containing ballot pages for candidates from each congressional, legislative, or county council or commissioner district shall be grouped together and physically separated from those devices containing ballot pages for other districts. Each voter shall be directed by the precinct election officers to the correct group of voting devices (~~and an explanation to the voters that separate devices are being used for specific precincts shall be prominently displayed within the polling place~~)).

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