

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Gordon**

A Bill

ACT 817 OF 1993
SENATE BILL 474

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 20-27-1001, 20-27-1003, 20-
9 27-1004, 20-27-1006 AND 20-27-1007 AND TO AMEND ARKANSAS
10 CODE 20-27-1002; TO PROVIDE THAT THE REQUIREMENT FOR
11 LICENSING UNDER THE ACT INCLUDES CONSULTANTS AND
12 CONTRACTORS ENGAGED IN REGULATED ACTIVITIES CONCERNING THE
13 REMOVAL OF FRIABLE AND NON-FRIABLE ASBESTOS MATERIALS AND
14 LEAD-BASED PAINT; TO PROVIDE LICENSING OF TRAINING
15 PROVIDERS; TO ESTABLISH ANNUAL LICENSING FEES FOR
16 CONTRACTORS, CONSULTANTS, AND TRAINING PROVIDERS; TO
17 DEVELOP AND IMPLEMENT A PROGRAM TO REGULATE THE REMOVAL OF
18 LEAD-BASED PAINT; AND FOR OTHER PURPOSES."

Subtitle

21 "AN ACT CONCERNING THE REMOVAL OF ASBESTOS MATERIAL."

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25 SECTION 1. Arkansas Code 20-27-1001 is amended to read as follows:

26 "20-27-1001. Purpose.

27 The purpose of this subchapter is to protect the public health and
28 safety and the environment and to qualify the Arkansas Department of Pollution
29 Control and Ecology to adopt, administer, and enforce a program for licensing
30 consultants, contractors, and training providers involved with the
31 assessment, planning, management, training or abatement of friable and non-
32 friable asbestos-containing materials in facilities in accordance with the
33 provisions of this subchapter the Arkansas Water and Air Pollution Control
34 Act, as amended §8-4-101 et seq., and regulations issued pursuant thereto."

36 SECTION 2. Arkansas Code 20-27-1003 is amended to read as follows:

1 "20-27-1003. Definitions.

2 (1) Friable asbestos material means any material containing more than
3 one percent (1%) asbestos by content that hand pressure can crumble,
4 pulverize, or reduce to powder when dry, or has the potential to become
5 friable when broken, crushed, sanded, sawed, or cut.

6 (2) Facility means any institutional or commercial structure,
7 installation, or building, excluding apartment buildings having less than four
8 (4) dwelling units.

9 (3) Removal means to take out friable asbestos material from any
10 facility.

11 (4) Disposal means the proper depositing or placing of friable and
12 non-friable asbestos material in a sanitary landfill permitted by the Arkansas
13 Department of Pollution Control and Ecology to accept such waste material.

14 (5) Consultant means any person or legal entity, however organized,
15 that conducts asbestos or lead paint site assessments, develops operations and
16 management plans, designs asbestos abatement projects, or provides owner-
17 representative services, including air monitoring and project management.

18 (6) Contractor means any person or other legal entity, however
19 organized, that engages in the removal of friable and non-friable asbestos
20 material from any facility other than those persons or other legal entities
21 engaged in removal of friable and non-friable asbestos material from a
22 facility owned or operated by such person or legal entity.

23 (7) Director means the Director of the Arkansas Department of
24 Pollution Control and Ecology.

25 (8) Department means the Arkansas Department of Pollution Control and
26 Ecology.

27 (9) Asbestos abatement means procedures to control fiber release from
28 asbestos-containing materials in buildings. This shall include removal,
29 encapsulation, and enclosure.

30 (10) Encapsulation means the coating of asbestos-containing material
31 with a bonding or sealing agent to prevent the release of airborne fibers.

32 (11) Enclosure means the construction of airtight walls and ceilings
33 around asbestos-containing material to prevent the release of airborne
34 fibers."

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1 SECTION 3. Arkansas Code 20-27-1004 is amended to read as follows:

2 "20-27-1004. Powers and duties of department.

3 The department shall be charged with the responsibility of administering
4 and enforcing this subchapter and is given and charged with the following
5 powers and duties:

6 (1) To require and regulate training and examinations on asbestos
7 abatement techniques of friable and non-friable asbestos materials for
8 licensing under this subchapter;

9 (2) To establish standards and procedures for the licensing of
10 consultants, contractors, and training providers, and to establish performance
11 standards for the abatement of friable and non-friable asbestos materials.
12 Such performance standards shall be as stringent as those standards adopted by
13 the U.S. Environmental Protection Agency pursuant to section 112 of the
14 federal Clean Air Act (42 U.S.C. 1868);

15 (3) To enforce regulations necessary or appropriate to the
16 implementation of this subchapter, including taking legal action in any court
17 of competent jurisdiction;

18 (4) To issue licenses to all applicants who satisfy the requirements of
19 this subchapter and any regulations issued pursuant thereto, to renew the
20 licenses, and to suspend or revoke the licenses for cause and after notice and
21 opportunity for hearing;

22 (5) To establish an annual license fee
23 for consultants, contractors, and training providers to recover the costs of
24 processing license applications and issuance of licenses, and to establish
25 such other fees necessary to recover costs of enforcing the act;

26 (6) To establish licensing requirements, standards and procedures
27 necessary to regulate the removal of lead-based materials from facilities in
28 the state and to establish such fees necessary to recover costs of enforcing
29 such requirements, standards and procedures."
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31 SECTION 4. Arkansas Code 20-27-1006 is amended to read as follows:

32 "20-27-1006. License required - Exceptions.

33 (a) Any consultant, contractor, or training provider shall obtain a
34 license hereunder from the department prior to actively engaging in any
35 asbestos related activities from any facility in this state.

1 (b) The application for license shall be made in the manner and form
2 required by the department. An application for license, or renewal of a
3 license, shall be accompanied by proof of liability insurance coverage, except
4 for training providers, in the form and amount required by the department and
5 proof of such training and examination as required by the department.

6 (c)(1) The department shall license all applicants for licenses under
7 this subchapter who satisfy the requirements of this subchapter.

8 (2) Licenses shall be valid for a period of one (1) year.

9 (3) Licenses shall be renewable upon application and upon
10 satisfying the renewal requirements of the department.

11 (d) State and federal governments and subdivisions thereof shall be
12 exempt, except for training providers, from the license fee requirements of
13 this section.

14 (e) *Consultants and Contractor will provide a surety bond in the amount*
15 *of twenty-five thousand dollars (\$25,000) with the Arkansas Department of*
16 *Pollution Control and Ecology as obligee. The bond must be executed by a*
17 *resident agent of the State of Arkansas; the mere countersigning will not*
18 *suffice. The bond must be made by a surety company qualified under Arkansas*
19 *Code §22-9-401 et seq."*

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21 SECTION 5. Arkansas Code 20-27-1007 is amended to read as follows:

22 "20-27-1007. Prohibitions.

23 It shall be unlawful for any person:

24 (1) To conduct asbestos abatement activities without having first
25 obtained a license from the department when acting as a consultant,
26 contractor, or training provider;

27 (2) To violate any provision of this subchapter or any regulation or
28 order adopted or issued under this subchapter;

29 (3) Knowingly to make any false statement, representation, or
30 certification in any application, record, report, or other document filed or
31 required to be maintained under this subchapter or regulations adopted
32 pursuant thereto, or to falsify, tamper with, or knowingly render inaccurate
33 any monitoring device or method required to be maintained under this
34 subchapter or any regulations adopted pursuant thereto; or

35 (4) To participate in any asbestos related activity contrary to the

1 regulations or orders issued under this subchapter or contrary to the
2 provisions of the Arkansas Water and Air Pollution Control Act, §8-4-101 et
3 seq., and the Arkansas Solid Waste Management Act, §8-6-201 et seq., and the
4 regulations promulgated thereunder, whether or not such person is required to
5 have a license pursuant to this subchapter."

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7 SECTION 6. Arkansas Code 20-27-1002 is amended to read as follows:

8 "20-27-1002. Penalties.

9 Any person who violates any provision of this subchapter or commits any
10 unlawful act thereunder or violates any regulation or order of the commission
11 shall be subject to the penalty provisions provided in the Arkansas Water and
12 Air Pollution Control Act, as amended, §8-4-103."

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14 SECTION 7. All provisions of this act of a general and permanent
15 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
16 Code Revision Commission shall incorporate the same in the Code.

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18 SECTION 8. If any provision of this act or the application thereof to
19 any person or circumstance is held invalid, such invalidity shall not affect
20 other provisions or applications of the act which can be given effect without
21 the invalid provision or application, and to this end the provisions of this
22 act are declared to be severable.

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24 SECTION 9. All laws and parts of laws in conflict with this act are
25 hereby repealed.

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As Engrossed: 3/26/93

SB 474

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/s/ Senator Gordon

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APPROVED: 4/1/93

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