

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Tullis**

A Bill

HOUSE BILL 1362

For An Act To Be Entitled

"THE ASBESTOS IN PUBLIC BUILDINGS ACT"

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

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12 *SECTION 1. Short Title. This act shall be known as the "Asbestos in*
13 *Public Buildings Act".*

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15 *SECTION 2. Legislative findings. The General Assembly finds:*

16 *(1) Significant public concern exists concerning the presence of*
17 *asbestos-containing construction materials in public buildings and the*
18 *potential risk to building occupants and workers.*

19 *(2) Numerous studies of buildings have determined that the presence of*
20 *these asbestos-containing materials rarely cause prevailing asbestos exposure*
21 *levels in such buildings to be higher than the levels of asbestos in outdoor*
22 *air, and that these prevailing levels of asbestos in building air rarely pose*
23 *significant risk to occupant health.*

24 *(3) Numerous studies further indicate that removal of asbestos-*
25 *containing materials from buildings, if conducted improperly, will increase*
26 *human asbestos exposures and, even if conducted properly, may lead to no*
27 *reduction in prevailing building exposures.*

28 *(4) Asbestos-containing materials in public buildings should be*
29 *identified and controlled as a potential health risk for building service*
30 *personnel such as maintenance, custodial and renovation workers who may*
31 *disturb asbestos-containing materials in their work or who may regularly work*
32 *near such disturbances.*

33 *(5) Existing federal statutes including the Occupational Safety and*
34 *Health Act asbestos standards and the Clean Air Act asbestos standards protect*
35 *workers involved in asbestos response actions. Proper use of controls set*

1 forth in these standards requires trained consultants, contractors, and
2 workers.

3 (6) Public building occupants and workers should be informed in
4 accordance with procedures developed by the Arkansas Department of Health as
5 to the nature of risks posed by asbestos-containing materials in public
6 buildings, and protected from response actions that may increase such risks.

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8 SECTION 3. Definitions.

9 (1) "Asbestos" means the asbestiform varieties of: Chrysotile
10 (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite);
11 anthophyllite; tremolite; and actinolite.

12 (2) "Asbestos consultant" means any person who inspects property to
13 identify asbestos-containing materials, recommends or designs response
14 actions, or monitors response actions of a contractor to ensure compliance
15 with proper response action procedures.

16 (3) "Asbestos-containing material" (ACM) means any material or product
17 which contains more than one percent (1%) asbestos.

18 (4) "Asbestos contractor" means a person, firm, corporation or state
19 agency which engages in the business of asbestos response actions or removal
20 and disposal of asbestos-containing waste.

21 (5) "Asbestos worker" means any person who engages in response actions
22 involving asbestos-containing materials.

23 (6) "Public access area" means an area in a public building within
24 which public access is not restricted.

25 (7) "Public building" means any building owned or leased by any state
26 agency.

27 (8) "Response action" means a method, including repair, enclosure,
28 encapsulation, operations and maintenance or removal of asbestos-containing
29 material.

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31 SECTION 4. Asbestos Consultants and Contractors Responsibilities.

32 (a) Prior to engaging in any asbestos inspection or response action,
33 the asbestos consultant shall disclose orally and in writing any conflicts of
34 interest including any common ownership, any financial relationship
35 whatsoever, including but not limited to commissions or referral fees, with
36 any entity in the business of performing response actions.

1 (b) The asbestos consultant or any employee, subsidiary, or any company
2 with common ownership, shall not require, as a condition of performing an
3 asbestos inspection, that the consultant also perform corrective work on the
4 property that was recommended in the report.

5 (c) This section does not prohibit an asbestos consultant or a
6 contractor that has contracted to perform corrective work after the report of
7 another company has indicated the presence of asbestos or the need for
8 relating remedial action from making its own inspection to determine whether
9 the corrective measures were successful and, if not, thereafter performing
10 additional response actions.

11 (d) A violation of this section shall subject said party to a civil
12 penalty pursuant to regulations adopted by the Department of Pollution Control
13 and Ecology.

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15 SECTION 5. Asbestos Management Plan for Public Buildings.

16 The Department of Health in consultation with the Department of Building
17 Services shall establish an asbestos management program for public buildings.
18 Such management plan shall include provisions for inspections for the
19 presence of asbestos-containing materials, evaluations of material condition,
20 operations and maintenance plans, employee notification and response action
21 plans.

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23 SECTION 6. Maximum Allowable Asbestos Levels.

24 A. The maximum allowable asbestos level in public access areas of
25 public buildings shall be 0.01 asbestos fibers of air calculated as an eight
26 (8) hour time-weighted average and measured during periods of normal building
27 occupancy. The maximum allowable asbestos level shall be measured by
28 transmission electron microscopy as described in 40 CFR Appendix A 763,
29 Subpart E, counting only those fibers longer than five (5) microns.

30 B. After a response action involving removal, enclosure or
31 encapsulation of asbestos-containing material in a public building, the
32 maximum allowable asbestos level shall be 0.01 fibers per cubic centimeter of
33 air analyzed by transmission electron microscopy as described in 40 CFR 763,
34 Subpart E, Appendix A or by the Occupational Safety and Health Administration
35 method set forth in 29 CFR 1910.

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

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

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

/s/B. Tullis

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