

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator C. Bell**

A Bill

SENATE BILL

For An Act To Be Entitled

8 "AN ACT TO REQUIRE ASBESTOS REMEDIAL ACTION CONSULTANTS,
9 CONTRACTORS, AND WORKERS TO BE ACCREDITED; TO PROHIBIT
10 CONFLICTS OF INTEREST AMONG ASBESTOS CONSULTANTS AND
11 PERSONS WHO CONDUCT ASBESTOS REMEDIAL ACTIONS TO PROTECT
12 THE PUBLIC AGAINST UNWARRANTED REMEDIAL ACTIONS THAT MAY
13 INCREASE THE RISKS OF ASBESTOS EXPOSURES; TO ESTABLISH A
14 MAXIMUM ALLOWABLE ASBESTOS LEVEL FOR ALL PUBLIC ACCESS
15 AREAS IN BUILDINGS TO PROVIDE A MEANS OF COMMUNICATING THE
16 NATURE OF THE RISK POSED BY ASBESTOS-CONTAINING MATERIALS
17 IN BUILDINGS AND TO PROTECT THE PUBLIC AGAINST SIGNIFICANT
18 ASBESTOS EXPOSURES; AND FOR OTHER PURPOSES."

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

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22 SECTION 1. Short Title. This act shall be known as the "Asbestos in
23 Public Buildings Act."

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25 SECTION 2. Legislative findings. The General Assembly finds:

26 (1) Significant public concern exists concerning the presence of
27 asbestos-containing construction materials in public building sand the
28 potential risk to building occupants and workers.

29 (2) Numerous studies of buildings have determined that the presence of
30 these asbestos-containing materials rarely cause prevailing asbestos exposure
31 levels in such buildings to be higher than the levels of asbestos in outdoor
32 air, and that these prevailing levels of asbestos in building air rarely pose
33 significant risk to occupant health.

34 (3) Numerous studies further indicate that removal of asbestos-
35 containing materials from buildings, if conducted improperly, will increase

1 human asbestos exposures and, even if conducted properly, may lead to no
2 reduction in prevailing building exposures.

3 (4) Air monitoring used to detect airborne asbestos fibers in a
4 building is a useful supplement when conducted along with a comprehensive
5 visual and physical asbestos containing material inspection and reinspection.

6 (5) Asbestos-containing materials in public buildings should be
7 identified and controlled as a potential health risk for building service
8 personnel such as maintenance, custodial and renovation workers who may
9 disturb asbestos-containing materials in their work or who may regularly work
10 near such disturbances.

11 (6) Existing federal statutes including the Occupational Safety and
12 Health Act asbestos standards and the Clean Air Act asbestos standards protect
13 workers involved in asbestos response actions. Proper use of controls set
14 forth in these standards requires trained consultants, contractors, and
15 workers.

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

20 (8) Identification of asbestos containing materials in public buildings
21 should be performed by an accredited asbestos consultant in accordance with
22 this act.

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24 SECTION 3. Definitions.

25 (1) "Asbestos" means the asbestiform varieties of:

26 Chrysotile (serpentine); crocidolite (riebeckite); amosite
27 (cummingtonite-grunerite); anthophyllite; tremolite; and actinolite.

28 (2) "Asbestos consultant" means any person who, after successfully
29 completing an EPA-approved course and is licensed by the Department of
30 Pollution Control and Ecology inspects property to identify asbestos-
31 containing materials, recommends or designs response actions, or monitors
32 response actions of a contractor to ensure compliance with proper response
33 action procedures.

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

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

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

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

8 (7) "Public building" means any building owned or leased by any state
9 agency.

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

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14 SECTION 4. Asbestos Consultants, Contractors, Maintenance Workers and
15 Project Designers.

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

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

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

31 (d) All asbestos consultants conducting inspections will be accredited
32 as defined in 40 CFR 763, Subpart E.

33 (e) Maintenance workers conducting minor asbestos repair in public
34 buildings shall have fourteen (14) hours of training as defined in 40 CFR 763,
35 Subpart E.

1 (f) Abatement projects will be designed by an accredited Project
2 Designer as defined in 40 CFR 763, Subpart E.

3 (g) A violation of this section shall subject said party to a civil
4 penalty pursuant to regulations adopted by the Department of Pollution Control
5 and Ecology.

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7 SECTION 5. Asbestos Management Plan and Procedures for Public
8 Buildings.

9 (a) The Department of Health in consultation with the Department of
10 Building Services shall establish an asbestos management program for public
11 buildings. Such management plan shall include provisions for inspections for
12 the presence of asbestos-containing materials, evaluations of material
13 condition, operations and maintenance plans, employee notification and
14 response action plans.

15 (b) Management procedures for managing asbestos in public buildings
16 will be defined by an accredited Management Planner as defined in 40 CFR 763.
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18 SECTION 6. Maximum allowable asbestos levels.

19 (A) The maximum allowable asbestos level in public access areas of
20 public buildings shall be seventy (70) structures longer than five microns per
21 millimeter of filter area, or the ambient outdoor level, whichever is greater.
22 The maximum allowable asbestos level shall be measured by transmission
23 electron microscopy as described in 40 CFR Appendix A 763, Subpart E, in which
24 the procedures used for taking appropriate samples and methods for analysis
25 are contained therein.

26 (B) During a response action involving removal, enclosure or
27 encapsulation of asbestos-containing materials in a public building, the
28 maximum allowable asbestos level shall be 29 CFR 1926.58 or Section 3 of Act
29 531 of 1987 known as the Arkansas Asbestos Abatement Regulation.

30 (C) After completion of a response action described in Section 6B,
31 Section 6A will apply. When air monitoring is required, a minimum of five (5)
32 samples per floor taken simultaneously shall be taken as described in 40 CFR
33 763 Appendix A, Subpart E. In the event that the seventy (70) structures
34 longer than five microns per millimeter of filter area criterion level is
35 exceeded, steps shall be taken to find and remediate the source of the fibers

1 and monitoring will be repeated until the criterion level is met.

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

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

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

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