

"AN ACT TO AMEND SECTIONS 1, 2, 3, 5, AND 6 OF ACT 394 OF 1985 [ARK. STATS. 82-1944, 84-1945, 84-1946, 84-1948 AND 84-1949], TO PROVIDE THAT THE REQUIREMENT FOR LICENSING UNDER THE ACT INCLUDES CONTRACTORS ENGAGED IN ENCAPSULATION AND ENCLOSURE AS WELL AS REMOVAL OF FRIABLE ASBESTOS MATERIALS; AND TO PROVIDE THAT FRIABLE ASBESTOS MATERIALS INCLUDES MATERIAL THAT HAS THE POTENTIAL TO BECOME FRIABLE; AND TO INCREASE THE ANNUAL LICENSE FEE TO THREE HUNDRED DOLLARS; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 1 of Act 394 of 1985, the same being Arkansas Statute 82-1944, is hereby amended to read as follows:

"Section 1. It is the purpose of this Act to protect the public health and safety and the environment, and to qualify the Arkansas Department of Pollution Control and Ecology to adopt, administer, and enforce a program for licensing contractors engaged in the removal, encapsulation, and enclosure of friable asbestos materials from facilities in accordance with the provisions of this Act, the Arkansas Water and Air Pollution Control Act, as amended (Ark. Stat. Ann. 82-1901 - 82-1909, 82-1931 - 82-1943) and regulations issued pursuant thereto."

SECTION 2. Section 2 of Act 394 of 1985, the same being Arkansas Statute 82-1945, is hereby amended to read as follows:

"Section 2. For purposes of this Act:

(a) 'Friable asbestos material' means any material containing more than one percent asbestos by weight that hand pressure can crumble, pulverize or reduce to powder when dry, or has the potential to become friable when broken, crushed, sanded, sawed or cut.

(b) 'Facility' means any institutional or commercial structure, installation or building (excluding apartment buildings having more than four dwelling units).

(c) 'Removal' means to take out friable asbestos material from any facility.

(d) 'Disposal' means the proper depositing or placing of friable asbestos material in a sanitary landfill permitted by the Arkansas Department of Pollution Control and Ecology to accept such waste material.

(e) 'Contractor' means any person or other legal entity, however organized, that engages in the removal of friable asbestos material from any facility other than those persons or other legal entities engaged in removal of friable asbestos material from a facility owned or operated by such person or legal entity.

(f) 'Director' means the Director of the Arkansas Department of Pollution Control and Ecology.

(g) 'Department' means the Arkansas Department of Pollution Control and Ecology.

(h) 'Asbestos Abatement' means procedures to control fiber release from asbestos-containing materials in buildings. This shall include removal, encapsulation, and enclosure.

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

(j) 'Enclosure' means the construction of airtight walls and ceilings around asbestos containing material to prevent the release of air-borne fibers."

SECTION 3. Section 3 of Act 394 of 1985, the same being Arkansas Statute 82-1946, is hereby amended to read as follows:

"Section 3. The Department shall be charged with the responsibility of administering and enforcing this Act and hereby given and charged with the following powers and duties:

(a) To require and regulate training and to conduct examinations on asbestos abatement techniques of friable asbestos materials for licensing hereunder;

(b) To establish standards and procedures for the licensing of contractors engaging in the abatement of friable asbestos materials, and to establish performance standards for the abatement of friable asbestos materials, such performance standards to be as stringent as those standards adopted by the U.S. Environmental Protection Agency pursuant to Section 112 of the federal Clean Air Act (42 U.S.C. 1868);

(c) To adopt, promulgate, modify, repeal, and enforce regulations necessary or appropriate to the implementation of this Act, including taking legal action in any court of competent jurisdiction;

(d) To issue licenses to all applicants who satisfy the requirements of this Act and any regulations issued pursuant thereto, to renew said licenses, and to suspend or revoke said licenses for cause and after notice and opportunity for hearing;

(e) To establish an annual license fee of Three Hundred Dollars (\$300.00) to recover the costs of processing license applications and issuance of licenses, and to establish such other fees necessary to recover costs of training and examinations hereunder.

(f) In addition to the foregoing, the Department shall have, and may use in the administration and enforcement of this Act, all of the powers of the Department provided under other acts administered by it including, but not limited to, the Arkansas Water and Air Pollution Control Act, as amended, (Ark. Stat. Ann. 82-1901 et seq.)."

SECTION 4. Section 5 of Act 394 of 1985, the same being Arkansas Statute 82-1948, is hereby amended to read as follows:

"Section 5. (a) From and after January 1, 1986, any contractor shall obtain a license hereunder from the Department prior to engaging in the removal, encapsulation or enclosure of friable asbestos from any facility in this State.

(b) The application for license shall be made in the manner and form required by the Department. An application for license, or renewal of a license, shall be accompanied by an application fee and proof of liability insurance coverage in the form and amount required by the Department and proof of such training and examination as required by the Department.

(c) The Department shall license all applicants for licenses under this Act who satisfy the requirements of this Act. Licenses shall be valid for a period of one year. Licenses shall be renewable upon application and upon satisfying the renewal requirements of the Department.

(d) State and Federal government and subdivisions thereof shall be exempt from the license fee requirements of this Section."

SECTION 5. Section 6 of Act 394 of 1985, the same being Arkansas Statute 82-1949, is hereby amended to read as follows:

"Section 6. It shall be unlawful for any person:

(a) To conduct asbestos abatement activities without having first

obtained a license from the Department when acting as a contractor;

(b) To violate any provision of this Act or any regulation or order adopted or issued under this Act;

(c) Knowingly to make any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act or regulations adopted pursuant thereto, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under this Act or any regulations adopted pursuant thereto; or

(d) To remove, encapsulate, enclose, transport or dispose of friable asbestos material from a facility contrary to the regulations or orders issued under this Act or contrary to the provisions of the Arkansas Water and Air Pollution Control Act, as amended (Ark. Stats. Ann. 82-1901, 82-1909, 82-1931 - 82-1943) and the Arkansas Solid Waste Management Act, as amended (Ark. Stat. Ann. 82-2701 et seq.), and the regulations promulgated thereunder, whether or not such person is required to have a license hereunder."

SECTION 6. Repealer. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

APPROVED: 4/1/87
