

CHAPTER 88B

ASBESTOS REMOVAL AND ENCAPSULATION

Referred to in §84A.5, 91.4

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88B.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. “*Asbestos project*” means an activity involving the removal or encapsulation of asbestos and affecting a building or structure. “*Asbestos project*” includes the preparation of the project site and all activities through the transportation of the asbestos-containing materials off the premises. “*Asbestos project*” includes the removal or encapsulation of building materials containing asbestos from the site of a building or structure renovation, demolition, or collapse.

2. “*Business entity*” means a partnership, firm, association, corporation, sole proprietorship, or other business concern.

3. “*Commissioner*” means the labor commissioner or the commissioner’s designee.

4. “*Division*” means the division of labor services of the department of workforce development created under section 84A.1.

5. “*License*” means an authorization issued by the division permitting an individual person, including a supervisor or contractor, to work on an asbestos project, to inspect buildings for asbestos-containing building materials, to develop management plans, and to act as an asbestos project designer.

6. “*Permit*” means an authorization issued by the division permitting a business entity to remove or encapsulate asbestos.

7. “*Public or commercial building*” means a building that is not a residential apartment building of fewer than ten units or a school building.

84 Acts, ch 1062, §1; 86 Acts, ch 1245, §916; 89 Acts, ch 38, §1; 96 Acts, ch 1074, §1; 96 Acts, ch 1186, §23; 2007 Acts, ch 125, §1

88B.2 Jurisdiction of other agencies.

This chapter shall not be construed to prevent the department of natural resources from implementing and enforcing the federal national emission standard for asbestos under 40 C.F.R. pt. 61, subpt. M, and other relevant provisions of environmental law.

2007 Acts, ch 125, §3

88B.3 Administration — rules — fees — inspections.

1. The commissioner shall administer this chapter.

2. The commissioner shall adopt, in accordance with chapter 17A, rules necessary to carry out the provisions of this chapter.

3. The commissioner shall prescribe fees for the issuance and renewal of licenses and permits. The fees shall be based on the costs of licensing, permitting, and administering this chapter, including time spent by personnel of the division in performing duties and any travel expenses incurred. All fees provided for in this chapter shall be collected by the commissioner and remitted to the treasurer of state for deposit in the general fund of the state.

4. At least once a year, during an actual asbestos project, the division shall conduct an on-site inspection of each permittee's procedures for removing and encapsulating asbestos.

84 Acts, ch 1062, §3; 86 Acts, ch 1245, §917; 92 Acts, ch 1163, §20; 94 Acts, ch 1057, §1; 96 Acts, ch 1074, §3

88B.3A Permit required — application, qualifications, and exceptions.

1. To qualify for a permit, a business entity shall submit an application to the division in the form required by the division and pay the prescribed fee.

2. A business entity engaging in the removal or encapsulation of asbestos shall hold a permit for that purpose unless the business entity is removing or encapsulating asbestos at its own facilities.

84 Acts, ch 1062, §2

C85, §88B.2

89 Acts, ch 38, §2; 90 Acts, ch 1136, §3; 96 Acts, ch 1074, §2, 9

C97, §88B.3A

Referred to in §88B.6

88B.4 Permit — term, renewal, and records required.

1. A permit expires on the first anniversary of its effective date, unless it is renewed for a one-year term as provided in this section.

2. At least one month before the permit expires, the division shall send to the permittee, at the last known address of the permittee, a renewal notice that states all of the following:

a. The date on which the current permit expires.

b. The date by which the renewal application must be received by the division for the renewal to be issued and mailed before the permit expires.

c. The amount of the renewal fee.

3. Before the permit expires, the permittee may renew it for an additional one-year term, if the business entity meets the following conditions:

a. Is otherwise entitled to a permit.

b. Submits a renewal application to the division in the form required by the division.

c. Pays the renewal fee prescribed by the division.

4. The permittee shall keep a record of each asbestos project it performs and shall make the record available to the division at any reasonable time. Records shall contain information and be kept for a time prescribed in rules adopted by the division.

84 Acts, ch 1062, §4; 89 Acts, ch 38, §3; 96 Acts, ch 1074, §4; 96 Acts, ch 1219, §19

88B.5 Waivers and alternative procedures.

1. In an emergency that results from a sudden, unexpected event that is not a planned renovation or demolition, the commissioner may waive the requirement for a permit.

2. If the business entity is not primarily engaged in the removal or encapsulation of asbestos, the commissioner may waive the requirement for a permit if worker protection requirements are met.

3. The division shall not approve any waivers on work conducted at a school, public, or commercial building unless the request is accompanied by a recommendation from an asbestos project designer.

84 Acts, ch 1062, §5; 89 Acts, ch 38, §4; 94 Acts, ch 1057, §2; 96 Acts, ch 1074, §5

88B.6 Licensing of asbestos workers.

1. *Application.*

a. To apply for a license, an individual shall submit an application to the division in the form required by the division and shall pay the prescribed fee.

b. The application shall include information prescribed by rules adopted by the commissioner.

c. A license is valid for one year from the completion date of the required training and may be renewed by providing information as required in subsection 2, paragraphs "b" and "c".

2. *Qualifications.*

a. An individual is not eligible to be or do any of the following unless the person obtains a license from the division:

(1) A contractor or supervisor, or to work on an asbestos project.

(2) An inspector for asbestos-containing building material in a school or a public or commercial building.

(3) An asbestos management planner for a school building.

(4) An asbestos project designer for a school or a public or commercial building.

b. To qualify for a license, the applicant must have successfully completed training as established by the United States environmental protection agency, paid a fee, and met other requirements as specified by the division by rule.

c. To qualify for a license as an asbestos abatement worker, supervisor, or contractor, the applicant must have been examined by a physician within the preceding year and declared by the physician to be physically capable of working while wearing a respirator.

3. *Exception.* A license is not required of an employee employed by an employer exempted from the permit requirement of section 88B.3A, subsection 2, if the employee is trained on appropriate removal or encapsulation procedures, safety, and health issues regarding asbestos removal or encapsulation, and federal and state standards applicable to the asbestos project.

84 Acts, ch 1062, §6; 89 Acts, ch 38, §5; 96 Acts, ch 1074, §6; 97 Acts, ch 40, §3

88B.7 Repealed by 96 Acts, ch 1074, § 8.

88B.8 Denials, suspensions, and revocations.

The division may deny, suspend, or revoke a permit or license, in accordance with chapter 17A, if the permittee or licensee does any of the following:

1. Fraudulently or deceptively obtains or attempts to obtain a permit or license.

2. Fails at any time to meet the qualifications for a permit or license or to comply with a rule adopted by the commissioner under this chapter.

3. Fails to meet any applicable federal or state standard for removal or encapsulation of asbestos.

4. Employs or permits an unlicensed or untrained person to work on an asbestos project.

84 Acts, ch 1062, §8; 89 Acts, ch 38, §7; 96 Acts, ch 1074, §7

88B.9 and 88B.10 Repealed by 96 Acts, ch 1074, § 8.

88B.11 Bids for governmental projects.

A state agency or political subdivision shall not accept a bid in connection with any asbestos project from a business entity that does not hold a permit from the division at the time the bid is submitted, unless the business entity provides the state agency or political subdivision with written proof that ensures that the business entity has contracted to have the asbestos removal or encapsulation performed by a licensed asbestos contractor.

84 Acts, ch 1062, §11; 94 Acts, ch 1057, §4; 2007 Acts, ch 125, §2

88B.12 Penalties.

1. A person or business entity who willfully violates a provision of this chapter or a rule adopted pursuant to this chapter shall be assessed a civil penalty of not more than five thousand dollars for each violation.

2. A person or business entity who previously has been assessed a civil penalty under this section, and who willfully violates a provision of this chapter or a rule adopted pursuant to this chapter:

a. For a first offense, is guilty of a simple misdemeanor and shall be fined not to exceed twenty thousand dollars.

b. For a second or subsequent offense, is guilty of an aggravated misdemeanor and shall

be fined not to exceed twenty-five thousand dollars or imprisoned for not to exceed two years, or both.

84 Acts, ch 1062, §12

88B.13 Repealed by 96 Acts, ch 1074, § 8.