

ASSEMBLY, No. 2380

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:

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District 36 (Bergen and Passaic)

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District 34 (Essex and Passaic)

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Assemblyman Giblin

SYNOPSIS

Establishes licensing and permit requirements and provides for adoption of standards and regulations for inspection of asbestos in certain structures.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/26/2019)

1 AN ACT concerning the inspection of asbestos hazards and
2 amending and supplementing P.L.1984, c.173.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 1 of P.L.1984, c.173 (C.34:5A-32) is amended to
8 read as follows:

9 1. The Legislature finds that the inspection, application,
10 enclosure, removal and encapsulation of asbestos when improperly
11 performed creates unnecessary health and safety hazards which are
12 detrimental to the State's interest in protecting the health, safety,
13 and welfare of all citizens thereby exposed to such asbestos
14 hazards.
15 (cf: P.L.1994, c.21, s.1)

16
17 2. Section 2 of P.L.1984, c.173 (C.34:5A-33) is amended to
18 read as follows:

19 2. The Legislature declares it to be its purpose and policy to
20 reduce asbestos-related hazards by:

21 a. Encouraging contracting parties, citizens and insurance
22 companies in their efforts to reduce disabling asbestos hazards and
23 to stimulate initiation of new and to perfect existing programs for
24 controlling the inspection, application, use and removal of asbestos,
25 an extremely dangerous substance;

26 b. Creating a climate for developing innovative methods,
27 techniques and approaches for dealing with life-destroying asbestos
28 materials;

29 c. Encouraging competence and knowledge in the field of
30 asbestos inspection, application, enclosure, repair, removal, and
31 encapsulation by the licensing of employers, including contractors,
32 and the permitting of employees in an effort to ensure that
33 incompetent work will not pose a health and safety threat to the
34 public-at-large through subsequent exposure to asbestos;

35 d. Providing for the adoption of standards for the inspection,
36 application, enclosure, removal, encapsulation, storage, sale,
37 disposal and use of asbestos and asbestos-containing material; and

38 e. Establishing an enforcement program for these standards,
39 which shall include reporting procedures.

40 (cf: P.L.1994, c.21, s.2)

41
42 3. Section 3 of P.L.1984, c.173 (C.34:5A-34) is amended to
43 read as follows:

44 3. As used in this act:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 a. "Asbestos" means the asbestiform varieties of chrysotile
2 (serpentine); crocidolite (riebeckite); amosite
3 (cummingtonitegrunerite); anthophyllite; termolite; and
4 actinolite;
- 5 b. "Asbestos-containing material" means any material which
6 contains more than **【1%】** one percent asbestos by weight;
- 7 c. "Employee" means any person suffered or permitted to work
8 by an employer;
- 9 d. "Employer" means a body, board, person, corporation,
10 partnership, proprietorship, joint venture, fund, authority or similar
11 entity employing, permitting or suffering another to work. In the
12 case of a corporation, the officers of the corporation and any agents
13 having the management of the corporation shall be deemed to be
14 employers of the employees of the corporation for the purposes of
15 this act. This term shall apply to private employers and to the State,
16 its political subdivisions, and any boards, commissions, schools,
17 institutions, or authorities created or recognized thereby;
- 18 e. "Friable" means asbestos-containing material that when dry
19 may be crumbled, pulverized or reduced to powder by hand
20 pressure, and includes previously nonfriable asbestos-containing
21 material after that material becomes damaged to the extent that
22 when dry it may be crumbled, pulverized or reduced to powder by
23 hand pressure.
- 24 f. "Structure" means any institutional, commercial, public,
25 industrial, or residential facility, installation, or building excluding
26 any residential apartment building with fewer than 10 units or
27 detached single-family home.
28 (cf: P.L.1994, c.21, s.3)
29
- 30 4. Section 4 of P.L.1984, c.173 (C.34:5A-35) is amended to
31 read as follows:
32 4. Any private or public agency letting contracts for any
33 activity involving the inspection, application, enclosure, repair,
34 removal or encapsulation of asbestos in **【any】** a structure for which
35 a license is required shall include in these contracts specifications
36 that these contracts are to be performed by contractors and
37 subcontractors licensed by the Commissioner of Labor and
38 Workforce Development.
39 (cf: P.L.1994, c.21, s.4)
40
- 41 5. Section 5 of P.L.1984, c.173 (C.34:5A-36) is amended to
42 read as follows:
43 5. No employer shall either directly or indirectly perform any
44 of the functions of inspection, application, enclosure, removal, or
45 encapsulation of asbestos in **【any】** a structure, nor enter into any
46 contract with the owner or the owner's representative for the
47 employer to perform such work or services, without first obtaining a
48 nontransferable license from the Commissioner of Labor and

1 Workforce Development, except private employers subject to the
2 federal **【Occupational Safety and Health Act of 1970】**
3 “Occupational Safety and Health Act of 1970” (29 U.S.C. s. 651 et
4 seq.) who use their own employees to inspect, apply, enclose,
5 remove, repair, or encapsulate asbestos in their own facility, or as
6 otherwise exempted pursuant to section 7 of P.L.1994, c.21
7 (C.34:5A-43).

8 This license shall be in writing, shall be dated when issued, shall
9 contain an expiration date, and shall be signed by the commissioner.
10 The commissioner may issue employer licenses with such
11 conditions as the commissioner deems necessary, and as adopted by
12 regulation, specifying the scope of work authorized by such license.
13 No license shall be issued by the commissioner unless the employer
14 has completed a course of training certified by, and satisfactorily
15 has completed an examination approved by, the Department of
16 Health. The license shall give the name and address of the
17 employer to whom it is issued. Licensed employers shall post a
18 sign indicating, in letters more than four inches in height,
19 "LICENSED BY THE STATE OF NEW JERSEY FOR
20 ASBESTOS WORK," readily visible outdoors at the work site. The
21 actual license shall be readily available at the work site for
22 inspection by representatives of the Commissioners of Labor and
23 Workforce Development and Health and the contracting agency.
24 (cf: P.L.1994, c.21, s.5)
25

26 6. Section 6 of P.L.1984, c.173 (C.34:5A-37) is amended to
27 read as follows:

28 6. Every employee performing functions of inspection,
29 application, enclosure, repair, removal, or encapsulation of
30 asbestos, with the exception of employees of an employer subject to
31 the federal **【Occupational Safety and Health Act of 1970】**
32 “Occupational Safety and Health Act of 1970” (29 U.S.C. s. 651 et
33 seq.) inspecting, applying, enclosing, repairing, removing, or
34 encapsulating asbestos at the employer's own facility, or as
35 otherwise exempted pursuant to section 7 of P.L.1994, c.21
36 (C.34:5A-43), shall first procure from the Commissioner of Labor
37 and Workforce Development a performance permit. No permit
38 shall be issued unless the employee has taken a course of training in
39 asbestos inspection, control, and removal, passed an examination
40 thereon, and demonstrated the ability to perform asbestos
41 inspection, control, and removal safely, in accordance with the
42 current state-of-the-art technology. The Commissioner of Health
43 shall certify the course of training and approve the examination
44 necessary for a permit. This permit shall be in writing, shall be
45 dated when issued, shall contain an expiration date, and shall be
46 signed by the Commissioner of Labor and Workforce Development.
47 It shall give the name and address of the employee to whom it is
48 issued. The permit shall be carried upon the worker's person and be

1 readily available for inspection by representatives of the
2 Commissioners of Labor and Workforce Development and Health
3 and the contracting agency. The Commissioner of Labor and
4 Workforce Development may place reasonable conditions on
5 employee permits which specify the scope of work authorized by
6 such permit.

7 (cf: P.L.1994, c.21, s.6)

8
9 7. (New section) A permitted employee pursuant to section 6 of
10 P.L.1984, c.173 (C.34:5A-37) shall perform initial, ongoing, and
11 final inspections for asbestos in a structure for which a license is
12 required. An employee performing inspections in a structure shall
13 be employed by a licensed employer pursuant to section 5 of
14 P.L.1984, c.173 (C.34:5A-36) who is separate from and
15 independent of other licensed employers performing asbestos
16 related work in the structure.

17
18 8. Section 8 of P.L.1984, c.173 (C.34:5A-39) is amended to
19 read as follows:

20 8. Not later than six months after the effective date of this act,
21 the Commissioners of Labor and Workforce Development and
22 Health jointly shall, in consultation with the Commissioner of
23 Environmental Protection, adopt all standards and regulations which
24 they deem necessary for the proper administration and enforcement
25 of this act. These standards and regulations shall include, but shall
26 not be limited to, protective equipment specifications; inspection,
27 application, enclosure, removal, and encapsulation procedures;
28 administrative penalties; waste disposal; self-monitoring; cleanup;
29 health checkup; license and permit issuance, suspension, renewal
30 and revocation; fee charges; experience necessary for license or
31 permit qualification; general subject matter of qualifying
32 examinations; and continuing education. Any suspension,
33 revocation, or refusal to renew any permit or license pursuant to this
34 act shall be effectuated as follows: the department that is
35 responsible for the issuance of the permit or license may suspend,
36 revoke, or refuse to renew any license or permit because of a
37 violation of any provision of this act. Prior to that suspension,
38 revocation, or failure to renew, the department shall afford the
39 applicant, licensee, or permit holder an opportunity for a hearing in
40 accordance with the provisions of the "Administrative Procedure
41 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except that, if the
42 department has reason to believe that a condition exists at a job site
43 which poses an imminent threat to the public health, safety or
44 welfare, it may order the immediate suspension of the license,
45 permit, or certification pending the outcome of the hearing.

46 (cf: P.L.1994, c.21, s.9)

47
48 9. This act shall take effect immediately.

STATEMENT

This bill amends P.L.1994, c.21 (C.34:5A-32 et seq.), commonly referred to as the Asbestos Control and Licensing Act, and applies the provisions of the law to the inspection of asbestos in a structure. This bill establishes both employer license and employee permit requirements and provides for the adoption of standards and regulations by the Commissioner of Labor and Workforce Development and the Commissioner of Health for the inspection of asbestos. In doing so, this bill also extends the enforcement provisions established in section 9 and 10 of P.L.1994, c.21 (C.34:5A-40 and C.34:5A-41) to include violations as they relate to the inspection of asbestos. The law currently applies to the application, enclosure, repair, removal and encapsulation of asbestos.

Further, this bill requires a permitted employee to perform initial, ongoing, and final inspections for asbestos in a structure for which a license for asbestos control is required. To ensure that all inspections are performed in the best interest of the public's health and safety, the employee must be employed by a licensed employer who is separate from and independent of other licensed employers performing asbestos related work in the structure.

Finally, under this bill, the term "structure" is defined to mean any institutional, commercial, public, industrial, or residential facility, installation, or building excluding any residential apartment building with fewer than 10 units or detached single-family home.