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SENATE BILL NO. 482

Senate Amendments in [] - February 2, 2012

A BILL to amend and reenact §§ 54.1-501 and 54.1-516.1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 54.1-515.1 and 54.1-516.2, relating to the Virginia Board for Asbestos, Lead, Mold, and Home Inspectors; asbestos workers; examinations and disciplinary actions.

Patrons Prior to Engrossment—Senators Favola and Ebbin

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-501 and 54.1-516.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 54.1-515.1 and 54.1-516.2 as follows:

§ 54.1-501. Powers and duties of the Board.

The Board shall administer and enforce this chapter. The Board shall:

1. Promulgate regulations necessary to carry out the requirements of this chapter in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) to include but not be limited to the prescription of fees, procedures, and qualifications for the issuance and renewal of asbestos, lead, and renovation licenses, and governing conflicts of interest among various categories of asbestos, lead, and renovation licenses;

2. Approve the criteria for accredited asbestos training programs, accredited lead training programs, accredited renovation training programs, training managers, and principal instructors;

3. Approve accredited asbestos training programs, accredited lead training programs, accredited renovation training programs, examinations and the grading system for testing applicants for asbestos, lead, and renovation licensure;

4. Require initial applicants for an asbestos worker license, after completion of an accredited training program, to pass a [~~Board-approved examination~~ Board-administered examination, or an examination administered by a testing organization acting on behalf of the Board,] regarding the applicable requirements, procedures, and standards of the U.S. Environmental Protection Agency, the U.S. Occupational Safety and Health Administration, the Department of Labor and Industry, and the Divisions of Air Quality and Land Protection and Revitalization of the Department of Environmental Quality;

5. Promulgate regulations governing the licensing of and establishing performance criteria applicable to asbestos analytical laboratories;

5- 6. Promulgate regulations governing the functions and duties of project monitors on asbestos projects, circumstances in which project monitors shall be required for asbestos projects, and training requirements for project monitors;

6- 7. Promulgate, in accordance with the Administrative Process Act, regulations necessary to establish procedures and requirements for the: (i) approval of accredited lead training programs, (ii) licensure of individuals and firms to engage in lead-based paint activities, and (iii) establishment of standards for performing lead-based paint activities consistent with the Residential Lead-based Paint Hazard Reduction Act and ~~United States~~ U.S. Environmental Protection Agency regulations. If the ~~United States~~ U.S. Environmental Protection Agency (EPA) has adopted, prior to the promulgation of any related regulations by the Board, any final regulations relating to lead-based paint activities, then the related regulations of the Board shall not be more stringent than the EPA regulations in effect as of the date of such promulgation. In addition, if the EPA shall have outstanding any proposed regulations relating to lead-based paint activities (other than as amendments to existing EPA regulations), as of the date of promulgation of any related regulations by the Board, then the related regulations of the Board shall not be more stringent than the proposed EPA regulations. In the event that the EPA shall adopt any final regulations subsequent to the promulgation by the Board of related regulations, then the Board shall, as soon as practicable, amend its existing regulations so as to be not more stringent than such EPA regulations;

7- 8. Promulgate regulations for certification of home inspectors not inconsistent with this chapter regarding the professional qualifications of home inspectors applicants, the requirements necessary for passing home inspectors examinations in whole or in part, the proper conduct of its examinations, the proper conduct of the home inspectors certified by the Board, the implementation of exemptions from certifications requirements, and the proper discharge of its duties;

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8. 9. Promulgate, in accordance with the Administrative Process Act, regulations necessary to establish procedures and requirements for the (i) approval of accredited renovation training programs, (ii) licensure of individuals and firms to engage in renovation, and (iii) establishment of standards for performing renovation consistent with the Residential Lead-based Paint Hazard Reduction Act and United States U.S. Environmental Protection Agency (EPA) regulations. Such regulations of the Board shall be consistent with the EPA Lead Renovation, Repair, and Painting Program final rule; and

9. 10. Promulgate regulations for licensing of mold inspectors and mold remediators not inconsistent with this chapter regarding the professional qualifications of such applicants, the requirements necessary for passing applicable examinations in whole or in part, the proper conduct of its examinations, the proper conduct of the mold inspectors and mold remediators licensed by the Board, the implementation of exemptions from licensure requirements, and the proper discharge of its duties. The Board shall have the discretion to impose different requirements for licensure for the performance of mold inspections and mold remediation.

§ 54.1-515.1. *Employer to provide written notice; model notice.*

A. An employer shall provide each licensed asbestos worker who will be dispatched to a location to perform the removal or encapsulation of asbestos with a written notice containing the following information: (i) that the worker has the right to work in a safe environment, (ii) a summary of basic safety rules for handling asbestos, and (iii) information on how to file a complaint with the Board including pertinent telephone contact numbers. Each notice shall be signed and dated by the worker upon receipt, and the employer shall retain a copy of all notices distributed.

B. The Board shall develop a model notice in English and Spanish that may be used by employers to comply with the requirements of this section.

§ 54.1-516.1. Summary suspension of licenses or approvals; allegations to be in writing.

A. The Board may suspend the license or the approval of any (i) accredited training program, (ii) asbestos contractor, (iii) training manager, or ~~(iii)~~ (iv) principal instructor of any person holding a license issued by it without a hearing simultaneously with the institution of proceedings for a hearing or an informal fact finding conference, if the relevant board finds that there is a substantial danger to the public health or safety that warrants this action.

B. The Board may meet by telephone conference call when summarily suspending a license or the approval of an accredited training program, training manager or principal instructor if a good faith effort to assemble a quorum of the Board has failed and, in the judgment of a majority of the members of the Board, the continued practice by the licensee or approved individual or training program constitutes a substantial danger to the public health or safety. Institution of proceedings for a hearing or an informal fact finding conference shall be provided simultaneously with the summary suspension. Such hearing or conference shall be scheduled within a reasonable time of the date of the summary suspension. Allegations of violations of this section shall be made in accordance with § 54.1-307.1.

§ 54.1-516.2. *Substantial identity of interest; grounds for disciplinary action.*

A. The Board may suspend, revoke, or deny renewal of an existing license, or refuse to issue a license or certificate, to any asbestos contractor who is shown to have a substantial identity of interest with an asbestos contractor whose license has been revoked or not renewed by the Board. A substantial identity of interest includes but is not limited to (i) a controlling financial interest by the individual or corporate principals of the asbestos contractor whose license has been revoked or not renewed or (ii) substantially identical principals or officers.

B. Any person whose asbestos contractor's license is suspended or revoked by the Board shall not be eligible for an asbestos license under any circumstances or under any name, except as provided by regulations of the Board.