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HOUSE BILL NO. 707

Offered January 13, 2016

Prefiled January 11, 2016

A BILL to amend and reenact §§ 54.1-300, 54.1-500, 54.1-500.1, 54.1-501, 54.1-503, and 54.1-516 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 5 of Title 54.1 an article numbered 4, consisting of sections numbered 54.1-517.6, 54.1-517.7, and 54.1-517.8, relating to the Virginia Board for Asbestos, Lead, and Home Inspectors; licensure of methamphetamine laboratory remediators.

Patrons—Minchew and Rasoul

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-300, 54.1-500, 54.1-500.1, 54.1-501, 54.1-503, and 54.1-516 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 5 of Title 54.1 an article numbered 4, consisting of sections numbered 54.1-517.6, 54.1-517.7, and 54.1-517.8, as follows:

CHAPTER 5.

**ASBESTOS, AND LEAD CONTRACTORS AND WORKERS, AND HOME INSPECTION
CONTRACTORS AND WORKERS, AND METHAMPHETAMINE LABORATORY REMEDIATORS.**

§ 54.1-300. Definitions.

As used in this chapter unless the context requires a different meaning:

"Board" means the Board for Professional and Occupational Regulation.

"Certification" means the process whereby the Department or any regulatory board issues a certificate on behalf of the Commonwealth to a person certifying that he possesses the character and minimum skills to engage properly in his profession or occupation.

"Department" means the Department of Professional and Occupational Regulation.

"Director" means the Director of the Department of Professional and Occupational Regulation.

"Inspection" means a method of regulation whereby a state agency periodically examines the activities and premises of practitioners of an occupation or profession to ascertain if the practitioner is carrying out his profession or occupation in a manner consistent with the public health, safety and welfare.

"Licensure" means a method of regulation whereby the Commonwealth, through the issuance of a license, authorizes a person possessing the character and minimum skills to engage in the practice of a profession or occupation that is unlawful to practice without a license.

"Registration" means a method of regulation whereby any practitioner of a profession or occupation may be required to submit information concerning the location, nature and operation of his practice.

"Regulatory board" means the Auctioneers Board, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for Barbers and Cosmetology, Board for Branch Pilots, Board for Contractors, Board for Hearing Aid Specialists and Opticians, Board for Professional Soil Scientists, Wetland Professionals, and Geologists, Board for Waste Management Facility Operators, Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals, Cemetery Board, Real Estate Appraiser Board, Real Estate Board, Fair Housing Board, Virginia Board for Asbestos, Lead, and Home Inspectors, and Methamphetamine Laboratory Remediators, and Common Interest Community Board.

§ 54.1-500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Accredited asbestos training program" means a training program that has been approved by the Board to provide training for individuals to engage in asbestos abatement, conduct asbestos inspections, prepare management plans, prepare project designs or act as project monitors.

"Accredited lead training program" means a training program that has been approved by the Board to provide training for individuals to engage in lead-based paint activities.

"Accredited renovation training program" means a training program that has been approved by the Board to provide training for individuals to engage in renovation or dust clearance sampling.

"Asbestos" means the asbestiform varieties of actinolite, amosite, anthophyllite, chrysotile, crocidolite, and tremolite.

"Asbestos analytical laboratory license" means an authorization issued by the Board to perform phase contrast, polarized light, or transmission electron microscopy on material known or suspected to contain

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59 asbestos.

60 "Asbestos contractor's license" means an authorization issued by the Board permitting a person to
61 enter into contracts to perform an asbestos abatement project.

62 "Asbestos-containing materials" or "ACM" means any material or product which contains more than
63 1.0 percent asbestos or such other percentage as established by EPA final rule.

64 "Asbestos inspector's license" means an authorization issued by the Board permitting a person to
65 perform on-site investigations to identify, classify, record, sample, test and prioritize by exposure
66 potential asbestos-containing materials.

67 "Asbestos management plan" means a program designed to control or abate any potential risk to
68 human health from asbestos.

69 "Asbestos management planner's license" means an authorization issued by the Board permitting a
70 person to develop or alter an asbestos management plan.

71 "Asbestos project" or "asbestos abatement project" means an activity involving job set-up for
72 containment, removal, encapsulation, enclosure, encasement, renovation, repair, construction or alteration
73 of an asbestos-containing material. An asbestos project or asbestos abatement project shall not include
74 nonfriable asbestos-containing roofing, flooring and siding materials which when installed, encapsulated
75 or removed do not become friable.

76 "Asbestos project designer's license" means an authorization issued by the Board permitting a person
77 to design an asbestos abatement project.

78 "Asbestos project monitor's license" means an authorization issued by the Board permitting a person
79 to monitor an asbestos project, subject to Department regulations.

80 "Asbestos supervisor" means any person so designated by an asbestos contractor who provides
81 on-site supervision and direction to the workers engaged in asbestos projects.

82 "Asbestos worker's license" means an authorization issued by the Board permitting an individual to
83 work on an asbestos project.

84 "Board" means the Virginia Board for Asbestos, Lead, ~~and~~ Home Inspectors, *and Methamphetamine*
85 *Laboratory Remediators*.

86 "Certified home inspection" means any inspection of a residential building for compensation
87 conducted by a certified home inspector. A certified home inspection shall include a written evaluation
88 of the readily accessible components of a residential building, including heating, cooling, plumbing, and
89 electrical systems; structural components; foundation; roof; masonry structure; exterior and interior
90 components; and other related residential housing components. A certified home inspection may be
91 limited in scope as provided in a home inspection contract, provided such contract is not inconsistent
92 with the provisions of this chapter or the regulations of the Board.

93 "Certified home inspector" means a person who meets the criteria of education, experience, and
94 testing required by this chapter and regulations of the Board and who has been certified by the Board.

95 "Dust clearance sampling" means an on-site collection of dust or other debris that is present after the
96 completion of a renovation to determine the presence of lead-based paint hazards and the provisions of a
97 report explaining the results.

98 "Dust sampling technician" means an individual licensed by the Board to perform dust clearance
99 sampling.

100 "Friable" means that the material when dry may be crumbled, pulverized, or reduced to powder by
101 hand pressure and includes previously nonfriable material after such previously nonfriable material
102 becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by
103 hand pressure.

104 "Lead abatement" means any measure or set of measures designed to permanently eliminate
105 lead-based paint hazards, including lead-contaminated dust or soil.

106 "Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of
107 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

108 "Lead-based paint activity" means lead inspection, lead risk assessment, lead project design and
109 abatement of lead-based paint and lead-based paint hazards, including lead-contaminated dust and
110 lead-contaminated soil.

111 "Lead-contaminated dust" means surface dust that contains an area or mass concentration of lead at
112 or in excess of levels identified by the Environmental Protection Agency pursuant to § 403 of TSCA (15
113 U.S.C. § 2683).

114 "Lead-contaminated soil" means bare soil that contains lead at or in excess of levels identified by the
115 Environmental Protection Agency.

116 "Lead contractor" means a person who has met the Board's requirements and has been issued a
117 license by the Board to enter into contracts to perform lead abatements.

118 "Lead inspection" means a surface-by-surface investigation to determine the presence of lead-based
119 paint and the provisions of a report explaining the results of the investigation.

120 "Lead inspector" means an individual who has been licensed by the Board to conduct lead

inspections and abatement clearance testing.

"Lead project design" means any descriptive form written as instructions or drafted as a plan describing the construction or setting up of a lead abatement project area and the work practices to be utilized during the lead abatement project.

"Lead project designer" means an individual who has been licensed by the Board to prepare lead project designs.

"Lead risk assessment" means (i) an on-site investigation to determine the existence, nature, severity and location of lead-based paint hazards and (ii) the provision of a report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

"Lead risk assessor" means an individual who has been licensed by the Board to conduct lead inspections, lead risk assessments and abatement clearance testing.

"Lead supervisor" means an individual who has been licensed by the Board to supervise lead abatements.

"Lead worker" or "lead abatement worker" means an individual who has been licensed by the Board to perform lead abatement.

"Methamphetamine laboratory remediation" means the cleaning of buildings, structures, or other sites used to illegally produce methamphetamines, or the removal of contaminated building material, furnishings that are unsalvageable, and other activities, including sanitation protocols, that are intended to render such building, structures, or sites habitable or safe from contamination.

"Methamphetamine laboratory remediator" means an individual who has been licensed by the Board to enter into contracts to perform methamphetamine laboratory remediation.

"Person" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association or any other individual or entity.

"Principal instructor" means the individual who has the primary responsibility for organizing and teaching an accredited asbestos training program, an accredited lead training program, an accredited renovation training program, or any combination thereof.

"Renovation" means the modification of any existing structure or portion thereof, for compensation, that results in the disturbance of painted surfaces, unless that activity is performed as a part of a lead abatement. As used in this definition, "compensation" shall include the receipt of (i) pay for work performed, such as that paid to contractors and subcontractors; (ii) wages, including but not limited to those paid to employees of contractors, building owners, property management companies, child-occupied facilities operators, state and local government agencies, and nonprofit organizations; and (iii) rent for housing constructed before January 1, 1978, or child-occupied facilities in public or commercial building space.

"Renovation contractor" means a person who has met the Board's requirements and has been issued a license by the Board to conduct renovations.

"Renovator" means an individual who has been issued a license by the Board to perform renovations or to direct others who perform renovations.

"Residential building" means, for the purposes of home inspection, a structure consisting of one to four dwelling units used or occupied, or intended to be used or occupied, for residential purposes.

"Training manager" means the individual responsible for administering a training program and monitoring the performance of instructors for an accredited asbestos training, accredited lead training program or accredited renovation training program.

§ 54.1-500.1. Virginia Board for Asbestos, Lead, Home Inspectors, and Methamphetamine Laboratory Remediators; membership; meetings; quorum.

The Virginia Board for Asbestos, Lead, and Home Inspectors, and Methamphetamine Laboratory Remediators shall be appointed by the Governor and composed of ~~14~~ 15 members as follows: one shall be a representative of a Virginia-licensed asbestos contractor, one shall be a representative of a Virginia-licensed lead contractor, one shall be a representative of a Virginia-licensed renovation contractor, one shall be either a Virginia-licensed asbestos inspector or project monitor, one shall be a Virginia-licensed lead risk assessor, one shall be a Virginia-licensed renovator, one shall be a Virginia-licensed dust sampling technician, one shall be a representative of a Virginia-licensed asbestos analytical laboratory, one shall be a representative of an asbestos, lead, or renovation training program, one shall be a member of the Board for Contractors, two shall be certified home inspectors, *one shall be a licensed methamphetamine laboratory remediator*, and two shall be citizen members. After initial staggered terms, the terms of members of the Board shall be four years, except that vacancies may be filled for the remainder of the unexpired term. The two home inspector members appointed to the Board shall have practiced as home inspectors for at least five consecutive years immediately prior to appointment. The renovation contractor, renovator, and dust sampling technician members appointed to the board shall have practiced respectively as a renovation contractor, renovator, or dust sampling

182 technician for at least five consecutive years prior to appointment. *The methamphetamine laboratory*
183 *remediator member appointed to the Board shall have practiced as a methamphetamine laboratory*
184 *remediator for at least three consecutive years immediately prior to appointment.*

185 The Board shall meet at least once each year and other such times as it deems necessary. The Board
186 shall elect from its membership a chairman and a vice-chairman to serve for a period of one year. Eight
187 members of the Board shall constitute a quorum. The Board is vested with the powers and duties
188 necessary to execute the purposes of this chapter.

189 **§ 54.1-501. Powers and duties of the Board.**

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

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

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

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

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

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

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

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

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

231 9. *Promulgate regulations for licensing of methamphetamine laboratory remediators not inconsistent*
232 *with this chapter regarding the professional qualifications of such applicants, the requirements*
233 *necessary for passing applicable examinations in whole or in part, the proper conduct of its*
234 *examinations, the proper conduct of methamphetamine laboratory remediators licensed by the Board, the*
235 *implementation of exemptions from licensure requirements, and the proper discharge of its duties.*

236 **§ 54.1-503. Licenses required.**

237 A. It shall be unlawful for any person who does not have an asbestos contractor's license to contract
238 with another person, for compensation, to carry out an asbestos project or to perform any work on an
239 asbestos project. It shall be unlawful for any person who does not have an asbestos project designer's
240 license to develop an asbestos project design. It shall be unlawful for any person who does not have an
241 asbestos inspector's license to conduct an asbestos inspection. It shall be unlawful for any person who
242 does not have an asbestos management planner's license to develop an asbestos management plan. It
243 shall be unlawful for any person who does not have a license as an asbestos project monitor to act as

project monitor on an asbestos project.

B. It shall be unlawful for any person who does not possess a valid asbestos analytical laboratory license issued by the Board to communicate the findings of an analysis, verbally or in writing, for a fee, performed on material known or suspected to contain asbestos for the purpose of determining the presence or absence of asbestos.

C. It shall be unlawful for any person who does not possess a license as a lead contractor to contract with another person to perform lead abatement activities or to perform any lead abatement activity or work on a lead abatement project. It shall be unlawful for any person who does not possess a lead supervisor's license to act as a lead supervisor on a lead abatement project. It shall be unlawful for any person who does not possess a lead worker's license to act as a lead worker on a lead abatement project. It shall be unlawful for any person who does not possess a lead project designer's license to develop a lead project design. It shall be unlawful for any person who does not possess a lead inspector's license to conduct a lead inspection. It shall be unlawful for any person who does not possess a lead risk assessor's license to conduct a lead risk assessment. It shall be unlawful for any person who does not possess a lead inspector's or lead risk assessor's license to conduct lead abatement clearance testing.

D. It shall be unlawful for any person who does not possess a license as a renovation contractor to perform renovation. It shall be unlawful for any person who does not possess a renovator's license to perform or direct others to perform renovation. It shall be unlawful for any person who does not possess a dust sampling technician's license to perform dust clearance sampling.

E. (Effective July 1, 2016) It shall be unlawful for any person who is not a certified home inspector pursuant to this chapter and who has not successfully completed the training module required by § 54.1-517.2 to conduct a home inspection on any new residential structure.

F. It shall be unlawful for any person who does not possess a license as a methamphetamine laboratory remediator to perform methamphetamine laboratory remediation.

§ 54.1-516. Disciplinary actions.

A. The Board may reprimand, fine, suspend, or revoke (i) the license of a lead contractor, lead inspector, lead risk assessor, lead project designer, lead supervisor, lead worker, asbestos contractor, asbestos supervisor, asbestos inspector, asbestos analytical laboratory, asbestos management planner, asbestos project designer, asbestos project monitor, asbestos worker, renovator, dust sampling technician, or renovation contractor or (ii) the approval of an accredited asbestos training program, accredited lead training program, accredited renovation training program, training manager or principal instructor, if the licensee or approved person or program:

1. Fraudulently or deceptively obtains or attempts to obtain a license or approval;
2. Fails at any time to meet the qualifications for a license or approval or to comply with the requirements of this chapter or any regulation adopted by the Board; or
3. Fails to meet any applicable federal or state standard when performing an asbestos project or service, performing lead-based paint activities, or performing renovations.

B. The Board may reprimand, fine, suspend, or revoke the license of, (i) any asbestos contractor who employs or permits an individual without an asbestos supervisor's or worker's license to work on an asbestos project, (ii) any lead contractor who employs or permits an individual without a lead supervisor's or lead worker's license to work on a lead abatement project, or (iii) any renovation contractor who employs or permits an individual without a renovator's license to perform or to direct others who perform renovations.

C. The Board may reprimand, fine, suspend, or revoke the certification of a home inspector.

D. The Board may reprimand, fine, suspend, or revoke the license of a methamphetamine laboratory remediator.

Article 4.

Methamphetamine Laboratory Remediators.

§ 54.1-517.6. License required.

No individual shall offer to perform or perform methamphetamine laboratory remediation without a valid license issued by the Board.

§ 54.1-517.7. Requirements for licensure.

A. The Board may issue a license to perform methamphetamine laboratory remediation in the Commonwealth to any applicant who has submitted satisfactory evidence that he has successfully:

1. Completed any educational requirements as required by the Board;
2. Completed any experience requirements as required by the Board; and
3. Passed any written or electronic examination offered or approved by the Board.

B. The Board may issue a license to perform methamphetamine laboratory remediation to any applicant who is certified by a national or state professional methamphetamine laboratory remediators association that is approved by the Board, provided that the requirements for the applicant's class of membership in such association are equal to or exceed the requirements established by the Board for all

305 applicants.

306 **§ 54.1-517.8. Award of contracts by state agencies and political subdivisions.**

307 *No state agency or political subdivision shall award a contract in connection with a*
308 *methamphetamine laboratory remediation to a person who does not hold a methamphetamine laboratory*
309 *remediator's license at the time the bid is submitted unless the general contractor to whom the contract*
310 *is awarded will be contractually committed to have all methamphetamine laboratory remediation-related*
311 *work performed by its own subcontractors who are appropriately licensed as methamphetamine*
312 *laboratory remediators pursuant to this article.*

313 **2. That the provisions of this act shall become effective on July 1, 2018.**

314 **3. That the Virginia Board for Asbestos, Lead, and Home Inspectors shall promulgate regulations**
315 **to implement the provisions of this act to be effective no later than July 1, 2018. The Board's**
316 **initial adoption of regulations necessary to implement the provisions of this act shall be exempt**
317 **from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the**
318 **Board shall provide an opportunity for public comment on the regulations prior to adoption.**