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**HOUSE BILL NO. 707****AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on General Laws  
on January 26, 2016)

(Patron Prior to Substitute—Delegate Minchew)

*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 clandestine drug laboratory remediators.*

**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:**

**§ 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 Clandestine Drug Laboratory Remediators, and Common Interest Community Board.

**CHAPTER 5.**

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

**§ 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 asbestos.

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

60 "Asbestos-containing materials" or "ACM" means any material or product which contains more than  
61 1.0 percent asbestos or such other percentage as established by EPA final rule.

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

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

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

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

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

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

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

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

82 "Board" means the Virginia Board for Asbestos, Lead, and Home Inspectors, and Clandestine Drug  
83 Laboratory Remediators.

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

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

93 "Clandestine drug laboratory" means any area where the illegal manufacture, processing, cooking,  
94 disposal, or storage of controlled substances, or their immediate precursors, has been conducted or  
95 attempted, and all proximate areas that are likely to be contaminated as a result of such manufacture,  
96 processing, cooking, disposal, or storage.

97 "Clandestine drug laboratory remediation" means the cleaning of buildings, structures, or other sites  
98 used to illegally produce controlled substances, the removal of contaminated building material or  
99 furnishings that are unsalvageable, and other activities, including sanitation protocols, that are intended  
100 to render such building, structures, or sites habitable or safe from contamination.

101 "Clandestine drug laboratory remediator" means an individual who has been licensed by the Board  
102 to enter into contracts to perform clandestine drug laboratory remediation.

103 "Controlled substance" means the same as that term is defined in § 54.1-3401.

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

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

109 "Friable" means that the material when dry may be crumbled, pulverized, or reduced to powder by  
110 hand pressure and includes previously nonfriable material after such previously nonfriable material  
111 becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by  
112 hand pressure.

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

115 "Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of  
116 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

117 "Lead-based paint activity" means lead inspection, lead risk assessment, lead project design and  
118 abatement of lead-based paint and lead-based paint hazards, including lead-contaminated dust and  
119 lead-contaminated soil.

120 "Lead-contaminated dust" means surface dust that contains an area or mass concentration of lead at  
121 or in excess of levels identified by the Environmental Protection Agency pursuant to § 403 of TSCA (15

U.S.C. § 2683).

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

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

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

"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.

"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 Clandestine Drug Laboratory Remediators; membership; meetings; quorum.**

The Virginia Board for Asbestos, Lead, and Home Inspectors, and Clandestine Drug 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 clandestine drug 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

183 appointment. The renovation contractor, renovator, and dust sampling technician members appointed to  
184 the board shall have practiced respectively as a renovation contractor, renovator, or dust sampling  
185 technician for at least five consecutive years prior to appointment. *The clandestine drug laboratory*  
186 *remediator member appointed to the Board shall have practiced as a clandestine drug laboratory*  
187 *remediator for at least three consecutive years immediately prior to appointment.*

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

192 **§ 54.1-501. Powers and duties of the Board.**

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

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

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

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

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

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

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

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

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

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

239 **§ 54.1-503. Licenses required.**

240 A. It shall be unlawful for any person who does not have an asbestos contractor's license to contract  
241 with another person, for compensation, to carry out an asbestos project or to perform any work on an  
242 asbestos project. It shall be unlawful for any person who does not have an asbestos project designer's  
243 license to develop an asbestos project design. It shall be unlawful for any person who does not have an  
244 asbestos inspector's license to conduct an asbestos inspection. It shall be unlawful for any person who

does not have an asbestos management planner's license to develop an asbestos management plan. It 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 clandestine drug laboratory remediator to perform clandestine drug 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 clandestine drug laboratory remediator.*

#### **Article 4.**

##### ***Clandestine Drug Laboratory Remediators.***

#### **§ 54.1-517.6. License required.**

*No individual shall perform or offer to perform clandestine drug 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 clandestine drug 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 clandestine drug laboratory remediation to any applicant who is certified by a national or state professional clandestine drug laboratory remediators

306 association that is approved by the Board, provided that the requirements for the applicant's class of  
307 membership in such association are equal to or exceed the requirements established by the Board for all  
308 applicants.

309 **§ 54.1-517.8. Award of contracts by state agencies and political subdivisions.**

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

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

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