

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 543

An Act to amend and reenact §§ 40.1-51.20, 40.1-51.21, 54.1-501, and 54.1-503 of the Code of Virginia, relating to regulation of lead contractors, professionals, and workers.

[S 809]

Approved March 24, 1995

Be it enacted by the General Assembly of Virginia:

1. That §§ 40.1-51.20, 40.1-51.21, 54.1-501, and 54.1-503 of the Code of Virginia are amended and reenacted as follows:

§ 40.1-51.20. Duties of licensed asbestos, licensed roofing, flooring or siding contractors, and certified lead contractors.

A. A licensed asbestos contractor ~~or, any licensed roofing, flooring or siding (RFS) contractor, and any certified lead contractor~~ shall notify the Department of Labor and Industry at least twenty days prior to commencement of each asbestos *or lead* project ~~he plans to undertake~~. Notification shall be sent ~~by certified mail or hand delivered in a manner prescribed to by the Department of Labor and Industry.~~ The Department of Labor and Industry shall have the authority to waive all or any part of the twenty-day notice.

B. A licensed asbestos contractor ~~or, licensed RFS contractor or certified lead contractor~~ shall obtain an asbestos *or lead* project permit from the Department of Labor and Industry prior to commencing each asbestos *or lead* project in accordance with this chapter and shall pay directly to the Commissioner a fee as established by the Safety and Health Codes Board pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.). The fees shall be sufficient but not excessive to cover the cost of administering the program. All fees collected pursuant to this section shall be paid into a special fund in the state treasury to the credit of the Department of Labor and Industry and shall be used in carrying out the Department's mission under this chapter.

The provisions of this subsection shall not apply to *asbestos projects* in residential buildings as defined by the Board in regulations adopted pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.).

C. A licensed asbestos contractor ~~or, licensed RFS contractor or certified lead contractor~~ shall keep a record of each asbestos *or lead* project performed and shall make the record available to the Departments of ~~Commerce~~ *Professional and Occupational Regulation* and of Labor and Industry upon request. Records required by this section shall be kept for at least thirty years. The records shall include:

1. The name, address, and asbestos ~~worker's~~ *or lead supervisor's* license *or certification* number of the individual who supervised the asbestos *or lead* project and each employee or agent who worked on the project;

2. The location and description of the project and the amount of asbestos *or lead* material that was removed;

3. The starting and completion dates of each project and a summary of the procedures that were used to comply with all federal and state standards; and

4. The name and address of each asbestos disposal site where waste containing asbestos *or lead* was deposited, *the results of the lead toxicity characteristic test*, and the disposal site receipts.

§ 40.1-51.21. Annual inspections.

At least once a year, during an actual asbestos project, the Department of Labor and Industry shall conduct an on-site unannounced inspection of each licensed asbestos contractor's ~~and, licensed RFS contractor's, and certified lead contractor's~~ procedures in regard to installing, removing and encapsulating asbestos *and lead*. The Commissioner or an authorized representative shall have the power and authority to enter at reasonable times upon any property for this purpose.

§ 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 (§ 9-6.14:1 et seq.) to include but not be limited to the prescription of fees, procedures, and qualifications for the issuance and renewal of *asbestos* licenses *and lead certificates*, and governing conflicts of interest between various categories of asbestos licenses and lead certificates;

2. Approve the criteria for training courses and primary instructors;

3. Approve training courses, examinations and the grading system for testing applicants for asbestos licensure and lead certification;

4. Promulgate training requirements for supervisors and workers employed by RFS contractors in the installation, removal or encapsulation of nonfriable asbestos-containing roofing, flooring or siding

materials not later than July 1, 1989, and to promulgate training requirements for RFS inspectors not later than January 1, 1991. The training requirements shall be promulgated in accordance with the Administrative Process Act;

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

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; and

7. Promulgate, in accordance with the Administrative Process Act, regulations necessary to ~~certify all persons performing~~ *establish procedures and requirements for the (i) approval of lead-based paint activities training programs, (ii) certification of individuals and firms to engage in lead inspection, evaluation, and abatement 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 Environmental Protection Agency regulations. The Board's regulations shall not be more stringent than the federal requirements *set forth in (i) the United States Environmental Protection Agency's (EPA) proposed regulations, if the Board's regulations are promulgated prior to the effective date of the EPA's final regulations, or (ii) the EPA's final regulations, if the Board's regulations are promulgated after the effective date of the EPA's final regulations.*

§ 54.1-503. Licenses required.

A. It shall be unlawful for any person who does not have an asbestos contractor's, supervisor's, inspector's, management planner's, or project designer's license to contract with another person, for compensation, to carry out an asbestos project or develop a management plan. It shall be unlawful for any person who does not have a license as an RFS contractor or asbestos contractor to enter into any contract for compensation to install, remove or encapsulate nonfriable asbestos-containing roofing, flooring, or siding material. After July 1, 1991, it shall be unlawful for any person who does not have a license as a project monitor to act as project monitor on an asbestos project.

B. ~~After January 1, 1995~~ *One hundred and twenty days after the effective date of the Board's initial regulations*, it shall be unlawful for any person who does not hold a certificate issued by the Board as a certified lead contractor, professional, or worker to perform lead inspection, evaluation, or abatement activities.

2. That, notwithstanding the provisions of subsection B of § 54.1-503 as in effect on January 1, 1995, no person shall be required to hold a certificate as a lead contractor, professional, or worker to perform lead inspections, evaluation, or abatement activities until one hundred and twenty days after the effective date of the Virginia Board for Asbestos Licensing and Lead Certification's initial regulations.

3. That, by October 1, 1995, the first set of regulations of the Virginia Board for Asbestos Licensing and Lead Certification to establish procedures and requirements pursuant to subdivision 7 of § 54.1-501 shall be finally adopted.

4. That an emergency exists and this act is in force from its passage.