

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 724
HOUSE BILL 516

AN ACT TO ESTABLISH AN ASBESTOS HAZARD MANAGEMENT PROGRAM AND TO INCREASE THE PERCENTAGE OF THE BUDGET FOR THE HAZARDOUS WASTE MANAGEMENT REGULATORY PROGRAM WHICH MAY COME FROM HAZARDOUS WASTE FEES IMPOSED UNDER G.S. 130A-294.1.

The General Assembly of North Carolina enacts:

Section 1. Chapter 130A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 19.

"Asbestos Hazard Management.

"§ 130A-444. Definitions.

Unless a different meaning is required by the context, the following definitions apply throughout this Article:

- (1) 'AHERA' means Title II, Asbestos Hazard Emergency Response, of the Toxic Substances Control Act, Pub. L. 99-519, 100 Stat. 2970, 15 U.S.C. § 2601 et seq., as amended.
- (2) 'Asbestos' means asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite and actinolite.
- (3) 'Asbestos containing material' means material which contains more than one percent (1%) asbestos by area, including friable asbestos containing material and nonfriable asbestos containing material.
- (4) 'Abatement' means work performed to repair, maintain, remove, isolate, or encapsulate asbestos containing material. The term does not include inspections, preparation of management plans, abatement project design, taking of samples, or project overview.
- (5) 'Friable' means any material that when dry can be broken, crumbled, pulverized, or reduced to powder by hand pressure, and includes previously nonfriable material after such material becomes damaged to the extent that when dry it can be crumbled, pulverized, or reduced to powder by hand pressure.
- (6) 'Management' means all activities related to asbestos containing material, including inspections, preparation of management plans, abatement project design, abatement, project overview, and taking of samples.

- (7) 'Public area' means those areas in any building other than a residence that are not covered under the Occupational Safety and Health Act of 1970, Pub. L. 91-596, 84 Stat. 1590, 29 U.S.C. § 651 et seq., as amended.
- (8) 'Removal' means stripping, chipping, sanding, sawing, drilling, scraping, sucking, and other methods of separating material from its installed location in a building.
- (9) 'Residence' means any single family dwelling or any multi-family dwelling of fewer than 10 units.

"§ 130A-445. Management of asbestos containing material in schools.

All school buildings subject to the provisions of AHERA shall be inspected for asbestos containing materials and shall prepare and submit management plans to the Department. The Commission shall adopt rules governing school management plans. These rules shall specify the content and format of plans, the plan review and approval process, schedules and methods for implementation of approved plans, and periodic inspection requirements.

"§ 130A-446. Asbestos exposure standard for public areas.

The Commission shall adopt rules to establish a maximum airborne asbestos exposure level for public areas. Such rules shall also specify sampling and analysis procedures.

"§ 130A-447. Accreditation of persons performing asbestos management.

(a) No person shall commence or continue to perform asbestos management activities unless he has been accredited by the Department. The Commission shall adopt rules governing the accreditation of such persons. Such rules shall include categories of accreditation and shall specify appropriate education, experience, and training requirements. The rules shall establish separate categories of accreditation for inspectors, management planners, abatement designers, supervisors, workers, air monitors, and management consultants. These rules shall be at least as stringent as the accreditation plan required under AHERA and regulations adopted pursuant thereto.

(b) A person who applies for accreditation in the worker category may engage in asbestos containing material management activities as though he were accredited in the worker category for up to 90 days after the date he submits his application. No person whose application is rejected may continue to engage in asbestos containing material management activities under this subsection.

(c) The following persons are exempt from the accreditation requirements:

- (1) The owner or operator of a building, other than school buildings subject to the provisions of AHERA, and his permanent employees when performing asbestos containing material management activities in nonpublic areas of the building;
- (2) A person performing asbestos containing material management activities in his personal residence;
- (3) Governmental regulatory personnel performing asbestos containing material management services under authority of federal, State, or local regulations or rules; and

- (4) Persons licensed by the General Contractors Licensing Board, State Board of Examiners of Plumbing and Heating Contractors, State Board of Examiners of Electrical Contractors, or the State Board of Refrigeration Examiners when engaged in activities associated with their license when such activities disturb less than 35 cubic feet, 160 square feet, or 260 linear feet of asbestos containing material per job, or when engaged in such activities under the supervision of an accredited supervisor.

"§ 130A-448. Asbestos management accreditation fees.

The Department shall establish and collect asbestos containing material management accreditation and annual renewal fees to support the asbestos hazard management program. The fees shall not exceed one hundred dollars (\$100.00) per accreditation category, except that the fee for the abatement worker category shall not exceed twenty-five dollars (\$25.00). A person who is accredited in more than one category shall pay a fee for each category.

"§ 130A-449. Asbestos containing material removal permits.

No person shall engage in asbestos abatement involving more than 35 cubic feet, 160 square feet, or 260 linear feet per job of asbestos containing material without an asbestos containing material removal permit issued by the Department. The Commission shall adopt rules governing such permits. Such rules may provide for exemption from the requirements of this section.

"§ 130A-450. Asbestos containing material removal permit fees.

The Department shall establish and collect an application fee for asbestos containing material removal permits to support the asbestos hazard management program. The fee shall not exceed one percent (1%) of the contracted price or twenty cents (\$.20) per square foot or linear foot of asbestos containing material to be removed, whichever is greater.

"§ 130A-451. Commission to adopt rules.

For the protection of the public health, the Commission shall adopt rules to implement this Article and AHERA."

Sec. 2. Until the Commission establishes the rules required by this Article, the maximum airborne asbestos exposure level for public areas shall be 0.01 fibers greater than five microns in length per cubic centimeter of air, to be measured in public areas during normal occupancy.

Sec. 3. Accreditations and reaccreditations issued by the Department under the Asbestos Hazard Emergency Response Act prior to the effective date of this act shall remain valid until they expire or are suspended or revoked.

Sec. 4. G.S. 130A-294.1(c) is rewritten to read:

"(c) It is the intent of the General Assembly that the total funds collected per year pursuant to this section ~~shall not exceed twenty five percent (25%)~~ thirty percent (30%) of the total funds budgeted from all sources for the hazardous waste management program. This subsection shall not be construed to limit the obligation of any person to pay any fee imposed by this section."

Sec. 5. Persons not required to be accredited under the Asbestos Hazard Emergency Response Act shall have until 1 November 1989 to become accredited under this act. Asbestos containing material removal permits shall be required for asbestos material containing material abatement activities commenced on or after 1 November 1989.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 3rd day of August, 1989.