

LEGISLATIVE BILL 1073

Approved by the Governor April 12, 1988

Introduced by Wesely, 26; Baack, 47

AN ACT relating to schools; to amend sections 71-6301 to 71-6307, 71-6309, 71-6310, 71-6312 to 71-6314, and 79-4,207, Reissue Revised Statutes of Nebraska, 1943; to name an act; to define and redefine terms; to change provisions relating to asbestos projects conducted by exempt organizations; to provide fees; to create and eliminate funds; to change certain license qualifications; to change provisions relating to applications for licenses and waivers; to change a provision relating to the length of time records are required to be kept; to change provisions relating to waiver of licenses; to change penalties; to change procedures relating to disciplinary actions; to provide continuing education requirements; to provide for certification of asbestos personnel as prescribed; to provide duties for the Department of Health; to provide rules and regulations; to authorize a tax levy for the abatement of environmental hazards; to require a report; to eliminate legislative findings and related provisions concerning asbestos; to eliminate disciplinary actions procedures; to harmonize provisions; to repeal the original sections, and also sections 71-6308 and 79-4,206, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 71-6301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6301. As used in sections 71-6301 to 71-6314 the Asbestos Control Act, unless the context otherwise requires:

(1) Asbestos shall mean asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite;

(2) Asbestos encapsulation project shall mean activities which include the coating of asbestos-containing surface material with a bridging or

penetrating type of sealing material for the intended purpose of preventing the continued release of asbestos fibers from the material into the air. Such project shall not include the repainting of a previously painted nonfriable asbestos-containing surface which is not damaged primarily for improving the appearance of such surface;

(3) Asbestos occupation shall mean an inspector, management planner, project designer, supervisor, or worker;

(4) Asbestos project shall mean an asbestos encapsulation project, an asbestos removal project, an asbestos-related demolition project, or an asbestos-related dismantling project but shall not include any activities which affect three square feet or less or three linear feet or less of asbestos-containing material on or in a structure or equipment or any appurtenances thereto;

(5) Asbestos removal project shall mean activities which include the physical removal or enclosure of friable asbestos-containing material from the surface of a structure or from equipment which is intended to remain in place after the removal or enclosure. Such project shall also include the physical removal of asbestos from a structure or equipment after such structure or equipment has been removed as part of an asbestos-related dismantling project;

(6) Asbestos-related demolition project shall mean activities which include the razing of all or a portion of a structure which contains friable asbestos-containing materials or other asbestos-containing materials which may become friable when such materials are cut, crushed, or broken;

(7) Asbestos-related dismantling project shall mean activities which include the disassembly, handling, and moving of the components of any structure or equipment which has been coated with asbestos-containing material without first removing such material from the structure or from the equipment;

(8) Business entity shall mean a partnership, firm, association, corporation, sole proprietorship, public entity, or other public or private business concern involved in an asbestos project except an entity solely involved as a management planner or project designer;

(2) Asbestos project shall mean an activity involving the actual physical removal, enclosure, or encapsulation of asbestos, except that asbestos project shall not include any consulting activity;

{3} Business entity shall mean a partnership, firm, association, corporation, sole proprietorship, public entity, or other public or private business concern;

{4} {9} Certificate shall mean an authorization issued by the department permitting an individual person to work on in an asbestos project occupation;

{5} {10} Department shall mean the Department of Health;

{6} {11} Director shall mean the Director of Health or his or her designee; and

{12} Enclosure shall mean the construction of an airtight, impermeable, permanent barrier around asbestos-containing material to control the release of asbestos fibers into the air;

{13} Friable asbestos shall mean asbestos in a form which can be crumbled, pulverized, or reduced to powder by hand pressure. Friable asbestos shall include nonfriable asbestos which is cut, crushed, or broken during the removal process;

{14} Inspector shall mean an individual who is certified by the department to identify and assess the condition of asbestos-containing material;

{7} {15} License shall mean an authorization issued by the department permitting a business entity to engage in an asbestos project;

{16} Management planner shall mean an individual who is certified by the department to assess the hazard of materials containing asbestos, to determine the appropriate response actions, and to write management plans;

{17} Project designer shall mean an individual who is certified by the department to formulate plans and write specifications for conducting asbestos projects;

{18} Project review shall mean review of a licensed business entity's proposed asbestos project;

{19} Supervisor shall mean an individual who is certified by the department to supervise and direct an asbestos project in accordance with the Asbestos Control Act and the rules and regulations adopted and promulgated pursuant to such act; and

{20} Worker shall mean an individual who is certified by the department to clean, handle, repair, remove, encapsulate, haul, dispose of, or otherwise work with asbestos material in a nonsupervisory capacity.

Sec. 2. That section 71-6302, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

71-6302. Except as otherwise provided in this section or section 71-6309, a business entity shall not engage in an asbestos project unless the business entity holds a license for that purpose. A business entity which uses its own employees for an asbestos project for the purpose of renovating, maintaining, or repairing its own facilities shall not be required to hold a license, but the business entity shall provide a training program course to inform the employees of the health and safety aspects of the asbestos project, including the applicable state standards. The training program course shall meet the standards for such course as prescribed in sections 13 and 14 of this act and the rules and regulations adopted and promulgated pursuant to such sections. The training course shall be available for review and approval upon inspection by the department.

Sec. 3. That section 71-6303, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6303. (1) ~~The department shall administer sections 71-6301 to 71-6314~~ the Asbestos Control Act.

(2) ~~The director department shall adopt and promulgate rules and regulations necessary to carry out sections 71-6301 to 71-6314 such act. in accordance with the Administrative Procedure Act. The director department shall adopt state standards governing asbestos projects and may adopt or incorporate part or all of any federal standards in such state standards so long as state standards are no less stringent than federal standards.~~

(3) ~~The director department shall prescribe fees for the inspections and the issuance and renewal of licenses and certificates based upon the following schedule:~~

(a) For a business entity license or license renewal, not less than two thousand dollars or more than five thousand dollars;

(b) For certification or recertification of a worker, not less than thirty-five dollars or more than one hundred dollars;

(c) For certification or recertification of a supervisor, not less than seventy dollars or more than two hundred dollars;

(d) For certification or recertification of an inspector, not less than seventy dollars or more than two hundred dollars;

(e) For certification or recertification of a management planner, not less than one hundred dollars or

more than three hundred dollars, which fee shall include certification or recertification as an inspector;

(f) For certification or recertification of a project designer, not less than seventy dollars or more than two hundred dollars;

(g) For waiver on an emergency basis of a business entity license, not less than two thousand dollars or more than five thousand dollars;

(h) For waiver of a license for a business entity not primarily engaged in asbestos projects, not less than two thousand dollars or more than five thousand dollars;

(i) For approval of a training course, not less than one thousand dollars or more than two thousand five hundred dollars, which fee shall include one onsite inspection if such inspection is required by the department;

(j) For approval of a review course or a four-hour course on Nebraska law, rules, and regulations, not less than five hundred dollars or more than one thousand dollars, which fee shall include one onsite inspection if such inspection is required by the department;

(k) For onsite inspections other than initial inspections, not less than one hundred fifty dollars or more than two hundred fifty dollars. Such fees shall not be assessed for more than three onsite inspections per year during the period an actual asbestos project is in progress;

(l) For a provisional license, not less than two thousand dollars or more than five thousand dollars;

(m) For a provisional certificate, not less than thirty-five dollars or more than three hundred dollars; and

(n) For a project review of each asbestos project of a licensed business entity which is equal to or greater than two hundred sixty linear feet or any combination which is equal to or greater than one hundred sixty square feet and linear feet, including any initial onsite inspection, not less than two hundred dollars or more than five hundred dollars.

Any applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of three hundred dollars for a license and one hundred dollars for approval of a training course shall be retained by the department.

The All fees shall be based on the costs of inspections, licensing, certification, and otherwise

administering sections 71-6301 to 71-6314 the Asbestos Control Act. In addition to the fees prescribed in this section, the department may charge and receive the actual costs for board, room, and travel by employees in excess of three hundred dollars, which costs shall not exceed the amounts allowable for state employees in sections 81-1174 to 81-1177. All such fees collected by the department shall be paid into the state treasury and shall be credited by the State Treasurer to the Asbestos Removal Control Cash Fund, which fund is hereby created. The fund shall be used by the department for the purpose of administering sections 71-6301 to 71-6314 such act. Any money in the Asbestos Control Cash Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269. Any money in the Asbestos Removal Cash Fund shall, on the effective date of this act, be transferred to the Asbestos Control Cash Fund.

(4) At least once a year during the continuation of an asbestos project, the department shall conduct an onsite inspection of each ~~licensee's~~ licensed business entity's procedures for performing removing, enclosing, or encapsulating asbestos projects.

(5) The department may enter into agreements or contracts with public agencies ~~or private contractors~~ to conduct any inspections required under sections 71-6301 to 71-6314 the act.

(6) The department shall adopt and promulgate rules and regulations defining work practices for asbestos projects. The department may provide for alternatives to specific work practices when the health, safety, and welfare of all classes of asbestos occupations and the general public are adequately protected.

(7) The department may apply for and receive funds from the federal government and any other public or private entity for the purposes of administering the act.

Sec. 4. That section 71-6304, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6304. To qualify for a license, a business entity shall:

(1) Own or demonstrate immediate and continuing access to and maintain in operable condition modern and effective equipment, as prescribed by the department, which is designed for use in asbestos projects;

(2) Ensure that each employee or agent of

the business entity who will come into contact with asbestos or who will be responsible for present on an asbestos project is certified to work on an asbestos project as required by the Asbestos Control Act;

~~(2)~~ (3) Demonstrate to the satisfaction of the director department that the business entity is capable of complying with all applicable requirements, procedures, and standards pertaining to the asbestos project;

(4) ~~(3)~~ Have access to at least one approved asbestos disposal site for deposit of all asbestos waste that the business entity will generate during the term of the license; and

(5) ~~(4)~~ Meet any other standards established by the director pursuant to sections 71-6301 to 71-6314 which the department may deem necessary to protect the health, safety, and welfare of all classes of asbestos occupations and the general public.

Sec. 5. That section 71-6305, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6305. (1) To apply for a license, a business entity shall submit an application to the department in the form required by the department and shall pay the fee prescribed by the department.

(2) The application shall include, but not be limited to:

(a) The name, and address, and nature of the business entity;

(b) A statement that all persons who will engage in any asbestos project for the licensee will be certified as required by the Asbestos Control Act;

~~(c)~~ ~~(b)~~ A description of the protective clothing and respirators that the business entity will use;

(d) ~~(c)~~ The name and address of each asbestos disposal site that the business entity will use;

(e) ~~(d)~~ A description of the site decontamination procedures that the business entity will use;

(f) ~~(e)~~ A description of the removal, enclosure, and encapsulation, demolition, dismantling, and maintenance methods that the business entity will use;

(g) ~~(f)~~ A description of the procedures that the business entity will use for handling waste-containing asbestos;

(h) ~~(g)~~ A description of the air monitoring procedures that the business entity will use;

(i) ~~(h)~~ A description of the procedures that the business entity will use in cleaning up the asbestos project;

(j) ~~(i)~~ The signature of the chief executive officer of the business entity or his or her designee; and

(k) ~~(j)~~ Any other information required by the department as may be necessary for the efficient administration and enforcement of the act and for the protection of the health, safety, and welfare of the general public and all classes of asbestos occupations.

Sec. 6. That section 71-6306, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6306. (1) A license or certificate shall expire on the first anniversary of its effective date unless it is renewed for one year as provided in this section.

(2) At least thirty days before the license or certificate expires, the department shall send to the licensee or certificate holder at his or her last-known address a renewal notice which states:

(a) The date on which the current license or certificate expires;

(b) The date by which the renewal application must be received by the department for the renewal to be issued and mailed before the license or certificate expires; and

(c) The amount of the renewal fee.

(3) Before the license or certificate expires, the licensee or certificate holder may renew it for an additional one-year period if the licensee or certificate holder:

(a) Is otherwise entitled to be licensed or certificated;

(b) Submits a renewal application to the department in the form required by the department; and

(c) Pays the renewal fee prescribed by the department.

Sec. 7. That section 71-6307, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6307. The licensee or a business entity, whether excepted from the requirements for licensure by section 71-6302 or whether operating under a waiver, shall keep a record of each asbestos project and shall make the record available to the department at any reasonable time. All such records shall be kept for at least ~~twenty~~ thirty years. Each record shall include:

(1) The name, address, and certificate number of the individual who supervised the asbestos project and of each employee or agent who worked on the project;

(2) The location and description of the project and the amount of asbestos material that was removed;

(3) The starting and completion dates of each instance of ~~removal, enclosure, or encapsulation~~ asbestos encapsulation, demolition, dismantling, maintenance, or removal;

(4) A summary of the procedures that were used to comply with all applicable standards;

(5) The name and address of each asbestos disposal site where the waste containing asbestos was deposited; and

(6) Such Any other information required by the department as the department may deem necessary for the efficient administration and enforcement of the Asbestos Control Act and for the protection of the health, safety, and welfare of all classes of asbestos occupations and the general public.

Sec. 8. That section 71-6309, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6309. (1) In the event of an emergency in which, in the opinion of the director, there is created a situation of present and severe danger which poses an immediate threat to the public health, safety, and welfare, that results from a sudden, unexpected event that is not part of a planned renovation or demolition, the director may waive the requirement for a license licensure or certification upon application and payment of the fee prescribed by the department. Such emergency waiver shall be limited to the time required to take protective measures.

(2) The ~~director~~ department may, on a case-by-case basis, approve an alternative to a specific worker protection requirement for an asbestos project if the business entity submits a written description of the alternative procedure and demonstrates to the ~~director's~~ department's satisfaction that the proposed alternative procedure provides equivalent ~~worker~~ protection to the health, safety, and welfare of all classes of asbestos occupations and the general public.

(3) If the business entity is not primarily engaged in asbestos projects, the ~~director~~ department may waive the requirement for a license upon application and payment of the fee prescribed by the department if worker protection requirements are met or an alternative

procedure is approved pursuant to subsection (2) of this section and the health, safety, and welfare of the general public is protected.

Sec. 9. That section 71-6310, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6310. (1) An individual person shall not be eligible to work on an asbestos project unless the person holds a certificate issued by the department.

(2) The department shall issue the following classes of certificates: Worker; supervisor; inspector; management planner; and project designer. To qualify for a certificate of a particular class, a person shall have (a) successfully completed a basic course, approved by the director, on the health and safety aspects of asbestos projects, including the applicable state standards, and training course approved or administered by the department, (b) been examined by a physician within the preceding year and declared by the physician to be physically capable of working while wearing a respirator, and (c) passed an examination approved or administered by the department with at least the minimum score prescribed by the department.

(3) A certificate or renewal certificate shall be valid for one year from the date of issuance. To qualify for a renewal certificate, a person shall have successfully completed an annual review course approved by the director and been reexamined and approved by a physician. Each renewal certificate shall be valid for one year the applicant shall meet the requirements of section 13 of this act.

(4) ~~(3)~~ Applications for certificates and renewal certificates shall be submitted to the department on forms prescribed by the department and shall be accompanied by the prescribed fee.

(5) As an alternative to the qualifications in subdivision (2)(a) of this section, a person shall have completed a fully accredited United States Environmental Protection Agency Asbestos Hazard Emergency Response Act training program or the person shall be currently accredited by a United States Environmental Protection Agency fully accredited state asbestos model accreditation plan adopted pursuant to 40 CFR 763. In addition to the alternative qualifications, the person shall successfully complete a four-hour course approved by the department on Nebraska law, rules, and regulations and shall pass an examination thereon which shall be approved and may be administered by the department.

(6) The department may issue a limited certificate to a project designer or management planner who does not intend to enter any management plan, project design, or asbestos project work site. An applicant for a limited certificate under this subsection shall not be required to comply with the requirements of subdivision (2)(b) of this section. A holder of a limited certificate shall not enter any management plan, project design, or asbestos project work site. Such limitation shall be endorsed upon the certificate. Violation of such limitation shall be grounds for disciplinary action against the certificate pursuant to section 71-6314.

(4) The department may deny, refuse to renew, suspend, or revoke a certificate in accordance with the Administrative Procedure Act for failure of the holder to comply with applicable departmental health and safety standards and regulations. Orders suspending or revoking a certificate may be appealed in accordance with section 71-6314.

Sec. 10. That section 71-6312, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6312. (1) A person or business entity which engages in an asbestos project without a valid license, except as otherwise provided in sections 71-6301 to 71-6314 the Asbestos Control Act, shall be assessed a civil penalty of not less than five thousand dollars nor more than twenty-five thousand dollars for the first offense and not less than twenty-five thousand dollars nor more than one hundred thousand dollars for a second or subsequent offense. Each day a violation continues shall constitute a separate offense.

(2) A person who engages in an asbestos project occupation without a valid certificate, except as otherwise provided in sections 71-6301 to 71-6314 the act, shall be assessed a civil penalty of one thousand dollars for the first offense not less than five hundred dollars nor more than five thousand dollars for the first offense and not less than one thousand dollars nor more than fifteen thousand dollars for the second or subsequent offense. Each day a violation continues shall constitute a separate offense.

(3) Every person or business entity against whom a civil penalty is proposed to be assessed shall be entitled to notice and hearing pursuant to section 71-6314. The civil penalties prescribed in subsections (1) and (2) of this section shall be assessed in a civil action brought for such purpose by the Attorney General

in the district court of the county in which the violation occurred.

(4) A person or business entity which has been assessed a civil penalty under this section and subsequently engages in an asbestos project or an asbestos occupation without a valid certificate or license, except as otherwise provided in ~~sections 71-6301 to 71-6314~~ the Asbestos Control Act:

(a) For a first offense, shall be guilty of a Class I misdemeanor; and

(b) For a second or subsequent offense, shall be guilty of a Class IV felony.

Sec. 11. That section 71-6313, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6313. ~~The director~~ Attorney General may institute an action in the name of the state for an injunction or other process against any business entity or person to restrain or prevent any violation of ~~sections 71-6301 to 71-6314~~ the Asbestos Control Act or of any rules and regulations adopted and promulgated pursuant to ~~sections 71-6301 to 71-6314~~ such act.

Sec. 12. That section 71-6314, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6314. (1) When the department determines that a licensee has violated the Asbestos Control Act or any rule and regulation adopted and promulgated pursuant to such act, the department may, rather than initially instituting disciplinary proceedings pursuant to subsection (2) of this section, within seven working days after a finding of a violation is made, issue a citation to the licensee. The citation shall be served upon the licensee personally or by certified mail. Each citation shall specifically describe the nature of the violation and identify the statute, rule, or regulation violated. When a citation is served upon the licensee, the licensee shall have seven working days to remedy the violation. If such violation has not been remedied at the end of such time, the department may take such other action as is deemed appropriate pursuant to the act and the Administrative Procedure Act.

(2) Independent of the provisions of subsection (1) of this section, a license or certificate issued pursuant to the act may be denied, refused renewal, suspended, or revoked when the applicant, licensee, or certificate holder violates any of the provisions of the act, fraudulently or deceptively obtains or attempts to obtain a license or certificate.

fails at any time to meet the qualifications for a license or certificate, fails to comply with rules and regulations adopted and promulgated pursuant to the act, fails to meet any applicable state standard for asbestos projects, or employs or permits an uncertified person to work in an asbestos occupation.

(3) In addition to the disciplinary actions provided for in subsection (2) of this section, the department may assess a civil penalty of not less than one thousand dollars nor more than twenty-five thousand dollars for each offense committed by any business entity licensed under the act or not less than one hundred dollars nor more than five thousand dollars for each offense committed by a person certified under the act for violation of the act or any rule or regulation adopted and promulgated pursuant thereto. Each day a violation continues shall constitute a separate offense.

(4) Whenever the department determines to deny, refuse to renew, suspend, or revoke a license or certificate or assess a civil penalty, it shall send to the applicant, licensee, or certificate holder a notice setting forth the particular reasons for the determination. The denial, suspension, refusal to renew, revocation, or assessment of a civil penalty shall become final thirty days after the mailing of the notice unless the applicant, certificate holder, or licensee gives written notice to the department of a desire for a hearing. If a hearing is requested, the applicant, certificate holder, or licensee shall be given a hearing before the department and shall have the right to present such evidence as may be proper. On the basis of such evidence, the determination shall be affirmed, modified, or set aside, and a copy of such decision setting forth the findings of fact and the particular reasons upon which such decision was based shall be sent by certified mail to the applicant, certificate holder, or licensee. The decision shall become a final decision of the department and may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. Whenever the department proposes to subject a person to the provisions of section 71-6312 or intends to deny, refuse to renew, suspend, or revoke a license or certificate, it shall notify the person in writing: (a) Setting forth the date, facts, and nature of each act or omission with which the person is charged; (b) specifically identifying the particular provision or provisions of the section, rule, or regulation involved in the violation; (c) notifying the person of the time, date,

and place at which a full and fair hearing shall be had on such charge; and (d) notifying the person that the department may deny, refuse to renew, suspend, or revoke a license or certificate or impose a civil penalty for engaging in a project without a license or certificate. The notice shall also advise such person that upon failure to pay the civil penalty, if any, subsequently determined by the department, the penalty may be collected by civil action. The notice shall be delivered to each alleged violator not less than ten days before the time set for the hearing by personal service, by certified or registered mail to his or her last-known address, or by publication. Notice by publication shall only be made if personal service or service by mail cannot be effectuated.

(2) (5) Hearings held pursuant to subsection (1) of this section shall be held in accordance with the Administrative Procedure Act and the rules and regulations adopted and promulgated by the department under such act, and shall provide for the alleged violator to present such evidence as may be proper. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the rules and regulations of the department. A full and complete record shall be kept of the proceedings.

(3) Following the hearing, the director shall determine whether or not the charges are true; and if true, the director may (a) issue a declaratory order finding the charges to be true or (b) deny, refuse to renew, suspend, or revoke a license or certificate or impose a civil penalty prescribed in section 71-6312. A copy of such decision, setting forth the finding of facts and the particular reasons upon which it is based, shall be sent by either registered or certified mail to the alleged violator. The decision shall become final thirty days after a copy thereof is mailed, unless the alleged violator, within such thirty-day period, appeals the decision as provided in the Administrative Procedure Act.

(4) (6) Any civil penalty assessed and unpaid under sections 71-6301 to 71-6314 the Asbestos Control Act shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property. The department shall, within thirty days of receipt, transmit any collected civil penalty to the State Treasurer for deposit in the

Permanent School Fund.

Sec. 13. (1) Any person certified in any of the asbestos occupations prescribed in section 71-6310, as a condition for recertification, shall successfully complete an annual review course approved by the department of not less than one day, except that for inspectors the review course requirement shall be one-half day, and shall be examined and approved by a physician as prescribed for initial applicants in section 71-6310. The certificate holder shall submit evidence as required by the department of satisfaction of the requirements of this subsection.

(2) Each review course shall be specific for each of the classes of occupations referred to in section 71-6310 and shall include a review and discussion of changes in federal and state regulations, new developments in asbestos procedures and techniques specific for that class, and a review of principal aspects of the initial training course. The written examination for each of the classes for recertification shall be approved and may be administered by the department and shall be composed of multiple choice questions covering subjects dealing with the review course. The passing score shall be determined by the department.

(3) An applicant for approval of a review course shall submit an application for approval of such course on a form provided by the department together with the prescribed fee.

Sec. 14. (1) The department shall approve training courses for each classification of asbestos occupation. Applicants for course approval shall meet the requirements for each course and shall submit an application on forms provided by the department together with the prescribed fee.

(2) In order to be approved by the department, an inspector training course shall meet the following requirements: A three-day training course including lectures, demonstrations, a field trip, at least four hours of hands-on training, individual respirator-fit testing, and a written examination; background information on asbestos and potential health effects related to exposure to asbestos; functions, qualifications, and the role of inspectors; legal liabilities and defenses; understanding building systems; public, employee, and occupant relations; preinspection planning and review of previous inspection records and inspecting for friable and nonfriable asbestos-containing material and assessing the condition

of asbestos-containing material; bulk sampling and documentation of asbestos; inspector respiratory protection and personal protective equipment; and record keeping and inspection report writing, regulatory review, and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(3) In order to be approved by the department, a management planner training course shall meet the following requirements: A three-day inspector training course as outlined in subsection (2) of this section and a two-day management planner training course including lectures, demonstrations, and a written examination; course overview; evaluation and interpretation of survey results, hazard assessment, and legal implications; evaluation and selection of control options; role of other professionals; developing an operations and maintenance plan; and regulatory review, record keeping for the management planner, assembling and submitting the management plan, financing abatement actions, and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(4) In order to be approved by the department, a project designer training course shall meet the following requirements: A three-day training course including lectures, demonstrations, a field trip, and a written examination or a four-day supervisor training course as outlined in subsection (5) of this section; background information on asbestos and potential health effects related to asbestos exposure; overview of abatement construction projects; safety system design specifications, employee personal protective equipment, and additional safety hazards; fiber aerodynamics and control, designing abatement solutions, and budgeting and cost estimation; writing abatement specifications and preparing abatement drawings; contract preparation and administration and legal liabilities and defenses; replacement of asbestos with asbestos-free substitutes; role of other consultants; occupied buildings; and relevant federal, state, and local regulatory requirements and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing

score shall be determined by the department.

(5) In order to be approved by the department, a supervisor training course shall meet the following requirements: A four-day asbestos training course including lectures, demonstrations, at least six hours of hands-on training, individual respirator-fit testing, and a written examination; the physical characteristics of asbestos and asbestos-containing materials and potential health effects related to asbestos exposure; employee personal protective equipment, state-of-the-art work practices, personal hygiene, additional safety hazards, medical monitoring, and air monitoring; relevant federal, state, and local regulatory requirements; respiratory protection programs, medical surveillance programs, and insurance and liability issues; record keeping for asbestos abatement projects and supervisory techniques for asbestos abatement activity; contract specifications; and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(6) In order to be approved by the department, a worker training course shall meet the following requirements: A three-day training course including lectures, demonstrations, at least six hours of hands-on training, individual respirator-fit testing, and a written examination; physical characteristics of asbestos, potential health effects related to asbestos exposure, employee personal protective equipment, state-of-the-art work practices, personal hygiene, additional safety hazards, medical monitoring, and air monitoring; relevant federal, state, and local regulatory requirements, procedures, and standards; establishment of respiratory protection programs; and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(7) In order to be approved by the department, a course on Nebraska law, rules, and regulations required by subsection (5) of section 71-6310 shall consist of at least four hours of training on Nebraska law, rules, and regulations relating to asbestos. The written examination shall be approved and may be administered by the department. The passing score shall be determined by the department.

Sec. 15. No license or certificate shall be required by the Asbestos Control Act until one year from the effective date of this act, except that a provisional license or certificate shall be required thirty days after the effective date of this act for all individuals and business entities which are engaged in asbestos project activities or asbestos occupations on such date. Individuals and business entities which intend to engage in asbestos project activities or asbestos occupations commencing after the effective date of this act but prior to one year from such date shall be required to obtain a provisional license or certificate prior to engaging in such activity or occupation. The department shall issue a provisional license or certificate to any such applicant, without examination, if the applicant pays the prescribed fees and submits an application on a form prescribed by the department. The department may issue a provisional limited certificate to a project designer or management planner who does not intend to enter any management plan, project design, or asbestos project work site. A provisional limited certificate holder shall not enter any management plan, project design, or asbestos project work site. Such limitation shall be endorsed upon the certificate. Violation of such limitation shall be grounds for disciplinary action against the certificate pursuant to section 71-6314.

Any provisional licensee or certificate holder shall comply with all work practice and worker protection requirements of such act and the rules and regulations adopted and promulgated thereunder. An applicant for a provisional certificate shall submit evidence that he or she has been examined by a physician within the preceding year and declared by the physician to be physically capable of working while wearing a respirator, except that such applicant shall not be required to submit such evidence if he or she is applying for a provisional limited certificate. Any provisional licensee or certificate holder shall meet the requirements of the act for regular licensure or certification by one year after the effective date of this act. After such date, all provisional licenses and certificates shall expire and be void.

Sec. 16. In order to assist local educational agencies to meet the requirements of section 203 of Title II of the Toxic Substances Control Act, 15 U.S.C. 2643, the Governor may designate a state agency to receive asbestos management plans from local educational agencies. Such state agency shall establish procedures

for reviewing asbestos management plans, which plans shall meet the standards for asbestos management plans required by the Toxic Substances Control Act and regulations concerning asbestos-containing materials in schools, 40 CFR 763. The Governor, through the designated agency, may disapprove such plans. If a management plan is not disapproved within ninety days after its receipt, the local educational agency shall implement the plan.

Sec. 17. The Asbestos Control Act shall not apply to a district as defined in section 70-601 or a district subject to Chapter 14, article 11.

Sec. 18. Sections 71-6301 to 71-6314 and sections 13 to 18 of this act shall be known and may be cited as the Asbestos Control Act.

Sec. 19. That section 79-4,207, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-4,207. (1) Each local school board, after making a determination according to Environmental Protection Agency guidelines that exposed surfaces containing greater than one percent friable asbestos exist that an actual or potential environmental hazard exists within the school buildings under their or grounds under its control, may make and deliver to the county clerk of such county in which any part of the school district is situated, not later than the first Monday in August, an itemized estimate of the amounts necessary to be expended for the removal and replacement of exposed building materials which contain greater than one percent friable asbestos, as defined by the United States Environmental Protection Agency, in their respective abatement of such environmental hazards in its school buildings or grounds. Each local school board shall conduct a public hearing on the itemized estimate prior to presenting such estimate to the county clerk. Notice of the place and time of such hearing shall, at least five days prior to the date set for hearing, be published in a newspaper of general circulation within the school district or be sent by direct mailing to each resident within the school district.

(2) For purposes of this section, environmental hazard shall mean any contamination of the air, water, land surface, or subsurface caused by any substance adversely affecting human health or safety if such substance has been declared hazardous by a federal or state statute, rule, or regulation.

(3) {2} It shall be the duty of the county

clerk to levy such taxes, not to exceed three and one-half cents per one hundred dollars of taxable valuation, on the taxable property of the school district necessary to cover the removal and replacement costs of subsection (1) of this section abatement costs itemized by the school board. Such taxes shall be collected by the county treasurer at the same time and in the same manner as county taxes are collected and when collected, shall be paid to the treasurer of the proper school district and used to cover the removal and replacement costs of subsection (1) of this section abatement costs.

(4) ~~(3)~~ Each school district which submits an itemized estimate pursuant to subsection (1) of this section shall establish an asbestos removal environmental hazard abatement fund. Taxes collected pursuant to subsection (2) of this section shall be credited to such fund to cover the abatement costs, of removing and replacing all or any part of exposed building materials containing greater than one percent friable asbestos within such buildings. Such estimates may be presented to the county clerk and taxes levied accordingly, until all exposed building materials containing greater than one percent friable asbestos have been replaced. In no event, however, may a school board present any such estimates after August 1990 1, 1993. The Commissioner of Education shall, by January 1, 1993, deliver a report to the Legislature estimating the amount of hazardous materials which remain in the public schools of the state.

(5) ~~(4)~~ The itemized estimate submitted by a school board pursuant to subsection (1) of this section may include the actual cost of removal and replacement of exposed building materials containing greater than one percent friable asbestos when such removal and replacement abatement of an environmental hazard when such abatement occurred prior to the delivery of such estimate to the county clerk and was completed after June 28, 1982.

(6) For purposes of this section, the term abatement shall include, but not be limited to, any inspection and testing regarding environmental hazards, any maintenance to reduce or eliminate environmental hazards, any removal of environmentally hazardous material or property, any restoration or replacement of material or property, any related architectural and engineering services, and any other action to reduce or eliminate environmental hazards in the school buildings or grounds under the school board's control, except that

the term abatement shall not include the encapsulation of any material containing more than one percent friable asbestos.

Sec. 20. That original sections 71-6301 to 71-6307, 71-6309, 71-6310, 71-6312 to 71-6314, and 79-4,207, Reissue Revised Statutes of Nebraska, 1943, and also sections 71-6308 and 79-4,206, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 21. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.