

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0317.01 Yelana Love x2295

HOUSE BILL 22-1232

HOUSE SPONSORSHIP

Valdez A. and Titone, Bernett, Cutter, Froelich, Gray, Hooton, Jodeh, Lindsay, Ricks,
Snyder, Weissman

SENATE SPONSORSHIP

Gonzales,

House Committees

Energy & Environment
Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS IN**
102 **CONNECTION WITH THE CONTROL OF ASBESTOS, AND, IN**
103 **CONNECTION THEREWITH, IMPLEMENTING THE**
104 **RECOMMENDATIONS OF THE DEPARTMENT OF REGULATORY**
105 **AGENCIES CONTAINED IN THE 2021 SUNSET REPORT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sunset Process - House Energy and Environment Committee.
The bill implements the recommendations of the department of regulatory

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
April 4, 2022

HOUSE
2nd Reading Unamended
April 1, 2022

agencies, as contained in the department's sunset review of the regulation of persons in connection with the control of asbestos, as follows:

- Continues the regulation for 5 years, until September 1, 2027;
- Removes limits on the ability of the air quality control commission to promulgate rules more stringent than the standards set forth in the federal "Occupational Safety and Health Act" (OSHA) and federal regulations promulgated pursuant to OSHA; and
- Requires a local government to add language regarding asbestos inspections on each application to renovate or demolish property.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-104, **repeal**
3 (23)(a)(III); and **add** (28)(a)(VII) as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for repeal, continuation, or reestablishment - legislative**
6 **declaration - repeal.** (23) (a) The following agencies, functions, or both,
7 are scheduled for repeal on September 1, 2022:

8 ~~(III) The certification of persons in connection with the control of~~
9 ~~asbestos in accordance with part 5 of article 7 of title 25, C.R.S.;~~

10 (28) (a) The following agencies, functions, or both, are scheduled
11 for repeal on September 1, 2027:

12 (VII) THE CERTIFICATION OF PERSONS IN CONNECTION WITH THE
13 CONTROL OF ASBESTOS IN ACCORDANCE WITH PART 5 OF ARTICLE 7 OF
14 TITLE 25.

15 **SECTION 2.** In Colorado Revised Statutes, **amend** 25-7-512 as
16 follows:

17 **25-7-512. Repeal of part.** This part 5 is repealed, effective
18 ~~September 1, 2022~~ SEPTEMBER 1, 2027. Before the repeal, ~~the department~~
19 ~~of regulatory agencies shall review~~ the functions of the division under this

1 part 5 ~~as provided for in~~ ARE SCHEDULED FOR REVIEW IN ACCORDANCE
2 WITH section 24-34-104. ~~C.R.S.~~

3 **SECTION 3.** In Colorado Revised Statutes, 25-7-501, **amend** (1)
4 as follows:

5 **25-7-501. Legislative declaration.** (1) The general assembly
6 hereby declares that it is in the interest of the general public to control the
7 exposure of the general public to friable asbestos. It is the intent of the
8 general assembly to ensure the health, safety, and welfare of the public by
9 regulating the practice of asbestos abatement in locations to which the
10 general public has access for the purpose of ensuring that such abatement
11 is performed in a manner ~~which~~ THAT will minimize the risk of release of
12 asbestos. However, it is not the intent of the general assembly to regulate
13 occupational health practices ~~which~~ THAT are regulated pursuant to
14 federal laws, or to grant any authority to the department of public health
15 and environment to enter and regulate work areas where general public
16 access is limited. It is the intent of the general assembly that the
17 commission may adopt regulations to permit the enforcement of the
18 national emission standards for hazardous air pollutants as set forth in 42
19 U.S.C. sec. 7412.

20 **SECTION 4.** In Colorado Revised Statutes, 25-7-502, **amend**
21 (1)(a) and (1)(c); and **add** (3)(b)(IV) and (5.5) as follows:

22 **25-7-502. Definitions.** As used in this part 5, unless the context
23 otherwise requires:

24 (1) (a) "Area of public access" means any building, facility, or
25 property, or ~~only that~~ A portion thereof, that any member of the general
26 public can enter ~~without limitation or restriction by the owner or lessee~~
27 ~~under normal business conditions; except that~~ OR BE EXPOSED TO

1 ASBESTOS FROM THE AREA. "Area of public access" includes a
2 single-family residential dwelling and any facility that charges the general
3 public a fee for admission, such as any theater or arena. For purposes of
4 this subsection (1), "general public" does not include employees of the
5 entity that owns, leases, or operates such building, facility, or property, or
6 such portion thereof, or any service personnel or vendors connected
7 therewith.

8 (c) Notwithstanding the provisions of paragraph (a) of this
9 subsection (1) SUBSECTION (1)(a) OF THIS SECTION, a single family
10 residential dwelling shall not be considered an area of public access for
11 purposes of this part 5 CONDUCTING ASBESTOS ABATEMENT if the
12 homeowner who resides in the single family dwelling that is the
13 homeowner's primary residence requests, on a form provided by the
14 division, that the single family dwelling not be considered an area of
15 public access.

16 (3) "Asbestos abatement" means any of the following:

17 (b) The following practices intended to prevent the escape of
18 asbestos fibers into the atmosphere:

19 (IV) CONDUCTING A MAJOR SPILL RESPONSE.

20 (5.5) "FACILITY" MEANS ANY INSTITUTIONAL, COMMERCIAL,
21 PUBLIC, INDUSTRIAL, SCHOOL, OR RESIDENTIAL STRUCTURE; ANY
22 INSTALLATION; ANY BUILDING, INCLUDING ANY STRUCTURE,
23 INSTALLATION, OR BUILDING CONTAINING CONDOMINIUMS OR INDIVIDUAL
24 DWELLING UNITS OPERATED AS A RESIDENTIAL COOPERATIVE; ANY SHIP;
25 ANY RAILCAR; AND ANY ACTIVE OR INACTIVE WASTE DISPOSAL SITE.

26 **SECTION 5.** In Colorado Revised Statutes, 25-7-503, amend
27 (1)(a) introductory portion, (1)(a)(I), (1)(a)(IV), (1)(a)(VI), (1)(a)(IX),

1 (1)(b)(II), and (1)(b)(III)(B); and repeal (1)(a)(VII), (1)(a)(VIII), and (2)
2 as follows:

3 **25-7-503. Powers and duties of commission - rules - delegation**
4 **of authority to division.** (1) The commission has the following powers
5 and duties:

6 (a) To promulgate rules pursuant to section 24-4-103, ~~C.R.S.~~,
7 regarding the following, as are necessary to implement the provisions of
8 this part 5: only for areas of public access:

9 (I) Performance standards and practices for asbestos abatement;
10 ~~which are not more stringent than 29 CFR 1910.1001 and 1926.1101;~~

11 (IV) Requirements for air pollution permits. Permits shall be
12 required for asbestos abatement projects in any building, facility, or
13 structure OR PROPERTY, or any portion thereof, having public access;
14 except that the requirements of this subparagraph (IV) SUBSECTION
15 (1)(a)(IV) shall not apply to asbestos abatement projects performed by an
16 individual on a single-family residential dwelling THAT IS THE
17 INDIVIDUAL'S PRIMARY RESIDENCE.

18 (VI) Fees for certification as: A trained supervisor, WORKER,
19 PROJECT DESIGNER, INSPECTOR, MANAGEMENT PLANNER, AND AIR
20 MONITORING SPECIALIST; AND A GENERAL ABATEMENT CONTRACTOR;

21 (VII) Fees for certification which is required under federal law to
22 engage in the inspection of schools, the preparation of asbestos
23 management plans for schools, and the performance of asbestos
24 abatement services for schools;

25 (VIII) Fees for a certificate to perform asbestos abatement;

26 (IX) Assessment procedures which THAT determine the need for
27 response actions for friable asbestos-containing materials. Such

1 procedures shall include, but not be limited to, AN INITIAL INSPECTION TO
2 DETERMINE IF ASBESTOS-CONTAINING MATERIALS ARE PRESENT, visual
3 inspection, and air monitoring ~~which~~ THAT shows an airborne
4 concentration of asbestos during normal occupancy conditions in excess
5 of the maximum allowable level established by the commission in
6 state-owned or state-leased buildings. Nothing in this subparagraph (IX)
7 SUBSECTION (1)(a)(IX) shall be construed to require that such assessments
8 be made in state-owned or state-leased buildings; however, such
9 procedures shall be followed in the event any such assessment is made.

10 (b) To promulgate rules pursuant to section 24-4-103, C.R.S.,
11 regarding the following, as are necessary to implement the provisions of
12 this part 5, as required by the federal "Clean Air Act", 42 U.S.C. sec.
13 7412 et seq., as amended:

14 (II) Requirements of notification, as consistent with the federal
15 act, to demolish, renovate, or perform asbestos abatement in any building,
16 structure, facility, or installation OR PROPERTY, or any portion thereof,
17 which THAT contains asbestos, except within such minimum scope of
18 asbestos abatement or when otherwise exempt;

19 (III) (B) The division shall provide information to local
20 governments to be used in connection with the issuance of a building
21 permit regarding the need for an inspection for the presence of
22 asbestos-containing materials prior to renovation or demolition of any
23 building, structure, facility, or installation OR PROPERTY that may contain
24 asbestos.

25 ~~(2) Notwithstanding any other provisions of this section to the~~
26 ~~contrary, neither the commission nor the division shall have the authority~~
27 ~~to enforce standards more restrictive than the federal standards set forth~~

1 in the "Occupational Safety and Health Act", on asbestos abatement
2 projects which are subject to such federal standards; except that, nothing
3 in this subsection (2) shall be construed to prevent the application and
4 enforcement of the maximum allowable asbestos level prescribed in
5 subparagraph (H) of paragraph (a) of subsection (1) of this section as a
6 clearance level and a condition of reentry by the general public upon
7 completion of the project.

8 SECTION 6. In Colorado Revised Statutes, 25-7-504, amend (1)
9 and (2)(a) as follows:

10 25-7-504. Asbestos abatement project requirements -
11 certificate to perform asbestos abatement - certified trained persons.

12 (1) (a) Any person who inspects schools for the presence of friable
13 asbestos, prepares asbestos management plans for schools, or conducts
14 asbestos abatement services in schools shall obtain certification pursuant
15 to section 25-7-507.

16 (b) Any person OTHER THAN THE GENERAL ABATEMENT
17 CONTRACTOR who inspects public or commercial buildings ANY
18 BUILDING, FACILITY, OR PROPERTY for the presence of asbestos, prepares
19 management plans for public and commercial buildings, designs
20 abatement actions in public and commercial buildings ANY BUILDING,
21 FACILITY, OR PROPERTY, or conducts abatement actions in public and
22 commercial buildings ANY BUILDING, FACILITY, OR PROPERTY shall obtain
23 certification pursuant to section 25-7-507.

24 (2) (a) Any person A GENERAL ABATEMENT CONTRACTOR who
25 conducts asbestos abatement in any building, other than a school,
26 FACILITY, OR PROPERTY shall obtain a certificate to perform asbestos
27 abatement pursuant to section 25-7-505 unless such abatement project is

1 exempt from the requirement for certification pursuant to rules and
2 regulations promulgated by the commission.

3 **SECTION 7.** In Colorado Revised Statutes, **amend 25-7-507** as
4 follows:

5 **25-7-507. Certification required under federal law for asbestos**
6 **projects in facilities.** Pursuant to the federal "Asbestos Hazard
7 Emergency Response Act of 1986", Public Law 99-519, CODIFIED AT 15
8 U.S.C. SEC. 2641 ET SEQ., AS AMENDED and the federal "Asbestos School
9 Hazard Abatement Reauthorization Act of 1990", Public Law 101-637,
10 AS AMENDED, the division shall certify, in the manner required under the
11 federal law, all persons engaged in the inspection of schools or public or
12 commercial buildings ANY BUILDING, FACILITY, OR PROPERTY, the
13 preparation of management plans for schools or public or commercial
14 buildings ANY BUILDING, FACILITY, OR PROPERTY, the design of abatement
15 actions in schools or public or commercial buildings ANY BUILDING,
16 FACILITY, OR PROPERTY, or the conduct of abatement actions in schools
17 or public or commercial buildings ANY BUILDING, FACILITY, OR PROPERTY.

18 **SECTION 8.** In Colorado Revised Statutes, **25-7-507.5, amend**
19 (5)(c)(I) as follows:

20 **25-7-507.5. Renewal of certificates - rules - recertification.**
21 (5) (c) (I) The commission shall promulgate rules governing refresher
22 training programs for persons in both school and nonschool WHO
23 CONDUCT asbestos abatement ACTIVITIES. Such programs shall not exceed
24 the requirements of refresher training mandated under the federal
25 "Asbestos Hazard Emergency Response Act of 1986", Public Law
26 99-519, CODIFIED AT 15 U.S.C. SEC. 2641 ET SEQ., AS AMENDED, and any
27 rules promulgated pursuant to such federal law.

1 asbestos abatement ACTIVITIES. Such programs shall not exceed the
2 requirements of refresher training mandated under the federal "Asbestos
3 Hazard Emergency Response Act of 1986", Public Law 99-519, CODIFIED
4 AT 15 U.S.C. SEC. 2641 ET SEQ., as amended, and any rules and regulations
5 promulgated under such federal law. In adopting such rules, and
6 regulations, the commission shall ensure that refresher training
7 requirements are related to ensuring continuing competency in asbestos
8 abatement procedures. The division shall implement a system of testing
9 to measure the knowledge obtained by certified persons attending such
10 programs.

11 **SECTION 11. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly; except
14 that, if a referendum petition is filed pursuant to section 1 (3) of article V
15 of the state constitution against this act or an item, section, or part of this
16 act within such period, then the act, item, section, or part will not take
17 effect unless approved by the people at the general election to be held in
18 November 2022 and, in such case, will take effect on the date of the
19 official declaration of the vote thereon by the governor.