

CHAPTER 362

HEALTH AND ENVIRONMENT

HOUSE BILL 22-1232

BY REPRESENTATIVE(S) Valdez A. and Titone, Bernett, Cutter, Froelich, Gray, Hooton, Jodeh, Lindsay, Ricks, Snyder, Weissman, Lontine, Mullica;
also SENATOR(S) Gonzales, Buckner, Donovan, Fields, Ginal, Jaquez Lewis, Kolker, Lee, Moreno, Rodriguez, Story, Winter.

AN ACT

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

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

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

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

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

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

(IX) THE CERTIFICATION OF PERSONS IN CONNECTION WITH THE CONTROL OF ASBESTOS IN ACCORDANCE WITH PART 5 OF ARTICLE 7 OF TITLE 25.

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

25-7-512. Repeal of part. This part 5 is repealed, effective ~~September 1, 2022~~ SEPTEMBER 1, 2027. Before the repeal, ~~the department of regulatory agencies shall~~

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

~~review~~ the functions of the division under this part 5 ~~as provided for in~~ ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH section 24-34-104. C.R.S.

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

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

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

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

(1) (a) "Area of public access" means any building, facility, or property, or ~~only~~ that a portion thereof, that any member of the general public can enter ~~without limitation or restriction by the owner or lessee under normal business conditions; except that~~ OR BE EXPOSED TO ASBESTOS FROM THE AREA. "Area of public access" includes a single-family residential dwelling and any facility that charges the general public a fee for admission, such as any theater or arena. ~~For purposes of this subsection (1), "general public" does not include employees of the entity that owns, leases, or operates such building, facility, or property, or such portion thereof, or any service personnel or vendors connected therewith.~~

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

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

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

(IV) CONDUCTING A MAJOR SPILL RESPONSE.

(5.5) "FACILITY" MEANS ANY INSTITUTIONAL, COMMERCIAL, PUBLIC, INDUSTRIAL, SCHOOL, OR RESIDENTIAL STRUCTURE; ANY INSTALLATION; ANY BUILDING,

INCLUDING ANY STRUCTURE, INSTALLATION, OR BUILDING CONTAINING CONDOMINIUMS OR INDIVIDUAL DWELLING UNITS OPERATED AS A RESIDENTIAL COOPERATIVE; ANY SHIP; ANY RAILCAR; AND ANY ACTIVE OR INACTIVE WASTE DISPOSAL SITE.

SECTION 5. In Colorado Revised Statutes, 25-7-503, **amend** (1)(a) introductory portion, (1)(a)(I), (1)(a)(IV), (1)(a)(VI), (1)(a)(IX), (1)(b)(II), and (1)(b)(III)(B); and **repeal** (1)(a)(VII), (1)(a)(VIII), and (2) as follows:

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

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

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

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

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

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

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

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

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

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

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

~~(2) Notwithstanding any other provisions of this section to the contrary, neither the commission nor the division shall have the authority to enforce standards more restrictive than the federal standards set forth in the "Occupational Safety and Health Act", on asbestos abatement projects which are subject to such federal standards; except that, nothing in this subsection (2) shall be construed to prevent the application and enforcement of the maximum allowable asbestos level prescribed in subparagraph (II) of paragraph (a) of subsection (1) of this section as a clearance level and a condition of reentry by the general public upon completion of the project.~~

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

25-7-504. Asbestos abatement project requirements - certificate to perform asbestos abatement - certified trained persons. (1) (a) ~~Any person who inspects schools for the presence of friable asbestos, prepares asbestos management plans for schools, or conducts asbestos abatement services in schools shall obtain certification pursuant to section 25-7-507.~~

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

(2) (a) ~~Any person~~ A GENERAL ABATEMENT CONTRACTOR who conducts asbestos abatement in any building, ~~other than a school;~~ FACILITY, OR PROPERTY shall obtain a certificate to perform asbestos abatement pursuant to section 25-7-505 unless such abatement project is exempt from the requirement for certification pursuant to rules ~~and regulations~~ promulgated by the commission.

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

25-7-507. Certification required under federal law for asbestos projects in facilities. Pursuant to the federal "Asbestos Hazard Emergency Response Act of 1986", Public Law 99-519, CODIFIED AT 15 U.S.C. SEC. 2641 ET SEQ., AS AMENDED and the federal "Asbestos School Hazard Abatement Reauthorization Act of 1990",

Public Law 101-637, AS AMENDED, the division shall certify, in the manner required under the federal law, all persons engaged in the inspection of ~~schools or public or commercial buildings~~ ANY BUILDING, FACILITY, OR PROPERTY, the preparation of management plans for ~~schools or public or commercial buildings~~ ANY BUILDING, FACILITY, OR PROPERTY, the design of abatement actions in ~~schools or public or commercial buildings~~ ANY BUILDING, FACILITY, OR PROPERTY, or the conduct of abatement actions in ~~schools or public or commercial buildings~~ ANY BUILDING, FACILITY, OR PROPERTY.

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

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

SECTION 9. In Colorado Revised Statutes, 25-7-509.5, **amend** (2)(b) as follows:

25-7-509.5. Building permits. (2) (b) When updating the application form for a permit to renovate property or a permit to demolish property, the local government entity shall include on the application form substantially the following information:

~~I DO NOT KNOW IF AN ASBESTOS INSPECTION HAS BEEN CONDUCTED ON THE BUILDING MATERIALS THAT WILL BE DISTURBED BY THIS PROJECT.~~

~~AN ASBESTOS INSPECTION HAS BEEN~~ WAS CONDUCTED ON THE BUILDING MATERIALS THAT WILL BE DISTURBED BY THIS PROJECT ON OR ABOUT: _____
(DATE)

~~AN ASBESTOS INSPECTION HAS NOT BEEN CONDUCTED ON THE BUILDING MATERIALS THAT WILL BE DISTURBED BY THIS PROJECT.~~

IT WAS DETERMINED THAT AN ASBESTOS INSPECTION IS NOT REQUIRED UNDER STATE LAW.

IF YOU HAVE QUESTIONS REGARDING WHETHER AN ASBESTOS INSPECTION IS REQUIRED UNDER STATE LAW FOR YOUR PERMITTED PROJECT, PLEASE CONTACT THE INDOOR ENVIRONMENT PROGRAM WITHIN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR ADDITIONAL DETAILS BEFORE BEGINNING ANY DEMOLITION OR RENOVATION.

SECTION 10. In Colorado Revised Statutes, **amend** 25-7-511.6 as follows:

25-7-511.6. Refresher training - authorization. The commission shall promulgate rules ~~and regulations~~ governing refresher training programs for persons ~~in both school and nonschool~~ WHO CONDUCT asbestos abatement ACTIVITIES. Such programs shall not exceed the requirements of refresher training mandated under the federal "Asbestos Hazard Emergency Response Act of 1986", Public Law 99-519, CODIFIED AT 15 U.S.C. SEC. 2641 ET SEQ., as amended, and any rules ~~and regulations~~ promulgated under such federal law. In adopting such rules, ~~and regulations~~, the commission shall ensure that refresher training requirements are related to ensuring continuing competency in asbestos abatement procedures. The division shall implement a system of testing to measure the knowledge obtained by certified persons attending such programs.

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

Approved: June 3, 2022