

CHAPTER 38

HEALTH AND ENVIRONMENT

HOUSE BILL 06-1177

BY REPRESENTATIVE(S) McGihon, Benefield, Borodkin, Boyd, Carroll M., Jahn, and Paccione;
also SENATOR(S) Shaffer, Fitz-Gerald, Groff, Hanna, Tochtrop, and Williams.

AN ACT

**CONCERNING THE REGULATION OF ASBESTOS ABATEMENT ACTIVITIES, AND, IN CONNECTION
THEREWITH, CONTINUING THE ASBESTOS CONTROL PROGRAM.**

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

SECTION 1. 25-7-512, Colorado Revised Statutes, is amended to read:

25-7-512. Repeal of part. This part 5 is repealed, effective July 1, ~~2006~~ 2013. Prior to such repeal, the functions of the division under this part 5 shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 2. Repeal. 24-34-104 (37) (d), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (37) The following agencies, functions, or both, shall terminate on July 1, 2006:

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

SECTION 3. 24-34-104 (44), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (44) The following agencies, functions, or both, shall terminate on July 1, 2013:

(n) THE CERTIFICATION OF PERSONS IN CONNECTION WITH THE CONTROL OF

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

ASBESTOS PURSUANT TO PART 5 OF ARTICLE 7 OF TITLE 25, C.R.S.

SECTION 4. 25-7-505.5, Colorado Revised Statutes, is amended to read:

25-7-505.5. Testing for certification under part 5. (1) The division shall develop or purchase the examinations administered pursuant to this part 5 for certification under sections ~~25-7-506 and~~ 25-7-506, 25-7-506.5, AND 25-7-507 and shall set the passing scores on all such examinations based on a minimum level of competency in the procedures to be followed in asbestos abatement. The division shall administer such examinations at least twice each year or more frequently if demand so warrants and shall administer such examinations at various locations in the state if demand so warrants. The purpose of the examinations required pursuant to this section is to ensure minimum competency in asbestos abatement procedures. If a person fails to achieve a passing score on any such examination, retesting of such person shall be with a different examination and after such person has completed remedial training as determined to be satisfactory to the division for minimum competency in asbestos abatement procedures. Prior to such reexamination, an applicant shall file a new application ~~as specified in section 25-7-506 (1);~~ and ~~such individual shall~~ pay a fee set by the division. Such fee shall be no greater than the amount paid for the original examination.

(2) Notwithstanding the provisions of sections 25-7-506, ~~and~~ 25-7-506.5, AND 25-7-507, the division may certify an individual under this part 5 by endorsement if such individual possesses in good standing a valid license, certificate, or other registration from any other state or territory of the United States or from the District of Columbia, if the applicant presents proof satisfactory to the division that at the time of application for a Colorado certificate by endorsement the applicant possesses qualifications substantially equivalent to those of this part 5 as determined by the division.

SECTION 5. 25-7-506.5 (3), Colorado Revised Statutes, is amended to read:

25-7-506.5. Certification of air monitoring specialist - rules. (3) Within thirty days after receiving a completed application, the division shall issue a certification valid for a ~~one-, three-, or five-year~~ period NOT TO EXCEED FIVE YEARS AS ESTABLISHED BY THE COMMISSION BY RULE from the date of issuance upon a finding that the applicant has successfully met the experience, education, EXAMINATION, and training requirements and has paid a fee, as set forth in rules promulgated by the commission.

SECTION 6. The introductory portion to 25-7-503 (1) (a), 25-7-503 (1) (a) (II) (A) and (1) (a) (II) (B), the introductory portion to 25-7-503 (1) (b), and 25-7-503 (1) (b) (V) and (1) (e), Colorado Revised Statutes, are amended to read:

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

(a) To promulgate rules ~~and regulations~~ 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:

(II) (A) Determination of a maximum allowable asbestos level, which shall be the highest level of airborne asbestos under normal conditions ~~which~~ THAT allows for protection of the general public; except that, until the commission adopts by ~~regulation~~ RULE a level, the maximum allowable asbestos level for the protection of the general public shall be 0.01 fibers per cubic centimeter of air, measured during normal occupancy and calculated as an eight-hour time-weighted average, in accord with 29 CFR ~~1910.1001, appendix a, protocols for phase contrast microscopy (PCM)~~ 1910.1000 (d) (1) (i).

(B) ~~In the event that~~ IF airborne asbestos fiber levels exceed such a level, a second test of samples may be collected during normal occupancy, analyzed by transmission electron microscopy (TEM) analysis, and calculated as an eight-hour time-weighted average in accord with 29 CFR ~~part 1910.1001, appendix a,~~ 1910.1000 (d) (1) (i), before any order of abatement is issued.

(b) To promulgate rules ~~and regulations~~ 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. ~~section~~ SEC. 7412 et. seq., as amended:

(V) Requirements to prevent any real or potential conflict of interest between the identification of asbestos-containing materials and the abatement of such materials, ~~in public and commercial buildings,~~ including requirements that project managers be used on projects of a certain size, that project managers be independent of the abatement contractor and work strictly on behalf of the building owner to the extent feasible, and that building owners may seek waivers from the project manager requirements.

(e) To promulgate rules ~~and regulations~~ setting minimum standards for sampling the asbestos in the air and standards for persons engaging in such sampling and to seek injunctive relief under section 25-7-511.5, including relief against any asbestos air sampler who acts beyond his OR HER level of competency. In promulgating rules ~~and regulations~~ setting such standards, the commission shall not use the term "air sampling professional" in such standards. ~~and shall amend said term in rules H.C.7.a. (i), (i)(A), and (iv) of part B of regulation 8 of the rules and regulations of the commission, concerning measuring asbestos levels (5 CCR 1001-10), to conform to the requirements of this paragraph (e).~~

SECTION 7. 25-7-508 (1) and the introductory portion to 25-7-508 (2) (a), Colorado Revised Statutes, are amended to read:

25-7-508. Grounds for disciplinary action - letters of admonition - denial of certification - suspension, revocation, or refusal to renew - requirement for corrective education - administrative fines. (1) When an application for certification pursuant to section 25-7-505, 25-7-506, ~~or~~ 25-7-506.5, 25-7-507, OR 25-7-507.5 is denied by the division, the applicant may contest the decision of the division by requesting a hearing before the office of administrative courts. A request for a hearing must be made within thirty calendar days after the division has issued a denial of the application in writing to the applicant. The hearing shall be held pursuant to section 25-7-119.

(2) (a) The division may take disciplinary action in the form of the issuance of a letter of admonition or, in conformity with the provisions of article 4 of title 24, C.R.S., the suspension, revocation, or refusal to renew certification pursuant to section 25-7-505, 25-7-506, 25-7-506.5, ~~or~~ 25-7-507, OR 25-7-507.5, should the division find that a person certified under this part 5:

SECTION 8. The introductory portion to 25-7-506 (2), Colorado Revised Statutes, is amended to read:

25-7-506. Certificate of trained supervisors - application - approval by division - rules - responsibilities of trained supervisors - renewal of a certificate. (2) Within thirty days after receiving a completed application and the results of the examination administered pursuant to paragraph (b) of this subsection (2), the division shall issue a certification valid for a ~~one-, three-, or five-year~~ period NOT TO EXCEED FIVE YEARS AS ESTABLISHED BY THE COMMISSION BY RULE from the date of issuance upon a finding:

SECTION 9. 25-7-507.5 (2) (b), Colorado Revised Statutes, is amended to read:

25-7-507.5. Renewal of certificates - rules - recertification. (2) (b) Renewal of a certificate may be made for ~~time periods of one, three, or five years pursuant to~~ A PERIOD NOT TO EXCEED FIVE YEARS AS ESTABLISHED IN rules promulgated by the commission.

SECTION 10. Repeal. 25-7-502 (1) (b) and (8) (b), Colorado Revised Statutes, are repealed as follows:

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

(1) (b) ~~The commission shall establish a stakeholder process to review the definition of "area of public access" and send a report containing its recommendations, including statutory changes, if any, to the general assembly by November 1, 2001.~~

(8) (b) (f) ~~The term "school" shall not apply to those institutions operated and controlled by the department of human services.~~

(H) ~~The exclusion provided for in this paragraph (b) shall terminate on July 1, 1989, unless the capital development committee approves the plan filed by the department of human services in accordance with paragraph (c) of this subsection (8).~~

SECTION 11. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 27, 2006