

34: 5A-32

LEGISLATIVE HISTORY CHECKLIST

NJSA: 34: 5A-32

(Asbestos-industrial exposure-establish monitoring system)

LAWS OF: 1984

CHAPTER: 173

Bill No: A1820

Sponsor(s): Doria and others

Date Introduced: April 30, 1984

Committee: Assembly: Higher Education and Professions

Senate: /////

Amended during passage: Yes  
according to Governor's recommendations

Amendments denoted by asterisks

Date of Passage:

Assembly: June 28, 1984

Re-enacted 9-20-94

Senate: June 28, 1984

Re-enacted 9-22-84

Date of Approval: Oct. 31, 1984

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate No

Fiscal Note: No

Veto Message: Yes

Message on Signing: No

Following were printed:

Reports: Yes

Hearings: No

974.90 New Jersey. Asbestos Policy Committee.  
H434 Interim report to the Governor...  
1984g September, 1984. Trenton, 1984.

See New Jersey clipping file, under "N.J.-Cancer-1984" in New Jersey Reference Department.

173

84

10-31-84

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1820

STATE OF NEW JERSEY

INTRODUCED APRIL 30, 1984

By Assemblymen DORIA, CHARLES, VAINIERI, CUPROWSKI, RANIERI, LARocca, S. ADUBATO, FOY and Assemblywoman MUHLER

AN ACT concerning the application, removal, and encapsulation of asbestos, and making an appropriation.

1 BE IT ENACTED by the Senate and General Assembly of the State  
2 of New Jersey:

1 1. The Legislature finds that the application, \*enclosure,\* re-  
2 moval and encapsulation of asbestos when improperly performed  
3 creates unnecessary health and safety hazards which are detri-  
4 mental to the State's interest, and that of its citizens, in terms of  
5 wage loss, insurance, medical expenses, disability compensation  
6 payments, family life, preservation of human resources and unfair  
7 competition to craftspersons, their unions and their employers.

1 2. The Legislature declares it to be its purpose and policy to  
2 reduce asbestos-related hazards by:

3 a. Encouraging contracting parties, citizens and insurance com-  
4 panies in their efforts to reduce disabling asbestos hazards and to  
5 stimulate initiation of new and to perfect existing programs for  
6 controlling the application, use and removal of asbestos, an ex-  
7 tremely dangerous substance;

8 b. Creating a climate for developing innovative methods, tech-  
9 niques and approaches for dealing with life-destroying asbestos  
10 materials;

11 c. Encouraging competence, knowledge and reduced exposure to  
12 asbestos through the licensing of contractors and workers;

13 d. Providing for the adoption of standards for the application,

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.  
Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:  
\*—Assembly Amendments adopted in accordance with Governor's recommendations September 20, 1984.

14 \*enclosure,\* removal, encapsulation, storage, sale, disposal and use  
15 of asbestos and asbestos-containing material; and

16 e. Establishing an enforcement program for these standards,  
17 which shall include reporting procedures.

1 3. As used in this act:

2 a. "Asbestos" means the asbestiform varieties of chrysotile  
3 (serpentine); crocidolite (riebeckite); amosite (cummingtonite-  
4 grunerite); anthophyllite; tremolite; and actinolite;

5 b. "Asbestos-containing material" means any material which  
6 contains more than 1% asbestos by weight;

7 \***[c.** "Commissioner" means the Commissioner of Labor, or his  
8 designee;]\*

9 \***[d.]**\* \*c.\* "Employee" means any person suffered or permitted  
10 to work by an employer;

11 \***[e.]**\* \*d.\* "Employer" means a body, board, person, corpora-  
12 tion, partnership, proprietorship, joint venture, fund, authority or  
13 similar entity employing, permitting or suffering another to work.  
14 This term shall apply to private employers and to the State, its  
15 political subdivisions and any boards, commissions, schools, institu-  
16 tions or authorities created or recognized thereby\***[;**

17 f. "Journeyman" means a person who has served a four-year  
18 apprenticeship in the asbestos and frost-worker field]\*.

1 4. Any private or public agency letting contracts for application,  
2 \*enclosure,\* removal or encapsulation of asbestos shall include in  
3 these contracts specifications that these contracts are to be per-  
4 formed by contractors and subcontractors licensed by the \***[com-**  
5 **missioner]**\* \*Commissioner of Labor\*.

1 5. No employer shall either directly or indirectly perform any  
2 of the functions of application, \*enclosure,\* removal, or encapsula-  
3 tion of asbestos without first obtaining a license from the \***[com-**  
4 **missioner]**\* \*Commissioner of Labor\*. This license shall be in  
5 writing, shall be dated when issued, shall contain an expiration  
6 date, and shall be signed by the commissioner. It shall give the  
7 name and address of the employer to whom it is issued. Licensed  
8 employers shall post a sign indicating, in letters more than four  
9 inches in height, "LICENSED BY THE STATE OF NEW  
10 JERSEY FOR ASBESTOS WORK," readily visible outdoors at  
11 the work site. The actual license shall be readily available at the  
12 work site for inspection by representatives of the \***[commissioner]**\*  
13 \*Commissioners of Labor and Health\* and the contracting agency.

1 6. Every employee, performing functions of application, \*en-  
2 closure,\* removal, or encapsulation of asbestos shall first procure  
3 from the \***[commissioner]**\* \*Commissioner of Labor\* a perfor-

4 mance permit. *\*No permit shall be issued unless the employee has*  
 5 *taken a course of training in asbestos control and removal, passed*  
 6 *an examination thereon, and demonstrated the ability to perform*  
 7 *asbestos control and removal safely, in accordance with the current*  
 8 *state-of-the-art technology. The Commissioner of Health shall*  
 9 *certify the course of training necessary.\**This permit shall be in  
 10 writing, shall be dated when issued, shall contain an expiration  
 11 date, and shall be signed by the **\*[commissioner]\***. *\*Commissioner*  
 12 *of Labor\**. It shall give the name and address of the employee to  
 13 whom it is issued. The permit shall be carried upon the worker's  
 14 person and be readily available for inspection by representatives  
 15 of the **\*[commissioner]\*** *\*Commissioners of Labor and Health\**  
 16 and the contracting agency.

1 7. Beginning not later than one year following the effective date  
 2 of this act, licenses and permits shall be issued by the **\*[commis-**  
 3 **sioner]\*** *\*Commissioner of Labor\**, or his designee, and shall be  
 4 valid for at least 12 months, in accordance with regulations pro-  
 5 mulgated under provisions of the "Administrative Procedure Act,"  
 6 P. L. 1968, c. 410 (C. 52:14B-1 et seq.). Fees for these licenses  
 7 shall not exceed, for a 12-month period, \$100.00 for a license and  
 8 \$25.00 for a permit, in accordance with a fee schedule contained in  
 9 the regulations.

1 8. Not later than six months after the effective date of this act,  
 2 the **\*[commissioner]\*** *\*Commissioners of Labor and Health jointly\**  
 3 shall, in consultation with the **\*[Commissioner of Health, and the]\***  
 4 **Commissioner of Environmental Protection**, adopt all standards  
 5 and regulations which **\*[he deems]\*** *\*they deem\** necessary for the  
 6 proper administration and enforcement of this act. These stan-  
 7 dards and regulations shall include, but shall not be limited to,  
 8 protective equipment specifications; application, *\*enclosure,\** re-  
 9 moval, and encapsulation procedures; administrative penalties;  
 10 waste disposal; self-monitoring; cleanup; health checkup; license  
 11 and permit issuance and revocation; fee charges; experience neces-  
 12 sary for license or permit qualification; general subject matter of  
 13 qualifying examinations; and continuing education. License and  
 13 permit qualification standards shall include provision for **\*[asbes-**  
 14 **tos and frost-worker foremen and journeymen, with at least one**  
 15 **year in journeyman status at the effective date of this act,]\*** *\*ex-*  
 16 *perienced asbestos workers\** to apply for and receive a permit with-  
 17 out examination for a period not in excess of one year from the  
 18 effective date of this act.

1 9. This act, and its standards and regulations, shall be enforced  
 2 by the **\*[commissioner]\*** *\*Commissioners of Labor and Health\**,

3 who **[has]** *have* the right-of-entry to all pertinent premises  
4 and records for purposes of inspection and information. In the  
5 event **[the]** *that either* commissioner believes that an immi-  
6 nent hazard exists, he is empowered to apply to a court of com-  
7 petent jurisdiction to restrain and cause to cease the activity which  
8 is the cause of the hazard.

1 10. Any person who hinders or delays the **[commissioner]**  
2 *Commissioner of Labor or Health*, or **[his]** *the* authorized  
3 representative *thereof*, in the performance of **[his duties in en-**  
4 **forcing]** *the duty to enforce* this act, or fails to obtain licenses  
5 or permits required by the provisions of this act, or refuses to make  
6 these licenses or permits accessible to **[the]** *either* commis-  
7 sioner, or **[his]** *the* authorized representative *thereof*, or  
8 otherwise violates any provision of this act or any regulation  
9 adopted under this act, is guilty of a disorderly persons offense  
10 and liable to a fine of \$1,000.00 or imprisonment not in excess of  
11 six months, or both. As an alternative, or in addition to, the fines  
12 and imprisonment specified by this section, **[the]** *either* com-  
13 missioner, or **[his]** *the* designee *thereof* may impose, after  
14 granting an opportunity to be heard, an administrative penalty,  
15 not to exceed \$1,000.00 for each offense, in accordance with a  
16 schedule promulgated by regulation.

1 11. Any employer who discriminates against or otherwise sanc-  
2 tions an employee who complains or cooperates with the **[commis-**  
3 **sioner]** *Commissioner of Labor or Health*, or **[his]** *the*  
4 designee *thereof*, in administering this act is a disorderly person  
5 and upon conviction is subject to the penalties specified in section  
6 10 of this act.

1 12. There is appropriated **[the sum of \$75,000.00]** from the  
2 General Fund *\$75,000.00* to the Department of Labor *and*  
3 *\$75,000.00 to the Department of Health* for the first-year adminis-  
4 tration of this act.

1 13. This act shall take effect immediately.

---

8 offense and liable to a fine of \$1,000.00 or imprisonment not in  
9 excess of six months, or both. As an alternative, or in addition to,  
10 the fines and imprisonment specified by this section, the commis-  
11 sioner, or his designee may impose, after granting an opportunity  
12 to be heard, an administrative penalty, not to exceed \$1,000.00  
13 for each offense, in accordance with a schedule promulgated by  
14 regulation.

1 11. Any employer who discriminates against or otherwise sanc-  
2 tions an employee who complains or cooperates with the commis-  
3 sioner, or his designee, in administering this act is a disorderly  
4 person and upon conviction is subject to the penalties specified  
5 in section 10 of this act.

1 12. There is appropriated the sum of \$75,000.00 from the General  
2 Fund to the Department of Labor for the first-year administration  
3 of this act.

1 13. This act shall take effect immediately.

---

#### STATEMENT

The hazards of improper asbestos application, removal, and encapsulation are generally known. Work methods, training, and concern are critical to reducing these hazards. However, because of the absence of statutory requirements, necessary work methods, training, and concern generally are lacking, to the detriment of community welfare. The lack of statutory requirements also has resulted in unfair competition to competent, skilled craft workers and their employers who voluntarily abide by recognized standards.

This proposal establishes a basic surveillance system which will minimize exposure to asbestos hazards in the significant area of application, removal and encapsulation.

*A1820(1984)*

ASSEMBLY HIGHER EDUCATION AND REGULATED  
PROFESSIONS COMMITTEE

STATEMENT TO  
ASSEMBLY, No. 1820

STATE OF NEW JERSEY

DATED: MAY 21, 1984

This bill licenses and regulates employers and individuals engaged in the business of the application, removal and encapsulation of asbestos.

Under the bill's provisions, within one year of the effective date of the act, no employer may apply, remove or encapsulate asbestos unless licensed by the Commissioner of Labor. Also, every employee who is involved in the application, removal or encapsulation of asbestos must have a performance permit issued by the commissioner. The bill also stipulates that no public or private agency may contract for asbestos services unless the contract specifies that the work is to be performed by licensed individuals.

Within six months of the effective date of the act, the Commissioner of Labor, in consultation with the Commissioners of Health and Environmental Protection, is to adopt regulations regarding the enforcement of the act. The regulations shall include standards in such areas as protective equipment, waste disposal, self-monitoring, qualifications for licensure and permit, qualifying examinations and continuing education requirements.

The bill gives the commissioner the authority to enter and inspect premises and records and to apply to the court for a restraining order if a hazard exists. The bill provides penalties for failure to comply with the act which include conviction as a disorderly person, a fine of \$1,000.00 or six months imprisonment or both. Also, the commissioner is granted the authority to impose an administrative penalty, after granting an opportunity for a hearing, of up to \$1,000.00 for each offense.

Finally, the bill carries an appropriation of \$75,000.00 to the Department of Labor for the administration of the act in the first year.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

September 13, 1984

ASSEMBLY BILL NO. 1820

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 1820 with my objections and recommendations for amendment.

Assembly Bill No. 1820 provides for the licensing and regulating of employers and individuals engaged in the business of the application, removal and encapsulation of asbestos. Under the bill's provisions, within one year of the effective date of the act, no employer may apply, remove or encapsulate asbestos unless licensed by the Commissioner of Labor. Every employee who is involved in the application, removal or encapsulation of asbestos must have a performance permit issued by the Commissioner. The bill also stipulates that no public or private agency may contract for asbestos services unless a contract specifies that the work is to be performed by licensed individuals. Finally the bill provides an appropriation of \$75,000.00 from the General Fund to the Department of Labor for the administration of the act in the first year.

As the bill is presently written, within six months of the effective date of the act, the Commissioner of Labor, in consultation with the Commissioners of Health and Environmental Protection, is to adopt regulations regarding the enforcement of the act. The regulations shall include standards in such areas as protective equipment, waste disposal, self monitoring, qualifications for licensure and permit, qualifying examinations and continuing education requirements.

I am well aware of the hazards of improper asbestos application, removal, and encapsulation. Work methods, training, and concern are critical to reducing these hazards.

The lack of statutory standards has resulted in unfair competition to competent, skilled craftworkers and their employers who voluntarily abide by recognized standards. Thus, I am in full and complete agreement with the intent and purpose of this bill. However, it would appear that the overall efficiency of the bill would be vastly improved by amendments to certain of its operative terms, as recommended by the Asbestos Policy Committee established pursuant to my Executive Order No. 59 dated January 20, 1984.



Executive Order No. 59 provides for the creation of an Asbestos Policy Committee which shall (a) develop and recommend a State Asbestos Policy for implementation; (b) receive and review reports of the operational activities of departments; (c) be a forum for the resolution of interdepartmental problems; (d) review and distribute new scientific and management information; and (e) evaluate and coordinate the distribution of information regarding the status of federal regulations. The Asbestos Policy Committee is comprised of representatives from the Departments of Health, Environmental Protection, Education, Higher Education, Labor, Treasury, Commerce, Corrections, and the Office of the Attorney General.

The Asbestos Policy Committee recommends, and I strongly agree that the Department of Health should jointly share with the Department of Labor the statutory responsibilities of setting the standards for the licensing, permitting, and training of asbestos removal workers, to assure that asbestos removals are accomplished with a minimum risk to health and safety. Clearly, the statutory and regulation making process will be substantially enhanced by the vital information that the Department of Health has to offer. I am also requesting an appropriation of \$75,000.00 to the Department of Health to fund its work under this bill.

Secondly, the bill appears to require no rigorous training course for asbestos workers, but only serves to require that every employee, performing functions of application, enclosure, removal, or encapsulation of asbestos shall first procure from the Commissioner of Labor a performance permit. In an effort to protect the health of the asbestos removal employee as well as the public at large, I recommend that A-1820 be amended to provide that no permit shall be issued unless such employee shall have taken a course of training and passed an examination and have demonstrated the ability to safely perform asbestos removal in accordance with the current state of the art. Such course of training shall be certified by the Commissioner of Health. This requirement will ensure a basic surveillance system which will minimize exposure to asbestos hazards in the significant area of application, removal and encapsulation.

Finally, I am recommending that this bill be amended to allow experienced asbestos workers the opportunity to apply for and receive a permit without examination for a period not in excess of one year from the effective date of this bill.

Accordingly, I herewith return Assembly Bill No. 1820 and recommend that it be amended as follows:

Page 1, Section 1, Line 1: After "application," insert "enclosure,"

Page 1, Section 2, Line 13: After "application," insert "enclosure,"

Page 2, Section 3, Lines 7-8: On line 7 delete "c. "Commissioner" means the Commissioner of Labor, or his"; on line 8 delete "designee;"

Page 2, Section 3, Line 9: Delete "d." insert "c."

Page 2, Section 3, Line 11: Delete "e." insert "d."

Page 2, Section 3, Lines 16-18: On line 16 delete ";"; on line 17 delete "f. "Journeyman" means a person who has served a four-year"; and on line 18 delete "apprenticeship in the asbestos and frost-worker field"

Page 2, Section 4, Line 1: After "application" insert "enclosure,"

Page 2, Section 4, Line 4: Delete "commissioner" insert " Commissioner of Labor"

Page 2, Section 5, Line 2: After "application," insert "enclosure,"

Page 2, Section 5, Line 3: Delete "commissioner" insert "Commissioner of Labor"

Page 2, Section 5, Line 12: Delete "commissioner" insert "Commissioners of Labor and Health"

Page 2, Section 6, Line 1: After "application," insert "enclosure,"

Page 2, Section 6, Lines 2-3: On line 2 delete "commis-"; on line 3 delete "sioner" insert "Commissioner of Labor"; after "permit." insert "No permit shall be issued unless the employee has taken a course of training in asbestos control and removal, passed an examination thereon, and demonstrated the ability to perform asbestos control and removal safely, in accordance with the current state-of-the-art technology. The Commissioner of Health shall certify the course of training necessary."

Page 2, Section 6, Line 5: Delete "commissioner" insert "Commissioner of Labor"

Page 3, Section 6, Line 8: Delete "commissioner" insert "Commissioners of Labor and Health"

Page 3, Section 7, Line 2: Delete "commissioner" insert "Commissioner of Labor"

Page 3, Section 8, Lines 2-3: On line 2 delete "commissioner" insert "Commissioners of Labor and Health jointly"; delete "Commissioner of"; on line 3 delete "Health, and the"

Page 3, Section 8, Line 4: Delete "he deems" insert "they deem"

Page 3, Section 8, Line 7: After "application," insert "enclosure,"

Page 3, Section 8, Lines 13-15: On line 13 delete "asbestos and frost-"; on line 14 delete "worker formen and journeymen, with at least one year in journey-"; on line 15 delete "man status at the effective date of this act," insert "experienced asbestos workers"

Page 3, Section 9, Line 2: Delete "commissioner" insert "Commissioners of Labor and Health"; delete "has" insert "have"

Page 3, Section 9, Line 4: Delete "the" insert "that either"

Page 3, Section 10, Line 1: Delete "commissioner" insert "Commissioner of Labor or Health"; delete "his" insert "the"

Page 3, Section 10, Lines 2-3: On line 2 after "representative" insert "thereof" delete "his duties in en-"; on line 3 delete "forcing" insert "the duty to enforce"

Page 3, Section 10, Line 5: Delete "the" insert "either"; delete "his" insert "the"

Page 3, Section 10, Line 6: After "sensative" insert "thereof"

Page 4, Section 10, Line 10: Delete second "the" insert "either"

Page 4, Section 10, Line 11: Delete "his" insert "the"; after "designee" insert "thereof,"

Page 4, Section 11, Lines 2-3: On line 2 delete "commis-"; on line 3 delete "sioner" insert "Commissioner of Labor or Health"; delete "his" insert "the"; after "designee" insert "thereof"

Page 4, Section 12, Line 2: Delete "the sum of \$75,000.00"

Page 4, Section 12, Line 3: After "Fund" insert ", \$75,000.00"; after "Labor" insert "and \$75,000.00 to the Department of Health"

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards

Chief Counsel