

H. B. 2962

(By Delegates R. Phillips, Williams and Hornbuckle)

[Introduced February 24, 2015; referred to the

Committee on the Judiciary.]

A BILL to amend and reenact §16-32-2 and §16-32-11 of the Code of West Virginia, 1931, as amended, relating to asbestos abatement on pipes; and exempting certain wrapped pipe removal from asbestos abatement requirements.

Be it enacted by the Legislature of West Virginia:

That §16-32-2 and §16-32-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 32. ASBESTOS ABATEMENT.

§16-32-2. Definitions.

(a) "Asbestos" means the asbestiform varieties of chrysolite (serpentine), crocidolite (riebeckite), amosite (cummintonite-grunerite), anthophyllite, tremolite and actinolite.

(b) "Asbestos analytical laboratory" means a facility or place which analyzes asbestos bulk samples or asbestos air samples.

(c) "Asbestos abatement project designer" means a person who specifies engineering controls,

1 methods and work practices to be used during asbestos abatement projects.

2 (d) "Asbestos abatement supervisor" means a person responsible for direction of asbestos
3 abatement projects.

4 (e) "Asbestos clearance air monitor" means a person who performs air monitoring to confirm
5 clearance levels to establish that an area is safe for reoccupancy after an asbestos abatement project.

6 (f) "Asbestos-containing material" means any material or product which contains more than
7 one percent asbestos by weight.

8 (g) "Asbestos contractor" means a person who enters into contract for an asbestos abatement
9 project.

10 (h) "Asbestos inspector" means a person employed to inspect for the presence of asbestos
11 containing materials, evaluate the condition of such materials and collect samples for asbestos
12 content confirmation.

13 (i) "Asbestos management planner" means a person employed to interpret survey results,
14 make hazard assessment, evaluation and selection of control options or develop an operation and
15 maintenance plan.

16 (j) "Asbestos abatement project" means an activity involving the repair, removal, enclosure
17 or encapsulation of asbestos-containing material. "Asbestos abatement project" does not include
18 removal of wrapped pipe described in subsection (d), section eleven of this article.

19 (k) "Asbestos worker" means a person who works on an asbestos abatement project.

20 (l) "Contained work area" means designated rooms, spaces or other areas where asbestos
21 abatement activities are being performed, including decontamination structures. The contained work
22 area shall be separated from the uncontaminated environment by polyethylene sheeting or other

1 materials used in conjunction with the existing floors, ceilings and walls of the structure.

2 (m) "Director" means the director of the division of health or the director's duly authorized
3 representative.

4 (n) "Division" means the division of health of the Department of Health and Human
5 Resources.

6 (o) "Encapsulate" means the application of any material onto any asbestos containing material
7 to bridge or penetrate the material to prevent fiber release.

8 (p) "Enclosure" means the permanent confinement of friable asbestos containing materials
9 with an airtight barrier in an area not used or designed as an air plenum.

10 (q) "Friable" means material which is capable of being crumbled, pulverized or reduced to
11 powder by hand pressure of which under normal use or maintenance emits or can be expected to
12 emit asbestos fibers into the air.

13 (r) "Good faith report" means a report of conduct defined in this article as wrongdoing or
14 waste which is made without malice or consideration of personal benefit and which the person
15 making the report has reasonable cause to believe is true.

16 (s) "License" means a document authorizing a person to perform certain specific asbestos
17 related work activities.

18 (t) "Person" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise,
19 association or any individual or entity.

20 (u) "Resilient floor covering" means floor tile, sheet vinyl and associated adhesives which
21 contain more than one percent asbestos by weight.

22 (v) "Resilient floor covering worker" means a person who is employed to remove resilient

1 floor covering in single-family dwellings.

2 (w) "Waste" means an employer's conduct or omissions which result in substantial abuse,
3 misuse, destruction or loss of funds or resources belonging to or derived from federal, state or
4 political subdivision sources.

5 (x) "Wrongdoing" means a violation which is not of a merely technical or minimal nature of
6 a federal or state statute or regulation, of a political subdivision ordinance or regulation or of a code
7 of conduct or ethics designed to protect the interest of the public or the employer.

8 **§16-32-11. Notification; waivers; exemptions.**

9 (a) Each owner or other person responsible for the operation of a building or facility where
10 an asbestos abatement project is to occur shall notify the division at least ten working days prior to
11 commencement of each asbestos abatement project and shall comply with other applicable state and
12 federal legal and regulatory notification requirements for asbestos abatement projects.

13 (b) In an emergency that results from a sudden unexpected event that is not a planned
14 renovation or demolition, the director may waive the requirement of ten working days prior
15 notification, but in all cases notification shall be made to the division after the emergency within the
16 specified time required by the director.

17 (c) Asbestos abatement projects involving less than one hundred sixty square feet or two
18 hundred sixty linear feet of asbestos containing material are exempt from the prior notification
19 requirement, unless the project takes place in a school for any of grades kindergarten through twelve.
20 A summary of ~~such~~ the projects shall be submitted to the division within a specified time as required
21 by the director.

22 (d) Removal of pipe that is covered in asbestos-containing coal tar enamel or asphaltic

- 1 enamel pipe wrap is not subject to the requirements of this article if the pipe wrap:
- 2 (1) Is not friable along the length of the pipe being removed;
- 3 (2) The area disturbed in preparing the pipe for cutting does not exceed two hundred sixty
- 4 linear feet of removed friable asbestos;
- 5 (3) All asbestos-containing material that is removed from the pipe is removed using wet
- 6 methods; and
- 7 (4) All pipe and asbestos-containing material removed from the pipe is disposed of in a
- 8 lawful manner.
- 9 ~~(d)~~ (e) Persons who remove resilient floor covering materials in single-family dwellings are
- 10 exempt from notification requirements.

NOTE: The purpose of this bill is to exempt certain wrapped pipe removal from asbestos abatement requirements.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.