

SENATE BILL NO. 270

INTRODUCED BY WILLIAMS, HARPER

BY REQUEST OF THE DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

IN THE SENATE

JANUARY 27, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON PUBLIC HEALTH, WELFARE & SAFETY.

FIRST READING.

MARCH 21, 1989

COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

MARCH 22, 1989

PRINTING REPORT.

ON MOTION, TAKEN FROM SECOND READING
AND REREFERRED TO COMMITTEE.

MARCH 23, 1989

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 27, 1989

PRINTING REPORT.

SECOND READING, DO PASS.

MARCH 28, 1989

ENGROSSING REPORT.

MARCH 29, 1989

THIRD READING, PASSED.
AYES, 45; NOES, 3.

TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 29, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

FIRST READING.

APRIL 5, 1989

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

APRIL 6, 1989

PASSED CONSIDERATION FOR THE DAY.

APRIL 8, 1989

SECOND READING, CONCURRED IN.

APRIL 10, 1989

THIRD READING, CONCURRED IN.
AYES, 98; NOES, 0.

RETURNED TO SENATE.

IN THE SENATE

APRIL 11, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *270*
2 INTRODUCED BY *Walter Taylor*
3 BY REQUEST OF THE DEPARTMENT OF
4 HEALTH AND ENVIRONMENTAL SCIENCES
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING STANDARDS
7 FOR TRAINING AND ACCREDITATION FOR ASBESTOS WORKERS;
8 ALLOWING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
9 TO REQUIRE PERMITS FOR ASBESTOS PROJECTS AND CHARGE FEES OF
10 PERSONS WORKING WITH ASBESTOS; ALLOWING THE DEPARTMENT TO
11 ESTABLISH CRITERIA FOR ASBESTOS PROJECTS; PROVIDING FOR
12 CRIMINAL AND CIVIL PENALTIES; AND PROVIDING EFFECTIVE
13 DATES."
14

15 STATEMENT OF INTENT

16 A statement of intent is required for this bill because
17 [section 3] authorizes the department of health and
18 environmental sciences to adopt rules. It is the intent of
19 the legislature that the rules establish standards and
20 procedures consistent with federal law for accreditation of
21 asbestos-related occupations and control of the work
22 performed by persons in any asbestos-related occupation,
23 including the setting of allowable levels of indoor airborne
24 asbestos. It is the intent of the legislature that the rules
25 for asbestos in indoor air include standards for the use of

1 air monitoring for:

2 (1) evaluation of asbestos-containing materials in
3 buildings; and

4 (2) completion and reoccupancy after an asbestos
5 project.
6

7 WHEREAS, people exposed to airborne asbestos fibers
8 suffer significantly increased rates of lung cancer,
9 mesothelioma, and other diseases; and

10 WHEREAS, to prevent unnecessary public exposure to
11 asbestos fibers it is necessary to regulate and establish
12 criteria for asbestos abatement practices and to require
13 statewide standards for training and accreditation of
14 asbestos workers.
15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 NEW SECTION. Section 1. Short title. [This act] may
18 be cited as the "Asbestos Control Act".

19 NEW SECTION. Section 2. Definitions. As used in [this
20 act], unless the context requires otherwise, the following
21 definitions apply:

22 (1) "Accreditation" means a certificate issued by the
23 department that permits a person to work in an
24 asbestos-related occupation.

25 (2) "Asbestos" means asbestiform varieties of

1 chrysotile, amosite, crocidolite, anthophyllite, tremolite,
2 or actinolite.

3 (3) "Asbestos-related occupation" means an inspector,
4 management planner, project designer, contractor,
5 supervisor, or worker for an asbestos project.

6 (4) "Asbestos project" means the encapsulation,
7 enclosure, removal, repair, renovation, placement in new
8 construction, demolition of asbestos in a building or other
9 structure, or the transportation or disposal of
10 asbestos-containing waste. The term does not include a
11 project that involves less than 3 square feet in surface
12 area or 3 linear feet of pipe.

13 (5) "Department" means the department of health and
14 environmental sciences as provided in 2-15-2101.

15 (6) "Person" means an individual, partnership,
16 corporation, sole proprietorship, firm, enterprise,
17 franchise, association, state or municipal agency, political
18 subdivision of the state, or any other entity.

19 **NEW SECTION. Section 3. Rulemaking authority.** The
20 department shall adopt rules establishing standards and
21 procedures for accreditation of asbestos-related occupations
22 and control of the work performed by persons in
23 asbestos-related occupations. The rules must be consistent
24 with federal law and include but are not limited to:

25 (1) standards for training course review and approval;

1 (2) standards for accreditation of applicants for
2 asbestos-related occupations;

3 (3) examination requirements for accreditation of
4 applicants for asbestos-related occupations;

5 (4) requirements for renewal of accreditation,
6 including periodic refresher courses;

7 (5) revocation of accreditation;

8 (6) inspection requirements for asbestos projects and
9 asbestos-related occupations credentials;

10 (7) criteria to determine whether and what type of
11 control measures are necessary for an asbestos project and
12 whether a project is completed in a manner sufficient to
13 protect public health, including criteria setting allowable
14 limits on indoor airborne asbestos. A determination of
15 whether asbestos abatement of a structure is necessary may
16 not be based solely upon the results of airborne asbestos
17 testing.

18 (8) requirements for issuance of asbestos project
19 permits and conditions that permit holders must meet;

20 (9) standards for seeking injunctions, criminal and
21 civil penalties, or emergency actions;

22 (10) advance notification procedures and issuance of
23 permits for asbestos projects; and

24 (11) (a) fees for:

25 (i) review and approval of training courses;

(ii) application for and renewal of accreditation by a person seeking to pursue an asbestos-related occupation;

(iii) issuance of asbestos project permits; and

(iv) requested inspections of asbestos projects.

(b) Fees must be commensurate with costs.

NEW SECTION. Section 4. Accreditation requirements --
restrictions. (1) To qualify for accreditation in a particular asbestos-related occupation, a person must:

(a) (i) successfully complete an asbestos-related training course for that occupation approved by the department or the United States environmental protection agency; and

(ii) pass an examination approved by the department; or

(b) satisfactorily demonstrate equivalent previous training or experience in the occupation as prescribed by department rule.

(2) After January 1, 1990, a person may not:

(a) engage in an asbestos-related occupation unless accredited in that occupation by the department;

(b) conduct an asbestos project without a permit from the department or violate the conditions of a permit;

(c) contract with or employ in an asbestos-related occupation a person not accredited in that occupation by the department; or

(d) offer a training course for an asbestos-related

occupation to meet the accreditation requirements of this section unless the department approves the course.

(3) A person who applies for accreditation shall submit the fees and follow procedures prescribed by department rule.

NEW SECTION. Section 5. Fee disposition. The department shall deposit fees collected under [this act] into the resource indemnity trust fund created in 15-38-201.

NEW SECTION. Section 6. Records. A person engaged in an asbestos project shall maintain the records required by department rule concerning the nature of project activities.

NEW SECTION. Section 7. Criminal penalties --
disposition of civil penalties. (1) The department may suspend, deny, or revoke the accreditation of or reprimand a person who:

(a) fraudulently or deceptively obtains or attempts to obtain accreditation;

(b) fails to meet the qualifications for accreditation or comply with the requirements of [this act] or any rule adopted by the department; or

(c) fails to meet any applicable federal or state standard for asbestos projects.

(2) Notwithstanding the provisions of any other law, a person who purposely or knowingly violates any provision of [this act] or an adopted rule or order issued pursuant to

1 [this act] is guilty of a misdemeanor.

2 (3) If the department determines that a violation of
3 [this act] or a rule promulgated pursuant to [this act] has
4 occurred, it may issue an order compelling the person
5 receiving the order to end the violation immediately.

6 (4) In addition to or instead of the remedies listed
7 in subsections (1) through (3), an accredited person who
8 purposely or knowingly violates [this act] or a rule adopted
9 pursuant to [this act] that concerns the conduct of an
10 asbestos project may be assessed a civil penalty by the
11 district court of not more than \$1,000 a day for an initial
12 violation and \$5,000 a day for each subsequent violation
13 occurring within a 3-year period from the date of the
14 initial violation.

15 (5) A district court may assess a civil penalty of not
16 more than \$25,000 a day upon a person who engages in an
17 asbestos project without valid accreditation or a permit.
18 In the case of a continuing violation, each day the
19 violation continues constitutes a separate violation.

20 (6) Civil penalties collected under [this act] must be
21 deposited into the resource indemnity trust fund created in
22 15-38-201.

23 **NEW SECTION. Section 8. Coordination instruction.** If
24 ____ Bill No. ____ [LC 857] is not passed and approved, [this
25 act] is not void.

1 **NEW SECTION. Section 9. Saving clause.** [This act]
2 does not affect rights and duties that matured, penalties
3 that were incurred, or proceedings that were begun before
4 [the effective date of this act].

5 **NEW SECTION. Section 10. Effective dates.** (1)
6 [Section 3 and this section] are effective July 1, 1989.
7 (2) [Sections 1, 2, and 4 through 7] are effective
8 January 1, 1990.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB270, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

This legislation would allow for the accreditation of those persons participating in an asbestos related occupation and for issuance of permits for asbestos projects to protect the public health and safety.

ASSUMPTIONS:

Assume fees will be periodically reviewed and adjusted such that revenue would not exceed the expenditures of the program.

	FY90			FY91		
	Current	Proposed		Current	Proposed	
	Law	Law	Difference	Law	Law	Difference
Revenue:	\$ -0-	\$65,169	\$65,169	\$ -0-	\$57,340	\$57,340
Expenditure:	-0-	65,169	65,169	-0-	57,340	57,340
Net Effect:	-0-	-0-	-0-	-0-	-0-	-0-

FUND IMPACT:

Fees shall be set so as not to exceed the cost of the program. Fees collected shall be placed in the Resource Indemnity Trust Fund offsetting the cost of the program.

EFFECT ON COUNTY OR LOCAL REVENUE OR EXPENDITURE:

Will require the county or local entity to pay for accreditation of personnel should they so elect to accredit their own personnel. If an asbestos project is initiated by the county or local entity, they will pay for an asbestos project permit. Fees will be set so as not to exceed the cost of the program. The amount required for the fees is unknown at this time, since the amount of asbestos activity is unknown. However, the cost is expected to be minimal, since this is a user fee and will be allocated to all users.

LONG RANGE EFFECTS OF PROPOSED LEGISLATION:

Fees are to be reviewed periodically and adjusted such that revenue does not exceed the expenditures of the program. There is no effect anticipated, as the fees collected shall be deposited in the RIT Fund.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

This legislation is subject to Section 2-8-202, MCA; which requires the proposal to be submitted to the Legislative Audit Committee at least 180 days prior to the first day of the next regular legislative session and report of the Legislative Audit Committee be attached to a bill containing such proposal prior to being reported out of committee. The deadline for submittal to the Legislative Audit Committee was not met since the Department of Health and Environmental Sciences was not aware that this proposal may be subject to the statute. A separate bill has been introduced to exempt state entities who have a federal mandate to implement a program or a program which may receive delegation of primary enforcement responsibility from the federal government from the provisions of Section 2-8-202, MCA.

Ray Shackelford 2/2/89
 RAY SHACKLEFORD, BUDGET DIRECTOR DATE
 OFFICE OF BUDGET AND PROGRAM PLANNING

Bob Williams 2/3/89
 BOB WILLIAMS, PRIMARY SPONSOR DATE

Fiscal Note for SB270, as introduced

SB 270

APPROVED BY COMMITTEE
ON PUBLIC HEALTH, WELFARE
& SAFETY

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3 BY REQUEST OF THE DEPARTMENT OF
4 HEALTH AND ENVIRONMENTAL SCIENCES
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7 FOR TRAINING AND ACCREDITATION FOR ASBESTOS WORKERS;
8 ALLOWING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
9 TO REQUIRE PERMITS FOR ASBESTOS PROJECTS AND CHARGE FEES OF
10 PERSONS WORKING WITH ASBESTOS; ALLOWING THE DEPARTMENT TO
11 ESTABLISH CRITERIA FOR ASBESTOS PROJECTS; PROVIDING FOR
12 CRIMINAL AND CIVIL PENALTIES; AND PROVIDING EFFECTIVE
13 DATES."
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STATEMENT OF INTENT

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17 [section 3] authorizes the department of health and
18 environmental sciences to adopt rules. It is the intent of
19 the legislature that the rules establish standards and
20 procedures consistent with federal law for accreditation of
21 asbestos-related occupations and control of the work
22 performed by persons in any asbestos-related occupation,
23 including the setting of allowable levels of indoor airborne
24 asbestos. It is the intent of the legislature that the rules
25 for asbestos in indoor air include standards for the use of

1 air monitoring for:
2 (1) evaluation of asbestos-containing materials in
3 buildings; and
4 (2) completion and reoccupancy after an asbestos
5 project.
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7 WHEREAS, people exposed to airborne asbestos fibers
8 suffer significantly increased rates of lung cancer,
9 mesothelioma, and other diseases; and

10 WHEREAS, to prevent unnecessary public exposure to
11 asbestos fibers it is necessary to regulate and establish
12 criteria for asbestos abatement practices and to require
13 statewide standards for training and accreditation of
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18 be cited as the "Asbestos Control Act".

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21 definitions apply:

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23 department that permits a person to work in an
24 asbestos-related occupation.

25 (2) "Asbestos" means asbestiform varieties of

1 chrysotile, amosite, crocidolite, anthophyllite, tremolite,
2 or actinolite.

3 (3) "Asbestos-related occupation" means an inspector,
4 management planner, project designer, contractor,
5 supervisor, or worker for an asbestos project.

6 (4) "Asbestos project" means the encapsulation,
7 enclosure, removal, repair, renovation, placement in new
8 construction, demolition of asbestos in a building or other
9 structure, or the transportation or disposal of
10 asbestos-containing waste. The term does not include a
11 project that involves less than 3 square feet in surface
12 area or 3 linear feet of pipe.

13 (5) "Department" means the department of health and
14 environmental sciences as provided in 2-15-2101.

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16 corporation, sole proprietorship, firm, enterprise,
17 franchise, association, state or municipal agency, political
18 subdivision of the state, or any other entity.

19 **NEW SECTION. Section 3. Rulemaking authority.** The
20 department shall adopt rules establishing standards and
21 procedures for accreditation of asbestos-related occupations
22 and control of the work performed by persons in
23 asbestos-related occupations. The rules must be consistent
24 with federal law and include but are not limited to:

25 (1) standards for training course review and approval;

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2 asbestos-related occupations;

3 (3) examination requirements for accreditation of
4 applicants for asbestos-related occupations;

5 (4) requirements for renewal of accreditation,
6 including periodic refresher courses;

7 (5) revocation of accreditation;

8 (6) inspection requirements for asbestos projects and
9 asbestos-related occupations credentials;

10 (7) criteria to determine whether and what type of
11 control measures are necessary for an asbestos project and
12 whether a project is completed in a manner sufficient to
13 protect public health, including criteria setting allowable
14 limits on indoor airborne asbestos. A determination of
15 whether asbestos abatement of a structure is necessary may
16 not be based solely upon the results of airborne asbestos
17 testing.

18 (8) requirements for issuance of asbestos project
19 permits and conditions that permitholders must meet;

20 (9) standards for seeking injunctions, criminal and
21 civil penalties, or emergency actions;

22 (10) advance notification procedures and issuance of
23 permits for asbestos projects; and

24 (11) (a) fees for:

25 (i) review and approval of training courses;

- (ii) application for and renewal of accreditation by a person seeking to pursue an asbestos-related occupation;
 - (iii) issuance of asbestos project permits; and
 - (iv) requested inspections of asbestos projects.
- (b) Fees must be commensurate with costs.

NEW SECTION. Section 4. Accreditation requirements -- restrictions. (1) To qualify for accreditation in a particular asbestos-related occupation, a person must:

(a) (i) successfully complete an asbestos-related training course for that occupation approved by the department or the United States environmental protection agency; and

(ii) pass an examination approved by the department; or

(b) satisfactorily demonstrate equivalent previous training or experience in the occupation as prescribed by department rule.

(2) After January 1, 1990, a person may not:

(a) engage in an asbestos-related occupation unless accredited in that occupation by the department;

(b) conduct an asbestos project without a permit from the department or violate the conditions of a permit;

(c) contract with or employ in an asbestos-related occupation a person not accredited in that occupation by the department; or

(d) offer a training course for an asbestos-related

occupation to meet the accreditation requirements of this section unless the department approves the course.

(3) A person who applies for accreditation shall submit the fees and follow procedures prescribed by department rule.

NEW SECTION. Section 5. Fee disposition. The department shall deposit fees collected under [this act] into the resource indemnity trust fund created in 15-38-201.

NEW SECTION. Section 6. Records. A person engaged in an asbestos project shall maintain the records required by department rule concerning the nature of project activities.

NEW SECTION. Section 7. Criminal penalties -- disposition of civil penalties. (1) The department may suspend, deny, or revoke the accreditation of or reprimand a person who:

(a) fraudulently or deceptively obtains or attempts to obtain accreditation;

(b) fails to meet the qualifications for accreditation or comply with the requirements of [this act] or any rule adopted by the department; or

(c) fails to meet any applicable federal or state standard for asbestos projects.

(2) Notwithstanding the provisions of any other law, a person who purposely or knowingly violates any provision of [this act] or an adopted rule or order issued pursuant to

1 [this act] is guilty of a misdemeanor.

2 (3) If the department determines that a violation of
3 [this act] or a rule promulgated pursuant to [this act] has
4 occurred, it may issue an order compelling the person
5 receiving the order to end the violation immediately.

6 (4) In addition to or instead of the remedies listed
7 in subsections (1) through (3), an accredited person who
8 purposely or knowingly violates [this act] or a rule adopted
9 pursuant to [this act] that concerns the conduct of an
10 asbestos project may be assessed a civil penalty by the
11 district court of not more than \$1,000 a day for an initial
12 violation and \$5,000 a day for each subsequent violation
13 occurring within a 3-year period from the date of the
14 initial violation.

15 (5) A district court may assess a civil penalty of not
16 more than \$25,000 a day upon a person who engages in an
17 asbestos project without valid accreditation or a permit.
18 In the case of a continuing violation, each day the
19 violation continues constitutes a separate violation.

20 (6) Civil penalties collected under [this act] must be
21 deposited into the resource indemnity trust fund created in
22 15-38-201.

23 NEW SECTION. Section 8. Coordination instruction. If
24 ____ Bill No. ____ [LC 857] is not passed and approved, [this
25 act] is not void.

1 NEW SECTION. Section 9. Saving clause. [This act]
2 does not affect rights and duties that matured, penalties
3 that were incurred, or proceedings that were begun before
4 [the effective date of this act].

5 NEW SECTION. Section 10. Effective dates. (1)
6 [Section 3 and this section] are effective July 1, 1989.
7 (2) [Sections 1, 2, and 4 through 7] are effective
8 January 1, 1990.

-End-

RE-REFERRED AND
APPROVED BY COMMITTEE
ON PUBLIC HEALTH, WELFARE
& SAFETY AS AMENDED

SENATE BILL NO. 270

INTRODUCED BY WILLIAMS, HARPER
BY REQUEST OF THE DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING STANDARDS
FOR TRAINING AND ACCREDITATION FOR ASBESTOS WORKERS;
ALLOWING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
TO REQUIRE PERMITS FOR ASBESTOS PROJECTS AND CHARGE FEES OF
PERSONS WORKING WITH ASBESTOS; LIMITING THE TIME FOR
PROCESSING OF CERTAIN ASBESTOS PROJECT PERMITS; ALLOWING THE
DEPARTMENT TO ESTABLISH CRITERIA FOR ASBESTOS PROJECTS;
CREATING AN ADVISORY COMMITTEE FOR RULEMAKING; PROVIDING FOR
CRIMINAL AND CIVIL PENALTIES; AND PROVIDING EFFECTIVE
DATES."

STATEMENT OF INTENT

A statement of intent is required for this bill because
~~{section-3}-authorizes~~ [SECTIONS 3 AND 4] AUTHORIZE the
department of health and environmental sciences to adopt
rules. It is the intent of the legislature that the rules
establish standards and procedures consistent with federal
law for accreditation of asbestos-related occupations and
control of the work performed by persons in any
asbestos-related occupation, including the setting of

allowable levels of indoor airborne asbestos. It is the
intent of the legislature that the rules for asbestos in
indoor air include standards for the use of air monitoring
for:

- (1) evaluation of asbestos-containing materials in
buildings; and
- (2) completion and reoccupancy after an asbestos
project.

WHEREAS, people exposed to airborne asbestos fibers
suffer significantly increased rates of lung cancer,
mesothelioma, and other diseases; and

WHEREAS, to prevent unnecessary public exposure to
asbestos fibers it is necessary to regulate and establish
criteria for asbestos abatement practices and to require
statewide standards for training and accreditation of
asbestos workers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Short title. [This act] may
be cited as the "Asbestos Control Act".

NEW SECTION. **Section 2.** Definitions. As used in [this
act], unless the context requires otherwise, the following
definitions apply:

- (1) "Accreditation" means a certificate issued by the

1 department that permits a person to work in an
2 asbestos-related occupation.

3 (2) "Asbestos" means asbestiform varieties of
4 chrysotile, amosite, crocidolite, anthophyllite, tremolite,
5 or actinolite.

6 (3) "Asbestos-related occupation" means an inspector,
7 management planner, project designer, contractor,
8 supervisor, or worker for an asbestos project.

9 (4) "Asbestos project" means the encapsulation,
10 enclosure, removal, repair, renovation, placement in new
11 construction, demolition of asbestos in a building or other
12 structure, or the transportation or disposal of
13 asbestos-containing waste. The term does not include a
14 project that involves less than 3 square feet in surface
15 area or 3 linear feet of pipe.

16 (5) "Department" means the department of health and
17 environmental sciences as provided in 2-15-2101.

18 (6) "Person" means an individual, partnership,
19 corporation, sole proprietorship, firm, enterprise,
20 franchise, association, state or municipal agency, political
21 subdivision of the state, or any other entity.

22 **NEW SECTION. Section 3. Rulemaking authority.** The
23 department shall adopt rules establishing standards and
24 procedures for accreditation of asbestos-related occupations
25 and control of the work performed by persons in

1 asbestos-related occupations. The rules must be consistent
2 with federal law and include but are not limited to:

3 (1) standards for training course review and approval;

4 (2) standards for accreditation of applicants for
5 asbestos-related occupations;

6 (3) examination requirements for accreditation of
7 applicants for asbestos-related occupations;

8 (4) requirements for renewal of accreditation,
9 including periodic refresher courses;

10 (5) revocation of accreditation;

11 (6) inspection requirements for asbestos projects and
12 asbestos-related occupations credentials;

13 (7) criteria to determine whether and what type of
14 control measures are necessary for an asbestos project and
15 whether a project is completed in a manner sufficient to
16 protect public health, including criteria setting allowable
17 limits on indoor airborne asbestos. A determination of
18 whether asbestos abatement of a structure is necessary may
19 not be based solely upon the results of airborne asbestos
20 testing.

21 (8) requirements for issuance of asbestos project
22 permits and conditions that permitholders must meet;

23 (9) standards for seeking injunctions, criminal and
24 civil penalties, or emergency actions;

25 (10) advance notification procedures and issuance of

permits for asbestos projects; and

(11) (a) fees for:

(i) review and approval of training courses;

(ii) application for and renewal of accreditation by a person seeking to pursue an asbestos-related occupation;

(iii) issuance of asbestos project permits; and

(iv) requested inspections of asbestos projects.

(b) Fees FEES must be commensurate with costs;

(C) FOR ASBESTOS PROJECTS HAVING A COST OF \$3,000 OR LESS, THE DEPARTMENT SHALL ISSUE ASBESTOS PROJECT PERMITS WITHIN 7 CALENDAR DAYS FOLLOWING THE RECEIPT OF A PROPERLY COMPLETED PERMIT APPLICATION AND THE APPROPRIATE FEE.

NEW SECTION. SECTION 4. FACILITY PERMITS -- FEE. (1)
THE DEPARTMENT SHALL PROVIDE BY RULE A PROCEDURE FOR THE ISSUANCE OF AN ANNUAL ASBESTOS PROJECT PERMIT TO ANY FACILITY THAT HAS AN ASBESTOS HEALTH AND SAFETY PROGRAM MEETING DEPARTMENT CRITERIA AND THAT CONTINUOUSLY EMPLOYS ACCREDITED ASBESTOS WORKERS. THIS PERMIT ALLOWS A FACILITY TO CONDUCT ASBESTOS PROJECTS WITHIN THE CONFINES OF THE FACILITY'S CONTROLLED AREA DURING THE PERIOD FOR WHICH THE PERMIT IS IN FORCE. THE PROVISIONS OF THIS PERMIT MAY NOT PRECLUDE STATE AND FEDERAL REQUIREMENTS FOR ASBESTOS PROJECT NOTIFICATION.

(2) THE FEE FOR A FACILITY PERMIT MUST REFLECT THE ACTUAL COST OF THE DEPARTMENT'S APPLICATION REVIEW, PERMIT

ISSUANCE, AND FACILITY INSPECTIONS.

NEW SECTION. Section 5. Accreditation requirements --
restrictions. (1) To qualify for accreditation in a particular asbestos-related occupation, a person must:

(a) (i) successfully complete an asbestos-related training course for that occupation approved by the department or the United States environmental protection agency; and

(ii) pass an examination approved by the department; or

(b) satisfactorily demonstrate equivalent previous training or experience in the occupation as prescribed by department rule; OR

(C) HAVE SUCCESSFULLY COMPLETED AN ASBESTOS-RELATED TRAINING COURSE FOR THAT OCCUPATION, APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, DURING THE TIME PERIOD IMMEDIATELY FOLLOWING THE PASSAGE OF [THIS ACT] AND ENDING ON DECEMBER 31, 1989.

(2) After January 1, 1990, a person may not:

(a) engage in an asbestos-related occupation unless accredited in that occupation by the department;

(b) conduct an asbestos project without a permit from the department or violate the conditions of a permit;

(c) contract with or employ in an asbestos-related occupation a person not accredited in that occupation by the department; or

(d) offer a training course for an asbestos-related occupation to meet the accreditation requirements of this section unless the department approves the course.

(3) A person who applies for accreditation shall submit the fees and follow procedures prescribed by department rule.

NEW SECTION. Section 6. Fee disposition. The department shall deposit fees collected under [this act] into the resource indemnity trust fund created in 15-38-201.

NEW SECTION. Section 7. Records. A person engaged in an asbestos project shall maintain the records required by department rule concerning the nature of project activities.

NEW SECTION. SECTION 8. ADVISORY COMMITTEE. (1) AN ADVISORY COMMITTEE IS CREATED TO COORDINATE AND ADVISE THE DEPARTMENT ON THE FORMULATION OF RULES TO BE PROMULGATED BY THE DEPARTMENT UNDER [SECTIONS 3 AND 4]. THIS ADVISORY COMMITTEE CONSISTS OF AT LEAST ONE REPRESENTATIVE FROM THE FOLLOWING:

(A) ASBESTOS MANUFACTURING AND CONSTRUCTION INDUSTRIES;

(B) ASBESTOS SUPPLIERS;

(C) BUILDING INDUSTRIES;

(D) LABOR ORGANIZATIONS;

(E) EMPLOYERS WITH EMPLOYEES INVOLVED IN ON-PREMISES ASBESTOS ABATEMENT; AND

(F) OTHER INDIVIDUALS AS CONSIDERED APPROPRIATE BY THE DEPARTMENT.

(2) THE ADVISORY COMMITTEE MUST BE ABOLISHED UPON FINAL ADOPTION OF RULES PROVIDED FOR IN [SECTIONS 3 AND 4].

NEW SECTION. Section 9. Criminal penalties --
disposition of civil penalties. (i) The department may suspend, deny, or revoke the accreditation of or reprimand a person who:

(a) fraudulently or deceptively obtains or attempts to obtain accreditation;

(b) fails to meet the qualifications for accreditation or comply with the requirements of [this act] or any rule adopted by the department; or

(c) fails to meet any applicable federal or state standard for asbestos projects.

(2) Notwithstanding the provisions of any other law, a person who purposely or knowingly violates any provision of [this act] or an adopted rule or order issued pursuant to [this act] is guilty of a misdemeanor.

(3) If the department determines that a violation of [this act] or a rule promulgated pursuant to [this act] has occurred, it may issue an order compelling the person receiving the order to end the violation immediately.

(4) In addition to or instead of the remedies listed in subsections (1) through (3), an accredited person who

1 purposely or knowingly violates [this act] or a rule adopted
 2 pursuant to [this act] that concerns the conduct of an
 3 asbestos project may be assessed a civil penalty by the
 4 district court of not more than \$1,000 a day for an initial
 5 violation and \$5,000 a day for each subsequent violation
 6 occurring within a 3-year period from the date of the
 7 initial violation.

8 (5) A district court may assess a civil penalty of not
 9 more than \$25,000 a day upon a person who engages in an
 10 asbestos project without valid accreditation or a permit.
 11 In the case of a continuing violation, each day the
 12 violation continues constitutes a separate violation.

13 (6) Civil penalties collected under [this act] must be
 14 deposited into the resource indemnity trust fund created in
 15 15-38-201.

16 NEW SECTION. Section 10. Coordination instruction. If
 17 ____ Bill No. ____ [LC 857] is not passed and approved, [this
 18 act] is not void.

19 NEW SECTION. Section 11. Saving clause. [This act]
 20 does not affect rights and duties that matured, penalties
 21 that were incurred, or proceedings that were begun before
 22 [the effective date of this act].

23 NEW SECTION. Section 12. Effective dates. (1)
 24 [Section SECTIONS 3, 4, 8, and this section] are effective
 25 July 1, 1989.

1 (2) [Sections 1, 2, and--4 5 through 7, AND 9] are
 2 effective January 1, 1990.

-End-

SENATE BILL NO. 270

INTRODUCED BY WILLIAMS, HARPER
BY REQUEST OF THE DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING STANDARDS
FOR TRAINING AND ACCREDITATION FOR ASBESTOS WORKERS;
ALLOWING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
TO REQUIRE PERMITS FOR ASBESTOS PROJECTS AND CHARGE FEES OF
PERSONS WORKING WITH ASBESTOS; LIMITING THE TIME FOR
PROCESSING OF CERTAIN ASBESTOS PROJECT PERMITS; ALLOWING THE
DEPARTMENT TO ESTABLISH CRITERIA FOR ASBESTOS PROJECTS;
CREATING AN ADVISORY COMMITTEE FOR RULEMAKING; PROVIDING FOR
CRIMINAL AND CIVIL PENALTIES; AND PROVIDING EFFECTIVE
DATES."

STATEMENT OF INTENT

A statement of intent is required for this bill because
~~{section-3}-authorizes~~ [SECTIONS 3 AND 4] AUTHORIZE the
department of health and environmental sciences to adopt
rules. It is the intent of the legislature that the rules
establish standards and procedures consistent with federal
law for accreditation of asbestos-related occupations and
control of the work performed by persons in any
asbestos-related occupation, including the setting of

allowable levels of indoor airborne asbestos. It is the
intent of the legislature that the rules for asbestos in
indoor air include standards for the use of air monitoring
for:

- (1) evaluation of asbestos-containing materials in
buildings; and
- (2) completion and reoccupancy after an asbestos
project.

WHEREAS, people exposed to airborne asbestos fibers
suffer significantly increased rates of lung cancer,
mesothelioma, and other diseases; and

WHEREAS, to prevent unnecessary public exposure to
asbestos fibers it is necessary to regulate and establish
criteria for asbestos abatement practices and to require
statewide standards for training and accreditation of
asbestos workers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Short title. [This act] may
be cited as the "Asbestos Control Act".

NEW SECTION. **Section 2.** Definitions. As used in [this
act], unless the context requires otherwise, the following
definitions apply:

- (1) "Accreditation" means a certificate issued by the

1 department that permits a person to work in an
2 asbestos-related occupation.

3 (2) "Asbestos" means asbestiform varieties of
4 chrysotile, amosite, crocidolite, anthophyllite, tremolite,
5 or actinolite.

6 (3) "Asbestos-related occupation" means an inspector,
7 management planner, project designer, contractor,
8 supervisor, or worker for an asbestos project.

9 (4) "Asbestos project" means the encapsulation,
10 enclosure, removal, repair, renovation, placement in new
11 construction, demolition of asbestos in a building or other
12 structure, or the transportation or disposal of
13 asbestos-containing waste. The term does not include a
14 project that involves less than 3 square feet in surface
15 area or 3 linear feet of pipe.

16 (5) "Department" means the department of health and
17 environmental sciences as provided in 2-15-2101.

18 (6) "Person" means an individual, partnership,
19 corporation, sole proprietorship, firm, enterprise,
20 franchise, association, state or municipal agency, political
21 subdivision of the state, or any other entity.

22 **NEW SECTION. Section 3. Rulemaking authority.** The
23 department shall adopt rules establishing standards and
24 procedures for accreditation of asbestos-related occupations
25 and control of the work performed by persons in

1 asbestos-related occupations. The rules must be consistent
2 with federal law and include but are not limited to:

3 (1) standards for training course review and approval;

4 (2) standards for accreditation of applicants for
5 asbestos-related occupations;

6 (3) examination requirements for accreditation of
7 applicants for asbestos-related occupations;

8 (4) requirements for renewal of accreditation,
9 including periodic refresher courses;

10 (5) revocation of accreditation;

11 (6) inspection requirements for asbestos projects and
12 asbestos-related occupations credentials;

13 (7) criteria to determine whether and what type of
14 control measures are necessary for an asbestos project and
15 whether a project is completed in a manner sufficient to
16 protect public health, including criteria setting allowable
17 limits on indoor airborne asbestos. A determination of
18 whether asbestos abatement of a structure is necessary may
19 not be based solely upon the results of airborne asbestos
20 testing.

21 (8) requirements for issuance of asbestos project
22 permits and conditions that permitholders must meet;

23 (9) standards for seeking injunctions, criminal and
24 civil penalties, or emergency actions;

25 (10) advance notification procedures and issuance of

permits for asbestos projects; and

(11) (a) fees for:

(i) review and approval of training courses;

(ii) application for and renewal of accreditation by a person seeking to pursue an asbestos-related occupation;

(iii) issuance of asbestos project permits; and

(iv) requested inspections of asbestos projects.

(b) Fees FEES must be commensurate with costs;

(C) FOR ASBESTOS PROJECTS HAVING A COST OF \$1,000 OR LESS, THE DEPARTMENT SHALL ISSUE ASBESTOS PROJECT PERMITS WITHIN 7 CALENDAR DAYS FOLLOWING THE RECEIPT OF A PROPERLY COMPLETED PERMIT APPLICATION AND THE APPROPRIATE FEE.

NEW SECTION. SECTION 4. FACILITY PERMITS -- FEE. (1) THE DEPARTMENT SHALL PROVIDE BY RULE A PROCEDURE FOR THE ISSUANCE OF AN ANNUAL ASBESTOS PROJECT PERMIT TO ANY FACILITY THAT HAS AN ASBESTOS HEALTH AND SAFETY PROGRAM MEETING DEPARTMENT CRITERIA AND THAT CONTINUOUSLY EMPLOYS ACCREDITED ASBESTOS WORKERS. THIS PERMIT ALLOWS A FACILITY TO CONDUCT ASBESTOS PROJECTS WITHIN THE CONFINES OF THE FACILITY'S CONTROLLED AREA DURING THE PERIOD FOR WHICH THE PERMIT IS IN FORCE. THE PROVISIONS OF THIS PERMIT MAY NOT PRECLUDE STATE AND FEDERAL REQUIREMENTS FOR ASBESTOS PROJECT NOTIFICATION.

(2) THE FEE FOR A FACILITY PERMIT MUST REFLECT THE ACTUAL COST OF THE DEPARTMENT'S APPLICATION REVIEW, PERMIT

ISSUANCE, AND FACILITY INSPECTIONS.

NEW SECTION. Section 5. Accreditation requirements -- restrictions. (1) To qualify for accreditation in a particular asbestos-related occupation, a person must:

(a) (i) successfully complete an asbestos-related training course for that occupation approved by the department or the United States environmental protection agency; and

(ii) pass an examination approved by the department; or

(b) satisfactorily demonstrate equivalent previous training or experience in the occupation as prescribed by department rule; OR

(C) HAVE SUCCESSFULLY COMPLETED AN ASBESTOS-RELATED TRAINING COURSE FOR THAT OCCUPATION, APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, DURING THE TIME PERIOD IMMEDIATELY FOLLOWING THE PASSAGE OF [THIS ACT] AND ENDING ON DECEMBER 31, 1989.

(2) After January 1, 1990, a person may not:

(a) engage in an asbestos-related occupation unless accredited in that occupation by the department;

(b) conduct an asbestos project without a permit from the department or violate the conditions of a permit;

(c) contract with or employ in an asbestos-related occupation a person not accredited in that occupation by the department; or

(d) offer a training course for an asbestos-related occupation to meet the accreditation requirements of this section unless the department approves the course.

(3) A person who applies for accreditation shall submit the fees and follow procedures prescribed by department rule.

NEW SECTION. Section 6. Fee disposition. The department shall deposit fees collected under [this act] into the resource indemnity trust fund created in 15-38-201.

NEW SECTION. Section 7. Records. A person engaged in an asbestos project shall maintain the records required by department rule concerning the nature of project activities.

NEW SECTION. SECTION 8. ADVISORY COMMITTEE. (1) AN ADVISORY COMMITTEE IS CREATED TO COORDINATE AND ADVISE THE DEPARTMENT ON THE FORMULATION OF RULES TO BE PROMULGATED BY THE DEPARTMENT UNDER [SECTIONS 3 AND 4]. THIS ADVISORY COMMITTEE CONSISTS OF AT LEAST ONE REPRESENTATIVE FROM THE FOLLOWING:

(A) ASBESTOS MANUFACTURING AND CONSTRUCTION INDUSTRIES;

(B) ASBESTOS SUPPLIERS;

(C) BUILDING INDUSTRIES;

(D) LABOR ORGANIZATIONS;

(E) EMPLOYERS WITH EMPLOYEES INVOLVED IN ON-PREMISES ASBESTOS ABATEMENT; AND

(F) OTHER INDIVIDUALS AS CONSIDERED APPROPRIATE BY THE DEPARTMENT.

(2) THE ADVISORY COMMITTEE MUST BE ABOLISHED UPON FINAL ADOPTION OF RULES PROVIDED FOR IN [SECTIONS 3 AND 4].

NEW SECTION. Section 9. Criminal penalties -- disposition of civil penalties. (1) The department may suspend, deny, or revoke the accreditation of or reprimand a person who:

(a) fraudulently or deceptively obtains or attempts to obtain accreditation;

(b) fails to meet the qualifications for accreditation or comply with the requirements of [this act] or any rule adopted by the department; or

(c) fails to meet any applicable federal or state standard for asbestos projects.

(2) Notwithstanding the provisions of any other law, a person who purposely or knowingly violates any provision of [this act] or an adopted rule or order issued pursuant to [this act] is guilty of a misdemeanor.

(3) If the department determines that a violation of [this act] or a rule promulgated pursuant to [this act] has occurred, it may issue an order compelling the person receiving the order to end the violation immediately.

(4) In addition to or instead of the remedies listed in subsections (1) through (3), an accredited person who

purposely or knowingly violates [this act] or a rule adopted pursuant to [this act] that concerns the conduct of an asbestos project may be assessed a civil penalty by the district court of not more than \$1,000 a day for an initial violation and \$5,000 a day for each subsequent violation occurring within a 3-year period from the date of the initial violation.

(5) A district court may assess a civil penalty of not more than \$25,000 a day upon a person who engages in an asbestos project without valid accreditation or a permit. In the case of a continuing violation, each day the violation continues constitutes a separate violation.

(6) Civil penalties collected under [this act] must be deposited into the resource indemnity trust fund created in 15-38-201.

NEW SECTION. Section 10. Coordination instruction. If ___ Bill No. ___ [LC 857] is not passed and approved, [this act] is not void.

NEW SECTION. Section 11. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 12. Effective dates. (1) [Section SECTIONS 3, 4, 8, and this section] are effective July 1, 1989.

(2) [Sections 1, 2, and--4 5 through 7, AND 9] are effective January 1, 1990.

-End-

SENATE BILL NO. 270

INTRODUCED BY WILLIAMS, HARPER
BY REQUEST OF THE DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING STANDARDS
FOR TRAINING AND ACCREDITATION FOR ASBESTOS WORKERS;
ALLOWING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
TO REQUIRE PERMITS FOR ASBESTOS PROJECTS AND CHARGE FEES OF
PERSONS WORKING WITH ASBESTOS; LIMITING THE TIME FOR
PROCESSING OF CERTAIN ASBESTOS PROJECT PERMITS; ALLOWING THE
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~~{section-3}-authorizes~~ [SECTIONS 3 AND 4] AUTHORIZE the
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control of the work performed by persons in any
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allowable levels of indoor airborne asbestos. It is the
intent of the legislature that the rules for asbestos in
indoor air include standards for the use of air monitoring
for:

- (1) evaluation of asbestos-containing materials in
buildings; and
- (2) completion and reoccupancy after an asbestos
project.

WHEREAS, people exposed to airborne asbestos fibers
suffer significantly increased rates of lung cancer,
mesothelioma, and other diseases; and

WHEREAS, to prevent unnecessary public exposure to
asbestos fibers it is necessary to regulate and establish
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5 or actinolite.

6 (3) "Asbestos-related occupation" means an inspector,
7 management planner, project designer, contractor,
8 supervisor, or worker for an asbestos project.

9 (4) "Asbestos project" means the encapsulation,
10 enclosure, removal, repair, renovation, placement in new
11 construction, demolition of asbestos in a building or other
12 structure, or the transportation or disposal of
13 asbestos-containing waste. The term does not include a
14 project that involves less than 3 square feet in surface
15 area or 3 linear feet of pipe.

16 (5) "Department" means the department of health and
17 environmental sciences as provided in 2-15-2101.

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19 corporation, sole proprietorship, firm, enterprise,
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21 subdivision of the state, or any other entity.

22 NEW SECTION. Section 3. Rulemaking authority. The
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2 with federal law and include but are not limited to:

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12 asbestos-related occupations credentials;

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14 control measures are necessary for an asbestos project and
15 whether a project is completed in a manner sufficient to
16 protect public health, including criteria setting allowable
17 limits on indoor airborne asbestos. A determination of
18 whether asbestos abatement of a structure is necessary may
19 not be based solely upon the results of airborne asbestos
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24 civil penalties, or emergency actions;

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permits for asbestos projects; and

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(i) review and approval of training courses;

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(b) Fees FEES must be commensurate with costs;

(C) FOR ASBESTOS PROJECTS HAVING A COST OF \$3,000 OR LESS, THE DEPARTMENT SHALL ISSUE ASBESTOS PROJECT PERMITS WITHIN 7 CALENDAR DAYS FOLLOWING THE RECEIPT OF A PROPERLY COMPLETED PERMIT APPLICATION AND THE APPROPRIATE FEE.

NEW SECTION. SECTION 4. FACILITY PERMITS -- FEE. (1)
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(C) HAVE SUCCESSFULLY COMPLETED AN ASBESTOS-RELATED TRAINING COURSE FOR THAT OCCUPATION, APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, DURING THE TIME PERIOD IMMEDIATELY FOLLOWING THE PASSAGE OF [THIS ACT] AND ENDING ON DECEMBER 31, 1989.

(2) After January 1, 1990, a person may not:

(a) engage in an asbestos-related occupation unless accredited in that occupation by the department;

(b) conduct an asbestos project without a permit from the department or violate the conditions of a permit;

(c) contract with or employ in an asbestos-related occupation a person not accredited in that occupation by the department; or

(d) offer a training course for an asbestos-related occupation to meet the accreditation requirements of this section unless the department approves the course.

(3) A person who applies for accreditation shall submit the fees and follow procedures prescribed by department rule.

NEW SECTION. Section 6. Fee disposition. The department shall deposit fees collected under [this act] into the resource indemnity trust fund created in 15-38-201.

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(C) BUILDING INDUSTRIES;

(D) LABOR ORGANIZATIONS;

(E) EMPLOYERS WITH EMPLOYEES INVOLVED IN ON-PREMISES ASBESTOS ABATEMENT; AND

(F) OTHER INDIVIDUALS AS CONSIDERED APPROPRIATE BY THE DEPARTMENT.

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(a) fraudulently or deceptively obtains or attempts to obtain accreditation;

(b) fails to meet the qualifications for accreditation or comply with the requirements of [this act] or any rule adopted by the department; or

(c) fails to meet any applicable federal or state standard for asbestos projects.

(2) Notwithstanding the provisions of any other law, a person who purposely or knowingly violates any provision of [this act] or an adopted rule or order issued pursuant to [this act] is guilty of a misdemeanor.

(3) If the department determines that a violation of [this act] or a rule promulgated pursuant to [this act] has occurred, it may issue an order compelling the person receiving the order to end the violation immediately.

(4) In addition to or instead of the remedies listed in subsections (1) through (3), an accredited person who

1 purposely or knowingly violates [this act] or a rule adopted
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 3 asbestos project may be assessed a civil penalty by the
 4 district court of not more than \$1,000 a day for an initial
 5 violation and \$5,000 a day for each subsequent violation
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 9 more than \$25,000 a day upon a person who engages in an
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