



**Senate Fiscal Agency**  
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**BILL ANALYSIS**



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Senate Bill 454 (Substitute S-2 as passed by the Senate)  
 Sponsor: Senator Dale L. Shugars  
 Committee: Health Policy and Senior Citizens

Date Completed: 5-10-95

**RATIONALE**

Since 1986, the State has attempted to protect those who come into contact with products containing asbestos in employment-related activities. Among the laws on this subject are the Asbestos Abatement Contractors Licensing Act, which was enacted in 1986 to require asbestos abatement contractors to be licensed by the Department of Public Health (DPH), and the Asbestos Workers Accreditation Act, which was enacted in 1988 to provide for the accreditation, licensure, and regulation of persons who perform asbestos-related work on public and private elementary and secondary school buildings. According to the DPH, on February 1, 1994, the Environmental Protection Agency published a revised Asbestos Model Accreditation Plan (MAP). The DPH has reported that the revised MAP makes a number of significant changes, including requiring the accreditation of persons who work in public and commercial buildings, as well as in school buildings; requiring additional hours of training for asbestos abatement workers and contractors/supervisors; and making a number of other revisions mandated by the Federal Asbestos School Hazard Abatement Reauthorization Act. For Michigan's accreditation program to continue to be recognized by the Environmental Protection Agency (EPA), it has been suggested that this State's law be amended to conform to the revised MAP.

**CONTENT**

**The bill would amend the Asbestos Workers Accreditation Act to extend its accreditation standards and training requirements to persons performing asbestos-related work in public and commercial buildings. The bill also would require accreditation for someone conducting or designing a response activity**

**(with certain exceptions); require asbestos inspectors to disclose their financial interest in a business performing asbestos-related work; increase training requirements for asbestos abatement contractors, supervisors, and workers; raise from \$25 to \$50 the fee for accreditation of contractors, supervisors, and workers; allow the Department of Public Health to deny, revoke, or suspend the approval of a training sponsor for certain reasons; require training sponsors to pay an annual renewal fee of \$200 (in addition to the \$400 initial application fee); require training sponsors to give the DPH a description of a certificate of successful course completion that satisfied the requirements of the Asbestos Model Accreditation Plan, submit a notice of scheduled courses, and satisfy record-keeping requirements described in the MAP; require training sponsors, rather than the DPH, to issue certificates of successful course completion; and require the DPH to issue certificates of accreditation. The bill would repeal the Act three years after the bill's effective date.**

Under the bill, "public and commercial building" would mean the interior space (an enclosed portion of a public and commercial building, including an exterior hallway, connecting structure, portico, or mechanical system used to condition an enclosed space) of a building that was not a school building, a residential apartment building of fewer than 10 units, or a detached single family home. Public and commercial buildings would include, but not be limited to, all of the following: industrial and office buildings; residential apartment buildings and condominiums of 10 or more dwelling units; government-owned buildings; colleges and universities; museums; airports;

hospitals; churches; preschools; stores; warehouses; and factories.

Currently, the Act prohibits a person from performing certain asbestos-related work listed in the Act in a school unless the person obtains a certificate of accreditation and maintains annual reaccreditation. The bill would extend this prohibition to asbestos-related work in public and commercial buildings, and provides further that a person not accredited could not do the following:

- Conduct a response action beyond the scope of a small-scale, short-duration operation, maintenance and repair activity, or an activity that involved a major fiber release episode, as those terms are defined in the MAP. (This provision would not apply to Class II asbestos work involving only the removal or disturbance of one generic category of building material, Class III asbestos work, or Class IV asbestos work that was not performed in a regulated area, as those classes are defined in the Federal Occupational Safety and Health Administration's standards for occupational exposure to asbestos in the construction industry.)
- Design a response action beyond the scope of a small-scale, short-duration operation, maintenance and repair activity, or a response action to a major fiber release episode, as those terms are defined in the MAP.

The bill would allow a person who was certified by the American Board of Industrial Hygiene as a certified industrial hygienist, under standards acceptable to the DPH, to inspect for asbestos-containing materials in a school building, or a public and commercial building without having to receive a certificate of accreditation under the Act.

The bill would define "inspection" as an activity undertaken in a school building or public and commercial building to determine the presence or location, or to assess the condition of friable or nonfriable asbestos-containing building material (ACBM) or suspected ACBM, whether by visual or physical examination, or by collecting samples of material. Inspection would include reinspections of known or assumed ACBM that had been previously identified. Inspection would not include periodic surveillance conducted solely for the purpose of recording or reporting a change in the condition of known or assumed ACBM; an

inspection performed by employees or agents of Federal, State, or local government solely for the purpose of determining compliance with applicable statutes or regulations; a visual inspection performed solely for the purpose of determining completion of response actions; or a limited scope inspection associated with a remodeling, renovation, operation, or maintenance activity in a public and commercial building that involved not more than two homogeneous areas, and not more than six bulk samples collected randomly.

The bill would require an asbestos inspector who conducted an inspection to disclose, orally and in writing, his or her financial interest in or financial relationship to a person who was in the business of performing asbestos-related work. A person who engaged in asbestos-related work could not require that an inspector who performed an inspection also perform the asbestos-related work recommended in the inspector's report, as a condition of conducting the inspection. Further, after an inspection was conducted and a report that indicated the need for asbestos-related work was prepared, a person who contracted to do the work could conduct his or her own inspection, either prior to or after performing the work in order to determine whether the work was successful.

The Act requires a person who seeks to perform asbestos-related work in a school building to complete initial training. The bill would extend this training requirement to someone performing asbestos-related work in a public and commercial building. The bill also would increase the required training course for asbestos abatement contractors and supervisors from four to five days, and for asbestos abatement workers from three to four days. In addition, asbestos abatement project designers currently must complete at least three days of training, or complete the training required for contractors and supervisors; the bill would delete the latter option.

Currently, a person who meets the Act's requirements and who completes training and examination requirements may receive a certificate of accreditation or reaccreditation, which authorizes the person to perform asbestos-related work in schools for one year. The bill would extend these provisions to asbestos-related work in public and commercial buildings.

Under the Act, the initial training courses, examinations, and refresher training courses required by the Act must be conducted by the DPH or a person approved by the Department to

sponsor the training and examinations in accordance with the EPA model contractor accreditation plan. The bill provides, instead, that the initial training courses, examinations, refresher training courses, and certificates of successful course completion required by the Act would have to be provided by the DPH or a person approved by the DPH in accordance with the MAP. The bill also would allow the DPH to deny, revoke, or suspend the approval of a person approved under this provision, for one or more of the following reasons:

- Misrepresentation of the extent of DPH approval of a training course.
- Failure to submit required information or notifications in a timely manner.
- Failure to maintain records required by law.
- Falsification of accreditation records, instructor qualifications, or other accreditation information.
- Failure to adhere to the training standards and requirements of the Act or of the MAP.

Currently, the Act lists actions for which the DPH may suspend, deny, or revoke a certificate of accreditation or reaccreditation. The bill would add to the list 1) permitting the duplication or use of one's own accreditation certificate by another and 2) obtaining accreditation from a training provider who did not have approval to offer training for that particular discipline from either the EPA or a state that had an approval program that was as stringent as the Act.

The Act requires an applicant who wishes to sponsor a training course to submit a \$400 fee. The bill would require an applicant who wished to sponsor a course to pay a \$400 initial application fee and an annual renewal fee of \$200. Further, an applicant desiring to sponsor either a training course or a refresher training course would have to provide a description and example of a certificate of successful completion of the course that satisfied the requirements of the MAP in addition to the other information required by the Act. The bill would raise from \$25 to \$50 the current fee for accreditation of asbestos abatement contractors, supervisors, and workers.

The bill would require a training course sponsor to submit to the DPH a notice of scheduled courses at least seven calendar days before the start of those courses, indicating starting and ending dates and times, location, and instructors. A training course sponsor would have to advise the DPH of

cancellation of a course at least one day before its indicated start date. A training course sponsor would have to satisfy the record-keeping requirements for a training provider described in the MAP.

Currently, the DPH Director must issue a numbered certificate of successful course completion to a student who meets the requirements of the Act and successfully completes the required course and examination. Under the bill, the certificate would have to be issued by the training course sponsor, and would have to include the sponsor's name, address, and telephone number. Upon the Department's receipt of the fee required under the Act and a copy of a certificate of successful course completion or refresher course completion, the Director of the DPH would have to issue a numbered certificate of accreditation or reaccreditation to the student. The numbered certificate of accreditation or reaccreditation would have to include the name of the student, the course completed, and the annual expiration date for accreditation.

MCL 338.3402 et al.

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

According to the DPH, the revised MAP took effect in April 1994 and gave states 180 days after the beginning of their next legislative session to comply. For Michigan, this means that the law should be amended within six months after the start of the 1995 session. The changes proposed in the bill would make this State's law consistent with the revised Federal regulations, and would enable Michigan's accreditation program to continue to be recognized by the EPA. As a result, individuals accredited in Michigan would be able to perform asbestos-related work in other states, and additional asbestos workers would be subject to the law's protections. According to the DPH, the bill differs from the MAP only in several minor respects, including allowing inspections to be performed by certified industrial hygienists, and allowing unaccredited workers to conduct limited scope inspections and collect up to six samples (which would cover plumbers, for example, who encountered what they suspected was asbestos in the course of a job).

**Opposing Argument**

Since the law is designed to protect the health and safety of asbestos workers, it is not clear why the Act should be repealed after three years.

**Response:** In the event that the EPA relaxed its rules, a three-year sunset would ensure that the Legislature revisited this issue.

Legislative Analyst: S. Margules

**FISCAL IMPACT**

The bill would result in an indeterminate increase in State restricted fee revenues. The amount of the increase would depend on the number of renewals of training course sponsorship and the number of individuals seeking initial accreditation as an asbestos abatement contractor, supervisor, or worker. Based on current Asbestos Abatement Program experience, the increase in fee revenue would be approximately \$70,000.

Fiscal Analyst: P. Graham

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.