

DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as “equals” in “unison” with politicians to write laws to govern your life. Big Business has “a VOICE and a VOTE,” according to newly exposed documents. **DO YOU?**

Asbestos in Educational Facilities and/or Public Buildings Act

Summary

ALEC’s model Asbestos in Educational Facilities and/or Public Buildings Act is designed to protect the public from unwarranted remedial asbestos actions that may increase the risk of asbestos exposure. Key components of the bill include: accreditation of consultants, contractors and workers, and regulation of levels of airborne asbestos in educational facilities and/or public buildings.

Model Legislation

Section 1. {Title} This act shall be known and may be cited as the Asbestos in Educational Facilities and/or Public Buildings Act.

Section 2. {Legislative findings and declarations} The Legislature finds and declares that:

(A) Significant public concern exists about the presence of asbestos-containing construction materials in public buildings and educational facilities that has resulted in pressures to remove all such materials.

(B) Numerous studies of buildings have determined that the presence of these materials rarely cause prevailing asbestos exposure levels in such buildings to be higher than the levels of asbestos in outdoor air, and that these extremely low prevailing levels of asbestos in building air rarely pose significant risk to occupant health and safety.

(C) Numerous studies further indicates that removal of asbestos-containing materials from buildings, if conducted improperly, will increase human asbestos exposures and, even if conducted properly, may lead to no reduction in prevailing building exposures.

(D) Existing federal statutes, including the Occupational Safety and Health Act asbestos standard and the Clean Air Act asbestos standard and the Clean Air Act asbestos standard, and the State {cite relevant state statutes} establish controls to protect workers involved in asbestos remedial actions. Proper use of these controls requires trained consultants, contractors and workers.

(E) The public should be informed as to the nature of risks posed by asbestos-containing materials in buildings and protected from remedial actions that may increase such risks.

Section 3. {Definitions} The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(A) “Asbestos.” A group of naturally occurring minerals that separate into fibers including chrysotile, amosite, crocidolite, asbestiform anthophyllite, asbestiform tremolite and asbestiform actinolite.

(B) “Asbestos consultant.” Any person who, for compensation, inspects property to identify asbestos-containing materials, determines risks, or determines the need for related remedial action.

(C) "Asbestos-containing material." Any material or product containing 1% or more asbestos by weight.

(D) "Cost." The discounted present value of all anticipated future expenditures associated with a course of action in an area where removal is being considered.

(E) "Demolition." The razing or taking out of any load-supporting structural member accompanied by the removal of asbestos-containing material.

(F) "Educational facility." A building owned, leased, or under the control of a public or non-public K-6, K-8, K-12 or K-14 school system.

(G) "Friable." The condition of asbestos-containing material that can be pulverized into dust using normal finger pressure when dry.

(H) "Hazard free" or "free of hazard." After a visual and physical inspection, air monitoring indicates that the average concentration of airborne asbestos does not exceed 0.01 fibers greater than five microns per cubic centimeter of air measured as an eight hour time weighted average.

(I) "Operations and maintenance plan." A program of work practices to maintain asbestos-containing material in good condition to ensure the cleanup of asbestos previously released, to prevent further release of asbestos-containing material and monitor the condition of asbestos-containing material by minimizing and controlling damage or disturbance.

(J) "Public access area." An area in a building within which public access is not restricted.

(K) "Public building." A building owned, operated or leased by the State of {insert state}.

(L) "Removal." The taking out or stripping of asbestos or asbestos-containing material from a facility component.

(M) "Renovation." Alteration of a facility or one or more facility components in any way, including the stripping or removal of asbestos-containing material from a facility component.

(N) "Significantly damaged." A determination by visual and physical inspection that the asbestos-containing material is no longer fulfilling its intended architectural or engineering purpose.

Section 4. {Establishment of an Operations and Maintenance Plan} The Department of {insert department} shall establish an asbestos and maintenance plan for buildings owned, operated or leased by the State. The plan shall:

(1) contain work practices to maintain asbestos or potentially friable asbestos-containing material in good condition;

(2) contain work practices to ensure the proper cleanup of asbestos or friable asbestos-containing material previously released;

(3) contain work practices to prevent the further release of asbestos or asbestos-containing material and to monitor the condition of asbestos-containing material by minimizing or controlling damage or disturbance;

(4) be consistent with the latest Occupational Safety and Health Administration regulations and the U.S. Environmental Protection Agency guidance document Managing Asbestos in Place.

Section 5. {Specific criteria for asbestos removal in public buildings} No State funds shall be use to remove asbestos-containing material from public buildings unless one or more of the following conditions exist:

(1) the removal is required under regulations promulgated pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) due to the breaking up of asbestos or asbestos-containing material during renovation or demolition;

(2) The cost of an operations and maintenance plan exceeds the cost of a properly conducted removal;

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(3) Removal is incidental to normal building maintenance, repair, renovation, or remodeling;

(4) The asbestos-containing material is deemed to be "significantly damaged"; or

(5) After visual and physical inspection, air monitoring indicates that the average airborne asbestos concentration exceeds 0.01 asbestos fibers longer than 5 microns per cubic centimeter of air, calculated as an eight hour time weighted average.

Section 6. {Specific Criteria for Asbestos Removal in Educational facilities} No state funds shall be used to remove asbestos-containing material from an educational facility unless one or more of the following conditions exist:

(1) removal is required under the Asbestos Hazard Emergency Response Act (15 U.S.C. 2641-2654, Title II of the Toxic Substance Control Act, P.L. 94-469) under conditions in which the asbestos or the asbestos-containing material is deemed to be significantly damaged";

(2) the removal is required under regulations promulgated pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq) due to the breaking up of asbestos or asbestos-containing material during renovation or demolition;

(3) the cost of an operation and maintenance plan exceeds the cost of a properly conducted removal;

(4) removal is incidental to normal building maintenance, repair, renovation or remodeling;

(5) after visual and physical inspection, air monitoring indicates that the average airborne asbestos concentration exceeds 0.01 asbestos fibers longer than 5 microns per cubic centimeter of air, calculated as an eight hour time weighted average.

Section 7. {Measurement of Average Airborne Asbestos Concentrations}

(A) The measurement of average airborne asbestos concentrations shall be made by either or both of the following methods:

(1) optical phase contrast microscopy in the manner described by National Institute for Occupational Safety and health Method 7400; or

(2) transmission electron microscopy in the manner described in the measurement protocol provided by National Institute for Occupational Safety and Health Method 7402.

(B) If both methods are used and a question arises as to the presence of fibers that may not be asbestos, a measurement made by transmission electron microscopy shall be considered controlling.

Section 8. {Accreditation of persons performing asbestos remedial actions}

(A) Accreditation program required. No person shall commence or continue to perform asbestos remedial actions unless he has been accredited by the {insert relevant agency}. The {agency} shall adopt rules governing the accreditation of such persons. Such rules shall include categories of accreditation and shall specify appropriate education, experience, and training requirements. The rules shall establish separate categories of accreditation for consultants, contractors and workers. These rules shall be at least as stringent as the accreditation plan required under the Federal Asbestos Hazard Emergency Response Act and regulations adopted pursuant thereto.

(B) Interim accreditation. A person who applies for accreditation in the worker category may engage in asbestos remedial actions as though he were accredited in the worker category for up to 90 days after the date he submits his application. No person whose application is rejected may continue to engage in asbestos remedial actions under this subsection.

(C) Exemptions. The following persons are exempt from the accreditation requirements.

(1) The owner or operator of a building, other than school buildings subject to the provisions of AHERA, and his permanent employees when performing asbestos remedial actions in non-public access areas of the building.

(2) A person performing asbestos remedial actions in his personal residence.

(D) Establishment of fees. The {insert relevant agency} shall establish and collect asbestos remedial action accreditation and annual renewal fees to support the asbestos program.

Section 9. {Conflicts of Interest}

(A) Standards of conduct. If an asbestos consultant has made an inspection for related remedial action:

(1) The consultant shall disclose orally and in writing if it is owner or has any common ownership, or any financial relationship whatsoever, including, but not limited to, commissions or referral fees, with an entity in the business of performing the corrective work.

(2) The asbestos consultant or any employee, subsidiary, or any company with common ownership, shall not require, as a condition of performing the inspection, that the consultant also perform any corrective work on the property that was recommended in the report.

(B) Secondary inspections. This section does not prohibit an asbestos consultant or a contractor that has contracted to perform corrective work after the report of another company has indicated the presence of asbestos or the need for relating remedial action from making its own inspection prior to performing that corrective work or from making an inspection to determine whether the corrective measures were successful and, if not, there after performing additional correction work.

(C) Penalties. A violation of this section is a misdemeanor punishable by a fine of not less than three thousand dollars (\$3000) and not more than five thousand dollars (\$5000), or by imprisonment in the county jail for not more than one year, or both.

Section 10. {Severability Clause}

Were your laws repealed?

Section 11. {Repealer Clause}

Section 12. {Effective date}

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"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda—underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

ALEC's Sourcebook of American State Legislation 1995

ALEC's Corporate Board --in recent past or present

- AT&T Services, Inc.
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- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at www.SourceWatch.org.

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