

SECOND REGULAR SESSION

SENATE BILL NO. 958

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREEN.

Read 1st time February 17, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

5042S.011

AN ACT

To repeal sections 643.020, 643.040, 643.050, 643.060, 643.080, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, 643.250, 643.253, 643.260, and 701.332, RSMo, and to enact in lieu thereof twelve new sections relating to asbestos, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 643.020, 643.040, 643.050, 643.060, 643.080, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, 643.250, 643.253, 643.260, and 701.332, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 643.020, 643.040, 643.050, 643.060, 643.080, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, and 643.250, to read as follows:

643.020. When used in this chapter and in standards, rules and regulations promulgated under authority of this chapter, the following words and phrases mean:

(1) "AHERA", Asbestos Hazard Emergency Response Act of 1986 (P.L. 99-519);

(2) "Abatement project designer", an individual who designs or plans AHERA asbestos abatement;

(3) "Air cleaning device", any method, process, or equipment which removes, reduces, or renders less obnoxious air contaminants discharged into ambient air;

(4) "Air contaminant", any particulate matter or any gas or vapor or any combination thereof;

(5) "Air contaminant source", any and all sources of air contaminants whether privately or publicly owned or operated;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 (6) "Air pollution", the presence in the ambient air of one or more air
16 contaminants in quantities, of characteristics and of a duration which directly
17 and proximately cause or contribute to injury to human, plant, or animal life or
18 health or to property or which unreasonably interferes with the enjoyment of life
19 or use of property;

20 (7) "Ambient air", all space outside of buildings, stacks, or exterior ducts;

21 (8) "Area of the state", any geographical area designated by the
22 commission;

23 (9) "Asbestos", the asbestiform varieties of chrysotile, crocidolite, amosite,
24 anthophyllite, tremolite and actinolite;

25 (10) "Asbestos abatement", the encapsulation, enclosure or removal of
26 asbestos containing materials in or from a building or air contaminant source, or
27 preparation of friable asbestos containing material prior to demolition;

28 (11) "Asbestos abatement contractor", any person who by agreement,
29 contractual or otherwise, conducts asbestos abatement projects at a location other
30 than his own place of business;

31 (12) "Asbestos abatement projects", an activity undertaken to encapsulate,
32 enclose or remove [ten] **one hundred sixty** square feet or [sixteen] **two**
33 **hundred sixty** linear feet or **thirty-five cubic feet** or more of [friable]
34 **regulated** asbestos containing materials from buildings and other air
35 contaminant sources, or to demolish buildings and other air contaminant sources
36 containing [ten] **one hundred sixty** square feet or [sixteen] **two hundred**
37 **sixty** linear feet or **thirty-five cubic feet** or more of **regulated asbestos**
38 **containing materials**;

39 (13) "Asbestos abatement supervisor", an individual who directs, controls,
40 or supervises others in asbestos abatement projects;

41 (14) "Asbestos abatement worker", an individual who engages in asbestos
42 abatement projects;

43 (15) "Asbestos air sampling professional", an individual who by
44 qualifications and experience is proficient in asbestos abatement air
45 monitoring. The individual shall conduct, oversee or be responsible for air
46 monitoring of asbestos abatement projects before, during and after the project has
47 been completed;

48 (16) "Asbestos air sampling technician", an individual who has been
49 trained by an air sampling professional to do air monitoring. Such individual
50 conducts air monitoring of an asbestos abatement project before, during and after

51 the project has been completed;

52 (17) "Asbestos containing material", any material or product which
53 contains more than one percent asbestos[, by weight];

54 (18) "Class A source", either a class A1, A2 or A3 source as defined in this
55 section;

56 (19) "Class A1 source", any air contaminant source with the potential to
57 emit equal to or greater than one hundred tons per year of an air contaminant;

58 (20) "Class A2 source", any air contaminant source, which is not a class
59 A1 source, and with the potential, air cleaning devices not considered, to emit
60 equal to or greater than one hundred tons per year of an air contaminant;

61 (21) "Class A3 source", any air contaminant source which emits or has the
62 potential to emit, ten tons per year or more of any hazardous air pollutant or
63 twenty-five tons of any combination of hazardous air pollutants, or as defined
64 pursuant to section 112 of the federal Clean Air Act, as amended, 42 U.S.C. 7412;

65 (22) "Class B source", any air contaminant source with the potential, air
66 cleaning devices not considered, to emit equal to or greater than the de minimis
67 amounts of an air contaminant established by the commission, but not a class A
68 source;

69 (23) "Commission", the air conservation commission of the state of
70 Missouri created in section 643.040;

71 (24) "Competent person", as defined in the United States Occupational
72 Safety and Health Administration's (OSHA) standard 29 CFR [1926.58]
73 **1926.1101** (b). Such person shall also be a certified asbestos abatement
74 supervisor;

75 (25) "Conference, conciliation and persuasion", a process of verbal or
76 written communications consisting of meetings, reports, correspondence or
77 telephone conferences between authorized representatives of the department and
78 the alleged violator. The process shall, at a minimum, consist of one offer to meet
79 with the alleged violator tendered by the department. During any such meeting,
80 the department and the alleged violator shall negotiate in good faith to eliminate
81 the alleged violation and shall attempt to agree upon a plan to achieve
82 compliance;

83 (26) "De minimis source", any air contaminant source with a potential to
84 emit an air contaminant, air cleaning devices not considered, less than that
85 established by the commission as de minimis for the air contaminant;

86 (27) "Department", the department of natural resources of the state of

87 Missouri;

88 (28) "Director", the director of the department of natural resources;

89 (29) "Emergency asbestos project", an asbestos project that must be
90 undertaken immediately to prevent imminent, severe, human exposure or to
91 restore essential facility operation;

92 (30) "Emission", the discharge or release into the atmosphere of one or
93 more air contaminants;

94 (31) "Emission control regulations", limitations on the emission of air
95 contaminants into the ambient air;

96 (32) "Friable asbestos containing material", any [asbestos containing
97 material which is applied to ceilings, walls, structural members, piping, ductwork
98 or any other part of a building or other air contaminant sources and which, when
99 dry, may be crumbled, pulverized or reduced to powder by hand pressure]
100 **material containing more than one percent asbestos that, when dry, can**
101 **be crumbled, pulverized, or reduced to powder by hand pressure;**

102 (33) "Inspector", an individual[, under AHERA,] who collects and
103 assimilates information used to determine whether asbestos containing material
104 is present in a building or other air contaminant sources;

105 (34) "Management planner", an individual, under AHERA, who devises
106 and writes plans for asbestos abatement;

107 (35) "Minor violation", a violation which possesses a small potential to
108 harm the environment or human health or cause pollution, was not knowingly
109 committed, and is not defined by the United States Environmental Protection
110 Agency as other than minor;

111 (36) "Nonattainment area", any area designated by the governor as a
112 "nonattainment area" as defined in the federal Clean Air Act, as amended, 42
113 U.S.C. 7501;

114 (37) "Person", any individual, partnership, copartnership, firm, company,
115 or public or private corporation, association, joint stock company, trust, estate,
116 political subdivision, or any agency, board, department, or bureau of the state or
117 federal government, or any other legal entity whatever which is recognized by law
118 as the subject of rights and duties;

119 (38) **"Regulated asbestos containing material" or "(RACM)":**

120 **(a) Friable asbestos containing material;**

121 **(b) Category I nonfriable asbestos containing material that will**
122 **be or has been subjected to sanding, grinding, cutting, or abrading; or**

123 **(c) Category II nonfriable asbestos containing material that has**
124 **a high probability of becoming or has become crumbled, pulverized, or**
125 **reduced to powder by the forces expected to act on the material in the**
126 **course of demolition or renovation operations;**

127 **(39) "School district", seven-director districts, urban school**
128 **districts and metropolitan school districts, as defined in section**
129 **160.011;**

130 **(40) "Small business", for the purpose of sections 643.010 to 643.190, a**
131 **small business shall include any business regulated under this chapter, which is**
132 **not a class A source and which employs less than one hundred people and emits**
133 **less than fifty tons of any regulated pollutant per year and less than seventy-five**
134 **tons of all regulated pollutants or as otherwise defined by the commission by rule.**

643.040. 1. There is created hereby an air pollution control agency to be
2 known as the "Air Conservation Commission of the State of Missouri", whose
3 domicile for the purposes of sections 643.010 to [643.190] **643.265** is the
4 department of natural resources of the state of Missouri. The commission shall
5 consist of seven members appointed by the governor, with the advice and consent
6 of the senate. No more than four of the members shall belong to the same
7 political party and no two members shall be a resident of and domiciled in the
8 same senatorial district. At the first meeting of the commission and at yearly
9 intervals thereafter, the members shall select from among themselves a chairman
10 and a vice chairman.

11 2. All members shall be representative of the general interest of the public
12 and shall have an interest in and knowledge of air conservation and the effects
13 and control of air contaminants. At least three of such members shall represent
14 agricultural, industrial and labor interests, respectively. The governor shall not
15 appoint any other person who has a substantial interest as defined in section
16 105.450, RSMo, in any business entity regulated under this chapter or any
17 business entity which would be regulated under this chapter if located in
18 Missouri. The commission shall establish rules of procedure which specify when
19 members shall exempt themselves from participating in discussions and from
20 voting on issues before the commission due to potential conflict of interest.

21 3. The members' terms of office shall be four years and until their
22 successors are selected and qualified, except that the terms of those first
23 appointed shall be staggered to expire at intervals of one, two and three years
24 after the date of appointment as designated by the governor at the time of

25 appointment. There is no limitation of the number of terms any appointed
26 member may serve. If a vacancy occurs the governor may appoint a member for
27 the remaining portion of the unexpired term created by the vacancy. The
28 governor may remove any appointed member for cause. The members of the
29 commission shall be reimbursed for travel and other expenses actually and
30 necessarily incurred in the performance of their duties.

31 4. The commission shall hold at least nine regular meetings each year and
32 such additional regular meetings as the chairman deems desirable at a place and
33 time to be fixed by the chairman. Special meetings may be called by three
34 members of the commission upon delivery of written notice to each member of the
35 commission. Reasonable written notice of all meetings shall be given to all
36 members of the commission. Four members of the commission shall constitute a
37 quorum. All powers and duties conferred upon members of the commission shall
38 be exercised personally by the members and not by alternates or representatives.
39 All actions of the commission shall be taken at meetings open to the public,
40 except as provided in chapter 610, RSMo. Any member absent from four regular
41 commission meetings per calendar year for any cause whatsoever shall be deemed
42 to have resigned and the vacancy shall be filled immediately in accordance with
43 subsection 1 and subsection 3 of this section.

643.050. 1. In addition to any other powers vested in it by law the
2 commission shall have the following powers:

3 (1) Adopt, promulgate, amend and repeal rules and regulations consistent
4 with the general intent and purposes of sections 643.010 to [643.190] **643.265**,
5 chapter 536, RSMo, and Titles V and VI of the federal Clean Air Act, as amended,
6 42 U.S.C. 7661, et seq., including but not limited to:

7 (a) Regulation of use of equipment known to be a source of air
8 contamination;

9 (b) Establishment of maximum quantities of air contaminants that may
10 be emitted from any air contaminant source; and

11 (c) Regulations necessary to enforce the provisions of Title VI of the Clean
12 Air Act, as amended, 42 U.S.C. 7671, et seq., regarding any Class I or Class II
13 substances as defined therein;

14 (2) After holding public hearings in accordance with section 643.070,
15 establish areas of the state and prescribe air quality standards for such areas
16 giving due recognition to variations, if any, in the characteristics of different
17 areas of the state which may be deemed by the commission to be relevant;

18 (3) (a) To require persons engaged in operations which result in air
19 pollution to monitor or test emissions and to file reports containing information
20 relating to rate, period of emission and composition of effluent;

21 (b) Require submission to the director for approval of plans and
22 specifications for any article, machine, equipment, device, or other contrivance
23 specified by regulation the use of which may cause or control the issuance of air
24 contaminants; but any person responsible for complying with the standards
25 established under sections 643.010 to [643.190] **643.265** shall determine, unless
26 found by the director to be inadequate, the means, methods, processes, equipment
27 and operation to meet the established standards;

28 (4) Hold hearings upon appeals from orders of the director or from any
29 other actions or determinations of the director hereunder for which provision is
30 made for appeal, and in connection therewith, issue subpoenas requiring the
31 attendance of witnesses and the production of evidence reasonably relating to the
32 hearing;

33 (5) Enter such order or determination as may be necessary to effectuate
34 the purposes of sections 643.010 to [643.190] **643.265**. In making its orders and
35 determinations hereunder, the commission shall exercise a sound discretion in
36 weighing the equities involved and the advantages and disadvantages to the
37 person involved and to those affected by air contaminants emitted by such person
38 as set out in section 643.030. If any small business, as defined by section
39 643.020, requests information on what would constitute compliance with the
40 requirements of sections 643.010 to [643.190] **643.265** or any order or
41 determination of the department or commission, the department shall respond
42 with written criteria to inform the small business of the actions necessary for
43 compliance. No enforcement action shall be undertaken by the department or
44 commission until the small business has had a period of time, negotiated with the
45 department, to achieve compliance;

46 (6) Cause to be instituted in a court of competent jurisdiction legal
47 proceedings to compel compliance with any final order or determination entered
48 by the commission or the director;

49 (7) Settle or compromise in its discretion, as it may deem advantageous
50 to the state, any suit for recovery of any penalty or for compelling compliance
51 with the provisions of any rule;

52 (8) Develop such facts and make such investigations as are consistent
53 with the purposes of sections 643.010 to [643.190] **643.265**, and, in connection

54 therewith, to enter or authorize any representative of the department to enter at
55 all reasonable times and upon reasonable notice in or upon any private or public
56 property for the purpose of inspecting or investigating any condition which the
57 commission or director shall have probable cause to believe to be an air
58 contaminant source. The results of any such investigation shall be reduced to
59 writing, and a copy thereof shall be furnished to the owner or operator of the
60 property. No person shall refuse entry or access, requested for purposes of
61 inspection under this provision, to an authorized representative of the
62 department who presents appropriate credentials, nor obstruct or hamper the
63 representative in carrying out the inspection. A suitably restricted search
64 warrant, upon a showing of probable cause in writing and upon oath, shall be
65 issued by any judge having jurisdiction to any such representative for the purpose
66 of enabling him to make such inspection;

67 (9) Secure necessary scientific, technical, administrative and operational
68 services, including laboratory facilities, by contract or otherwise, with any
69 educational institution, experiment station, or any board, department, or other
70 agency of any political subdivision or state or the federal government;

71 (10) Classify and identify air contaminants; and

72 (11) Hold public hearings as required by sections 643.010 to [643.190]
73 **643.265**.

74 2. No rule or portion of a rule promulgated under the authority of this
75 chapter shall become effective unless it has been promulgated pursuant to the
76 provisions of section 536.024, RSMo.

77 3. The commission shall have the following duties with respect to the
78 prevention, abatement and control of air pollution:

79 (1) Prepare and develop a general comprehensive plan for the prevention,
80 abatement and control of air pollution;

81 (2) Encourage voluntary cooperation by persons or affected groups to
82 achieve the purposes of sections 643.010 to [643.190] **643.265**;

83 (3) Encourage political subdivisions to handle air pollution problems
84 within their respective jurisdictions to the extent possible and practicable and
85 provide assistance to political subdivisions;

86 (4) Encourage and conduct studies, investigations and research;

87 (5) Collect and disseminate information and conduct education and
88 training programs;

89 (6) Advise, consult and cooperate with other agencies of the state, political

90 subdivisions, industries, other states and the federal government, and with
91 interested persons or groups;

92 (7) Represent the state of Missouri in all matters pertaining to interstate
93 air pollution including the negotiations of interstate compacts or agreements.

94 4. Nothing contained in sections 643.010 to [643.190] **643.265** shall be
95 deemed to grant to the commission or department any jurisdiction or authority
96 with respect to air pollution existing solely within commercial and industrial
97 plants, works, or shops or to affect any aspect of employer-employee relationships
98 as to health and safety hazards.

99 5. Any information relating to secret processes or methods of manufacture
100 or production discovered through any communication required under this section
101 shall be kept confidential.

643.060. In addition to any other powers vested by law, the director shall
2 have the following powers and duties:

3 (1) Retain, employ, provide for, and compensate, within appropriations
4 available therefor, such consultants, assistants, deputies, clerks, and other
5 employees on a full- or part-time basis as may be necessary to carry out the
6 provisions of sections 643.010 to [643.190] **643.265** and prescribe the times at
7 which they shall be appointed and their powers and duties;

8 (2) Accept, receive and administer grants or other funds or gifts from
9 public and private agencies including the federal government for the purpose of
10 carrying out any of the functions of sections 643.010 to [643.190] **643.265**. The
11 director shall apply for all available grants and funds authorized and distributed
12 pursuant to Title XI of the federal Clean Air Act, as amended, 29 U.S.C. 1662e,
13 for training, assistance and payments to eligible individuals. The director shall
14 report annually to the governor and the general assembly, the amount of revenue
15 received under Title XI of the Clean Air Act and the distribution of such funds
16 to eligible persons. Funds received by the director pursuant to this section shall
17 be deposited with the state treasurer and held and disbursed by him in
18 accordance with the appropriations of the general assembly. The director is
19 authorized to enter into contracts as he may deem necessary for carrying out the
20 provisions of sections 643.010 to [643.190] **643.265**;

21 (3) Budget and receive duly appropriated moneys for expenditures to carry
22 out the provisions and purposes of sections 643.010 to [643.190] **643.265**;

23 (4) Administer and enforce sections 643.010 to [643.190] **643.265**,
24 investigate complaints, issue orders and take all actions necessary to implement

25 sections 643.010 to [643.190] **643.265**;

26 (5) Receive and act upon reports, plans, specifications and applications
27 submitted under rules promulgated by the commission. Any person aggrieved by
28 any action of the director under this provision shall be entitled to a hearing
29 before the commission as provided in section 643.080. The commission may
30 sustain, reverse, or modify any action of the director taken under this provision,
31 or make such other order as the commission shall deem appropriate under the
32 circumstances.

643.080. 1. The director shall investigate alleged violations of sections
2 643.010 to [643.190] **643.265** or any rule promulgated hereunder or any term or
3 condition of any permit and may cause to be made such other investigations as
4 he shall deem advisable. The department shall assume the costs of investigation
5 of alleged violations. The identity of the person who filed the complaint shall be
6 made available consistent with chapter 610, RSMo, and other provisions, as
7 applicable.

8 2. If, in the opinion of the director, the investigation yields reasonable
9 grounds to believe that a violation of [section 577.200, RSMo,] **sections 643.010**
10 **to 643.265** is occurring or has occurred, he shall refer such information to either
11 or both the attorney general or the county prosecutor of the county where the
12 violations are alleged to have occurred.

13 3. If, in the opinion of the director, the investigation discloses that a
14 violation does exist which would not be a criminal violation, he may by
15 conference, conciliation and persuasion endeavor to eliminate the violation.

16 4. In case of the failure by conference, conciliation and persuasion to
17 correct or remedy any violation, the director may order abatement, suspend or
18 revoke a permit, whichever action or actions the director deems appropriate. The
19 director shall cause to have issued and served upon the person a written notice
20 of such order together with a copy of the order, which shall specify the provisions
21 of sections 643.010 to [643.190] **643.265** or the rule or the condition of the permit
22 of which the person is alleged to be in violation, and a statement of the manner
23 in, and the extent to which the person is alleged to be in violation. Service may
24 be made upon any person within or without the state by registered mail, return
25 receipt requested. Any person against whom the director issues an order may
26 appeal the order to the commission within thirty days, and the appeal shall stay
27 the enforcement of such order until final determination by the commission. The
28 commission shall set a hearing on a day not less than thirty days after the date

29 of the request. The commission may sustain, reverse, or modify the director's
30 order, or make such other order as the commission deems appropriate under the
31 circumstances. If any order issued by the director is not appealed within the time
32 herein provided, the order becomes final and may be enforced as provided in
33 section 643.151.

34 5. When the commission schedules a matter for hearing, the petitioner on
35 appeal may appear at the hearing in person or by counsel, and may make oral
36 argument, offer testimony and evidence or cross-examine witnesses.

37 6. After due consideration of the record, or upon default in appearance of
38 the petitioner on the return day specified in the notice given as provided in
39 subsection 4 of this section, the commission shall issue and enter the final order,
40 or make such final determination as it shall deem appropriate under the
41 circumstances, and it shall immediately notify the petitioner or respondent
42 thereof in writing by certified or registered mail.

43 7. Any final order or determination or other final action by the
44 commission shall be approved in writing by at least four members of the
45 commission.

643.225. 1. The provisions of sections 643.225 to 643.250 shall apply to
2 all asbestos abatement projects. The commission shall promulgate rules and
3 regulations it deems necessary to implement and administer the provisions of
4 sections 643.225 to 643.250, including requirements, procedures and standards
5 relating to asbestos projects, as well as the authority to require corrective
6 measures to be taken in asbestos abatement projects as are deemed necessary to
7 protect public health and the environment. The director shall establish any
8 examinations for certification required by this section and shall hold such
9 examinations at times and places as determined by the director.

10 2. Except as otherwise provided in sections 643.225 to 643.250, no
11 individual shall engage in an asbestos abatement project, inspection, management
12 plan, abatement project design or asbestos air sampling unless the person has
13 been issued a certificate by the director, or by the commission after appeal, for
14 that purpose.

15 3. In any application made to the director to obtain such certification as
16 an inspector, management planner, abatement project designer, supervisor,
17 contractor or worker from the department, the applicant shall include his diploma
18 providing proof of successful completion of either a state accredited or United
19 States Environmental Protection Agency (EPA) accredited training course as

20 described in section 643.228. In addition, an applicant for certification as a
21 management planner shall first be certified as an inspector. All applicants for
22 certification as an inspector, management planner, abatement project designer,
23 supervisor, contractor or worker shall successfully pass a state examination on
24 Missouri state asbestos statutes and rules relating to asbestos. Certification
25 issued hereunder shall expire one year from its effective date. Individuals
26 applying for state certification as an asbestos air sampling professional shall have
27 the following credentials:

28 (1) A bachelor of science degree in industrial hygiene plus one year of
29 experience in the field; or

30 (2) A master of science degree in industrial hygiene; or

31 (3) Certification as an industrial hygienist as designated by the American
32 Board of Industrial Hygiene; or

33 (4) Three years of practical experience in the field of industrial hygiene,
34 including significant asbestos air monitoring experience and the completion of a
35 forty-hour asbestos course which includes air monitoring instruction (National
36 Institute of Occupational Safety and Health 582 course on air sampling or
37 equivalent). In addition to these qualifications, the individual must also pass the
38 state of Missouri asbestos examination. All asbestos air sampling technicians
39 shall be trained and overseen by an asbestos air sampling professional and shall
40 meet the requirements of training found in OSHA's 29 CFR [1926.58]
41 **1926.1101**. Certification under this section as an [AHERA asbestos] abatement
42 project designer does not qualify an individual as an architect, engineer or land
43 surveyor, as defined in chapter 327, RSMo.

44 4. An application fee of seventy-five dollars shall be assessed for each
45 category, except asbestos abatement worker, to cover administrative costs
46 incurred. An application fee of twenty-five dollars shall be assessed for each
47 asbestos abatement worker to cover administrative costs incurred. A fee of
48 twenty-five dollars shall be assessed per state examination.

49 5. In order to qualify for renewal of a certificate, an individual shall have
50 successfully completed an annual refresher course from [an Environmental
51 Protection Agency or] a state of Missouri accredited training program. For each
52 discipline, the refresher course shall review and discuss current federal and state
53 statute and rule developments, state-of-the-art procedures and key aspects of the
54 initial training course, as determined by the state of Missouri. For all categories
55 except inspectors, individuals shall complete a one-day annual refresher training

56 course for recertification. Refresher courses for inspectors shall be at least a
57 half-day in length. Management planners shall attend the inspector refresher
58 course, plus an additional half-day on management planning. All refresher
59 courses shall require an individual to successfully pass an examination upon
60 completion of the course. In the case of significant changes in Missouri state
61 asbestos statutes or rules, an individual shall also be required to take and
62 successfully pass an updated Missouri state asbestos examination. An individual
63 who has failed the Missouri state asbestos examination may retake it on the next
64 scheduled examination date. If [his certification has lapsed for more than
65 twenty-four months, he] **an individual has not successfully completed the**
66 **annual refresher course within twelve months of the expiration of his**
67 **or her certification, the individual** shall be required to retake the course in
68 his specialty area described in this section. Failure to comply with the
69 requirements for renewal of certification in this section will result in
70 decertification. In no event shall certification or recertification constitute
71 permission to violate sections 643.225 to 643.250 or any standard or rule
72 promulgated under sections 643.225 to 643.250.

73 6. A fee of five dollars shall be paid to the state for renewal of certificates
74 to cover administrative costs.

75 [7. The provisions of subsections 2 through 6 of this section, section
76 643.228, subdivision (4) of subsection 1 of section 643.230, sections 643.232 and
77 643.235, subdivisions (1) to (3) of subsection 1 of section 643.237, and subsection
78 2 of section 643.237 shall not apply to a person that is subject to requirements
79 and applicable standards of the United States Environmental Protection Agency
80 (EPA) and the United States Occupational Safety and Health Administration's
81 (OSHA) 29 Code of Federal Regulations 1926.58 and which engages in asbestos
82 abatement projects as part of normal operations in the facility solely at its own
83 place or places of business. A person shall receive an exemption upon submitting
84 to the director, on a form provided by the department, documentation of the
85 training provided to their employees to meet the requirements of applicable
86 OSHA and EPA rules and regulations and the type of asbestos abatement projects
87 which constitute normal operations performed by the applicant. If the application
88 does not meet the requirements of this subsection and the rules and regulations
89 promulgated by the department, the applicant shall be notified, within one
90 hundred eighty days of the receipt of the application, that his exemption has been
91 revoked. An applicant may appeal the revocation of an exemption to the

92 commission within thirty days of the notice of revocation. This exemption shall
93 not apply to asbestos abatement contractors, to those persons who the commission
94 by rule determines provide a service to the public in its place or places of
95 business as the economic foundation of the facility, or to those persons subject to
96 the requirements of the federal Asbestos Hazard Emergency Response Act of 1986
97 (P.L. 99-519). A representative of the department shall be permitted to attend,
98 monitor and evaluate any training program provided by the exempted
99 person. Such evaluations may be conducted without prior notice. Refusal to
100 allow such an evaluation is sufficient grounds for loss of exemption status.

101 8. A fee of two hundred fifty dollars shall be submitted with the
102 application for exemption. This is a one-time fee. Exempted persons shall submit
103 to the director changes in curricula or other significant revisions to the training
104 program as they occur.]

643.232. 1. All asbestos abatement contractors prior to engaging in
2 asbestos abatement projects shall:

3 (1) Register with the department and reregister annually as provided by
4 rule;

5 (2) Submit an application for registration on a form developed by the
6 department;

7 (3) Use only those individuals that have been certified or trained in
8 accordance with sections 643.225 to 643.250.

9 2. During asbestos abatement projects, all contractors shall:

10 (1) Comply with applicable United States Environmental Protection
11 Agency regulations and guidelines, the standards for worker protection
12 promulgated by the United States Occupational Safety and Health Administration
13 in 29 CFR 1910.1001, 1910.1200 and [1926.58] **1926.1101**, the provisions of
14 sections 643.225 to 643.250 and the rules and regulations promulgated
15 thereunder. It is not intended that the director shall enforce OSHA requirements
16 but shall have the authority to deny, revoke, or suspend registration on the basis
17 of finding of violation by OSHA;

18 (2) Ensure that a competent person be on the asbestos abatement project
19 site directing all aspects of the project during the hours that the project is being
20 conducted.

21 3. A registration fee of one thousand dollars shall be paid by the person
22 to the state prior to registration.

643.237. 1. Any person undertaking an asbestos abatement project of a

2 magnitude greater than or equal to one hundred sixty square feet [or], two
3 hundred sixty linear feet, **or thirty-five cubic feet** shall meet the following
4 requirements:

5 (1) The person shall submit an application for asbestos abatement to the
6 department for review at least [twenty] **ten working** days in advance. The
7 application shall be in the form required by the department **and shall include**
8 **a copy of an asbestos inspection survey, including sample analysis**
9 **results, for the structure that was completed by a certified asbestos**
10 **inspector**. Such application shall include the name and address of the
11 applicant, a description of the proposed project and any other information as may
12 be required by the commission and provide proof to the department that all
13 employees engaged in an asbestos abatement project are in compliance with
14 sections 643.225 and 643.228;

15 (2) Persons undertaking an asbestos abatement project shall notify the
16 department within sixty days of the completion of the project in the form required
17 by the department;

18 (3) Persons undertaking an emergency asbestos abatement project of this
19 magnitude shall submit a notification to the department within twenty-four hours
20 of the onset of the emergency. An application for permit to abate shall be
21 submitted to the department within seven days of the onset of the emergency;

22 (4) A fee of one hundred dollars shall be paid for review of each asbestos
23 abatement project notification of this magnitude;

24 (5) Any person undertaking an asbestos abatement project in the
25 jurisdiction of an authorized local air pollution control agency shall be exempt
26 from an application fee if the authorized local agency also imposes an application
27 fee.

28 2. [Any person undertaking an asbestos abatement project of a magnitude
29 less than one hundred sixty square feet or two hundred sixty linear feet, but
30 greater than ten square feet or sixteen linear feet shall meet the following
31 requirements:

32 (1) The person shall submit notification to the department for review at
33 least twenty days in advance. The notification shall be in the form required by
34 the department. Such notification shall include the name and address of the
35 applicant, a description of the proposed project and any other information as may
36 be required by the department and provide proof to the department that all
37 employees engaged in an asbestos abatement project are in compliance with

38 sections 643.225 and 643.228. In addition, the person shall post for inspection,
39 at the site, current certificates of all individuals engaged in the asbestos
40 abatement project as well as proof of the person's current registration;

41 (2) Persons undertaking an asbestos abatement project shall notify the
42 department within sixty days of the completion of the project in the form required
43 by the department;

44 (3) Persons undertaking an emergency asbestos abatement project of this
45 magnitude shall submit notification to the department within twenty-four hours
46 of the onset of the emergency.

47 3.] Any person who submits an asbestos abatement project notification to
48 the department shall submit actual project dates and times for his project. If the
49 dates and times are revised on this project as submitted to the department, the
50 person is responsible to notify the department at least twenty-four hours prior to
51 the original starting date of the project by telephone and then followup with a
52 written amendment stating the change in date and time. If the person does not
53 comply with this procedure, he shall be held in violation of the notification
54 requirements found in this section. This requirement does not change the
55 reporting requirements for notification, post notification and emergency projects
56 specified in this section.

643.240. 1. Before commencement of an asbestos abatement project,
2 persons shall make all reasonable efforts to minimize the spread of friable
3 asbestos-containing materials to uncontaminated areas.

4 2. Any asbestos-containing material that will be rendered friable during
5 the process of removal, encapsulation, enclosure or demolition is subject to all
6 applicable federal and state regulations.

7 3. Analysis of asbestos air samples shall be conducted according to the
8 United States Occupational Safety and Health Administration's (OSHA)
9 standards in 29 CFR [1926.58] **1926.1101** or the United States
10 **Environmental Protection Agency standards in 40 CFR Part 763,**
11 **Subpart E.**

643.242. 1. Asbestos abatement projects of a magnitude greater than or
2 equal to [ten] **one hundred sixty** square feet or [sixteen] **two hundred sixty**
3 linear feet **or thirty-five cubic feet** are subject to inspection.

4 2. The commission shall be authorized to assess a fee of not more than one
5 hundred dollars for each on-site inspection of **an** asbestos abatement [projects]
6 **project**. Such fees would not be assessed for more than three on-site inspections

7 during the period an actual **asbestos** abatement project is in progress. Failure
8 of the asbestos abatement contractor to notify the department of project
9 postponement may result in the assessment of an inspection fee in the event of
10 an on-site visit by the department.

11 3. Any person undertaking an asbestos abatement project in the
12 jurisdiction of an authorized local air pollution control agency shall be exempt
13 from an inspection fee if the authorized local agency also imposes an inspection
14 fee.

643.245. 1. All moneys received pursuant to sections 643.225 to [643.250]
2 **643.245** and any other moneys so designated shall be placed in the state treasury
3 and credited to the "Natural Resources Protection Fund--Air Pollution Asbestos
4 Fee Subaccount", which is hereby created. Such moneys received pursuant to
5 sections 643.225 to [643.250] **643.245** shall, subject to appropriation, be used
6 solely for the purpose of administering this chapter. Any unexpended balance in
7 such fund at the end of any appropriation period shall not be transferred to the
8 general revenue fund of the state treasury and shall be exempt from the
9 provisions of section 33.080, RSMo.

10 2. The state treasurer, with the approval of the board of fund
11 commissioners, is authorized to deposit all of the moneys in any of the qualified
12 state depositories. All such deposits shall be secured in such manner and shall
13 be made upon such terms and conditions as are now and may hereafter be
14 approved by law relative to state deposits. Any interest received on such deposits
15 shall be credited to the natural resources protection fund--air pollution asbestos
16 fee subaccount.

643.250. 1. Any authorized representative of the department may enter
2 at all reasonable times, in or upon public or private property for purposes
3 required under sections 643.225 to 643.250. **In addition to any other remedy**
4 **provided by law**, refusal to allow such entry shall be grounds for revocation of
5 registration or injunctive relief.

6 2. Any person who knowingly violates sections 643.225 to 643.250, or any
7 rule promulgated thereunder, shall, upon conviction, be punished by a fine of not
8 less than twenty-five hundred dollars nor more than twenty-five thousand dollars
9 per day of violation, or by imprisonment for not more than one year, or
10 both. Second and successive convictions of any person shall be punished by a fine
11 of not more than fifty thousand dollars per day of violation, or by imprisonment
12 for not more than two years, or both.

13 3. Any person who violates any provision of sections 643.225 to 643.250
14 may, in addition to any other penalty provided by law, incur a civil penalty in an
15 amount not to exceed ten thousand dollars for each day of violation. The civil
16 penalty shall be in an amount to constitute an actual and substantial economic
17 deterrent to the violation for which the civil penalty is assessed. [Any civil
18 penalty paid shall be placed in the natural resources protection fund--air
19 pollution asbestos fee subaccount.]

20 4. Notwithstanding the existence or pursuit of any other remedy provided
21 by sections 643.225 to 643.250, the commission may maintain, in the manner
22 provided by chapter 536, RSMo, an action in the name of the state of Missouri for
23 injunction or other process against any person to restrain or prevent any violation
24 of the provisions of sections 643.225 to 643.250.

 [643.253. As used in sections 643.253 and 643.255, the
2 following terms mean:

3 (1) "Asbestos", the asbestiform varieties of chrysotile,
4 crocidolite, amosite, anthophyllite, tremolite and actinolite;

5 (2) "Asbestos abatement projects", an activity undertaken
6 to encapsulate, enclose or remove ten square feet or sixteen linear
7 feet or more of friable asbestos-containing materials from buildings
8 and other air contaminant sources, or to demolish buildings and
9 other air contaminant sources containing ten square feet or sixteen
10 linear feet or more;

11 (3) "Friable asbestos-containing material", any material
12 that contains more than one percent asbestos, by weight, which is
13 applied to ceilings, walls, structural members, piping, ductwork or
14 any other part of a building or other air contaminant sources and
15 which, when dry, may be crumbled, pulverized or reduced to
16 powder by hand pressure.]

 [643.260. As used in sections 643.260 to 643.265, the
2 following terms mean:

3 (1) "Asbestos", the asbestiform varieties of chrysotile,
4 crocidolite, amosite, anthophyllite, tremolite and actinolite;

5 (2) "Asbestos-containing material", any material which
6 contains more than one percent of asbestos by weight;

7 (3) "Friable asbestos-containing material", any material
8 that contains more than one percent asbestos, by weight, which is

9 applied to ceilings, walls, structural members, piping, ductwork or
10 any other part of a building or other air contaminant sources and
11 which, when dry, may be crumbled, pulverized or reduced to
12 powder by hand pressure;

13 (4) "Person", any individual, partnership, copartnership,
14 firm, company, or public or private corporation, association, joint
15 stock company, trust, the state, political subdivision, or any agency,
16 board, department or bureau of the state or federal government, or
17 any other legal entity whatever which is recognized by law as the
18 subject of rights and duties;

19 (5) "School district", seven-director districts, urban school
20 districts and metropolitan school districts, as defined in section
21 160.011, RSMo.]

[701.332. For purposes of sections 643.225 to 643.250,
2 RSMo, the term "project" shall exclude any single-family
3 owner-occupied dwellings and vacant public or privately owned
4 residential structures of four dwelling units or less being
5 demolished for the sole purpose of public health, safety or
6 welfare. All vacant structures of four dwelling units or less located
7 in any city not within a county shall be exempt from all
8 geographical and time restrictions for the purpose of demolition
9 pursuant to the National Emissions Standards for
10 Asbestos. Excluded structures that are not located within a city
11 not within a county shall be geographically dispersed. All excluded
12 structures shall be demolished pursuant to a public safety
13 determination by a local or state governmental agency and pose a
14 threat to public safety.]

✓