

1 **SENATE FLOOR VERSION**

2 February 17, 2016

3 **AS AMENDED**

4 COMMITTEE SUBSTITUTE
5 FOR

6 SENATE BILL NO. 1198

7 By: Justice

8 [occupational safety - certain fund - Commissioner of
9 Labor - Department of Labor Administrative Penalty
10 Revolving Fund - fees - codification - effective date]

11
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 40 O.S. 2011, Section 141.19, as
14 amended by Section 135, Chapter 304, O.S.L. 2012 (40 O.S. Supp.
15 2015, Section 141.19), is amended to read as follows:

16 Section 141.19. There is hereby created in the State Treasury a
17 revolving fund for the Department of Labor to be designated the
18 "Department of Labor Revolving Fund". The fund shall be a
19 continuing fund, not subject to fiscal year limitations, and shall
20 consist of all monies designated for deposit in such fund. All
21 monies accruing to the credit of the fund are hereby appropriated
22 and may be budgeted and expended ~~as directed by the Legislature by~~
23 the Department of Labor for operations and expenses relating to its
24 statutory duties and responsibilities. Expenditures from the fund

1 shall be made upon warrants issued by the State Treasurer against
2 claims filed as prescribed by law with the Director of the Office of
3 Management and Enterprise Services for approval and payment.

4 SECTION 2. AMENDATORY 40 O.S. 2011, Section 412, is
5 amended to read as follows:

6 Section 412. A. Any person failing to comply with any standard
7 or interfering with, impeding or obstructing in any manner the
8 administration of standards pursuant to the provisions of the
9 Oklahoma Occupational Health and Safety Standards Act, upon
10 conviction, shall be guilty of a misdemeanor.

11 B. Any person who violates any of the provisions of the
12 Oklahoma Occupational Health and Safety Standards Act, upon
13 conviction, shall be guilty of a misdemeanor and in addition thereto
14 may be enjoined from continuing such violation. Each day upon which
15 such violation occurs shall constitute a separate violation.

16 C. The Attorney General, on the request of the Commissioner,
17 shall bring an action against any person violating any of the
18 provisions of the Oklahoma Occupational Health and Safety Standards
19 Act or violating any order or determination of the Commissioner
20 promulgated pursuant to the Oklahoma Occupational Health and Safety
21 Standards Act.

22 D. The Commissioner of Labor may promulgate rules establishing
23 a schedule of administrative penalties and fines for violations of
24 the Oklahoma Occupational Health and Safety Standards Act which may

1 be in addition to or in lieu of the criminal penalties provided in
2 this section. The promulgation of an administrative fine schedule
3 shall grant the Commissioner authority to impose those
4 administrative fines for any violation of the Oklahoma Occupational
5 Health and Safety Standards Act. Funds collected as payment from a
6 violation for administrative fines imposed for a violation of the
7 Oklahoma Occupational Health and Safety Standards Act shall be
8 deposited to the Department of Labor Administrative Penalty
9 Revolving Fund created in Section 3 of this act.

10 SECTION 3. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 405.1 of Title 40, unless there
12 is created a duplication in numbering, reads as follows:

13 There is hereby created in the State Treasury a revolving fund
14 for the Department of Labor to be designated the "Department of
15 Labor Administrative Penalty Revolving Fund". The fund shall be a
16 continuing fund, not subject to fiscal year limitations, and shall
17 consist of all administrative fines collected by the Department for
18 violations of the Oklahoma Occupational Health and Safety Standards
19 Act and the Oklahoma Asbestos Control Act, and any rules promulgated
20 thereto. All monies accruing to the credit of the fund are hereby
21 directed to be transferred by the Commissioner of Labor to the State
22 Treasurer for deposit and credit to the General Revenue Fund at the
23 end of each fiscal year.

24

1 SECTION 4. AMENDATORY 40 O.S. 2011, Section 451, is
2 amended to read as follows:

3 Section 451. As used in the Oklahoma Asbestos Control Act:

4 1. "Friable asbestos material" means any material that contains
5 asbestos of more than one percent (1%) or more that can be crumbled,
6 pulverized or reduced to powder by hand pressure;

7 2. "Friable asbestos material abatement" means the removal,
8 encapsulation or enclosure of friable asbestos containing material;

9 3. "Friable asbestos material encapsulation" means the
10 application of a bonding agent called a sealant, which penetrates
11 and hardens the asbestos material or covers the surface of the
12 material with a protective coating, thus preventing fiber release
13 from the asbestos material;

14 4. "Friable asbestos material removal" means the actual
15 physical removal of any friable asbestos containing material from a
16 facility, when the asbestos is either attached to or detached from
17 any device or structure;

18 5. "Contractor" means any public or private entity that engages
19 in friable asbestos containing material abatement in any facility in
20 this state except private residences or apartment houses of less
21 than six family units;

22 6. "Commissioner" means the Commissioner of Labor.

23 SECTION 5. AMENDATORY 40 O.S. 2011, Section 452, is
24 amended to read as follows:

1 Section 452. A. No contractor shall abate any friable material
2 containing asbestos without having first obtained a license to do so
3 from the Commissioner of Labor. The Commissioner shall issue an
4 asbestos abatement license to a qualified contractor upon proper
5 application, as determined by the Commissioner. The Commissioner of
6 Labor may promulgate rules establishing a schedule of administrative
7 fees for the application, licensing, examination, certification of
8 asbestos abatement contractors and workers employed by a contractor
9 for asbestos abatement, as well as a fee to be paid by contractors
10 to the Department of Labor for each separate containment area,
11 glovebag, or miniature containment area of any asbestos abatement
12 project. The fees stated in this section on the effective date of
13 this act shall remain in effect until such rules become effective,
14 at which time the fees stated in this section shall be superseded by
15 rule. The annual fee for such license shall be Five Hundred Dollars
16 (\$500.00). The fee shall be deposited into the Department of Labor
17 Revolving Fund. A nonrefundable initial application fee of One
18 Thousand Dollars (\$1,000.00) shall be charged and deposited into the
19 Department of Labor Revolving Fund. The Commissioner may deny a
20 license to applicants whose past abatement performance for abatement
21 of friable asbestos does not comply with federal and other states'
22 requirements. A minimum waiting period ~~of one hundred twenty (120)~~
23 ~~days~~ shall be established at the discretion of the Commissioner of
24 Labor and will be required before issuance of a license to permit

1 the Commissioner to perform a work performance investigation of the
2 applicant.

3 The annual fee for examining and certifying workers employed by
4 a contractor for asbestos abatement shall be Twenty-five Dollars
5 (\$25.00). The fee shall be deposited in the Department of Labor
6 Revolving Fund. Uncertified workers shall not be used on any
7 asbestos abatement projects.

8 B. The state and political subdivisions thereof, counties and
9 political subdivisions thereof and municipalities and political
10 subdivisions thereof, and their supervisors and employees, shall not
11 be exempt from any certification fees required by this section when
12 such entities act as a contractor. ~~Any contractor not performing~~
13 ~~abatement work which falls under the jurisdiction of the~~
14 ~~Commissioner during the period of the issued license shall be~~
15 ~~considered a new applicant for purposes of licensing and training.~~

16 C. A fee of Six Hundred Dollars (\$600.00) shall be paid by
17 contractors to the Department of Labor, ~~to be deposited in the~~
18 ~~General Revenue Fund,~~ for each separate containment area of any
19 asbestos abatement project. The fee collected shall be deposited by
20 the Department of Labor into the Department of Labor Revolving Fund.
21 There shall be a minimum number of ~~three~~ inspections of each
22 containment area as deemed necessary by the Commissioner of Labor.
23 For projects which are not a part of a definite containment area, or
24 are performed with multiple glovebags or miniature containments, a

1 fee of Two Hundred Dollars (\$200.00), plus Five Dollars (\$5.00) per
2 such glovebag or miniature containment, shall be ~~made~~ paid to the
3 Department of Labor for deposit into the Department of Labor
4 Revolving Fund.

5 Asbestos abatement projects performed on properties owned by the
6 state or any political subdivision thereof shall not be exempt from
7 this fee.

8 D. Any asbestos abatement contractor transporting asbestos-
9 containing material shall be required to provide to the Commissioner
10 a Certificate of Insurance by a carrier licensed to do business in
11 the State of Oklahoma demonstrating a minimum of One Million Dollars
12 (\$1,000,000.00) of environmental impairment insurance.

13 E. No state agency or political subdivision thereof, county or
14 political subdivision thereof, or municipalities or political
15 subdivisions thereof shall solicit or receive any estimate or bid
16 for abatement of asbestos from any person or party who is not a
17 licensed asbestos abatement contractor.

18 SECTION 6. AMENDATORY 40 O.S. 2011, Section 456, is
19 amended to read as follows:

20 Section 456. A. In addition to any administrative or civil
21 penalty, any person who violates any of the provisions of the
22 Oklahoma Asbestos Control Act or who violates any rule or order
23 promulgated pursuant thereto shall be guilty of a misdemeanor and
24 may be enjoined from continuing such action. Upon conviction

1 thereof, ~~said person~~ the violator shall be punished by imprisonment
2 in the county jail for not more than six (6) months ~~and~~ or by a fine
3 of not less than One Hundred Dollars (\$100.00), or both such fine
4 and imprisonment. Each day's violations shall constitute a separate
5 violation.

6 B. The Attorney General shall, upon request of the
7 Commissioner, bring an action for injunction against any person
8 violating any provision of the Oklahoma Asbestos Control Act or
9 violating any order or determination of the Commissioner. In any
10 action for injunction, any finding of the Commissioner, after
11 notice, shall be prima facie evidence of the facts found therein.

12 C. A district attorney, upon request of the Commissioner, shall
13 prosecute any violation of the Oklahoma Asbestos Control Act.

14 D. The Commissioner of Labor may promulgate rules establishing
15 a schedule of administrative penalties and fines for violations of
16 the Oklahoma Asbestos Control Act which may be in addition to or in
17 lieu of the criminal penalties provided in this section. The
18 promulgation of an administrative fine schedule shall grant the
19 Commissioner authority to impose those administrative fines for any
20 violation of the Oklahoma Asbestos Control Act. Funds collected as
21 payment from a violator for administrative fines imposed for a
22 violation of the Oklahoma Asbestos Control Act shall be deposited to
23 the Department of Labor Administrative Penalty Revolving Fund
24 created in Section 3 of this act.

1 SECTION 7. This act shall become effective November 1, 2016.

2 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
3 February 17, 2016 - DO PASS AS AMENDED
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