

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 545**

BY SENATOR BOSO

[Introduced February 8, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend and reenact §16-32-2 and §16-32-11 of the Code of West Virginia, 1931, as  
2 amended, all relating to asbestos abatement on pipes.

*Be it enacted by the Legislature of West Virginia:*

1 That §16-32-2 and §16-32-11 of the Code of West Virginia, 1931, as amended, be  
2 amended and reenacted, all to read as follows:

**ARTICLE 32. ASBESTOS ABATEMENT.**

**§16-32-2. Definitions.**

1 (a) "Asbestos" means the asbestiform varieties of chrysolite (serpentine), crocidolite  
2 (riebeckite), amosite (cummintonite-grunerite), anthophyllite, tremolite and actinolite.

3 (b) "Asbestos analytical laboratory" means a facility or place which analyzes asbestos bulk  
4 samples or asbestos air samples.

5 (c) "Asbestos abatement project designer" means a person who specifies engineering  
6 controls, methods and work practices to be used during asbestos abatement projects.

7 (d) "Asbestos abatement supervisor" means a person responsible for direction of asbestos  
8 abatement projects.

9 (e) "Asbestos clearance air monitor" means a person who performs air monitoring to  
10 confirm clearance levels to establish that an area is safe for reoccupancy after an asbestos  
11 abatement project.

12 (f) "Asbestos-containing material" means any material or product which contains more  
13 than one percent asbestos by weight.

14 (g) "Asbestos contractor" means a person who enters into contract for an asbestos  
15 abatement project.

16 (h) "Asbestos inspector" means a person employed to inspect for the presence of asbestos  
17 containing materials, evaluate the condition of such materials and collect samples for asbestos  
18 content confirmation.

19 (i) "Asbestos management planner" means a person employed to interpret survey results,

20 make hazard assessment, evaluation and selection of control options or develop an operation  
21 and maintenance plan.

22 (j) "Asbestos abatement project" means an activity involving the repair, removal, enclosure  
23 or encapsulation of asbestos-containing material. "Asbestos abatement project" does not include  
24 removal of wrapped pipe described in subsection (d) of section eleven of this article.

25 (k) "Asbestos worker" means a person who works on an asbestos abatement project.

26 (l) "Contained work area" means designated rooms, spaces or other areas where  
27 asbestos abatement activities are being performed, including decontamination structures. The  
28 contained work area shall be separated from the uncontaminated environment by polyethylene  
29 sheeting or other materials used in conjunction with the existing floors, ceilings and walls of the  
30 structure.

31 (m) "Director" means the ~~director of the division of~~ Commissioner of the Bureau for Public  
32 Health or the director's commissioner's duly authorized representative.

33 (n) "Division" means the ~~division of~~ Bureau for Public Health of the Department of Health  
34 and Human Resources.

35 (o) "Encapsulate" means the application of any material onto any asbestos containing  
36 material to bridge or penetrate the material to prevent fiber release.

37 (p) "Enclosure" means the permanent confinement of friable asbestos containing materials  
38 with an airtight barrier in an area not used or designed as an air plenum.

39 (q) "Friable" means material which is capable of being crumbled, pulverized or reduced to  
40 powder by hand pressure of which under normal use or maintenance emits or can be expected  
41 to emit asbestos fibers into the air.

42 (r) "Good faith report" means a report of conduct defined in this article as wrongdoing or  
43 waste which is made without malice or consideration of personal benefit and which the person  
44 making the report has reasonable cause to believe is true.

45 (s) "License" means a document authorizing a person to perform certain specific asbestos

46 related work activities.

47 (t) "Person" means a corporation, partnership, sole proprietorship, firm, enterprise,  
48 franchise, association or any individual or entity.

49 (u) "Resilient floor covering" means floor tile, sheet vinyl and associated adhesives which  
50 contain more than one percent asbestos by weight.

51 (v) "Resilient floor covering worker" means a person who is employed to remove resilient  
52 floor covering in single-family dwellings.

53 (w) "Waste" means an employer's conduct or omissions which result in substantial abuse,  
54 misuse, destruction or loss of funds or resources belonging to or derived from federal, state or  
55 political subdivision sources.

56 (x) "Wrongdoing" means a violation which is not of a merely technical or minimal nature  
57 of a federal or state statute or regulation, of a political subdivision ordinance or regulation or of a  
58 code of conduct or ethics designed to protect the interest of the public or the employer.

**§16-32-11. Notification; waivers; exemptions.**

1 (a) Each owner or other person responsible for the operation of a building or facility where  
2 an asbestos abatement project is to occur shall notify the division at least ten working days prior  
3 to commencement of each asbestos abatement project and shall comply with other applicable  
4 state and federal legal and regulatory notification requirements for asbestos abatement projects.

5 (b) In an emergency that results from a sudden unexpected event that is not a planned  
6 renovation or demolition, the director may waive the requirement of ten working days prior  
7 notification, but in all cases notification shall be made to the division after the emergency within  
8 the specified time required by the director.

9 (c) Asbestos abatement projects involving less than one hundred sixty square feet or two  
10 hundred sixty linear feet of asbestos containing material are exempt from the prior notification  
11 requirement, unless the project takes place in a school for any of grades kindergarten through  
12 twelve. A summary of such projects shall be submitted to the division within a specified time as

13 required by the director.

14 (d) Removal of pipe that is covered in asbestos containing coal tar enamel or asphaltic  
15 enamel pipe wrap is not subject to the requirements of this article if:

16 (1) The pipe wrap is not friable prior to disturbance in preparation for pipe cutting along  
17 the length of the pipe being removed;

18 (2) The pipe wrap disturbed in preparing the pipe for cutting is removed intact or does not  
19 exceed three linear feet of removed friable asbestos;

20 (3) All asbestos-containing material that is removed from the pipe is removed using wet  
21 methods; and

22 (4) All pipe and asbestos-containing material removed from the pipe is disposed in a lawful  
23 manner.

24 ~~(d)~~ (e) Persons who remove resilient floor covering materials in single-family dwellings are  
25 exempt from notification requirements.

NOTE: The purpose of this bill is to exempt certain wrapped pipe removal from asbestos abatement requirements.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.