

2 **SB 5397** - S AMD - 159

3 By Senators Heavey, Deccio, Hale, Franklin and Pelz

4 ADOPTED 3/14/95

5 Strike everything after the enacting clause and insert the  
6 following:

7 "**Sec. 1.** RCW 49.26.013 and 1989 c 154 s 2 are each amended to read  
8 as follows:

9 (1) Any owner or owner's agent who allows or authorizes any  
10 construction, renovation, remodeling, maintenance, repair, or  
11 demolition project which has a reasonable possibility, as defined by  
12 the department, of disturbing or releasing asbestos into the air, shall  
13 perform or cause to be performed, using practices approved by the  
14 department, a good faith inspection to determine whether the proposed  
15 project will disturb or release any material containing asbestos into  
16 the air.

17 Such inspections shall be conducted by persons meeting the  
18 accreditation requirements of the federal toxics substances control  
19 act, section 206(a) (1) and (3) (15 U.S.C. 2646(a) (1) and (3)).

20 An inspection under this section is not required if the owner or  
21 owner's agent is reasonably certain that asbestos will not be disturbed  
22 or assumes that asbestos will be disturbed by a project which involves  
23 construction, renovation, remodeling, maintenance, repair, or  
24 demolition and takes the maximum precautions as specified by all  
25 applicable federal and state requirements.

26 (2) Except as provided in RCW 49.26.125, the owner or owner's agent  
27 shall prepare and maintain a written report describing each inspection,  
28 or a statement of assumption of the presence or reasonable certainty of  
29 the absence of asbestos, and shall ~~((make))~~ provide a copy of the  
30 written report or statement ~~((available))~~ to all contractors before  
31 they apply or bid on work. In addition, upon written or oral request,  
32 the owner or owner's agent shall make a copy of the written report  
33 available to: (1) The department of labor and industries; (2)  
34 contractors; and (3) the collective bargaining representatives or  
35 employee representatives, if any, of employees who may be exposed to  
36 any asbestos or material containing asbestos. A copy shall be posted

1 as prescribed by the department in a place that is easily accessible  
2 to such employees.

3 **Sec. 2.** RCW 49.26.016 and 1989 c 154 s 3 are each amended to read  
4 as follows:

5 (1) Any owner or owner's agent who allows the start of any  
6 construction, renovation, remodeling, maintenance, repair, or  
7 demolition without first (a) conducting the inspection and preparing  
8 and maintaining the report of the inspection, or preparing and  
9 maintaining a statement of assumption of the presence or reasonable  
10 certainty of the absence of asbestos, as required under RCW 49.26.013;  
11 and (b) preparing and maintaining the additional written description of  
12 the project as required under RCW 49.26.120 shall be subject to a  
13 mandatory fine of not less than two hundred fifty dollars for each  
14 violation. Each day the violation continues shall be considered a  
15 separate violation. In addition, any construction, renovation,  
16 remodeling, maintenance, repair, or demolition which was started  
17 without meeting the requirements of RCW 49.26.013 and 49.26.120 shall  
18 be halted immediately and cannot be resumed before meeting such  
19 requirements.

20 ~~(2) ((It is the responsibility of any contractor registered under~~  
21 ~~chapter 18.27 RCW to request a copy of the written report or statement~~  
22 ~~required under RCW 49.26.013 from the owner or the owner's agent.))~~ No  
23 contractor may commence any construction, renovation, remodeling,  
24 maintenance, repair or demolition project without receiving the copy of  
25 the written report or statement from the owner or the owner's agent.  
26 Any contractor who begins any project without the copy of the written  
27 report or statement shall be subject to a mandatory fine of not less  
28 than two hundred and fifty dollars per day. Each day the violation  
29 continues shall be considered a separate violation.

30 ~~(3) ((Any partnership, firm, corporation or sole proprietorship~~  
31 ~~that begins any construction, renovation, remodeling, maintenance,~~  
32 ~~repair, or demolition without meeting the requirements of RCW 49.26.013~~  
33 ~~and the notification requirement under RCW 49.26.120 shall lose the~~  
34 ~~exemptions provided in RCW 49.26.110 and 49.26.120 for a period of not~~  
35 ~~less than six months.~~

36 ~~(4))~~ The certificate of any asbestos contractor who knowingly  
37 violates any provision of this chapter or any rule adopted under this  
38 chapter shall be revoked for a period of not less than six months.

1       ~~((+5))~~ (4) The penalties imposed in this section are in addition  
2 to any penalties under RCW 49.26.140.

3       **Sec. 3.** RCW 49.26.100 and 1989 c 154 s 4 are each amended to read  
4 as follows:

5       Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

7       ~~((+1))~~ (1) "Asbestos abatement project" means an asbestos project  
8 involving three square feet or three linear feet, or more, of asbestos-  
9 containing material.

10       ~~((+2))~~ (2) "Asbestos project" means the construction, demolition, repair,  
11 maintenance, remodeling, or renovation of any public or private  
12 building or mechanical piping equipment or systems involving the  
13 demolition, removal, encapsulation, salvage, or disposal of material,  
14 or outdoor activity, releasing or likely to release asbestos fibers  
15 into the air.

16       ~~((+3))~~ (3) "Department" means the department of labor and  
17 industries.

18       ~~((+4))~~ (4) "Director" means the director of the department of  
19 labor and industries or the director's designee.

20       ~~((+5))~~ (5) "Person" means any individual, partnership, firm,  
21 association, corporation, sole proprietorship, or the state of  
22 Washington or its political subdivisions.

23       ~~((+6))~~ (6) "Certified asbestos supervisor" means an individual who  
24 is certified by the department to supervise an asbestos project. A  
25 certified asbestos supervisor is not required for projects involving  
26 less than three square feet or three linear feet of asbestos-containing  
27 material.

28       ~~((+7))~~ (7) "Certified asbestos worker" means an individual who is  
29 certified by the department to work on an asbestos project.

30       ~~((+8))~~ (8) "Certified asbestos contractor" means any partnership,  
31 firm, association, corporation or sole proprietorship registered under  
32 chapter 18.27 RCW that submits a bid or contracts to remove or  
33 encapsulate asbestos for another and is certified by the department to  
34 remove or encapsulate asbestos.

35       ~~((+9))~~ (9) "Owner" means the owner of any public or private  
36 building, structure, facility or mechanical system, or the agent of  
37 such owner, but does not include individuals who work on asbestos  
38 projects on their own single-family residences no part of which is used

1 for any commercial purpose.

2 **Sec. 4.** RCW 49.26.110 and 1989 c 154 s 5 are each amended to read  
3 as follows:

4 (1) No employee or other individual is eligible to do work governed  
5 by this chapter unless issued a certificate by the department (~~except,~~  
6 ~~in the case of an asbestos project undertaken by any partnership, firm,~~  
7 ~~corporation or sole proprietorship which has not lost this exemption~~  
8 ~~under RCW 49.26.016(3), and conducted in its own facility and by its~~  
9 ~~own employees. In cases excepted under this section:~~

10 (a) ~~Direct, on-site supervision by a certified asbestos supervisor~~  
11 ~~shall be required for asbestos projects performed at one project~~  
12 ~~location by workers who are not certified.~~

13 (b) ~~If a project is conducted using only certified workers or if a~~  
14 ~~certified worker functions as a foreman or lead person, supervision can~~  
15 ~~be performed in the regular course of a supervisor's duties and need~~  
16 ~~not be direct and on-site.~~

17 (c) ~~The partnership, firm, corporation or sole proprietorship shall~~  
18 ~~submit a written description to the department of the kinds of~~  
19 ~~asbestos projects expected to be undertaken and the procedures to be~~  
20 ~~used in undertaking asbestos projects, which description shall~~  
21 ~~demonstrate competence in performing the work in compliance with the~~  
22 ~~requirements of this chapter, rules adopted under this chapter, and any~~  
23 ~~other requirements of law for the safe demolition, removal,~~  
24 ~~encapsulation, salvage, and disposal of asbestos)).~~

25 (2) To qualify for a certificate:

26 (a) Certified asbestos workers (~~and supervisors~~) must have  
27 successfully completed a four-day training course (~~of at least thirty~~  
28 ~~hours,)).~~ Certified asbestos supervisors must have completed a five-  
29 day training course. Training courses shall be provided or approved by  
30 the department(, on the)); shall cover such topics as the health and  
31 safety aspects of the removal and encapsulation of asbestos, including  
32 but not limited to the federal and state standards regarding protective  
33 clothing, respirator use, disposal, air monitoring, cleaning, and  
34 decontamination(,); and shall meet such additional qualifications as  
35 may be established by the department by rule for the type of  
36 certification sought; and

37 (b) All applicants for certification as asbestos workers or  
38 supervisors must pass an examination in the type of certification

1 sought which shall be provided or approved by the department.

2 These requirements are intended to represent the minimum  
3 requirements for certification and shall not preclude contractors or  
4 employers from providing additional education or training. The  
5 department may require the successful completion of annual refresher  
6 courses provided or approved by the department for continued  
7 certification as an asbestos worker or supervisor.

8 (3) The department shall provide for the reciprocal certification  
9 of any individual trained to engage in asbestos projects in another  
10 state when the prior training is shown to be substantially similar to  
11 the training required by the department. Nothing shall prevent the  
12 department from requiring such individuals to take an examination or  
13 refresher course before certification.

14 (4) The department may deny, suspend, or revoke a certificate, as  
15 provided under RCW 49.26.140, for failure of the holder to comply with  
16 any requirement of this chapter or chapter 49.17 RCW, or any rule  
17 adopted under those chapters, or applicable health and safety standards  
18 and regulations. In addition to any penalty imposed under RCW  
19 49.26.016, the department may suspend or revoke any certificate issued  
20 under this chapter for a period of not less than six months upon the  
21 following grounds:

22 (a) The certificate was obtained through error or fraud; or

23 (b) The holder thereof is judged to be incompetent to carry out the  
24 work for which the certificate was issued.

25 Before any certificate may be denied, suspended, or revoked, the  
26 holder thereof shall be given written notice of the department's  
27 intention to do so, mailed by registered mail, return receipt  
28 requested, to the holder's last known address. The notice shall  
29 enumerate the allegations against such holder, and shall give him or  
30 her the opportunity to request a hearing before the department. At  
31 such hearing, the department and the holder shall have opportunity to  
32 produce witnesses and give testimony.

33 (5) A denial, suspension, or revocation order may be appealed to  
34 the board of industrial insurance appeals within fifteen working days  
35 after the denial, suspension, or revocation order is entered. The  
36 notice of appeal may be filed with the department or the board of  
37 industrial insurance appeals. The board of industrial insurance  
38 appeals shall hold the hearing in accordance with procedures  
39 established in RCW 49.17.140. Any party aggrieved by an order of the

1 board of industrial insurance appeals may obtain superior court review  
2 in the manner provided in RCW 49.17.150.

3 (6) Each person certified under this chapter shall display, upon  
4 the request of an authorized representative of the department, valid  
5 identification issued by the department.

6 **Sec. 5.** RCW 49.26.115 and 1989 c 154 s 6 are each amended to read  
7 as follows:

8 Before working on an asbestos abatement project, a contractor shall  
9 obtain an asbestos contractor's certificate from the department and  
10 shall have in its employ at least one certified asbestos supervisor who  
11 is responsible for supervising all asbestos abatement projects  
12 undertaken by the contractor and for assuring compliance with all state  
13 laws and regulations regarding asbestos. The contractor shall apply  
14 for certification renewal every year. The department shall ensure that  
15 the expiration of the contractor's registration and the expiration of  
16 his or her asbestos contractor's certificate coincide.

17 **Sec. 6.** RCW 49.26.120 and 1989 c 154 s 7 are each amended to read  
18 as follows:

19 (1) No person may assign any employee, contract with, or permit any  
20 individual or person to remove or encapsulate asbestos in any facility  
21 unless performed by a certified asbestos worker and under the direct,  
22 on-site supervision of a certified asbestos supervisor (~~except, in the~~  
23 ~~case of an asbestos project undertaken by any partnership, firm,~~  
24 ~~corporation or sole proprietorship which has not lost this exemption~~  
25 ~~under RCW 49.26.016(3), and conducted in its own facility and by its~~  
26 ~~own employees. In cases excepted under this section:~~

27 (a) ~~Direct, on-site supervision by a certified asbestos supervisor~~  
28 ~~shall be required for asbestos projects performed at one project~~  
29 ~~location by workers who are not certified.~~

30 (b) ~~If a project is conducted using only certified workers or if a~~  
31 ~~certified worker functions as a foreman or lead person, supervision can~~  
32 ~~be performed in the regular course of a supervisor's duties and need~~  
33 ~~not be direct and on-site.~~

34 (c) ~~The partnership, firm, corporation or sole proprietorship shall~~  
35 ~~submit a written description to the department of the kinds of asbestos~~  
36 ~~projects expected to be undertaken and the procedures to be used in~~  
37 ~~undertaking asbestos projects, which description shall demonstrate~~

1 ~~competence in performing the work in compliance with the requirements~~  
2 ~~of this chapter, rules adopted under this chapter, and any other~~  
3 ~~requirements of law for the safe demolition, removal, encapsulation,~~  
4 ~~salvage, and disposal of asbestos)). In cases in which an employer  
5 conducts an asbestos abatement project in its own facility and by its  
6 own employees, supervision can be performed in the regular course of a  
7 certified asbestos supervisor's duties. Asbestos workers must have  
8 access to certified asbestos supervisors throughout the duration of the  
9 project.~~

10 (2) The department shall require persons undertaking asbestos  
11 projects to provide written notice to the department before the  
12 commencement of the project except as provided in RCW 49.26.125. The  
13 notice shall include a written description containing such information  
14 as the department requires by rule. The department may by rule allow  
15 a person to report multiple projects at one site in one report. The  
16 department shall by rule establish the procedure and criteria by which  
17 a person will be considered to have attempted to meet the  
18 prenotification requirement.

19 (3) The department shall consult with the state fire protection  
20 policy board, and may establish any additional policies and procedures  
21 for municipal fire department and fire district personnel who clean up  
22 sites after fires which have rendered it likely that asbestos has been  
23 or will be disturbed or released into the air."

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26 ADOPTED 3/14/95

27 On page 1, line 1 of the title, after "certification;" strike the  
28 remainder of the title and insert "and amending RCW 49.26.013,  
29 49.26.016, 49.26.100, 49.26.110, 49.26.115, and 49.26.120."

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