

Chapter 278

(Senate Bill 649)

AN ACT concerning

Environment – Asbestos Worker Protection

FOR the purpose of adding to the General Assembly's findings related to protecting the safety of asbestos removers; requiring the Department of the Environment to verify certain information before accrediting an individual to engage in an asbestos occupation; authorizing the Department to include the costs of examination administration in setting certain fees; altering the circumstances under which a certain penalty may be composed; increasing the maximum penalty that may be imposed for certain violations; ~~establishing a minimum penalty under a certain circumstance~~; requiring certain penalties and fines to be paid into the Asbestos Worker Protection Fund and providing for the uses of the Fund; establishing the Fund as a special, nonlapsing fund; requiring the Department to administer the Fund; requiring the State Treasurer to hold the Fund and the Comptroller to account for the Fund; specifying the contents of the Fund; providing for the investment of money in and expenditures from the Fund; exempting certain interest earnings from a requirement that certain interest accrue to the General Fund; altering the definition of a certain term; defining a certain term; and generally relating to asbestos worker protection.

BY repealing and reenacting, without amendments,
Article – Environment
Section 6–401(a) and (d)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 6–402, 6–417, and 6–422
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY adding to
Article – Environment
Section 6–425 to be under the new part “Part V. Asbestos Worker Protection Fund”
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement
 Section 6–226(a)(2)
 Annotated Code of Maryland
 (2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Environment

6–401.

(a) In this subtitle the following words have the meanings indicated.

(d) “Business entity” means a partnership, firm, association, corporation, sole proprietorship, or other business concern.

6–402.

The General Assembly finds:

(1) That exposure to asbestos, a known carcinogenic agent, creates a significant hazard to the health of the people of this State;

(2) That projects to remove asbestos expose increasing numbers of asbestos removers to this hazard; [and]

(3) That it is in the public interest to protect asbestos removers from this hazard by requiring adherence to strict safety standards on asbestos removal projects; **AND**

(4) THAT STRICTER PENALTIES AND INDEPENDENT TESTING ARE NEEDED TO SAFEGUARD THE HEALTH OF ASBESTOS REMOVERS IN THE STATE.

6–417.

(a) **(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) “BUSINESS ENTITY” INCLUDES ANY PERSON DESIGNATED TO MANAGE OR SUPERVISE THE REMOVAL OR ENCAPSULATION OF ASBESTOS.

(3) “INDEPENDENT TESTING ORGANIZATION” MEANS AN ENTITY THAT IS NOT IN ANY WAY AFFILIATED WITH A BUSINESS ENTITY THAT EMPLOYS AN INDIVIDUAL TO REMOVE OR ENCAPSULATE ASBESTOS IN THE STATE.

(B) (1) Unless the individual is accredited by the Department, an individual may not engage in an asbestos occupation.

(2) The Department shall accredit an individual **ONLY** upon [submittal of proof to the Department] **VERIFYING** that the individual [has]:

(I) IS AT LEAST 18 YEARS OLD;

(II) HAS EITHER:

[(i)] 1. Successfully completed [and passed] a training program and any required refresher program approved by the Department[;

(ii) Successfully completed and passed a training program and any required refresher program approved by] **OR** the United States Environmental Protection Agency; or

[(iii)] 2. Acquired and maintained current accreditation from an EPA–approved state accreditation plan of another state; **AND**

(III) HAS PASSED AN APPLICABLE ASBESTOS OCCUPATION EXAMINATION PROVIDED AND ADMINISTERED BY THE DEPARTMENT OR BY AN INDEPENDENT TESTING ORGANIZATION ACTING ON BEHALF OF THE DEPARTMENT.

(3) The Department may accept as proof of accreditation a certificate showing successful completion of any approved training program **AND EXAMINATION**, and any required refresher program.

[(b)] (C) (1) The Department shall adopt regulations establishing standards and procedures that are consistent with federal law for the accreditation of asbestos occupations.

(2) The regulations shall include standards for:

(i) Training course approval and review;

(ii) Examinations for accreditation of applicants;

(iii) Annual refresher courses and renewal of accreditation;

(iv) Denial, suspension, and revocation of accreditation; and

(v) Procedures for implementing this accreditation plan.

[(c)] (D) The Department shall set reasonable fees sufficient to cover the Department's direct and indirect costs in **ADMINISTERING THE EXAMINATION**, approving training programs, including the cost of applications, issuance and renewal of training course approvals and reviews, on-site audits, record keeping, and other related activities.

6-422.

(a) (1) A person who ~~willfully~~ violates any provision of this subtitle or any rule or regulation adopted under this subtitle is liable for a civil penalty not exceeding ~~[\$5,000]~~ **\$25,000** to be collected in a civil action.

(2) Each day a violation continues is a separate violation under this subsection.

(3) If the Attorney General concurs, the Secretary may compromise and settle any claim for a civil penalty under this subtitle, ~~BUT IN NO EVENT SHALL THE PENALTY IMPOSED BE LESS THAN \$2,000 PER VIOLATION.~~

(b) A person who knowingly and willfully violates any provision of this subtitle or any rule or regulation adopted under this subtitle is guilty of a misdemeanor and, on conviction, is subject:

(1) For a first offense, to a fine not exceeding \$20,000; or

(2) For a second or subsequent offense, to a fine not exceeding \$25,000, or imprisonment not exceeding 2 years or both.

(C) ANY PENALTIES AND FINES COLLECTED UNDER THIS SUBTITLE SHALL BE PAID INTO THE ASBESTOS WORKER PROTECTION FUND, ESTABLISHED UNDER § 6-425 OF THIS SUBTITLE, AND USED ONLY FOR ASBESTOS WORKER PROTECTION AND ENFORCEMENT ACTIVITIES UNDER THIS SUBTITLE.

6-423. RESERVED.

6-424. RESERVED.

PART V. ASBESTOS WORKER PROTECTION FUND.

6-425.

(A) IN THIS SECTION, "FUND" MEANS THE ASBESTOS WORKER PROTECTION FUND.

(B) THERE IS AN ASBESTOS WORKER PROTECTION FUND.

(C) THE DEPARTMENT SHALL ADMINISTER THE FUND.

(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(E) THE FUND CONSISTS OF:

(1) ALL PENALTIES AND FINES COLLECTED UNDER § 6-422 OF THIS SUBTITLE;

(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(3) INVESTMENT EARNINGS OF THE FUND; AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(F) IN ACCORDANCE WITH THE STATE BUDGET, THE FUND SHALL BE USED ONLY FOR ASBESTOS WORKER PROTECTION AND ENFORCEMENT ACTIVITIES UNDER THIS SUBTITLE.

(G) (1) THE STATE TREASURER SHALL INVEST THE MONEY IN THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(H) MONEY EXPENDED FROM THE FUND FOR ENFORCEMENT ACTIVITIES IS SUPPLEMENTAL TO, AND IS NOT INTENDED TO TAKE THE PLACE OF, FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR ASBESTOS WORKER PROTECTION AND ENFORCEMENT ACTIVITIES.

Article – State Finance and Procurement

6-226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with

the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

1. Maryland Housing Loan Funds of 1976, 1978, 1979, and 1984;
2. Microsoft Cost Share Fund;
3. Subsequent Injury Fund;
4. Uninsured Employers' Fund;
5. State Agency Loan Program Fund;
6. Jane E. Lawton Conservation Loan Program;
7. Energy Overcharge Restitution Fund;
8. PEPCO/Connectiv Settlement Fund;
9. Baseball Capital Improvements Fund;
10. State Victims of Crime Fund;
11. Juvenile Accountability Incentive Block Grant Fund;
12. Victim and Witness Protection and Relocation Fund;
13. Unclaimed Restitution – Victims of Crime;
14. Justice Assistance Grant;
15. Byrne Justice Assistance Grant;
16. Maryland Election Modernization Fund;
17. Scriven Estate Fund;
18. Volunteer Company Assistance Fund;
19. Radoff Memorial Fund;

- Fund;
20. Archives Endowment Account within the Archives
 21. Ellefson Endowment Fund;
 22. Albert C. Ritchie Memorial Fund;
 23. Rate Stabilization Fund;
 24. Maryland Health Insurance Plan Fund;
 25. Fair Campaign Financing Fund;
- Benefits Fund;
26. State Employees and Retirees Health and Welfare
- Fund;
27. Major Information Technology Development Project
 28. State Retirement Agency Funds;
 29. Postretirement Health Benefits Trust Fund;
- Fund;
30. Maryland Emergency Medical System Operations
 31. State Wildlife Management and Protection Fund;
 32. Fisheries Management and Protection Fund;
 33. Ocean Beach Replenishment Fund;
 34. Community Services Trust Fund;
 35. Waiting List Equity Fund;
 36. Health Care Coverage Fund;
 37. Health Services Cost Review Commission Fund;
 38. Hospital Uncompensated Care Fund;
 39. funds in the accounts of Morgan State University;

- Maryland;
- Maryland;
- Community College;
- and Economic Development;
40. funds in the accounts of St. Mary's College of
 41. funds in the accounts of the University System of
 42. Maryland Prepaid College Trust Fund;
 43. Nurse Support Program Assistance Fund;
 44. funds in the accounts of the Baltimore City
 45. Education Trust Fund;
 46. Section 8 construction and administration funds administered by the Department of Housing and Community Development;
 47. MacArthur Grant Fund;
 48. all special funds within the Department of Business
 49. Maryland Water Quality Revolving Loan Fund;
 50. Maryland Drinking Water Revolving Loan Fund;
 51. Bay Restoration Fund;
 52. Migratory Game Bird Fund;
 53. Deer Stamp Fund;
 54. Wildlife Habitat Incentive Fund;
 55. Fisheries Research and Development Fund;
 56. Strategic Energy Investment Fund;
 57. Criminal Injuries Compensation Fund;
 58. 50% of the interest from the 9-1-1 Trust Fund;
 59. all accounts within the State Reserve Fund;
 60. local revenue accounts collected by the Judiciary;

61. Assistive Technology Loan Fund;
62. Veterans Trust Fund; [and]
63. Transportation Trust Fund; AND
- 64. ASBESTOS WORKER PROTECTION FUND.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.