

SECOND REGULAR SESSION

HOUSE BILL NO. 2355

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HUMMEL (Sponsor), WEBBER, CARTER, FRAME,
COLONA AND LeBLANC (Co-sponsors).

5158L.01I

D. ADAM CRUMBLISS, Chief Clerk

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643.080, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, 643.250, 643.253, 643.260, and 701.332, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 643.020, 643.040, 643.050, 643.060, 643.080, 643.225, 643.232, 643.237, 643.240,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 the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 12 (6) "Air pollution", the presence in the ambient air of one or more air contaminants in
13 quantities, of characteristics and of a duration which directly and proximately cause or contribute
14 to injury to human, plant, or animal life or health or to property or which unreasonably interferes
15 with the enjoyment of life or use of property;
- 16 (7) "Ambient air", all space outside of buildings, stacks, or exterior ducts;
- 17 (8) "Area of the state", any geographical area designated by the commission;
- 18 (9) "Asbestos", the asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite,
19 tremolite and actinolite;
- 20 (10) "Asbestos abatement", the encapsulation, enclosure or removal of asbestos
21 containing materials in or from a building or air contaminant source, or preparation of friable
22 asbestos containing material prior to demolition;
- 23 (11) "Asbestos abatement contractor", any person who by agreement, contractual or
24 otherwise, conducts asbestos abatement projects at a location other than his own place of
25 business;
- 26 (12) "Asbestos abatement projects", an activity undertaken to encapsulate, enclose or
27 remove [ten] **one hundred sixty** square feet [or sixteen] , **two hundred sixty** linear feet, or
28 **thirty-five cubic feet** or more of [friable] **regulated** asbestos containing materials from
29 buildings and other air contaminant sources, or to demolish buildings and other air contaminant
30 sources containing [ten] **one hundred sixty** square feet [or sixteen] , **two hundred sixty** linear
31 feet, or **thirty-five cubic feet** or more of **regulated asbestos containing materials**;
- 32 (13) "Asbestos abatement supervisor", an individual who directs, controls, or supervises
33 others in asbestos abatement projects;
- 34 (14) "Asbestos abatement worker", an individual who engages in asbestos abatement
35 projects;
- 36 (15) "Asbestos air sampling professional", an individual who by qualifications and
37 experience is proficient in asbestos abatement air monitoring. The individual shall conduct,
38 oversee or be responsible for air monitoring of asbestos abatement projects before, during and
39 after the project has been completed;
- 40 (16) "Asbestos air sampling technician", an individual who has been trained by an air
41 sampling professional to do air monitoring. Such individual conducts air monitoring of an
42 asbestos abatement project before, during and after the project has been completed;
- 43 (17) "Asbestos containing material", any material or product which contains more than
44 one percent asbestos[, by weight];
- 45 (18) "Class A source", either a class A1, A2 or A3 source as defined in this section;
- 46 (19) "Class A1 source", any air contaminant source with the potential to emit equal to
47 or greater than one hundred tons per year of an air contaminant;

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

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

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

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

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

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

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

72 (27) "Department", the department of natural resources of the state of Missouri;

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

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

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

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

81 (32) "Friable asbestos containing material", any [asbestos containing] material [which
82 is applied to ceilings, walls, structural members, piping, ductwork or any other part of a building

83 or other air contaminant sources and which] **containing more than one percent asbestos that,**
84 when dry, may be crumbled, pulverized or reduced to powder by hand pressure;

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

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

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

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

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

99 (38) **"Regulated asbestos containing material", includes:**

100 (a) **Friable asbestos containing materials;**

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

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

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

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

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

7 district. At the first meeting of the commission and at yearly intervals thereafter, the members
8 shall select from among themselves a chairman and a vice chairman.

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

18 3. The members' terms of office shall be four years and until their successors are selected
19 and qualified, except that the terms of those first appointed shall be staggered to expire at
20 intervals of one, two and three years after the date of appointment as designated by the governor
21 at the time of appointment. There is no limitation of the number of terms any appointed member
22 may serve. If a vacancy occurs the governor may appoint a member for the remaining portion
23 of the unexpired term created by the vacancy. The governor may remove any appointed member
24 for cause. The members of the commission shall be reimbursed for travel and other expenses
25 actually and necessarily incurred in the performance of their duties.

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (8) Develop such facts and make such investigations as are consistent with the purposes
46 of sections 643.010 to [643.190] **643.265**, and, in connection therewith, to enter or authorize any
47 representative of the department to enter at all reasonable times and upon reasonable notice in
48 or upon any private or public property for the purpose of inspecting or investigating any
49 condition which the commission or director shall have probable cause to believe to be an air
50 contaminant source. The results of any such investigation shall be reduced to writing, and a copy
51 thereof shall be furnished to the owner or operator of the property. No person shall refuse entry
52 or access, requested for purposes of inspection under this provision, to an authorized
53 representative of the department who presents appropriate credentials, nor obstruct or hamper
54 the representative in carrying out the inspection. A suitably restricted search warrant, upon a
55 showing of probable cause in writing and upon oath, shall be issued by any judge having
56 jurisdiction to any such representative for the purpose of enabling him to make such inspection;

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

61 (10) Classify and identify air contaminants; and

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

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

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

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

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

72 (3) Encourage political subdivisions to handle air pollution problems within their
73 respective jurisdictions to the extent possible and practicable and provide assistance to political
74 subdivisions;

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

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

77 (6) Advise, consult and cooperate with other agencies of the state, political subdivisions,
78 industries, other states and the federal government, and with interested persons or groups;

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

81 4. Nothing contained in sections 643.010 to 643.190 shall be deemed to grant to the
82 commission or department any jurisdiction or authority with respect to air pollution existing
83 solely within commercial and industrial plants, works, or shops or to affect any aspect of
84 employer-employee relationships as to health and safety hazards.

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

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

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

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

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

20 (4) Administer and enforce sections 643.010 to [643.190] **643.265**, investigate
21 complaints, issue orders and take all actions necessary to implement sections 643.010 to
22 [643.190] **643.265**;

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

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

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

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

14 4. In case of the failure by conference, conciliation and persuasion to correct or remedy
15 any violation, the director may order abatement, suspend or revoke a permit, whichever action
16 or actions the director deems appropriate. The director shall cause to have issued and served
17 upon the person a written notice of such order together with a copy of the order, which shall
18 specify the provisions of sections 643.010 to [643.190] **643.265** or the rule or the condition of
19 the permit of which the person is alleged to be in violation, and a statement of the manner in, and
20 the extent to which the person is alleged to be in violation. Service may be made upon any
21 person within or without the state by registered mail, return receipt requested. Any person
22 against whom the director issues an order may appeal the order to the commission within thirty
23 days, and the appeal shall stay the enforcement of such order until final determination by the
24 commission. The commission shall set a hearing on a day not less than thirty days after the date
25 of the request. The commission may sustain, reverse, or modify the director's order, or make
26 such other order as the commission deems appropriate under the circumstances. If any order
27 issued by the director is not appealed within the time herein provided, the order becomes final
28 and may be enforced as provided in section 643.151.

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

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

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

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

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

13 3. In any application made to the director to obtain such certification as an inspector,
14 management planner, abatement project designer, supervisor, contractor or worker from the
15 department, the applicant shall include his diploma providing proof of successful completion of
16 either a state accredited or United States Environmental Protection Agency (EPA) accredited
17 training course as described in section 643.228. In addition, an applicant for certification as a
18 management planner shall first be certified as an inspector. All applicants for certification as an
19 inspector, management planner, abatement project designer, supervisor, contractor or worker
20 shall successfully pass a state examination on Missouri state asbestos statutes and rules relating
21 to asbestos. Certification issued hereunder shall expire one year from its effective date.
22 Individuals applying for state certification as an asbestos air sampling professional shall have the
23 following credentials:

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

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

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

29 (4) Three years of practical experience in the field of industrial hygiene, including
30 significant asbestos air monitoring experience and the completion of a forty-hour asbestos course
31 which includes air monitoring instruction (National Institute of Occupational Safety and Health
32 582 course on air sampling or equivalent). In addition to these qualifications, the individual
33 must also pass the state of Missouri asbestos examination. All asbestos air sampling technicians
34 shall be trained and overseen by an asbestos air sampling professional and shall meet the

35 requirements of training found in OSHA's 29 CFR [1926.58] **1926.1101**. Certification under this
36 section as an [AHERA asbestos] abatement project designer does not qualify an individual as
37 an architect, engineer or land surveyor, as defined in chapter 327, RSMo.

38 4. An application fee of seventy-five dollars shall be assessed for each category, except
39 asbestos abatement worker, to cover administrative costs incurred. An application fee of
40 twenty-five dollars shall be assessed for each asbestos abatement worker to cover administrative
41 costs incurred. A fee of twenty-five dollars shall be assessed per state examination.

42 5. In order to qualify for renewal of a certificate, an individual shall have successfully
43 completed an annual refresher course from [an Environmental Protection Agency or] **a** state of
44 Missouri accredited training program. For each discipline, the refresher course shall review and
45 discuss current federal and state statute and rule developments, state-of-the-art procedures and
46 key aspects of the initial training course, as determined by the state of Missouri. For all
47 categories except inspectors, individuals shall complete a one-day annual refresher training
48 course for recertification. Refresher courses for inspectors shall be at least a half-day in length.
49 Management planners shall attend the inspector refresher course, plus an additional half-day on
50 management planning. All refresher courses shall require an individual to successfully pass an
51 examination upon completion of the course. In the case of significant changes in Missouri state
52 asbestos statutes or rules, an individual shall also be required to take and successfully pass an
53 updated Missouri state asbestos examination. An individual who has failed the Missouri state
54 asbestos examination may retake it on the next scheduled examination date. If [his certification
55 has lapsed for more than twenty-four months] **an individual has not successfully completed**
56 **his or her annual refresher course within twelve months of the expiration of his or her**
57 **certificate**, he or she shall be required to retake the course in his specialty area described in this
58 section. Failure to comply with the requirements for renewal of certification in this section will
59 result in decertification. In no event shall certification or recertification constitute permission
60 to violate sections 643.225 to 643.250 or any standard or rule promulgated under sections
61 643.225 to 643.250.

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

64 [7. The provisions of subsections 2 through 6 of this section, section 643.228,
65 subdivision (4) of subsection 1 of section 643.230, sections 643.232 and 643.235, subdivisions
66 (1) to (3) of subsection 1 of section 643.237, and subsection 2 of section 643.237 shall not apply
67 to a person that is subject to requirements and applicable standards of the United States
68 Environmental Protection Agency (EPA) and the United States Occupational Safety and Health
69 Administration's (OSHA) 29 Code of Federal Regulations 1926.58 and which engages in
70 asbestos abatement projects as part of normal operations in the facility solely at its own place or

71 places of business. A person shall receive an exemption upon submitting to the director, on a
72 form provided by the department, documentation of the training provided to their employees to
73 meet the requirements of applicable OSHA and EPA rules and regulations and the type of
74 asbestos abatement projects which constitute normal operations performed by the applicant. If
75 the application does not meet the requirements of this subsection and the rules and regulations
76 promulgated by the department, the applicant shall be notified, within one hundred eighty days
77 of the receipt of the application, that his exemption has been revoked. An applicant may appeal
78 the revocation of an exemption to the commission within thirty days of the notice of revocation.
79 This exemption shall not apply to asbestos abatement contractors, to those persons who the
80 commission by rule determines provide a service to the public in its place or places of business
81 as the economic foundation of the facility, or to those persons subject to the requirements of the
82 federal Asbestos Hazard Emergency Response Act of 1986 (P.L. 99-519). A representative of
83 the department shall be permitted to attend, monitor and evaluate any training program provided
84 by the exempted person. Such evaluations may be conducted without prior notice. Refusal to
85 allow such an evaluation is sufficient grounds for loss of exemption status.

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

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

- 3 (1) Register with the department and reregister annually as provided by rule;
- 4 (2) Submit an application for registration on a form developed by the department;
- 5 (3) Use only those individuals that have been certified or trained in accordance with
6 sections 643.225 to 643.250.

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

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

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

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

643.237. 1. Any person undertaking an asbestos abatement project of a magnitude
2 greater than or equal to one hundred sixty square feet [or] , two hundred sixty linear feet, **or**
3 **thirty-five cubic feet** shall meet the following requirements:

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

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

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

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

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

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

26 (1) The person shall submit notification to the department for review at least twenty days
27 in advance. The notification shall be in the form required by the department. Such notification
28 shall include the name and address of the applicant, a description of the proposed project and any
29 other information as may be required by the department and provide proof to the department that
30 all employees engaged in an asbestos abatement project are in compliance with sections 643.225
31 and 643.228. In addition, the person shall post for inspection, at the site, current certificates of
32 all individuals engaged in the asbestos abatement project as well as proof of the person's current
33 registration;

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

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

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

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

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

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

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

4 2. The commission shall be authorized to assess a fee of not more than one hundred
5 dollars for each on-site inspection of **an** asbestos abatement [projects] **project**. Such fees would
6 not be assessed for more than three on-site inspections during the period an actual **asbestos**
7 abatement project is in progress. Failure of the asbestos abatement contractor to notify the
8 department of project postponement may result in the assessment of an inspection fee in the
9 event of an on-site visit by the department.

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

643.245. 1. All moneys received pursuant to sections 643.225 to [643.250] **643.245** and
2 any other moneys so designated shall be placed in the state treasury and credited to the "Natural
3 Resources Protection Fund--Air Pollution Asbestos Fee Subaccount", which is hereby created.
4 Such moneys received pursuant to sections 643.225 to [643.250] **643.245** shall, subject to

5 appropriation, be used solely for the purpose of administering this chapter. Any unexpended
6 balance in such fund at the end of any appropriation period shall not be transferred to the general
7 revenue fund of the state treasury and shall be exempt from the provisions of section 33.080,
8 RSMo.

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

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

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

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

17 4. Notwithstanding the existence or pursuit of any other remedy provided by sections
18 643.225 to 643.250, the commission may maintain, in the manner provided by chapter 536,
19 RSMo, an action in the name of the state of Missouri for injunction or other process against any
20 person to restrain or prevent any violation of the provisions of sections 643.225 to 643.250.

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

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

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

8 or to demolish buildings and other air contaminant sources containing ten square
9 feet or sixteen linear feet or more;

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

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

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

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

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

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

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

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

✓