

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 198

By: Justice

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6 AS INTRODUCED

7 An Act relating to occupational safety; amending 40
8 O.S. 2011, Sections 141.19, 412, 451, 452 and 456,
9 which relate to Department of Labor Revolving Fund,
10 violations, definitions, license requirements and
11 injunctive relief; modifying deposits and use of
12 certain fund; modifying definition; granting
13 authority to the Commissioner of Labor to establish
14 by rule a schedule of administrative penalties and
15 fines for violation of certain occupational standards
16 and controls; creating a revolving fund for the
17 Department of Labor; naming fund the "Department of
18 Labor Administrative Penalty Revolving Fund"; stating
19 purpose of fund; providing for deposits and transfer
20 funding to General Revenue Fund each fiscal year;
21 making administrative fines in addition to criminal
22 fines; directing deposit of certain fees collected;
23 modifying language; removing certain exemption from
24 certification fees; deleting language; providing for
codification; and providing an effective date.

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1 9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 0 SECTION 1. AMENDATORY 40 O.S. 2011, Section 141.19, as
2 1 amended by Section 135, Chapter 304, O.S.L. 2012 (40 O.S. Supp.
2 2 2015, Section 141.19), is amended to read as follows:

2 3 Section 141.19. There is hereby created in the State Treasury a
2 4 revolving fund for the Department of Labor to be designated the

1 "Department of Labor Revolving Fund". The fund shall be a
2 continuing fund, not subject to fiscal year limitations, and shall
3 consist of all monies designated for deposit in such fund. All
4 monies accruing to the credit of the fund are hereby appropriated
5 and may be budgeted and expended ~~as directed by the Legislature~~ by
6 the Department of Labor for operations and expenses relating to its
7 statutory duties and responsibilities. Expenditures from the fund
8 shall be made upon warrants issued by the State Treasurer against
9 claims filed as prescribed by law with the Director of the Office of
10 Management and Enterprise Services for approval and payment.

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

13 Section 412. A. Any person failing to comply with any standard
14 or interfering with, impeding or obstructing in any manner the
15 administration of standards pursuant to the provisions of the
16 Oklahoma Occupational Health and Safety Standards Act, upon
17 conviction, shall be guilty of a misdemeanor.

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

23 C. The Attorney General, on the request of the Commissioner,
24 shall bring an action against any person violating any of the

1 provisions of the Oklahoma Occupational Health and Safety Standards
2 Act or violating any order or determination of the Commissioner
3 promulgated pursuant to the Oklahoma Occupational Health and Safety
4 Standards Act.

5 D. The Commissioner of Labor may promulgate rules establishing
6 a schedule of administrative penalties and fines for violations of
7 the Oklahoma Occupational Health and Safety Standards act which may
8 be in addition to or in lieu of the criminal penalties provided in
9 this section. The promulgation of an administrative fine schedule
10 shall grant the Commissioner authority to impose those
11 administrative fines for any violation of the Oklahoma Occupational
12 Health and Safety Standards Act. Funds collected as payment from a
13 violation for administrative fines imposed for a violation of the
14 Oklahoma Occupational Health and Safety Standards Act shall be
15 deposited to the Department of Labor Administrative Penalty
16 Revolving Fund created in Section 2 of this act.

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

20 There is hereby created in the State Treasury a revolving fund
21 for the Department of Labor to be designated the "Department of
22 Labor Administrative Penalty Revolving Fund". The fund shall be a
23 continuing fund, not subject to fiscal year limitations, and shall
24 consist of all administrative fines collected by the Department for

1 violations of the Oklahoma Occupational Health and Safety Standards
2 Act and the Oklahoma Asbestos Control Act, and any rules promulgated
3 thereto. All monies accruing to the credit of the fund are hereby
4 directed to be transferred by the Commissioner of Labor to the State
5 Treasurer for deposit and credit to the General Revenue Fund at the
6 end of each fiscal year.

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

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

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

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

15 3. "Friable asbestos material encapsulation" means the
16 application of a bonding agent called a sealant, which penetrates
17 and hardens the asbestos material or covers the surface of the
18 material with a protective coating, thus preventing fiber release
19 from the asbestos material;

20 4. "Friable asbestos material removal" means the actual
21 physical removal of any friable asbestos containing material from a
22 facility, when the asbestos is either attached to or detached from
23 any device or structure;
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1 5. "Contractor" means any public or private entity that engages
2 in friable asbestos containing material abatement in any facility in
3 this state except private residences or apartment houses of less
4 than six family units;

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

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

8 Section 452. A. No contractor shall abate any friable material
9 containing asbestos without having first obtained a license to do so
10 from the Commissioner of Labor. The Commissioner shall issue an
11 asbestos abatement license to a qualified contractor upon proper
12 application, as determined by the Commissioner. The Commissioner of
13 Labor may promulgate rules establishing a schedule of administrative
14 fees for the application, licensing, examination, certification of
15 asbestos abatement contractors and workers employed by a contractor
16 for asbestos abatement, as well as a fee to be paid by contractors
17 to the Department of Labor for each separate containment area,
18 glovebag, or miniature containment area of any asbestos abatement
19 project. The fees stated in this section on the effective date of
20 this act shall remain in effect until such rules become effective,
21 at which time the fees stated in this section shall be superceded by
22 rule. The annual fee for such license shall be Five Hundred Dollars
23 (\$500.00). The fee shall be deposited into the Department of Labor
24 Revolving Fund. A nonrefundable initial application fee of One

1 Thousand Dollars (\$1,000.00) shall be charged and deposited into the
2 Department of Labor Revolving Fund. The Commissioner may deny a
3 license to applicants whose past abatement performance for abatement
4 of friable asbestos does not comply with federal and other states'
5 requirements. A minimum waiting period ~~of one hundred twenty (120)~~
6 ~~days~~ shall be established at the discretion of the Commissioner of
7 Labor and will be required before issuance of a license to permit
8 the Commissioner to perform a work performance investigation of the
9 applicant.

10 The annual fee for examining and certifying workers employed by
11 a contractor for asbestos abatement shall be Twenty-five Dollars
12 (\$25.00). The fee shall be deposited in the Department of Labor
13 Revolving Fund. Uncertified workers shall not be used on any
14 asbestos abatement projects.

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

23 C. A fee of Six Hundred Dollars (\$600.00) shall be paid by
24 contractors to the Department of Labor, ~~to be deposited in the~~

1 ~~General Revenue Fund,~~ for each separate containment area of any
2 asbestos abatement project. The fee collected shall be deposited by
3 the Department of Labor into the Department of Labor Revolving Fund.

4 There shall be a minimum number of ~~three~~ inspections of each
5 containment area as deemed necessary by the Commissioner of Labor.

6 For projects which are not a part of a definite containment area, or
7 are performed with multiple glovebags or miniature containments, a
8 fee of Two Hundred Dollars (\$200.00), plus Five Dollars (\$5.00) per
9 such glovebag or miniature containment, shall be ~~made~~ paid to the
10 Department of Labor for deposit into the Department of Labor
11 Revolving Fund.

12 Asbestos abatement projects performed on properties owned by the
13 state or any political subdivision thereof shall not be exempt from
14 this fee.

15 D. Any asbestos abatement contractor transporting asbestos-
16 containing material shall be required to provide to the Commissioner
17 a Certificate of Insurance by a carrier licensed to do business in
18 the State of Oklahoma demonstrating a minimum of One Million Dollars
19 (\$1,000,000.00) of environmental impairment insurance.

20 E. No state agency or political subdivision thereof, county or
21 political subdivision thereof, or municipalities or political
22 subdivisions thereof shall solicit or receive any estimate or bid
23 for abatement of asbestos from any person or party who is not a
24 licensed asbestos abatement contractor.

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

3 Section 456. A. In addition to any administrative or civil
4 penalty, any person who violates any of the provisions of the
5 Oklahoma Asbestos Control Act or who violates any rule or order
6 promulgated pursuant thereto shall be guilty of a misdemeanor and
7 may be enjoined from continuing such action. Upon conviction
8 thereof, ~~said person~~ the violator shall be punished by imprisonment
9 in the county jail for not more than six (6) months ~~and~~ or by a fine
10 of not less than One Hundred Dollars (\$100.00), or both such fine
11 and imprisonment. Each day's violations shall constitute a separate
12 violation.

13 B. The Attorney General shall, upon request of the
14 Commissioner, bring an action for injunction against any person
15 violating any provision of the Oklahoma Asbestos Control Act or
16 violating any order or determination of the Commissioner. In any
17 action for injunction, any finding of the Commissioner, after
18 notice, shall be prima facie evidence of the facts found therein.

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

21 D. The Commissioner of Labor may promulgate rules establishing
22 a schedule of administrative penalties and fines for violations of
23 the Oklahoma Asbestos Control Act which may be in addition to or in
24 lieu of the criminal penalties provided in this section. The

1 promulgation of an administrative fine schedule shall grant the
2 Commissioner authority to impose those administrative fines for any
3 violation of the Oklahoma Asbestos Control Act. Funds collected as
4 payment from a violator for administrative fines imposed for a
5 violation of the Oklahoma Asbestos Control Act shall be deposited to
6 the Department of Labor Administrative Penalty Revolving Fund
7 created in Section 2 of this act.

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

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