

A Bill for an Act Relating to the Department of Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to provide authority to the department of health to implement the requirements of the Asbestos Hazard Emergency Response Act of 1986 (AHERA), Public Law 99-519. Under AHERA, the State is to establish an accreditation plan covering inspectors, management planners, and persons who design or carry out removal of materials containing asbestos from school buildings. This Act is also intended to authorize the department of health to require accreditation when the inspection, planning, and design or removal of materials containing asbestos is from any public or private building.

SECTION 2. Section 321-11, Hawaii Revised Statutes, is amended to read as follows:

“§321-11 Subjects of health rules, generally. The department of health pursuant to chapter 91 may adopt rules as it deems necessary for the public health and safety respecting:

- (1) Nuisances, foul or noxious odors, gases, vapors, waters in which mosquitoes breed or may breed, sources of filth, and causes of sickness or disease, within the respective districts of the State, and on board any vessel;
- (2) Adulteration and misbranding of food or drugs;
- (3) Location, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, courts, construction projects, excavations, pools, watercourses, areas, and alleys;
- (4) Privy vaults and cesspools;
- (5) Fish and fishing;
- (6) Interments and dead bodies;
- (7) Disinterments of dead human bodies, including the exposing, disturbing, or removing of such bodies from their place of burial, or the opening, removing, or disturbing after due interment of any receptacle, coffin, or container holding human remains or a dead human body or a part thereof and the issuance and terms of permits for the aforesaid disinterments of dead human bodies;
- (8) Cemeteries and burying grounds;
- (9) Laundries, and the laundering and sterilization of all articles of linen and uniforms used by or in the following businesses and professions: barber shops, manicure shops, beauty parlors, restaurants, soda fountains, hotels, rooming and boarding houses, bakeries, butcher shops, public bathhouses, midwives, masseurs, and others in similar calling, public or private hospitals, and canneries and bottling works where foods or beverages are canned or bottled for public consumption or sale; provided that nothing in this chapter shall be construed as authorizing the prohibiting of such laundering and sterilization by those conducting any of such businesses or professions where the laundering or sterilization is done in an efficient and sanitary manner;
- (10) Hospitals, freestanding surgical outpatient facilities, skilled nursing facilities, intermediate care facilities, adult residential care homes, adult foster homes, special treatment facilities and programs, home health agencies, freestanding birthing facilities, adult day health centers, independent group residences, but excluding youth shelter facil-

ities unless clinical treatment of mental, emotional, or physical disease or handicap is a part of the routine program or constitutes the main purpose of the facility, as defined in section 346-16 under "child care institution". For the purpose of this paragraph, "adult foster home" means a private home providing care on a twenty-four hour basis for not more than two developmentally disabled adults at any point in time who are unrelated to the foster family;

- (11) Hotels, rooming houses, lodging houses, apartment houses, tenements, and residences for persons with developmental disabilities including, but not limited to, those built under federal funding;
- (12) Laboratories;
- (13) Any place or building where noisome or noxious trades or manufacturers are carried on, or intended to be carried on;
- (14) Milk;
- (15) Poisons and hazardous substances, the latter term including, but not limited to, any substance or mixture of substances which (A) is corrosive, (B) is an irritant, (C) is a strong sensitizer, (D) is inflammable, or (E) generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children;
- (16) Pig and duck ranches;
- (17) Places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation, or entertainment;
- (18) Any restaurant, theater, market, stand, shop, store, factory, building, wagon, vehicle, or place where any food, drug, or cosmetic is manufactured, compounded, processed, extracted, prepared, stored, distributed, sold, offered for sale, or offered for human consumption or use;
- (19) Foods, drugs, and cosmetics, and the manufacture, compounding, processing, extracting, preparing, storing, selling, and offering for sale or for consumption or use of any food, drug, or cosmetic;
- (20) Devices as defined in section 328-1;
- (21) Sources of ionizing radiation;
- (22) Medical examination, vaccination, revaccination, and immunization of school children. No child shall be subjected to such medical examination, vaccination, revaccination, or immunization, whose parent or guardian shall in writing object thereto on grounds that such requirements are not in accordance with the religious tenets of an established church of which he is a member or adherent, but no such objection shall be recognized when, in the opinion of the department, there is danger of an epidemic from any communicable disease;
- (23) Disinsectization of aircraft entering or within the State as may be necessary to prevent the introduction, transmission, or spread of disease or the introduction or spread of any insect or other vector of significance to health;
- (24) Fumigation. The process by which substances emit or liberate gases, fumes, or vapors which may be used for the destruction or control of insects, vermin, rodents, or other pests, which, in the opinion of the department, may be lethal, poisonous, noxious, or dangerous to human life; [and]

- (25) Ambulances and ambulance equipment[.]; and
(26) Development, review, approval, or disapproval of management plans submitted pursuant to the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519.

The department may require such certificates, permits, or licenses as it may deem necessary to adequately regulate the conditions or businesses referred to in this section."

SECTION 3. Section 321-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department of health with the approval of the governor, may prescribe such rules as it deems necessary for the public health or safety respecting:

- (1) The occupations or practices of midwives, laboratory directors, laboratory technologists, laboratory supervisors, laboratory technicians, tattoo artists, electrologists, [and] sanitarians[.]; asbestos inspectors, asbestos management planners, and asbestos abatement project designers;
- (2) The health, education, training, experience, habits, qualifications, or character of persons to whom certificates of registration or permits for such occupations or practices may be issued;
- (3) The health, habits, character, practices, standards, or conduct of persons holding such certificates or permits; or
- (4) The grounds or causes for revoking or suspending such certificates or permits.

Such rules shall have the force and effect of law."

SECTION 4. Section 321-15.1, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

"'Asbestos inspector' means a person who is accredited to identify asbestos-containing building material and to assess its physical condition.

"Asbestos management planner" means a person who is accredited to use the data gathered by asbestos inspectors to assess the current or potential hazard posed by the asbestos-containing building material, to determine the appropriate response actions, and to develop a schedule for implementing these response actions.

"Asbestos abatement project designer" means a person who is accredited to determine how the asbestos abatement work should be conducted."

SECTION 5. The department of health shall adopt rules pursuant to chapter 91 for the implementation of Section 3 of this Act within one year of the effective date of this Act, or sooner.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$54,000, or so much thereof as may be necessary for fiscal year 1988-1989, to carry out the purposes of this Act. The sum appropriated shall be expended by the department of health.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval; provided that Section 6 shall take effect on July 1, 1988.

(Approved June 7, 1988.)