

CHAPTER 368l

CARCINOGENIC SUBSTANCES

Sec. 19a-329. (Formerly Sec. 19-169p). Definitions. As used in this chapter, “carcinogenic substance” means: 2-Acetylaminofluorene, 4-Aminodiphenyl, Arsenic, **Asbestos**, Benzene, Benzidine, 3,3'-Dichlorobenzidine, 4-Dimethylaminoazobenzene, Beta-Naphthylamine, 4-Nitrobiphenyl, N-Nitrosodimethylamine, Beta-Propiolactone, Bis (Chloromethyl) Ether, Chloromethyl Methyl ether, 4,4'-Methylene-Bis (2-Chloroaniline), Vinyl Chloride, any substance regulated as a carcinogen by the Secretary of Labor and those substances identified by the Commissioner of Public Health in accordance with section 19a-331.

Sec. 19a-330. (Formerly Sec. 19-169q). Report required; contents. Any person who uses or produces any carcinogenic substance in the manufacture of any item, product or material shall make an annual report to the Commissioner of Energy and Environmental Protection and the Commissioner of Public Health. Such report shall include: (1) The method of disposal of any waste generated by the manufacture of such item, product or material; (2) the amount of each such carcinogenic substance used or produced during the preceding year; (3) the amount of each such carcinogenic substance currently being held in inventory; and (4) the method used to transport such carcinogenic substances.

Sec. 19a-331. (Formerly Sec. 19-169r). Identification of carcinogenic substances. Regulations. The Commissioner of Public Health shall, by means of regulations adopted in accordance with chapter 54, identify substances, including gases, chemicals or metals, which are designated human carcinogens. The commissioner may adopt regulations, in accordance with chapter 54, to implement the provisions of this chapter.

Sec. 19a-332. Definitions: Asbestos. As used in subsection (c) of section 19a-14 and sections 19a-332 to 19a-332e, inclusive, 20-435 to 20-442, inclusive, and 52-577a:

(1) “Asbestos” means the asbestiform varieties of actinolite, amosite, anthophyllite, chrysotile, crocidolite and tremolite;

(2) “Asbestos abatement” means the removal, encapsulation, enclosure, renovation, repair, demolition or other disturbance of asbestos-containing materials, but does not include activities which are related to (A) the removal or repair of asbestos cement pipe and are performed by employees of a water company as defined in section 25-32a, or (B) the removal of nonfriable asbestos-containing material found exterior to a building or structure other than material defined as regulated asbestos-containing material in 40 CFR 61, the National Emission Standards for Hazardous Air Pollutants, as amended from time to time;

(3) “Asbestos abatement worker” means any employee of a licensed asbestos contractor who engages in asbestos abatement, has completed a training program approved by the department and has been issued a certificate by the department;

(4) “Asbestos abatement site supervisor” means any asbestos abatement worker employed by a licensed asbestos contractor who has been specifically trained as a supervisor in a training program approved by the department and who has been issued a certificate by the department;

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(5) "Asbestos-containing material" means material composed of asbestos of any type and in an amount greater than one per cent by weight, either alone or mixed with other fibrous or nonfibrous material;

(6) "Asbestos contractor" means any person or entity engaged in asbestos abatement whose employees actually perform the asbestos abatement work and who has been issued a license by the commissioner;

(7) "Asbestos consultant" means any person who engages in any activity directly involved with asbestos consultation services and who has been issued a certificate by the commissioner and a license by the department;

(8) "Asbestos consultation services" means the inspection or evaluation of a building for asbestos hazards, including, but not limited to, the development of asbestos abatement plans, site inspections, air monitoring and provisions of industrial hygiene services related to asbestos abatement;

(9) "Authorized agent" means an officer or employee duly designated by the commissioner;

(10) "Commissioner" means the Commissioner of Public Health; and

(11) "Department" means the Department of Public Health.

Sec. 19a-332a. Regulations. Fees. (a) The commissioner, within available appropriations, and after consultation with the Labor Commissioner, shall adopt regulations in accordance with the provisions of chapter 54 to administer the provisions of sections 19a-332 to 19a-332c, inclusive. Such regulations shall include, but need not be limited to, the following: (1) Standards for the proper performance of asbestos abatement; (2) procedures for enforcement action; (3) procedures for inspection of asbestos abatement by employees of the department; (4) minimum standards for completion of asbestos abatement projects.

(b) On and after the effective date of any regulations adopted pursuant to this section, no person shall engage in asbestos abatement without following the provisions of sections 19a-332 to 19a-332c, inclusive, and such regulations.

(c) Notwithstanding any regulations to the contrary, the Commissioner of Public Health shall charge the following fees for the services of the department in connection with asbestos abatement: (1) Notification of abatement, less than one hundred sixty square feet, one hundred dollars; (2) notification of abatement, one hundred sixty square feet or greater, one hundred dollars plus one per cent of the total abatement cost, up to a maximum of five thousand dollars; (3) reinspections, one hundred dollars; (4) asbestos alternative work practice review, two hundred dollars; and (5) notice of demolition activities, fifty dollars.

Sec. 19a-332b. Notice. Any contractor who will be conducting asbestos abatement activities or any person who will be conducting demolition activities shall notify the commissioner at least ten days prior to undertaking such activities and shall provide him with any information on such activities that he may require in regulations adopted pursuant to section 19a-332a.

Sec. 19a-332c. Inspections. Orders issued by commissioner. Court order. (a) For purposes of enforcing the provisions of sections 19a-332 to 19a-332c, inclusive, and section 19a-333 and any regulations adopted thereunder, the commissioner or an authorized agent may enter at reasonable times any facility where asbestos abatement is planned, is being performed or has been performed and any school building

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or local education agency to conduct inspections and to review management plans, in order to determine compliance with said sections. Where entry is refused to the commissioner or an authorized agent, the commissioner may request the Attorney General to apply to any court for a warrant to inspect such premises to determine compliance with any statute, regulation, order or permit administered, adopted or enforced by him and the court shall issue such order as is necessary to aid in enforcement.

(b) Whenever the commissioner or an authorized agent has reason to believe on the basis of inspections or tests that there is a violation of sections 19a-332 to 19a-332c, inclusive, or of section 19a-333 or of any regulations adopted thereunder or in the judgment of the commissioner or an authorized agent there is an endangerment of the public's health, the commissioner or an authorized agent may issue a written or printed cease activity order to any person responsible for the alleged violation or endangerment, and after receipt of such order no person shall act except in accordance with the provisions of the order.

(c) Whenever, in the judgment of the commissioner, or an authorized agent, any person has engaged in, is engaged in, or is about to engage in any acts or practices which constitute, or will constitute, a violation of any provision of sections 19a-332 to 19a-332c, inclusive, or of section 19a-333, or any regulations adopted thereunder or order issued under sections 19a-332 to 19a-332c, inclusive, the commissioner may request the Attorney General to make application to the appropriate court for an order enjoining such acts or practices or for an order directing compliance with such provisions of sections 19a-332 to 19a-332c, inclusive, or of section 19a-333, regulations or orders.

Sec. 19a-332d. Criminal penalties. Any person who knowingly violates any provision of sections 19a-332 to 19a-332c, inclusive, section 19a-333 or sections 20-435 to 20-439, inclusive, shall be fined not more than five thousand dollars, or imprisoned for not more than one year or both. Each day's failure to comply with such provisions shall constitute a separate violation. Failure to comply with respect to a single facility or school building shall constitute a separate violation. When construing and enforcing the provisions of said sections, the action, omission or failure to act of any officer, agent or other person acting for or employed by any person shall in every case also be deemed to be the action, omission or failure to act of such person as well as that of the person employed.

Sec. 19a-332e. Civil penalties. Regulations. (a) If, upon review, investigation or inspection, the Commissioner of Public Health determines that any person has violated any provision of sections 19a-332 to 19a-332c, inclusive, 19a-333 and 20-435 to 20-439, inclusive, or any regulations adopted thereunder, he may impose a civil penalty not to exceed five thousand dollars upon a local education agency and not to exceed twenty-five thousand dollars upon any one person. Governmental immunity shall not be a defense to any civil penalty imposed pursuant to this section. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, establishing a schedule or schedules of the amounts, or the ranges of amounts, of civil penalties which may be imposed under this section. In adopting such regulations the commissioner shall consider the level of assessment necessary to ensure immediate and continued compliance with such provision and the character and degree of injury or impairment to or interference with or threat to the public health, safety or welfare.

(b) In setting a civil penalty in a particular case, the commissioner shall consider all factors he deems relevant, including, but not limited to, the following: (1) The amount of assessment necessary to ensure immediate and continued compliance with such provision; (2) the character and significance of the violation; (3) any history of previous violations under this section; (4) the ability of the person to pay the

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penalty; (5) the ability of the person to continue to provide services; (6) the underlying circumstances behind the violation; (7) whether the person is taking all feasible steps or procedures necessary or appropriate to comply with such provisions or to correct the violation; (8) the culpability of the person; (9) other factors as justice may require, including voluntary disclosure and attitude of the person. Each day's failure to comply with such provisions shall constitute a separate violation. Failure to comply with respect to a single facility or school building shall constitute a separate violation. No civil penalty may be imposed until the regulations required by subsection (a) of this section have been adopted.

(c) If the commissioner determines that a violation has occurred, he may impose a penalty and send to the person, by certified mail, return receipt requested, or personal service, a notice of violation which shall include: (1) A reference to the sections of the general statutes or regulations involved; (2) a short and plain statement of the matters asserted or charged; (3) a statement of the amount of civil penalty or penalties to be imposed; (4) the initial date of the imposition of the penalty; and (5) a statement of the person's right to a hearing.

(d) The person to whom the notice is addressed shall have twenty days from the date of mailing of the notice to make written application to the commissioner for a hearing to contest the notice of violation. If no such application for a hearing is received within such twenty-day period, the notice of violation shall be deemed a final order of the commissioner, effective upon the expiration of said period.

(e) If any person requests a hearing under this section, such hearing shall be conducted pursuant to sections 4-176e to 4-184, inclusive. Any civil penalty may be mitigated by the commissioner upon such terms and conditions as he in his discretion deems proper or necessary upon consideration of the factors set forth in subsection (b) of this section. The commissioner shall, after the hearing, issue a final order affirming, modifying or vacating the notice of violation.

(f) A final order of the commissioner assessing a civil penalty shall be subject to appeal as set forth in section 4-183 after a hearing before the commissioner pursuant to subsection (e) of this section, except that any such appeal shall be taken to the superior court for the judicial district of New Britain and shall have precedence in the order of trial as provided in section 52-191. Such final order shall not be subject to appeal under any other provision of the general statutes. No challenge to any such final order shall be allowed as to any issue which could have been raised by any appeal of an earlier order, notice, permit, denial or other final decision by the commissioner.

(g) If any person fails to pay any civil penalty, the Attorney General, upon request of the Commissioner of Public Health, may bring an action in the superior court for the judicial district of Hartford to obtain enforcement of the penalty by the court. All actions brought by the Attorney General pursuant to the provisions of this section shall have precedence in the order of trial as provided in section 52-191.

Sec. 19a-333. Regulations re asbestos-containing materials in schools. The Department of Public Health shall adopt regulations in accordance with the provisions of chapter 54 which shall meet or exceed the requirements mandated by the United States Environmental Protection Agency standard for asbestos-containing materials in schools in accordance with federal regulations as from time to time amended.
