

# Act 135 of 1986 (An Overview)

## The Asbestos Abatement Contractor Licensing Act

- Performed a willful or negligent act that causes any person to be exposed to asbestos in violation of Act 135 or any other state or federal law pertaining to the public health and safety aspects of asbestos demolition, renovation, and encapsulation.
- Falsified records.
- Failed to obtain or renew a license.
- Deliberately misrepresented an act in applying for a license.
- Permitted any person who has not received the proper training and accreditation under state or federal law to come in contact with asbestos or be responsible for an asbestos abatement project.

If a license is denied, suspended, or revoked; such an action would apply to each partner, trustee, director, officer, or person exercising control of the company.

### Financial Penalties and Prosecution

Any asbestos abatement contractor who engages in the trade or business of asbestos abatement without a license or a person who violates Act 135 and fails to correct the violation after notice is guilty of a misdemeanor, punishable by a fine of \$500 or less. If convicted of a subsequent offense, the fine will be \$1,000 or less, or imprisonment for six months or less, or both.

A violation of Act 135 may be prosecuted by either the Michigan Attorney General or the prosecuting attorney of the judicial district in which the violation was committed.

LARA has established monetary civil penalties of \$10,000 or less for each violation or day that a violation continues. For a violation of asbestos licensing provisions, LARA has established monetary civil penalties that are in compliance with the United States Environmental Protection Agency's civil penalty policy for asbestos demolition and renovation. The fines will not exceed \$25,000 for each violation or day that the violation continues.

If LARA believes that a person has violated Act 135, it may issue a citation at that time or no later than 90 days after discovery of the alleged violation. The written citation shall specifically state:

- The nature of the violation, including reference to the section of the act or the rule that is alleged to have been violated.
- The civil penalty established for the violation, if any.
- The right to appeal the citation.
- No later than 20 days after receipt of a citation, the alleged violator may choose to petition LARA for an administrative hearing to appeal the citation.

The penalty will become final if a petition for an administrative hearing or review is not received within the noted time frame.

### Accountability to the Public

All training course, contractor license, accreditation, and project notification fees are deposited into the asbestos abatement fund. Money in the asbestos abatement fund may be used by LARA ONLY for asbestos-related responsibilities, and may not be used for asbestos abatement projects on state-owned property. Each year, LARA must report the amount of money generated by asbestos-related fees to the state legislature. In addition, LARA must submit a yearly report to the legislature and the governor regarding the status of the licensing of asbestos abatement contractors.

The MIOSHA Asbestos Program performs the following services:

- Approves asbestos-related training courses.
- Licenses asbestos abatement contractors.
- Accredits professionals in the asbestos abatement industry.
- Maintains databases of approved trainers, licensed contractors, accredited individuals, and asbestos projects.
- Investigates asbestos-related compliance issues.
- Reviews AHERA management plans.

For additional information, please contact us at:

Michigan Department of Licensing and Regulatory Affairs  
Michigan Occupational Safety & Health Administration  
Construction Safety and Health Division

#### Asbestos Program

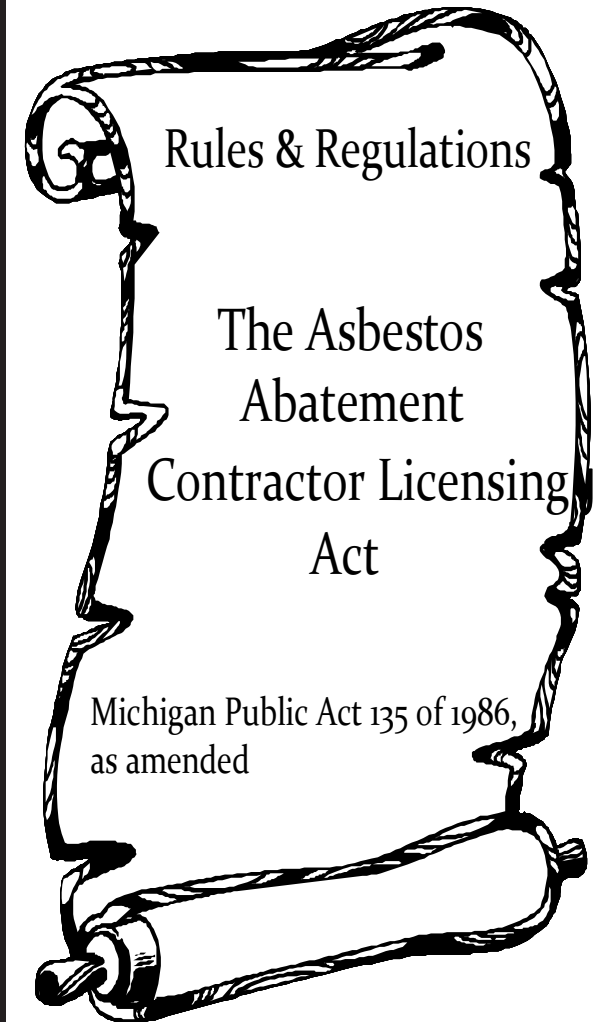
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FORM # MIOSHA-CSH-N7 Orchid



## Asbestos Awareness Training must be provided annually

This brochure is intended to be a general summary of Michigan Public Act 135 of 1986, as amended, and is not considered to be legally binding.

### The MIOSHA Asbestos Program

The Asbestos Program was initiated in September 1986. It is a section within the Michigan Department of Licensing and Regulator Affairs (LARA), Michigan Occupational Safety and Health Administration (MIOSHA), Construction Safety and Health Division (CSHD). The primary function of the program is to ensure that people working with asbestos are properly trained and that individuals performing asbestos abatement comply with rules governing the work activity. These rules are designed to protect not only the individual employee performing asbestos abatement work, but also members of the general public who occupy the area or building in which the work occurs. The Asbestos Program is the primary enforcement agency for Michigan Public Act 135 of 1986, as amended.

### Michigan Public Act 135 of 1986

- Provides definitions of asbestos-related terms.
- Provides for the licensing and regulation of asbestos abatement contractors.
- Establishes the powers and responsibilities of LARA.
- Enables LARA to charge fees for project notification and licensing.
- Provides for penalties and civil fines against violators.

### Licensing Requirements

A company or individual may not engage in any activity involving the demolition, renovation, or encapsulation of friable asbestos materials on the premises of another without first receiving the required training and a license from LARA.

Certain types of licensed contractors are exempt from dual licensing. This means that these contractors do not have to have both a license in their specific trade group and also an asbestos abatement contractor license to conduct asbestos abatement activities.

These licensed contractors (*plumbers, electricians, mechanical contractors, residential builders, and maintenance and alteration contractors*) are exempt from a dual licensure, provided that the asbestos abatement work they perform is incidental to their primary licensed trade and the project involves the

abatement of no more than 160 square feet or 260 linear feet of friable asbestos-containing materials.

It must be emphasized that although these trade groups are exempt from the asbestos abatement contractor requirements, they have many other legal obligations under Act 135; the Asbestos Workers Accreditation Act (i.e., Act 440, P.A. of 1988, as amended); and the Michigan Occupational Safety and Health Act (MIOSHA) (i.e., Act 154, P.A. of 1974, as amended). These obligations are as follows:

- Work Practices and Training Requirements: MIOSHA Asbestos Construction Standard (29 CFR 1926.1101) and the Asbestos Workers Accreditation Act.
- Project Notification and Fee Requirements: Act 135, P.A. of 1986, as amended.

In addition, the individual licensing boards of the *plumbers, electricians, mechanical contractors, residential builders, and maintenance and alteration contractors* have the legal authority to revoke or suspend these primary trade licenses for violations of the Asbestos Abatement Contractors Licensing Act, (Act 135, P.A. of 1986, as amended).

### Applying for Licensure

To receive an asbestos abatement contractor license, whether initial or renewal, a company must submit the following:

1. A completed contractor license application.
2. A certificate of Workers' Compensation Insurance issued within the last 30 days, with the certificate holder properly assigned or a Notice of Exclusion.
3. An alphabetical listing, with social security numbers, of all workers and supervisors in your employ who will be working with asbestos-containing material.
4. A copy of the Respirator Program and Hazard Communication Program.
5. If your company is an out-of-state corporation, please contact the LARA, Corporation & Land Development Bureau, Corporation Division at 517.241.6470 to obtain a Certificate of Good Standing.
6. The appropriate fee:

	<u>Initial</u>	<u>Renewal</u>
1-4 Employees	\$200.00	\$100.00
5 or More Employees	\$400.00	\$300.00

### Project Notification

Asbestos abatement contractors and Exempt trade groups must submit a written "Notification of Intent to Renovate/

Demolish" to LARA for all asbestos abatement projects that exceeds 10 linear feet or 15 square feet, or both, of friable asbestos materials. Licensed asbestos abatement contractors must submit this notification at least 10 calendar days before beginning the project. Exempt trade groups must submit this notification prior to beginning the project. The notification must include the following:

- The name and address of the owner of the building or structure.
- The location of the building or structure where the asbestos abatement project will be performed.
- The starting and completion dates of the asbestos abatement project.
- The amount of friable asbestos materials that will be removed or encapsulated.
- A fee equal to 1% of the total price of the asbestos abatement project.

Emergency asbestos abatement projects resulting from equipment failure or malfunctions are exempt from the 10-day written advance notice. However, the company must contact LARA immediately or as soon as possible after the discovery of the emergency situation via telephone and provide the written notice within 48 hours after the commencement of the project.

### Post-Abatement Air Monitoring

A post-abatement clearance air monitoring check must be performed by a neutral party at all asbestos abatement sites that utilize a negative pressure enclosure, involving 10 linear or 15 square feet or more of friable asbestos-containing materials.

The neutral party must be completely independent of the asbestos abatement contractor. However, if the asbestos abatement contractor and the building owner agree, the post-abatement clearance air monitoring check may be performed by in-house personnel or by the asbestos abatement contractor.

The post abatement clearance level shall not exceed 0.05 asbestos fibers per cubic centimeter of air (f/cc).

### Denying, Suspending, or Revoking a License

LARA may investigate the acts of an asbestos abatement contractor at its own discretion or upon the written complaint of an aggrieved party or state agency.

After an investigation, LARA may deny, suspend, or revoke a license if an asbestos abatement contractor is found to have: