

ASSEMBLY, No. 1336

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

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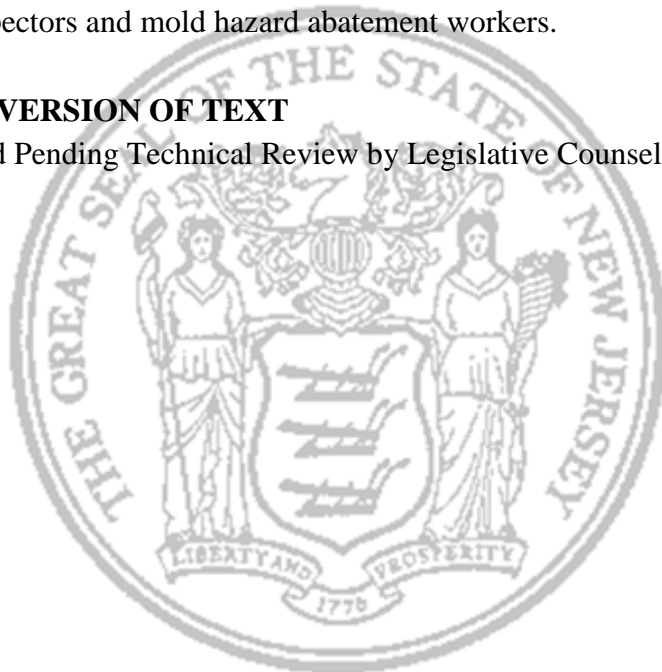
Assemblymen S.Kean, McKeon, Coughlin, Assemblywomen Mosquera, Lampitt, Jasey, Reynolds-Jackson, Timberlake, Speight, Assemblymen Chiaravalloti and Moen

SYNOPSIS

Requires DCA to establish procedures for inspection and abatement of mold hazards in residential buildings and school facilities, and certification programs for mold inspectors and mold hazard abatement workers.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/1/2021)

1 AN ACT concerning mold inspection and mold hazard abatement,
2 and supplementing Title 52 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in this act:

8 "Department" means the Department of Community Affairs.

9 "District" means a local or regional school district established
10 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey
11 Statutes, a county special services school district established
12 pursuant to article 8 of chapter 46 of Title 18A of the New Jersey
13 Statutes, a county vocational school district established pursuant to
14 article 3 of chapter 54 of Title 18A of the New Jersey Statutes, an
15 educational services commission, a jointure commission or board,
16 and a commission under the authority of the Commissioner of
17 Education or the State Board of Education.

18 "Mold" means any form of multicellular fungi that lives on plant
19 or animal matter and in indoor environments. Types of mold
20 include, but are not limited to, Cladosporium, Penicillium,
21 Alternaria, Aspergillus, Fusarium, Trichoderma, Memmoniella,
22 Mucor and Stachybotrys Chartarum, often found in water-damaged
23 building materials.

24 "School facility" means and includes any structure, building or
25 facility used wholly or in part for educational purposes by a district
26 or a charter school.

27

28 2. Within six months after the effective date of this act, the
29 Department of Community Affairs, in consultation with the
30 Department of Health and the Department of Labor and Workforce
31 Development, shall adopt rules and regulations pursuant to the
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.), that establish procedures for the inspection, identification,
34 evaluation, and abatement of the interior of residential buildings
35 and school facilities for mold based upon, but not limited to,
36 industry standards and standards and guidelines developed by the
37 United States Environmental Protection Agency.

38

39 3. a. Within 12 months after the effective date of this act, the
40 Department of Community Affairs shall adopt rules and regulations
41 pursuant to the "Administrative Procedure Act,"
42 P.L.1968, c.410 (C.52:14B-1 et seq.), to establish a program for the
43 certification of persons who inspect for the presence of mold
44 hazards in residential buildings and school facilities. The mold
45 inspection certification program shall require that inspectors for
46 mold hazards have training and education in at least the following
47 subject areas:

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1 (1) proper methods to identify the presence of mold consistent
2 with the procedures developed therefor pursuant to subsection a. of
3 section 2 of this act;

4 (2) scientifically recognized procedures and new technologies
5 for the collection of air and surface samples;

6 (3) methods for the identification of locations of moisture
7 infiltration to locate likely areas for mold infestation;

8 (4) all applicable State and federal laws, rules and regulations;
9 and

10 (5) any other area the department deems relevant.

11 b. Within 12 months after the effective date of this act, the
12 department shall adopt rules and regulations pursuant to the
13 "Administrative Procedure Act" to establish a program for the
14 certification of persons who perform mold hazard abatement work,
15 and who safeguard buildings from the presence of mold in
16 residential buildings and school facilities. The mold hazard
17 abatement certification shall require that persons have training and
18 education in the following areas:

19 (1) mold hazard abatement procedures developed by the
20 department pursuant to subsection b. of section 2 of this act;

21 (2) specialized cleaning, repairs, maintenance, painting,
22 temporary containment and ongoing monitoring of mold hazards or
23 potential hazards;

24 (3) removal of mold and the abatement of the underlying cause
25 of mold and associated water intrusion and water damage in indoor
26 environments;

27 (4) removal or cleaning of contaminated materials in a manner
28 that protects the health of the person performing the mold hazard
29 abatement, including requirements for the use of protective clothing
30 or equipment;

31 (5) all applicable State and federal laws, rules and regulations;
32 and

33 (6) any other training or education the department deems
34 appropriate, including but not limited to the successful completion
35 of an outreach training program for the construction industry or
36 general industry that has been approved by the federal Occupational
37 Safety and Health Administration in the United States Department
38 of Labor as an orientation to the occupational safety and health of
39 workers covered by part 1926 of title 29, Code of Federal
40 Regulations.

41 c. In establishing the certification programs for mold
42 inspection and mold hazard abatement required pursuant to
43 subsections a. and b. of this section, the Department of Community
44 Affairs may:

45 (1) charge an annual fee for any persons certified pursuant to
46 subsection a. or b. of this section;

- 1 (2) require the successful completion of a course of continuing
2 education or training for certified inspectors or abatement workers
3 at least once every two years;
- 4 (3) conduct examinations to determine whether an applicant has
5 sufficient knowledge of the State and federal laws, rules and
6 regulations, and any standards or requirements, applicable to the
7 inspection or abatement of mold hazards, as the case may be;
- 8 (4) maintain a list of the names and addresses of all persons
9 registered with the department pursuant to P.L. , c. (C.)
10 (pending before the Legislature as this bill) and annually forward
11 the list to the Division of Consumer Affairs in the Department of
12 Law and Public Safety for inclusion and publication as an
13 additional contractor list pursuant to the "Contractors' Registration
14 Act," P.L.2004, c.16 (C.56:8-136 et seq.); and
- 15 (5) adopt rules and regulations pursuant to the "Administrative
16 Procedure Act" to provide for:
- 17 (a) the enforcement and compliance with the mold inspection
18 and mold hazard abatement certification programs established
19 pursuant to subsections a. and b. of this section, which may provide
20 for the suspension, revocation, or refusal to issue or renew a
21 certification issued to persons by the department; and
- 22 (b) the imposition of penalties on any person who (i) violates
23 any provision of the certification programs established pursuant to
24 subsections a. and b. of this section, or (ii) inspects residential
25 building interiors or school facilities for the presence of mold or
26 performs mold hazard abatement work in residential buildings or
27 school facilities in violation of section 4 of this act.
- 28 d. In establishing the certification programs for mold
29 inspection and mold hazard abatement required pursuant to
30 subsections a. and b. of this section, the Department of Community
31 Affairs may grant a certification to a person who demonstrates to
32 the department that the person has successfully completed an
33 accredited program in mold inspection or mold hazard abatement,
34 as the case may be, by a nationally accepted accreditation
35 organization which is determined by the department to be equal to
36 or greater than the level of training and education required of
37 persons certified pursuant to subsection a. or b. of this section,
38 respectively; provided however, that a person granted a certification
39 pursuant to this subsection shall be required to pay the appropriate
40 annual fee charged by the department pursuant to paragraph (1) of
41 subsection c. of this section, successfully complete any course of
42 continuing education and training for certified inspectors or
43 abatement workers required by the department pursuant to
44 paragraph (2) of subsection c. of this section, and be subject to any
45 rules and regulations adopted pursuant to paragraph (4) of
46 subsection c. of this section.
- 47 e. An employee engaged in routine maintenance of a multiple
48 dwelling owned or managed by their employer shall not be required

1 to complete the certification programs established pursuant to this
2 section in order to address the presence of mold in the multiple
3 dwelling owned or managed by their employer; however, nothing in
4 this subsection shall be construed to exempt multiple dwellings
5 from otherwise complying with the procedures adopted by the
6 Department of Community Affairs pursuant to section 2 of this act.

7 f. A district employee engaged in routine maintenance of a
8 school facility owned or managed by their employer shall not be
9 required to complete the certification programs established pursuant
10 to this section in order to address the presence of mold in the school
11 facility owned or managed by their employer; however, nothing in
12 this subsection shall be construed to exempt districts from
13 otherwise complying with the procedures adopted by the
14 Department of Community Affairs pursuant to section 2 of this act.

15 g. A residential property owner shall not be required to
16 complete the certification programs established pursuant to this
17 section in order to perform mold inspection or mold abatement
18 work on his own property.

19

20 4. On the first day of the sixth month following adoption of the
21 rules and regulations required pursuant to section 3 of this act:

22 a. Any person who inspects a residential building interior or a
23 school facility for the presence of mold shall be certified by the
24 Department of Community Affairs pursuant to subsection a. of
25 section 3 of this act.

26 b. Any person who performs mold hazard abatement work in a
27 residential building or a school facility, except as otherwise
28 provided in subsections e., f., and g. of section 3 of this act, shall be
29 certified by the department pursuant to subsection b. of section 3 of
30 this act.

31 c. No person shall present himself to the public as an expert in
32 mold inspection or mold hazard abatement work unless certified by
33 the Department of Community Affairs pursuant to subsection a., b.,
34 or d., as applicable, of section 3 of this act.

35

36 5. This act shall take effect immediately.

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38

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STATEMENT

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41 This bill requires the Department of Community Affairs (DCA)
42 to establish certification programs for persons who wish to conduct
43 mold inspections and mold hazard abatements, respectively, on
44 residential buildings and school facilities. The bill also requires the
45 DCA to establish procedures for the inspection and abatement of
46 mold hazards in residential buildings and school facilities. These
47 procedures would be used to develop the two certification programs

1 and be based on industry standards and guidelines developed by the
2 United States Environmental Protection Agency.

3 Under the bill, beginning on the first day of the sixth month after
4 the DCA has established the certification programs, any person who
5 conducts a mold inspection or mold hazard abatement on a
6 residential building or school facility is required to possess the
7 applicable certification. Moreover, the bill prohibits any person
8 from presenting himself as an expert in mold inspection or mold
9 hazard abatement unless certified by the DCA in accordance with
10 the bill.

11 However, the bill provides that an employee of a multiple
12 dwelling or school district, who is engaged in the routine
13 maintenance of a multiple dwelling or school facility, would not be
14 required to possess either certification in order to address the
15 presence of mold in a multiple dwelling or school facility owned
16 and managed by their employer, provided that the multiple dwelling
17 or school district otherwise complies with the procedures
18 established by the DCA concerning the inspection, identification,
19 evaluation, and abatement of mold hazards. In addition, a
20 residential property owner would not be required to complete the
21 certification programs in order to perform mold inspections or mold
22 hazard abatements on his own property.

23 The bill authorizes the DCA to (1) charge an annual fee for
24 persons possessing the mold inspection and abatement
25 certifications; (2) require the successful completion of a continuing
26 education course for certified inspectors or abatement workers at
27 least once every two years; and (3) conduct examinations to
28 determine an applicant's proficiency with respect to State and
29 federal laws, rules, and regulations and any standards or
30 requirements applicable to the inspection or abatement of mold
31 hazards. The bill also authorizes DCA to maintain a list of the
32 names and addresses of all persons certified by DCA in accordance
33 with the bill, and annually forward the list to the Division of
34 Consumer Affairs in the Department of Law and Public Safety for
35 inclusion and publication as an additional contractor list pursuant to
36 the "Contractors' Registration Act," P.L.2004, c.16 (C.56:8-136 et
37 seq.). In addition, the bill authorizes the DCA to adopt rules and
38 regulations to enforce compliance with the mold inspection and
39 mold hazard abatement certification programs established by the
40 bill.

41 The bill also authorizes the DCA to grant mold inspection and
42 mold hazard abatement certifications to persons who demonstrate
43 that they have successfully completed an accredited program in
44 mold inspection and mold hazard abatement by a nationally
45 accepted accreditation organization, provided that those persons pay
46 the annual fee charged by the DCA, complete any continuing
47 education course required by the DCA, and comply with any other
48 rules and regulations adopted by the DCA.