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HEALTH AND SAFETY CODE - HSC

DIVISION 20. MISCELLANEOUS HEALTH AND SAFETY PROVISIONS [24000 - 27007] (*Division 20 enacted by Stats. 1939, Ch. 60.*)

CHAPTER 10.4. Asbestos Notification [25915 - 25919.7] (*Chapter 10.4 added by Stats. 1988, Ch. 1502, Sec. 1.*)

25915. (a) Notwithstanding any other provision of law, the owner of any building constructed prior to 1979, who knows that the building contains asbestos-containing construction materials, shall provide notice to all employees of that owner working within the building concerning all of the following:

- (1) The existence of, conclusions from, and a description or list of the contents of, any survey known to the owner conducted to determine the existence and location of asbestos-containing construction materials within the building, and information describing when and where the results of the survey are available pursuant to Section 25917.
- (2) Specific locations within the building known to the owner, or identified in a survey known to the owner, where asbestos-containing construction materials are present in any quantity.
- (3) General procedures and handling restrictions necessary to prevent, and, if appropriate, to minimize disturbance, release, and exposure to the asbestos. If detailed handling instructions are necessary to ensure employee safety, the notice required by this section shall indicate where those instructions can be found.
- (4) A summary of the results of any bulk sample analysis, or air monitoring, or monitoring conducted pursuant to Section 5208 of Title 8 of the California Code of Regulations, conducted for or by the owner or within the owner's control, including reference to sampling and laboratory procedures utilized, and information describing when and where the specific monitoring data and sampling procedures are available pursuant to Section 25917.
- (5) Potential health risks or impacts that may result from exposure to the asbestos in the building as identified in surveys or tests referred to in this section, or otherwise known to the owner.

The notice may contain a description and explanation of the health action levels or exposure standards established by the state or federal government. However, if the notice contains this description, the notice shall include, at least, a description and explanation of the no significant risk level established pursuant to Chapter 6.6 (commencing with Section 25249.5) of Division 20, and specified in Section 12711 of Title 22 of the California Code of Regulations, the school abatement clearance level specified in Section 49410.7 of the Education Code, and the action levels established by state and federal Occupational Safety and Health Act regulations.

The notice requirements specified in this subdivision shall not apply to an owner who elects to prepare an asbestos management plan pursuant to Section 25915.1. In those cases, the notice requirements specified in Section 25915.1 shall apply.

(b) If the owner has no special knowledge of the information required pursuant to paragraphs (3) and (5), of subdivision (a), the owner shall specifically inform his or her employees in the notice required by this section, that he or she lacks knowledge regarding handling instructions necessary to prevent and minimize release of, and exposure to, asbestos and the potential health impacts resulting from exposure to asbestos in the building, and shall encourage employees to contact local or state public health agencies.

(Amended by Stats. 1989, Ch. 948, Sec. 1. Effective September 27, 1989.)

25915.1. (a) An owner may elect to prepare an asbestos management plan for any building subject to this chapter, and in that case may, upon implementation of that plan, comply with the notification requirements of this chapter by providing notice to other owners and all employees of that owner working within the building of the following:

- (1) The specific locations within the building where asbestos-containing construction materials are present in any quantity.

(2) Potential health risks or impacts that may result from exposure to the asbestos.

(3) Information to convey that moving, drilling, boring, or otherwise disturbing the asbestos-containing construction material identified may present a health risk and, consequently, should not be attempted by an employee who is not qualified to handle asbestos-containing construction material.

(4) The existence and availability of the management plan and a description of its contents.

(b) For purposes of this chapter, an asbestos management plan shall be designed to minimize the potential for release of asbestos fibers and to outline a schedule of actions to be undertaken with respect to the asbestos. The plan shall be prepared by a person accredited to prepare management plans for schools pursuant to Section 2646 of Title 15 of the United States Code and shall contain all of the following:

(1) The information specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 25915.

(2) A description of an ongoing operations and maintenance program which shall include, but not be limited to, periodic reinspection and surveillance, suggested fiber release episode procedures, measures to minimize potential fiber releases, and information and training programs for building engineering and maintenance staff.

(3) Recordkeeping procedures to demonstrate implementation of the plan which shall be maintained for the life of the building to which they apply.

(Added by Stats. 1989, Ch. 948, Sec. 2. Effective September 27, 1989.)

25915.2. (a) Notice provided pursuant to this chapter shall be provided in writing to each individual employee, and shall be mailed to other owners designated to receive the notice pursuant to subdivision (a) of Section 25915.5, within 15 days of the first receipt by the owner of information identifying the presence or location of asbestos-containing construction materials in the building. This notice shall be provided annually thereafter. In addition, if new information regarding those items specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 25915 has been obtained within 90 days after the notice required by this subdivision is provided or any subsequent 90-day period, then a supplemental notice shall be provided within 15 days of the close of that 90-day period.

(b) Notice provided pursuant to this chapter shall be provided to new employees within 15 days of commencement of work in the building.

(c) Notice provided pursuant to this chapter shall be mailed to any new owner designated to receive the notice pursuant to subdivision (a) of Section 25915.5 within 15 days of the effective date of the agreement under which a person becomes a new owner.

(d) Subdivisions (a) and (c) shall not be construed to require owners of a building or part of a building within a residential common interest development to mail written notification to other owners of a building or part of a building within the residential common interest development, if all the following conditions are met:

(1) The association conspicuously posts, in each building or part of a building known to contain asbestos-containing materials, a large sign in a prominent location that fully informs persons entering each building or part of a building within the common interest development that the association knows the building contains asbestos-containing materials.

The sign shall also inform persons of the location where further information, as required by this chapter, is available about the asbestos-containing materials known to be located in the building.

(2) The owners or association disclose, as soon as practicable before the transfer of title of a separate interest in the common interest development, to a transferee the existence of asbestos-containing material in a building or part of a building within the common interest development.

Failure to comply with this section shall not invalidate the transfer of title of real property. This paragraph shall only apply to transfers of title of separate interests in the common interest development of which the owners have knowledge. As used in this section, "association" and "common interest development" are defined in Sections 4080 and 4100 or Sections 6528 and 6534 of the Civil Code.

(e) If a person contracting with an owner receives notice pursuant to this chapter, that contractor shall provide a copy of the notice to his or her employees or contractors working within the building.

(f) If the asbestos-containing construction material in the building is limited to an area or areas within the building that meet all the following criteria:

(1) Are unique and physically defined.

(2) Contain asbestos-containing construction materials in structural, mechanical, or building materials which are not replicated throughout the building.

(3) Are not connected to other areas through a common ventilation system; then, an owner required to give notice to his or her employees pursuant to subdivision (a) of Section 25915 or 25915.1 may provide that notice only to the employees working within or entering that area or those areas of the building meeting the conditions above.

(g) If the asbestos-containing construction material in the building is limited to an area or areas within the building that meet all the following criteria:

(1) Are accessed only by building maintenance employees or contractors and are not accessed by tenants or employees in the building, other than on an incidental basis.

(2) Contain asbestos-containing construction materials in structural, mechanical, or building materials which are not replicated in areas of the building which are accessed by tenants and employees.

(3) The owner knows that no asbestos fibers are being released or have the reasonable possibility to be released from the material; then, as to that asbestos-containing construction material, an owner required to give notice to his or her employees pursuant to subdivision (a) of Section 25915 or Section 25915.1 may provide that notice only to its building maintenance employees and contractors who have access to that area or those areas of the building meeting the conditions above.

(h) In those areas of a building where the asbestos-containing construction material is composed only of asbestos fibers which are completely encapsulated, if the owner knows that no asbestos fibers are being released or have the reasonable possibility to be released from that material in its present condition and has no knowledge that other asbestos-containing material is present, then an owner required to give notice pursuant to subdivision (a) of Section 25915 shall provide the information required in paragraph (2) of subdivision (a) of Section 25915 and may substitute the following notice for the requirements of paragraphs (1), (3), (4), and (5) of subdivision (a) of Section 25915:

(1) The existence of, conclusions from, and a description or list of the contents of, that portion of any survey conducted to determine the existence and location of asbestos-containing construction materials within the building that refers to the asbestos-containing materials described in this subdivision, and information describing when and where the results of the survey are available pursuant to Section 25917.

(2) Information to convey that moving, drilling, boring, or otherwise disturbing the asbestos-containing construction material identified may present a health risk and, consequently, should not be attempted by an unqualified employee. The notice shall identify the appropriate person the employee is required to contact if the condition of the asbestos-containing construction material deteriorates.

(Amended (as amended by Stats. 2012, Ch. 181, Sec. 66) by Stats. 2013, Ch. 605, Sec. 38. (SB 752) Effective January 1, 2014.)

25915.5. (a) An owner required to give notice to employees pursuant to this chapter, in addition to notifying his or her employees, shall mail, in accordance with this subdivision, a copy of that notice to all other persons who are owners of the building or part of the building, with whom the owner has privity of contract. Receipt of a notice pursuant to this section by an owner, lessee, or operator shall constitute knowledge that the building contains asbestos-containing construction materials for purposes of this chapter. Notice to an owner shall be delivered by first-class mail addressed to the person and at the address designated for the receipt of notices under the lease, rental agreement, or contract with the owner.

(b) The delivery of notice under this section or negligent failure to provide that notice shall not constitute a breach of any covenant under the lease or rental agreement, and nothing in this chapter enlarges or diminishes any rights or duties respecting constructive eviction.

(c) No owner who, in good faith, complies with the provisions of this section shall be liable to any other owner for any damages alleged to have resulted from his or her compliance with the provisions of this section.

(d) This section shall not be construed to apply to owners of a building or part of a building within a residential common interest development or association, if the owners comply with the provisions of subdivision (d) of Section 25915.2. For purposes of this section, "association" and "common interest development" are defined in Sections 4080 and 4100 of the Civil Code.

(Amended by Stats. 2012, Ch. 181, Sec. 67. (AB 806) Effective January 1, 2013. Operative January 1, 2014, by Sec. 86 of Ch. 181.)

25916. If any construction, maintenance, or remodeling is conducted in an area of the building area where there is the potential for employees to come into contact with, or release or disturb, asbestos or asbestos-containing construction materials, the owner responsible for the performance of, or contracting for, any construction, maintenance, or remodeling in the area shall post that area with a clear and conspicuous warning notice. The posted warning notice shall read, in print which is readily visible because of its large size and bright color, as specified in either subdivision (a) or (b).

(a) "CAUTION. ASBESTOS. CANCER AND LUNG DISEASE HAZARD. DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT."

(b) "DANGER. ASBESTOS. CANCER AND LUNG DISEASE HAZARD. AUTHORIZED PERSONNEL ONLY. RESPIRATORS AND PROTECTIVE CLOTHING ARE REQUIRED IN THIS AREA."

(Amended by Stats. 1989, Ch. 948, Sec. 4. Effective September 27, 1989.)

25916.5. (a) When there is more than one owner of a building or part of a building subject to this chapter, the owners may agree in writing to designate one particular owner to prepare any notice required pursuant to this chapter.

(b) Any owner, other than the owner preparing the notice, may use a notice prepared by another owner to satisfy the requirements of this chapter if all of the following are satisfied:

- (1) The notice fully complies with that owner's obligations under this chapter.
- (2) That owner does not know that the notice contains false or misleading information.
- (3) That owner does not know that the owner who prepared the notice has failed to comply with this chapter.

(Added by Stats. 1989, Ch. 948, Sec. 5. Effective September 27, 1989.)

25917. An owner shall make available, for review and photocopying, to other owners and all of his or her employees or those employees' representatives at an accessible place and time, all existing asbestos survey and monitoring data and any asbestos management plan which has been prepared, specific to the building. This place shall be within the building, or another building which is leased or also owned by the owner, located on the same property as the building, and accessible and convenient to employees, and shall be available during employee working hours, including lunch and break periods, if any owner maintains an office or similar facility in the building; if not, the survey, data, and asbestos management plan shall be available at another place, and at a time accessible and convenient to employees and their representatives. Any owner may enter into an agreement with another owner to provide the location where the survey, data, and asbestos management plan is available to employees within one building pursuant to this section.

(Amended by Stats. 1989, Ch. 948, Sec. 6. Effective September 27, 1989.)

25917.5. If an asbestos information system or statewide asbestos register, or both, is established subsequent to the designing of the system and register pursuant to paragraphs (5) and (6) of subdivision (a) of Section 25927, the system or register, or both, as the case may be, shall integrate, be consistent with, and, at a minimum, include all of the requirements of this chapter.

(Added by Stats. 1988, Ch. 1502, Sec. 1.)

25918. "Asbestos," as used in this chapter, has the same meaning as defined in Section 6501.7 of the Labor Code.

(Added by Stats. 1988, Ch. 1502, Sec. 1.)

25919. "Asbestos-containing construction material," as used in this chapter, means any manufactured construction material, including structural, mechanical and building material, which contains more than one-tenth of 1 percent asbestos by weight.

(Added by Stats. 1988, Ch. 1502, Sec. 1.)

25919.2. "Building," as used in this chapter, means all or part of any "public and commercial building," as defined in Section 2642 of Title 15 of the United States Code, as that section reads on January 1, 1989, except that "building" shall not mean residential dwellings.

(Added by renumbering Section 25920 (as amended by Stats. 1989, Ch. 948) by Stats. 1990, Ch. 216, Sec. 69.)

25919.3. "Employee," as used in this chapter, means every person who is required or directed by any employer, to engage in any employment, and who performs that employment other than on a casual or incidental basis in any building subject to this chapter, or any person contracting with an owner who is required or directed to perform services, other than on a casual or incidental basis, in any building subject to this chapter.

(Added by renumbering Section 25921 (as amended by Stats. 1988, Ch. 1502) by Stats. 1990, Ch. 216, Sec. 70.)

25919.4. "Employee's representative," as used in this chapter, means an employee's union representative, a member of the employee's immediate family, a nonrelated member of the employee's household, and an employee's attorney or a person with power of attorney.

(Added by renumbering Section 25922 (as added by Stats. 1988, Ch. 1502) by Stats. 1990, Ch. 216, Sec. 71.)

25919.5. "Owner," as used in this chapter, means an owner, lessee, sublessee, or agent of the owner of a building or part of a building, including, but not limited to, the state or another public entity.

(Added by renumbering Section 25923 (as added by Stats. 1988, Ch. 1502) by Stats. 1990, Ch. 216, Sec. 72.)

25919.6. "Agent," as used in this chapter, means a person acting in accordance with Title 9 (commencing with Section 2295) of Part 4 of Division 3 of the Civil Code for purposes of managing, operating, leasing, or performing a similar function with respect to a building subject to this chapter.

(Added by renumbering Section 25923.1 by Stats. 1990, Ch. 216, Sec. 73.)

25919.7. Any owner who knowingly or intentionally fails to comply with this chapter, or who knowingly or intentionally presents any false or misleading information to employees or any other owner, is guilty of a misdemeanor punishable by a fine of up to one thousand dollars (\$1,000) or up to one year in the county jail, or both. This section shall become operative on July 1, 1989.

(Added by renumbering Section 25924 by Stats. 1990, Ch. 216, Sec. 74.)