

ASSEMBLY, No. 1433

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

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District 14 (Mercer and Middlesex)

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**Assemblymen S.Kean, McKeon, Coughlin, Assemblywomen Mosquera,
Lampitt, Assemblyman Eustace and Assemblywoman Jasey**

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: 10/23/2018)

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:

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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, Memnoniella,
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.

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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," P.L.1968, c.410
42 (C.52:14B-1 et seq.), to establish a program for the certification of
43 persons who inspect for the presence of mold hazards in residential
44 buildings and school facilities. The mold inspection certification
45 program shall require that inspectors for mold hazards have training
46 and education in at least the following subject areas:

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. _____,
10 c. (C. _____) (pending before the Legislature as this bill) and
11 annually forward such list to the Department of Labor and
12 Workforce Development 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 residential property owner shall not be required to
8 complete the certification programs established pursuant to this
9 section in order to perform mold inspection or mold abatement
10 work on his own property.

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

14 a. Any person who inspects a residential building interior or a
15 school facility for the presence of mold shall be certified by the
16 Department of Community Affairs pursuant to subsection a. of
17 section 3 of this act.

18 b. Any person who performs mold hazard abatement work in a
19 residential building or a school facility, except as otherwise
20 provided in subsections e. and f. of section 3 of this act, shall be
21 certified by the department pursuant to subsection b. of section 3 of
22 this act.

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

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28 5. This act shall take effect immediately.

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STATEMENT

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33 This bill provides for the establishment of certain procedures for
34 the inspection, identification, evaluation, and abatement of mold
35 hazards in residential buildings and school facilities based upon, but
36 not limited to, industry standards and standards and guidelines
37 developed by the United States Environmental Protection Agency.
38 In addition, the bill provides for the establishment of programs to
39 certify mold inspectors and mold hazard abatement workers.

40 The bill requires the Department of Community Affairs (DCA),
41 in consultation with the Department of Health and the Department
42 of Labor and Workforce Development, to adopt, within six months
43 after the effective date of the bill, rules and regulations that
44 establish procedures for the inspection, identification, evaluation,
45 and abatement of the interior of residential buildings and school
46 facilities for mold. The bill requires the DCA to adopt, within 12
47 months after the effective date of the bill, rules and regulations to
48 establish a certification program for persons who inspect for the

1 presence of mold hazards in residential buildings and school
2 facilities. The bill also requires the DCA to adopt, within 12
3 months after the effective date of the bill, rules and regulations to
4 establish a certification program for persons who perform mold
5 hazard abatement work in residential buildings and school facilities.

6 The bill authorizes the DCA to charge an annual fee for the
7 certification of persons who inspect for the presence of mold and
8 perform mold hazard abatement, require the successful completion
9 of a course of continuing education or training for certified
10 inspectors or abatement workers at least once every two years, and
11 conduct examinations to determine an applicant's proficiency with
12 respect to State and federal laws, rules, and regulations and any
13 standards or requirements applicable to the inspection or abatement
14 of mold hazards. Further, the bill authorizes DCA to maintain a list
15 of the names and addresses of all persons registered with DCA as
16 provided under the bill, and annually forward the list to the
17 Department of Labor and Workforce Development for inclusion and
18 publication as an additional contractor list pursuant to the
19 "Contractors' Registration Act," P.L.2004, c.16 (C.56:8-136 et
20 seq.). In addition, the bill authorizes the DCA to adopt of rules and
21 regulations to provide for the enforcement of, and compliance with,
22 the mold inspection and mold hazard abatement certification
23 programs established by the bill.

24 The bill authorizes the DCA to also grant mold inspection and
25 mold hazard abatement certifications to persons who are able to
26 demonstrate that they have successfully completed an accredited
27 program in mold inspection and mold hazard abatement by a
28 nationally accepted accreditation organization. The bill provides
29 that the accredited program must require persons enrolled in the
30 program to have training and education that is determined by the
31 DCA to be equal to or greater than the level of training and
32 education required of persons who are otherwise certified by the
33 DCA, that persons granted certification as a result of the successful
34 completion of an accredited program pay the appropriate annual fee
35 charged by the DCA, complete any course of continuing education
36 and training for certified inspectors or abatement workers required
37 by the DCA, and be subject to any other rules and regulations
38 adopted by the DCA.

39 The bill provides that on the first day of the sixth month
40 following the adoption of rules and regulations concerning the
41 establishment of programs to certify mold inspectors and mold
42 hazard abatement workers, any person who inspects for the
43 presence of mold hazards in residential buildings and school
44 facilities and any person who performs mold hazard abatement
45 work in those buildings must be certified by the DCA. The bill
46 allows only certified contractors to represent themselves to the
47 public as experts in mold inspection or mold hazard abatement, as
48 applicable.

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1 Finally, the bill provides that an employee engaged in routine
2 maintenance of a multiple dwelling owned or managed by their
3 employer will not be required to complete the certification program
4 for mold inspectors or mold hazard abatement workers to address
5 the presence of mold in the multiple dwelling owned or managed by
6 their employer.