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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2002

A N A C T

RELATING TO HEALTH AND SAFETY - LABORATORIES

Introduced By: Senator Leo R. Blais

Date Introduced: January 31, 2002

Referred To: Senate Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-16.2-2, 23-16.2-3, 23-16.2-4, 23-16.2-7 and 23-16.2-8 of the
2 General Laws in Chapter 23-16.2 entitled "Laboratories" are hereby amended to read as follows:

3 **23-16.2-2. Definitions.** -- When used in this chapter:

4 (1) "Analytical laboratory" means a facility for the biological, microbiological, chemical,
5 physical, and radiochemical examination of ~~food, surface water, recreational water, air,~~
6 ~~wastewater, sewage, swimming pools, solid waste, hazardous waste, minerals, soil, sediment,~~
7 potable water, nonpotable water, or other environmental matrices.

8 (2) "Clinical laboratory" means a facility for the bio logical, microbiological, serological,
9 chemical, immunohematological, hematological, radiobioassay, cytological, pathological, or
10 other examination of materials derived from the human body for the purposes of providing
11 information for the diagnosis, prevention, or treatment of any disease or impairment of or the
12 assessment of the health of human beings.

13 (3) "Director" means the director of the department of health.

14 (4) "Persons" means any individual, firm, partnership, corporation, company,
15 association, or joint stock association.

16 (5) "Station" means a facility for the collection, processing, and transmission of the
17 materials described in subdivisions (1) and (2) for the purposes described in subdivisions (1) and
18 (2).

19 (6) "Certification" means the determination by the department of health that an analytical

1 laboratory is capable of performing specific tests or analyses of environmental samples in
2 accordance with the requirements of regulations promulgated pursuant to this chapter.

3 **23-16.2-3. Application of law -- Exceptions.** -- The provisions of this chapter shall
4 apply to all laboratories and stations performing analytical or clinical laboratory services or
5 specimens in this state except:

6 (1) A laboratory maintained by a hospital licensed under chapter 17 of title 23, ~~or by~~
7 ~~food preparation or processing establishments performing analysis to determine the quality of~~
8 ~~their own products,~~ or by a licensed physician or group of licensed physicians who make the tests
9 referred to in section 23-16.2-2 personally and solely in connection with the treatment of their
10 own patients; however, an independent laboratory which makes the tests on its own responsibility
11 for a single physician or group of physicians is subject to this chapter; and

12 (2) Any temporary or ad hoc health promotion or screening program conducted for the
13 general public which offers generally accepted mass screening procedures; provided the health
14 promotion or screening program is conducted pursuant to a permit issued by the department of
15 health.

16 (3) Any person maintaining a laboratory performing analytical services only for the
17 purpose of determining the quality of their own products; and

18 (4) Any person performing only limited function tests as defined in regulation by the
19 director.

20 **23-16.2-4. License required -- Term of license -- Application -- Fee. License**
21 **required for clinical laboratories - - Term of license - - Application Fee.** -- (a) It shall be
22 unlawful for any persons, corporation, or other form of business entity to perform clinical or
23 ~~analytical~~ laboratory services on specimens collected in this state or to own or maintain a
24 laboratory or station in this state without having a license issued by the department of health
25 pursuant to this chapter. A license, unless sooner suspended or revoked under the provisions of
26 this chapter, shall expire on the thirtieth (30th) day of December of every other year following the
27 date of license. This will be determined on an odd-even basis with respect to the license number.
28 Each license shall be issued only to conduct the tests approved and for the premises and persons
29 named in the application, and shall not be transferable or assignable. The fee for a clinical
30 laboratory license shall be five hundred dollars (\$500) for each specialty for which the laboratory
31 is approved. The fee for a station license shall be five hundred dollars (\$500). ~~The fee for an~~
32 ~~analytical laboratory shall be five hundred dollars (\$500) for each category for which the~~
33 ~~laboratory is approved.~~ The fees shall be made payable to the general treasurer, state of Rhode
34 Island, and submitted with the application to the department of health.

1 (b) It shall be unlawful for any persons, corporations, or other form of entity to own,
2 operate, maintain, conduct, or sponsor a temporary or ad hoc screening program without having
3 obtained a permit from the director of health. The fee for any permit shall be fifty dollars
4 (\$50.00). It is within the director's discretion to waive the fee. All fees shall be made payable to
5 the general treasurer, state of Rhode Island. Nothing contained in this section shall require any
6 licensed persons, corporations, or other entity to pay the permit fee, if the screening program is
7 provided free of charge to the public by the licensed persons, corporation, or entity.

8 **23-16.2-7. Suspension and revocation of license. Suspension and revocation of**
9 **license or specific certification.** -- (a) The department of health may revoke or suspend the
10 license or specific certification of any laboratory or station for conduct by or chargeable to the
11 laboratory or stations as follows:

12 (1) Failure to observe any term of the license or specific certification issued under
13 authority of this chapter by the department of health;

14 (2) Failure to observe any order made under authority of this chapter or under the
15 statutory authority vested in the department of health;

16 (3) Engaging in, aiding, abetting, causing, or permitting any action prohibited under this
17 chapter;

18 (4) Failing to observe any regulations promulgated by the department of health.

19 (b) Whenever the director shall have reason to believe that any laboratory or station, for
20 the maintenance of which the director has issued a license or specific certification as provided for
21 in section 23-16.2-4, is being maintained in violation of the rules and regulations provided in
22 section 23-16.2-5, the director may, pending an investigation and hearing, suspend for a period
23 not exceeding thirty (30) days, any license or specific certification issued under authority of this
24 chapter and may, after due notice and hearing, revoke the license if the director finds that the
25 laboratory or station is being maintained in violation of the rules and regulations. The holder of a
26 license or specific certification shall upon its revocation promptly surrender the license or specific
27 certification to the director.

28 **23-16.2-8. Judicial review of license action.** -- Any person aggrieved by a decision of
29 the director refusing to grant an application for a license to maintain a laboratory or station or
30 suspending or revoking a license already issued, may appeal the decision to the superior court
31 which shall have power to review the entire proceedings of any hearing before the department of
32 health in the manner provided in chapter 35 of title 42.

33 SECTION 2. Chapter 23-16.2 of the General Laws entitled "Laboratories" is hereby
34 amended by adding thereto the following section:

1 **23-16.2-4.1. Certificate required for analytical laboratories - - term of certificate - -**
2 **fee. --** It shall be unlawful for any analytical laboratory to perform testing or analysis of samples
3 originating in this state, for which the department of health requires certification, without having
4 a certificate issued by the department of health pursuant to this chapter. Certificates for specific
5 analyses and methods for laboratory testing of potable water, nonpotable water, and
6 environmental samples for lead content are hereby required. The department is authorized to
7 require certification for other types of environmental testing and to set fees for certificates in
8 regulation. Certificates, unless sooner suspended or revoked under the provisions of this chapter,
9 shall expire on the December 30th, of every year following the date of the certificate.

10 SECTION 3. Section 23-24.5-14 of the General Laws in Chapter 23-24.5 entitled
11 "Asbestos Abatement" is hereby amended to read as follows:

12 **23-24.5-14. Training, curricula, and certification. --** (a) (1) The director shall establish
13 procedures and regulations for the following procedures:

14 (i) For the certification of a competent person, of designated public maintenance
15 employees, of designated teacher and parent representatives, of ~~in-state~~ laboratories, performing
16 analysis of asbestos in air or building materials and of private consultants or inspectors;

17 (ii) Establish standards and specifications for training courses based upon, but not
18 limited to, those included in this chapter and to certify that training;

19 (iii) To train directly or by contract maintenance personnel or competent persons;

20 (iv) To certify and train designated public maintenance personnel and workers in the
21 private sector, including but not limited to electricians, contractors, plumbers, in safe techniques
22 of spot asbestos repair.

23 (2) Each trained and certified person shall be issued an "asbestos certified" photo identity
24 card, and only those carded persons shall be permitted to do spot repairs on asbestos in the
25 buildings of their jurisdiction. Any person certified for spot repair but not as an asbestos
26 "contractor" shall not undertake any asbestos abatement project larger than the size limits of a
27 spot repair as defined by the director and shall follow all safe work practices for spot repair work
28 as required by the director. Those employees in violation of these provisions and/or their
29 employer shall be subject to a fine of no more than five hundred dollars (\$500) per violation.

30 (b) As a guideline for approval of a certified training program for asbestos contractors,
31 the director shall give due consideration to a course of thirty-two (32) hours of instruction
32 covering the following topics:

33 (1) The nature of asbestos hazards and a review of improper abatement procedures such
34 as dry removal, lack of protective barriers, and poor respirator fit problems;

1 (2) The medical effects of asbestos exposure, the mechanics of human respiration, the
2 nature of asbestos disease conditions, their diagnosis and evaluation, and medical asbestos
3 surveillance methods in exposed populations;

4 (3) Federal and state asbestos regulations including OSHA and EPA regulations, Right-
5 to-Know laws, and this chapter;

6 (4) Current protection standards, including the role of respirators, appropriate
7 housekeeping procedures, appropriate hygiene, the synergism effects of asbestos with smoking,
8 and the importance of decontamination procedures;

9 (5) The proper preparation of the work area including, but not limited to, the proper
10 repair and removal abatement techniques, sealing and isolation methods in the work environment,
11 the use of negative pressure air filtration barriers, the avoidance of power tools, the need for
12 wetting down of asbestos materials, bagging and labeling of asbestos materials, proper waste
13 storage, and removal of material;

14 (6) Identifying asbestos containing materials, study of decision protocol for evaluation
15 and prioritizing of abatement, air sampling and other monitoring techniques, negative air pressure
16 filtration system and high efficiency particulate air (HEPA) filter systems.

17 (c) The director may assess fees for certifications issued in accordance with rules or
18 regulations promulgated pursuant to the authority conferred by this section, provided that those
19 fees are assessed only after procedures in accordance with chapter 35 of title 42 have been
20 followed.

21 (d) Notwithstanding the requirements contained in subsections (a) and (b) of this section,
22 the director may also establish procedures or regulations for reciprocal recognition of training
23 courses and/or certification programs for asbestos contractors, site supervisory personnel and/or
24 asbestos abatement workers. The director may assess fees for reciprocal recognition of training
25 courses and/or certification programs for asbestos contractors, site supervisory personnel and/or
26 asbestos abatement workers issued in accordance with rules or regulations promulgated pursuant
27 to the authority conferred by this section, provided that these fees are assessed only after
28 procedures in accordance with chapter 35 of title 42 have been followed.

29 SECTION 4. Sections 23-24.6-12 and 23-24.6-21 of the General Laws in Chapter 23-
30 24.6 entitled "Lead Poisoning Prevention Act" are hereby amended to read as follows:

31 **23-24.6-12. Comprehensive environmental lead inspections.** -- The department shall
32 develop and promulgate regulations for conducting comprehensive environmental lead
33 inspections. These regulations shall, at a minimum, include procedures for:

34 (1) Inspecting, testing, and/or sampling of drinking water, household dust, painted

1 surfaces, soil, and/or other appropriate fixed surfaces that may contain lead;

2 (2) Notification of owners, occupants, and mortgagees and lienholders and/or the posting
3 of warnings when unacceptable environmental lead levels are identified during an inspection; and

4 (3) Notifying the department of the results of inspections.

5 (4) Collection of environmental media samples, including, but not limited to, dust, soil,
6 paint, pewter, pottery, and water, and field analysis of their lead content.

7 **23-24.6-21. Laboratory certification. Laboratory testing and reporting**
8 **requirement. --** (a) ~~The department shall develop and promulgate regulations for analysis of lead~~
9 ~~in blood and in environmental media including but not limited to dust, soil, paint, pewter, pottery,~~
10 ~~and water.~~

11 Laboratory analyses of all clinical and environmental media samples collected to
12 demonstrate compliance with this act or with regulations promulgated pursuant to this act shall
13 only be conducted by a laboratory which has been licensed or certified (as appropriate) by the
14 director pursuant to chapter 16.2 of title 23 entitled "Laboratories."

15 (b) ~~The department shall certify laboratories performing lead analyses under the~~
16 ~~department's laboratory improvement program to ensure that the laboratories comply with the~~
17 ~~regulations for analysis of lead in blood and in environmental media.~~

18 All laboratories performing blood lead analyses on samples taken from children under
19 six (6) years of age shall report the results of such analysis to the department in accordance with
20 regulations promulgated by the department.

21 (c) ~~All certified laboratories shall report blood lead testing results to the department as~~
22 ~~required by department regulations.~~

23 SECTION 5. Section 23-61-5 of the General Laws in Chapter 23-61 entitled "Radon
24 Control" is hereby amended to read as follows:

25 **23-61-5. Licensing and certification. --** (a) All persons providing or offering to provide
26 the following services must be certified or licensed in accordance with regulations adopted
27 pursuant to the authority conferred by this chapter:

28 (1) Screening sampling/testing of air ~~or water~~ for radon/radon progeny;

29 (2) Diagnostic sampling/testing of air ~~or water~~ for radon/radon progeny;

30 (3) Mitigation planning services for radon/radon progeny;

31 (4) Training courses offered for the purpose of meeting any of the licensing and/or
32 certification requirements mandated by this chapter.

33 (b) The director may assess fees for licenses and certifications issued in accordance with
34 regulations promulgated pursuant to the authority conferred by this section, provided that those

1 fees are assessed only after procedures in accordance with chapter 35 of title 42 have been
2 followed. The fees collected shall be deposited in a restricted receipt account as provided for
3 under section 23-61-8 of this chapter.

4 SECTION 6. This act shall take effect on January 1, 2003.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO HEALTH AND SAFETY - LABORATORIES

- 1 This act would establish a certification standard for analytical laboratories and would also
- 2 update the asbestos abatement and lead poisoning prevention statutes.
- 3 This act would take effect on January 1, 2003.

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