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BILL 5

**WORKERS COMPENSATION
AMENDMENT ACT, 2022**

Honourable Harry Bains
Minister of Labour

Explanatory Notes

CLAUSE 1: *[Workers Compensation Act, section 1]* adds a definition of “asbestos abatement contractor” to the Act.

CLAUSE 2: *[Workers Compensation Act, section 1]* adds definitions of “asbestos abatement work” and “asbestos-containing material” to the Act.

BILL 5 – 2022

WORKERS COMPENSATION AMENDMENT ACT, 2022

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

1 *Section 1 of the Workers Compensation Act, R.S.B.C. 2019, c. 1, is amended by adding the following definition:*

“**asbestos abatement contractor**” means an employer

- (a) who carries on the business of asbestos abatement work, or
- (b) who, on behalf of another person, carries out asbestos abatement work in the course of carrying on another industry of the employer; .

2 *Section 1 is amended by adding the following definitions:*

“**asbestos abatement work**” means any of the following activities carried out for the purpose of the abatement of asbestos in relation to a building or in relation to any other thing or place prescribed by regulation of the Lieutenant Governor in Council:

- (a) identifying material that is or may be asbestos-containing material;
- (b) collecting samples of material that is or may be asbestos-containing material;
- (c) assessing the risk posed by material that is or may be asbestos-containing material;
- (d) assessing the risk posed by working with or near material that is or may be asbestos-containing material;
- (e) removing, repairing or transporting, or disposing of, material that is or may be asbestos-containing material;
- (f) any activity prescribed by regulation of the Lieutenant Governor in Council;
- (g) planning how an activity referred to in any of paragraphs (a) to (f) is to be carried out;
- (h) supervising an activity referred to in any of paragraphs (a) to (f);

“**asbestos-containing material**” means asbestos-containing material as defined by regulation of the Board; .

CLAUSE 3: *[Workers Compensation Act, section 1]* adds definitions of “licence” and “licensee” to the Act.

CLAUSE 4: *[Workers Compensation Act, section 13]* makes a housekeeping amendment.

CLAUSE 5: *[Workers Compensation Act, section 55]* makes housekeeping amendments.

CLAUSE 6: *[Workers Compensation Act, section 59]* makes housekeeping amendments.

CLAUSE 7: *[Workers Compensation Act, section 59.01]*

- enables the Workers’ Compensation Board to, directly or through a third party, provide training to specified persons, and to certify those persons, in relation to asbestos abatement work;
- enables the Workers’ Compensation Board to establish fees for such training and certification.

3 Section 1 is amended by adding the following definitions:

“**licence**” means a licence issued under section 59.05 [*licence may be issued*];

“**licensee**”, unless a contrary intention appears, means a person who is licensed under section 59.05; .

4 Section 13 is amended by repealing the definition of “officer” and substituting the following:

“**officer**”, unless a contrary intention appears, means

(a) a person appointed as an officer under section 329 (1) [*Board may appoint officers and other employees*], or

(b) a person authorized under section 18 (2) (b) [*cooperation agreements and arrangements*] to act as an officer; .

5 Section 55 is amended

(a) by repealing paragraph (c) and substituting the following:

(c) issue certificates to occupational first aid attendants and instructors, and renew and amend those certificates; , **and**

(b) in paragraph (d) by striking out “issue certificates for the purposes of this section” **and substituting** “issue, renew and amend certificates for the purposes of this section”.

6 Section 59 is amended

(a) by repealing paragraph (c) and substituting the following:

(c) issue certificates to blasters and instructors, and renew and amend those certificates; , **and**

(b) in paragraph (d) by striking out “issue certificates for the purposes of this section” **and substituting** “issue, renew and amend certificates for the purposes of this section”.

7 The following section is added to Division 8 of Part 2:

Certification and training related to asbestos abatement

59.01 (1) In this section, “**relevant person**” means an employer, worker or instructor.

(2) The Board may do the following:

(a) supervise the training of and train a relevant person in the carrying out of asbestos abatement work;

(b) appoint examiners and conduct examinations for the purposes of this section;

CLAUSE 7: *[Workers Compensation Act, section 59.01 – continued]*

CLAUSE 8: *[Workers Compensation Act, section 59.01]* amends the definition of “relevant person” added by this Bill to the Act.

CLAUSE 9: *[Workers Compensation Act, Division 8.1 of Part 2]* adds a new Division to the Act that does the following:

- adds a definition of “independent asbestos abatement operator” to the Act for the purposes of the Division;
- imposes a requirement for asbestos abatement contractors to be licensed, or exempted by regulation, in order to carry out asbestos abatement work;
- establishes a licensing framework to be governed by the Workers’ Compensation Board;
- enables the Workers’ Compensation Board to consider the conduct of specified persons, in addition to the applicant or licensee, as the case may be, for the purposes of refusing, suspending or cancelling licences;
- requires the Workers’ Compensation Board to serve written notice of specified decisions respecting licensing;
- provides for the establishment of a registry of persons who are or were licensees and the publication of specified information included in the registry.

- (c) issue certificates to relevant persons, and renew and amend those certificates, for the purpose of carrying out asbestos abatement work;
- (d) enter into arrangements by which other persons provide training, give examinations and issue, renew and amend certificates for the purposes of this section;
- (e) establish fees for the purposes of this section.

8 Section 59.01 (1) is repealed and the following substituted:

- (1) In this section, “**relevant person**” means an employer, worker, instructor, or independent asbestos abatement operator within the meaning of section 59.02.

9 The following Division is added to Part 2:

Division 8.1 – Licensing in Relation to Asbestos Abatement

Definition in relation to licensing

59.02 (1) In this Division, “**independent asbestos abatement operator**” means an independent operator

- (a) who is neither an employer nor a worker, and
- (b) who
 - (i) carries on the business of asbestos abatement work, or
 - (ii) carries out asbestos abatement work, on behalf of another person, in the course of carrying on another industry of the independent operator.

- (2) For certainty, the definition of “independent asbestos abatement operator” in subsection (1) includes an independent operator to whom the compensation provisions are made, under section 4 (2) (a) [*general application of compensation provisions*], to apply.

Licence required

59.03 An asbestos abatement contractor must not carry out or offer to carry out asbestos abatement work unless the asbestos abatement contractor

- (a) holds a valid licence, or
- (b) is in a class of asbestos abatement contractors that is exempted by regulation of the Lieutenant Governor in Council from the requirement to hold a licence.

CLAUSE 9: *[Workers Compensation Act, Division 8.1 of Part 2 – continued]*

How to apply for licence

59.04 An asbestos abatement contractor or an independent asbestos abatement operator may apply for a licence by submitting to the Board an application that

- (a) is in the form and manner, and contains the information, required by the Board, and
- (b) is accompanied by any other information and records required by the Board.

Licence may be issued

59.05 (1) On application in accordance with section 59.04, the Board may issue a licence authorizing a person to offer to carry out, and carry out, asbestos abatement work.

- (2) It is a condition of a licence issued under subsection (1) that the licensee may not employ a worker, other than a worker who is certified under section 59.01 [*certification and training related to asbestos abatement*], for the purposes of carrying out asbestos abatement work.
- (3) A licence issued under subsection (1)
 - (a) may have a term of up to 3 years,
 - (b) is subject to the terms and conditions, if any, prescribed by regulation of the Lieutenant Governor in Council, and
 - (c) is not transferable.
- (4) The Board may impose on a specific licence issued under subsection (1) any terms or conditions the Board considers appropriate in the circumstances.
- (5) The Board may vary or rescind a term or condition imposed under subsection (4).

Refusal of licence

59.06 (1) The Board may refuse to issue a licence to an applicant if the Board is satisfied that

- (a) the applicant has provided false or misleading information on the application for the licence,
- (b) the applicant has
 - (i) failed to meet or comply with a requirement under this Act or with a term or condition of another licence issued to the applicant,
 - (ii) been refused a licence or been refused, in British Columbia or another jurisdiction, a similar authorization in relation to asbestos abatement,

CLAUSE 9: *[Workers Compensation Act, Division 8.1 of Part 2 – continued]*

- (iii) held a licence that has been suspended or cancelled or held, in British Columbia or another jurisdiction, a similar authorization in relation to asbestos abatement that has been suspended or cancelled, or
 - (iv) been subject, in British Columbia or another jurisdiction, to a penalty for contravening a law, which contravention calls into question the honesty or integrity of the applicant, or
 - (c) a person who is associated with the applicant at the time the application is made has
 - (i) failed to meet or comply with a requirement under this Act or with a term or condition of a licence issued to the person,
 - (ii) been refused a licence or been refused, in British Columbia or another jurisdiction, a similar authorization in relation to asbestos abatement,
 - (iii) held a licence that has been suspended or cancelled or held, in British Columbia or another jurisdiction, a similar authorization in relation to asbestos abatement that has been suspended or cancelled, or
 - (iv) been subject, in British Columbia or another jurisdiction, to a penalty for contravening a law, which contravention calls into question the honesty or integrity of the person.
- (2) Without limiting subsection (1), the Board may refuse to issue a licence in the circumstances, if any, prescribed by regulation of the Lieutenant Governor in Council.
- (3) For the purposes of subsection (1) (c), a person is considered to be associated with an applicant if, at the time the application is made,
 - (a) the person is a corporation and the applicant is
 - (i) a director or officer of the person,
 - (ii) an affiliate, within the meaning of the *Business Corporations Act*, of the person, or
 - (iii) a corporation in respect of which a director or officer is also a director or officer of the person,
 - (b) the person is an individual and the applicant is a corporation in respect of which the person is a director or officer, or
 - (c) any circumstance prescribed by regulation of the Lieutenant Governor in Council is met.

CLAUSE 9: *[Workers Compensation Act, Division 8.1 of Part 2 – continued]*

Suspension or cancellation of licence

- 59.07** (1) The Board may suspend or cancel a licence if the Board is satisfied that
- (a) the licensee, or a person who is a director or officer of the licensee at the time of the proposed suspension or cancellation, has failed to meet or comply with a requirement under this Act,
 - (b) the licensee has failed to meet or comply with a term or condition of the licence or another licence issued to the licensee or has held another licence that has been suspended or cancelled,
 - (c) a person who is associated with the licensee at the time of the proposed suspension or cancellation has failed to meet or comply with a term or condition of a licence issued to the person or has held a licence that has been suspended or cancelled, or
 - (d) the licensee, or a person who is a director or officer of the licensee at the time of the proposed suspension or cancellation, has, in British Columbia or another jurisdiction,
 - (i) been refused an authorization in relation to asbestos abatement that is similar to a licence,
 - (ii) held an authorization in relation to asbestos abatement that is similar to a licence and that has been suspended or cancelled, or
 - (iii) been subject to a penalty for contravening a law, which contravention calls into question the honesty or integrity of the licensee or the person.
- (2) Without limiting subsection (1), the Board may suspend or cancel a licence
- (a) on the request of the licensee, or
 - (b) in the circumstances, if any, prescribed by regulation of the Lieutenant Governor in Council.
- (3) For the purposes of subsection (1) (c), a person is considered to be associated with a licensee if, at the time of the proposed suspension or cancellation,
- (a) the person is a corporation and the licensee is
 - (i) a director or officer of the person,
 - (ii) an affiliate, within the meaning of the *Business Corporations Act*, of the person, or
 - (iii) a corporation in respect of which a director or officer is also a director or officer of the person,
 - (b) the person is an individual and the licensee is a corporation in respect of which the person is a director or officer, or
 - (c) any circumstance prescribed by regulation of the Lieutenant Governor in Council is met.

CLAUSE 9: *[Workers Compensation Act, Division 8.1 of Part 2 – continued]*

CLAUSE 10: *[Workers Compensation Act, section 75]* authorizes an officer of the Workers' Compensation Board to conduct an inspection for the purpose of determining whether to issue, suspend or cancel a licence or determining compliance with any terms or conditions of a licence.

- (4) If the Board suspends or cancels a licence, the rights and privileges conferred by the licence are, as applicable,
 - (a) suspended for the period during which the licence is suspended, or
 - (b) terminated, in the case of a cancellation.

Notice of licensing decisions

59.08 The Board must, as soon as practicable, serve on the applicant or licensee, as the case may be, written notice of any of the following decisions:

- (a) a decision under section 59.05 (4) or (5) to impose, vary or rescind a term or condition on a licence;
- (b) a decision under section 59.06 (1) or (2) to refuse to issue a licence;
- (c) a decision under section 59.07 (1) or (2) (b) to suspend or cancel a licence.

Registry of licensees

59.09 (1) The Board must establish and maintain a registry that includes the following information about each person who is or was a licensee:

- (a) the name of the person;
- (b) if applicable, the business name under which the person operates;
- (c) the contact information, as defined in Schedule 1 of the *Freedom of Information and Protection of Privacy Act*, of the person;
- (d) the current status of the person's licence;
- (e) any other information the Board considers advisable in the public interest.

(2) The Board must publish the information referred to in subsection (1) (a) and (b) and may also publish the information referred to in subsection (1) (d) and (e).

(3) The information referred to in subsection (2)

- (a) must be published on a publicly accessible website, and
- (b) may also be published in any other manner the Board considers appropriate to bring the information to the public's attention.

(4) The Board may determine the period of time for which information about a person who is no longer a licensee is included in the registry or published under subsection (3).

10 Section 75 (1) is amended by adding the following paragraph:

- (e) determining whether to issue, suspend or cancel a licence under Division 8.1 [*Licensing in Relation to Asbestos Abatement*] of this Part or determining whether a licensee meets or is in compliance with the terms or conditions of such a licence.

CLAUSE 11: *[Workers Compensation Act, section 78]* enables an independent asbestos abatement operator to accompany an officer of the Workers' Compensation Board who is conducting an inspection under section 75 of the Act.

CLAUSE 12: *[Workers Compensation Act, section 109]* authorizes the Lieutenant Governor in Council to make regulations for the purposes of the definition of "asbestos abatement work" added by this Bill to the Act.

CLAUSE 13: *[Workers Compensation Act, section 109]* authorizes the Lieutenant Governor in Council to make regulations as follows:

- exempting a class of asbestos abatement contractors from the requirement to be licensed;
- respecting terms or conditions to which licences are subject;
- respecting circumstances relevant to the refusal, suspension or cancellation of a licence.

CLAUSE 14: *[Workers Compensation Act, section 268]* authorizes a review of specified licensing decisions.

CLAUSE 15: *[Workers Compensation Act, section 269]* enables asbestos abatement contractors and independent asbestos abatement operators to request a review of specified licensing decisions.

11 Section 78 (1) is amended by adding the following paragraph:

- (c) an independent asbestos abatement operator, within the meaning of section 59.02 *[definition in relation to licensing]*, or a representative of the independent asbestos abatement operator.

12 Section 109 (2) is amended by adding the following paragraph:

- (b.1) prescribing things or places for the purposes of the definition of “asbestos abatement work” in section 1 and prescribing different things or places for the purposes of different provisions of this Act; .

13 Section 109 (2) is amended by adding the following paragraphs:

- (h.1) exempting a class of asbestos abatement contractors from the requirement under section 59.03 (a) *[licence required]* to be licensed and prescribing any conditions of exemption;
- (h.2) respecting terms or conditions for the purposes of section 59.05 (3) (b) *[licence may be issued]*;
- (h.3) respecting circumstances in which the Board may refuse to issue a licence under section 59.06 (2) *[refusal of licence]* or suspend or cancel a licence under section 59.07 (2) *[suspension or cancellation of licence]*;
- (h.4) respecting circumstances in which a person is considered to be associated with an applicant for a licence, for the purposes of section 59.06 (3) (c), or with a licensee, for the purposes of section 59.07 (3) (c), as applicable; .

14 Section 268 (1) is amended by adding the following paragraph:

- (d) a Board decision respecting
 - (i) an imposition or variation of a term or condition on a licence under section 59.05 (4) or (5) *[licence may be issued]*,
 - (ii) a refusal to issue a licence under section 59.06 *[refusal of licence]*,
or
 - (iii) a suspension or cancellation of a licence under section 59.07 *[suspension or cancellation of licence]*.

15 Section 269 is amended by adding the following subsection:

- (4) An asbestos abatement contractor or an independent asbestos abatement operator, within the meaning of section 59.02 *[definition in relation to licensing]*, who is directly affected by a decision referred to in section 268 (1) (d) may request a review of the decision.

CLAUSE 16: *[Workers Compensation Act, section 288]* provides that licensing decisions of a review officer may not be appealed to the Workers' Compensation Appeal Tribunal.

16 Section 288 (2) is amended by adding the following paragraph:

(b.1) a decision respecting a licence under Division 8.1 [*Licensing in Relation to Asbestos Abatement*] of Part 2; .

Commencement

17 The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 Provisions of Act	Column 2 Commencement
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Section 1	By regulation of the Lieutenant Governor in Council
3	Section 3	By regulation of the Lieutenant Governor in Council
4	Sections 8 to 11	By regulation of the Lieutenant Governor in Council
5	Sections 13 to 16	By regulation of the Lieutenant Governor in Council