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MOCK-UP

PROPOSED AMENDMENT TO
SENATE BILL NO. 132

PREPARED FOR SENATE COMMERCE AND LABOR COMMITTEE
APRIL 8, 2003

PREPARED BY THE RESEARCH DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN
CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE
OFFICIAL AMENDMENT MAY DIFFER.

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~green bold double strikethrough~~ is language proposed to be deleted in this amendment and (5) green bold dashed underlining is deleted language in the original bill that is proposed to be retained in this amendment.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Chapter 618 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 28, inclusive, of this act.

3 Sec. 2. *As used in sections 2 to 28, inclusive, of this act, unless the*
4 *context otherwise requires, the words and terms defined in sections 3 to*
5 *8, inclusive, of this act have the meanings ascribed to them in those*
6 *sections.*

7 Sec. 3. "Control of mold" means:

- 8 1. *The inspection and testing of mold; and*
9 2. *The remediation of mold.*

10 Sec. 4. "Inspection and testing of mold" includes, without
11 limitation:

- 12 1. *Visual inspection;*
13 2. *Surface sampling;*
14 3. *Air monitoring; and*
15 4. *Laboratory analysis.*

1 **Sec. 5.** *"Mold" means any form of multicellular fungi that lives on*
2 *plant or animal matter and in indoor environments. Types of mold*
3 *include, without limitation:*

- 4 1. *Cladosporium;*
- 5 2. *Penicillium;*
- 6 3. *Alternaria;*
- 7 4. *Aspergillus;*
- 8 5. *Fuarim;*
- 9 6. *Trichoderma;*
- 10 7. *Memmoniella;*
- 11 8. *Mucor;* and
- 12 9. *Stachybotrys chartarum.*

13 **Sec. 6.** *"Occupation" means a specific discipline involved in a*
14 *project for the control of mold, including, without limitation, those tasks*
15 *performed respectively by an inspector, management planner,*
16 *consultant, project designer, contractor, supervisor or worker engaged in*
17 *the control of mold.*

18 **Sec. 7.** *"Remediation of mold" includes, without limitation:*

- 19 1. *The enclosure or removal of mold or material containing mold*
20 *from a building or structure, including any associated mechanical*
21 *systems inside or outside the building or structure;*
- 22 2. *The abatement of the danger posed to human beings by the*
23 *presence of mold or material containing mold in a building or structure,*
24 *including any associated mechanical systems inside*
25 *or outside the building or structure;*
- 26 3. *The repair, renovation or demolition of a building or structure*
27 *containing mold or material containing mold; or*
- 28 4. *Any activity connected with the enclosure, removal, abatement,*
29 *repair, renovation or demolition of a building or structure containing*
30 *mold or material containing mold.*

31 **Sec. 8.** *"Worker" means any person actually engaged in work*
32 *directly related to the control of mold on a project for the control of mold*
33 *who is not required to be licensed in any other occupation.*

34 **Sec. 9.** *Sections 2 to 28, inclusive, of this act do not apply to the*
35 *control of mold by a person in his own residence.*

36 **Sec. 10. 1.** *The Division shall adopt regulations establishing*
37 *standards and procedures for the licensure of each occupation. The*
38 *regulations must include, without limitation, standards for:*

- 39 (a) *Examinations;*
 - 40 (b) *Qualifications;*
 - 41 (c) *Renewal of licenses; and*
 - 42 (d) *Revocation of licenses.*
- 43 2. *The Division shall adopt, by regulation, standards for:*

1 (a) Projects for the control of mold;
2 (b) Specifying the amount of mold within a material which must be
3 present to qualify the material as a "material containing mold" for the
4 purposes of sections 2 to 28, inclusive, of this act;

5 (c) Laboratories which analyze material for the presence of mold;
6 and

7 (d) Laboratories which collect or analyze air samples for projects for
8 the control of mold, ~~and~~

9 ~~(e) The assessment of the exposure of occupants of a building or
10 structure at the completion of a project for the control of mold~~

11 ~~3. The Division shall adopt, by regulation, a standard for the
12 assessment of the exposure of the occupants of a building or structure to
13 mold. The standard:~~

14 ~~(a) Must be at least as stringent as the corresponding federal
15 standard, if one has been adopted;~~

16 ~~(b) May be used:~~

17 ~~(1) To assess the need to respond to the presence of mold in a
18 building or structure; or~~

19 ~~(2) To determine which buildings or structures are most in need
20 of such response; and~~

21 ~~(c) Does not create a duty for the Division to inspect any building or
22 structure except in connection with the enforcement of this chapter.~~

23 4. The Division may adopt such other regulations as are necessary
24 to carry out the provisions of sections 2 to 28, inclusive, of this act.

MUST ?

25 Sec. 11. 1. The costs of carrying out the provisions of sections 2 to
26 28, inclusive, of this act must be paid from assessments payable by each
27 insurer based upon expected annual expenditures for claims involving
28 damage caused by water intrusion. The Division shall adopt regulations
29 which establish formulas for assessments which result in an equitable
30 distribution of costs among the insurers.

31 2. The Division shall establish, by regulation, a schedule of fees
32 designed to recover revenue to defray the cost of carrying out the
33 provisions of sections 2 to 28, inclusive, of this act. The Division may
34 collect reasonable fees for applications, the issuance and renewal of
35 licenses, examinations, job notifications and inspections, recordkeeping,
36 and any other activity of the Division related to the provisions of sections
37 2 to 28, inclusive, of this act.

38 3. Any fees collected pursuant to this section must be used to offset
39 the assessments established pursuant to this section.

40 4. As used in this section, "insurer" has the meaning ascribed to it
41 in NRS 232.550.

42 Sec. 12. The State Environmental Commission shall adopt, by
43 regulation, standards for the disposal of mold and material containing
44 mold.

1 **Sec. 13.** *All mold and material containing mold removed from a*
2 *building or structure during a project for the control of mold must be*
3 *disposed of in accordance with the regulations adopted by the State*
4 *Environmental Commission for the disposal of mold and materials*
5 *containing mold.*

6 **Sec. 14.** *A person shall not engage in a project for the control of*
7 *mold unless he holds a valid license issued by the Division.*

8 **Sec.14.5** *A person shall not be licensed to perform both inspection*
9 *and testing of mold and remediation of mold. A person licensed to*
10 *perform remediation of mold shall not perform remediation of mold on*
11 *any structure where the inspection and testing of mold was performed by*
12 *a licensee who is related by blood or marriage to the person licensed to*
13 *perform remediation of mold or where there is any type of business*
14 *relationship of any kind between the licensee for inspection and testing*
15 *of mold and the licensee for remediation of mold.*

16 **Sec. 15.** *1. The Division shall issue licenses to qualified*
17 *applicants in each occupation.*

18 *2. The Division may adopt regulations to include within the*
19 *definition of "occupation" any discipline deemed necessary.*

20 **Sec. 16.** *A person applying for a license in an occupation must:*

21 *1. Submit an application on a form prescribed and furnished by the*
22 *Division, accompanied by the fee prescribed by the Division;*

23 *2. Pass an examination approved or administered by the Division*
24 *for that occupation;*

25 *3. If the person is a contractor, present proof satisfactory to the*
26 *Division that he is insured to the extent determined necessary by the*
27 *Administrator for the appropriate activities for the control of mold*
28 *permitted under the requested license, for the effective period of the*
29 *license; and*

30 *4. Meet any additional requirements established by the Division.*

31 **Sec. 17.** *1. An applicant for the issuance or renewal of a license*
32 *in an occupation shall submit to the Division the statement prescribed by*
33 *the Welfare Division of the Department of Human Resources pursuant*
34 *to NRS 425.520. The statement must be completed and signed by the*
35 *applicant.*

36 *2. The Division shall include the statement required pursuant to*
37 *subsection 1 in:*

38 *(a) The application or any other forms that must be submitted for the*
39 *issuance or renewal of the license; or*

40 *(b) A separate form prescribed by the Division.*

41 **3.** *A license in an occupation may not be issued or renewed by the*
42 *Division if the applicant:*

43 *(a) Fails to submit the statement required pursuant to subsection 1;*
44 *or*

1 (b) Indicates on the statement submitted pursuant to subsection 1
2 that he is subject to a court order for the support of a child and is not in
3 compliance with the order or a plan approved by the district attorney or
4 other public agency enforcing the order for the repayment of the amount
5 owed pursuant to the order.

6 4. If an applicant indicates on the statement submitted pursuant to
7 subsection 1 that he is subject to a court order for the support of a child
8 and is not in compliance with the order or a plan approved by the district
9 attorney or other public agency enforcing the order for the repayment of
10 the amount owed pursuant to the order, the Division shall advise the
11 applicant to contact the district attorney or other public agency enforcing
12 the order to determine the actions that the applicant may take to satisfy
13 the arrearage.

14 Sec. 18. An application for the issuance of a license in an
15 occupation must include the social security number of the applicant.

16 Sec. 19. 1. To renew a license, a person must, on or before
17 January 1 of each year:

- 18 (a) Apply to the Division for renewal;
- 19 (b) Submit the statement required pursuant to section 17 of this act;
- 20 (c) Pay the annual fee for renewal set by the Division; and
- 21 (d) Submit evidence satisfactory to the Division of his completion of
22 the requirements for continuing education or training established by the
23 Division, if any.

24 2. The Division may adopt regulations requiring continuing
25 education or training of the licensees in any occupation and, as a
26 prerequisite to the renewal or restoration of a license, require each
27 licensee to comply with those requirements.

28 Sec. 20. The Division shall not issue a license as a contractor for
29 projects for the control of mold on the basis of the status of a person
30 pursuant to chapter 624 of NRS as a qualified employee.

31 Sec. 21. A person licensed as a contractor for projects for the
32 control of mold shall:

33 1. If a laboratory is used for any aspect of collecting or analyzing
34 air samples for a project, use only a laboratory which meets the
35 standards adopted by the Division.

36 2. If a commercial laboratory is used for any aspect of collecting or
37 analyzing air samples for a project, use only a laboratory in which the
38 contractor or owner of the building or structure has no financial interest,
39 unless the Division by regulation provides otherwise.

40 3. Comply with the standards adopted by the Division for projects
41 for the control of mold.

42 4. Unless specifically exempted by the Division, refrain from
43 providing any of the services of an inspector, management planner,
44 consultant or project designer on a project.

1 *Sec. 22. A person licensed as a contractor for projects for the*
2 *control of mold shall not employ to engage in activities directly related to*
3 *mold on his projects a person who is not licensed pursuant to section 15*
4 *of this act.*

5 *Sec. 23. The Division or a person authorized by the Division shall*
6 *inspect annually at least one project for the control of mold conducted by*
7 *each contractor licensed pursuant to section 15 of this act. The*
8 *contractor shall, upon request of the Division or a person authorized by*
9 *the Division, allow the inspection of all property, activities and facilities*
10 *at the project and all related documents and records.*

11 *Sec. 24. 1. If the Division receives a copy of a court order issued*
12 *pursuant to NRS 425.540 that provides for the suspension of all*
13 *professional, occupational and recreational licenses, certificates and*
14 *permits issued to a person who is the holder of a license in an*
15 *occupation, the Division shall deem the license issued to that person to*
16 *be suspended at the end of the 30th day after the date on which the court*
17 *order was issued unless the Division receives a letter issued to the holder*
18 *of the license by the district attorney or other public agency pursuant to*
19 *NRS 425.550 stating that the holder of the license has complied with the*
20 *subpoena or warrant or has satisfied the arrearage pursuant to NRS*
21 *425.560.*

22 *2. The Division shall reinstate a license in an occupation that has*
23 *been suspended by a district court pursuant to NRS 425.540 if the*
24 *Division receives a letter issued by the district attorney or other public*
25 *agency pursuant to NRS 425.550 to the person whose license was*
26 *suspended stating that the person whose license was suspended has*
27 *complied with the subpoena or warrant or has satisfied the arrearage*
28 *pursuant to NRS 425.560.*

29 *Sec. 25. 1. If the Division finds that a person, other than a*
30 *worker, has violated any of the provisions of sections 13, 14, 21 or 22 of*
31 *this act, or the standards or regulations adopted pursuant to sections 2 to*
32 *28, inclusive, of this act, the Division may:*

33 *(a) Upon the first violation, impose upon the person an*
34 *administrative fine of not more than \$15,000.*

35 *(b) Upon the second and subsequent violations:*

36 *(1) Impose upon the person an administrative fine of not more*
37 *than \$25,000; and*

38 *(2) If the person is licensed pursuant to section 15 of this act,*
39 *revoke his license and require the person to fulfill certain requirements,*
40 *as determined by the Division, to have his license reinstated.*

41 *2. Any penalty imposed pursuant to this section does not relieve the*
42 *person from criminal prosecution for engaging in the control of mold*
43 *without a license.*

44 *3. If the license of a contractor for projects for the control of mold*
45 *is revoked pursuant to this section and the owner of a building or*

1 structure upon which the contractor is engaged in a project employs
2 another licensed contractor to complete the project, the original
3 contractor may not bring an action against the owner of the building or
4 structure for breach of contract or damages based on the employment of
5 another contractor.

6 **Sec. 26. 1.** *If the Division intends to revoke a person's license, the*
7 *Division shall first notify the person by certified mail. The notice must*
8 *contain a statement of the Division's legal authority, jurisdiction and*
9 *reasons for the proposed action.*

10 2. *Notwithstanding the notification requirements of subsection 1, if*
11 *the Division finds that protection of the public health requires immediate*
12 *action, the Division may order a summary suspension of a license*
13 *pending proceedings for revocation.*

14 3. *A person is entitled to a hearing to contest the summary*
15 *suspension or proposed revocation of his license. A request for such a*
16 *hearing must be made pursuant to regulations adopted by the Division.*

17 4. *Upon receiving a request for a hearing to contest a summary*
18 *suspension, the Division shall hold a hearing within 10 days after the*
19 *date of the receipt of the request.*

20 **Sec. 27. 1.** *The Division may maintain in any court of competent*
21 *jurisdiction a suit for an injunction against any person engaged in the*
22 *control of mold in violation of the provisions of sections 13, 14, 21 or 22*
23 *of this act or the standards or regulations adopted by the Division*
24 *pursuant to sections 2 to 28, inclusive, of this act.*

25 2. *An injunction:*

26 (a) *May be issued without proof of actual damage sustained by any*
27 *person, this provision being a preventive as well as a punitive measure.*

28 (b) *Does not relieve the person from criminal liability for engaging in*
29 *the control of mold without a license.*

30 **Sec. 28.** *Any person who engages in the control of mold without a*
31 *license issued by the Division is guilty of a misdemeanor.*

32 **Sec. 29.** *Section 19 of this act is hereby amended to read as follows:*

33 **Sec. 19 1.** *To renew a license, a person must, on or before*
34 *January 1 of each year:*

35 (a) *Apply to the Division for renewal;*

36 (b) ~~{Submit the statement required pursuant to~~
37 ~~NRS 618.801;~~

38 ~~{(e)} Pay the annual fee for renewal set by the Division; and~~

39 ~~{(d)}~~ (c) *Submit evidence satisfactory to the Division of his*
40 *completion of the requirements for continuing education or training*
41 *established by the Division, if any.*

42 2. *The Division may adopt regulations requiring continuing*
43 *education or training of the licensees in any occupation and, as a*
44 *prerequisite to the renewal or restoration of a license, require each*
45 *licensee to comply with those requirements.*

1 **Sec. 30.** 1. This section and sections 1 to 28, inclusive, of this act
2 become effective on July 1, 2003.

3 2. Section 29 of this act becomes effective on the date on which the
4 provisions of 42 U.S.C. § 666 requiring each state to establish procedures
5 under which the state has authority to withhold or suspend, or to restrict
6 the use of professional, occupational and recreational licenses of persons
7 who:

8 (a) Have failed to comply with a subpoena or warrant relating to a
9 proceeding to determine the paternity of a child or to establish or enforce
10 an obligation for the support of a child; or

11 (b) Are in arrears in the payment for the support of one or more
12 children,
13 are repealed by the Congress of the United States.

14 3. Sections 17, 18 and 24 of this act expire by limitation on the date
15 on which the provisions of 42 U.S.C. § 666 requiring each state to
16 establish procedures under which the state has authority to withhold or
17 suspend, or to restrict the use of professional, occupational and recreational
18 licenses of persons who:

19 (a) Have failed to comply with a subpoena or warrant relating to a
20 proceeding to determine the paternity of a child or to establish or enforce
21 an obligation for the support of a child; or

22 (b) Are in arrears in the payment for the support of one or more
23 children,
24 are repealed by the Congress of the United States.

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