

SENATE BILL NO. 132—SENATOR COFFIN

FEBRUARY 13, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Requires licensure of persons engaged in certain activities relating to control of mold. (BDR 53-235)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to mold; requiring the Division of Industrial Relations of the Department of Business and Industry to license and regulate persons engaged in activities relating to the control of mold; requiring the Division to establish certain regulations, procedures and standards for activities relating to the control of mold; requiring the State Environmental Commission to adopt regulations for the disposal of mold and material containing mold; providing a penalty; and providing other matters properly relating thereto.

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
2 thereto the provisions set forth as sections 2 to 28, inclusive, of this
3 act.

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

8 **Sec. 3.** *“Control of mold” means:*
9 1. *The inspection and testing of mold; and*
10 2. *The remediation of mold.*



- 1 **Sec. 4.** *“Inspection and testing of mold” includes, without*
2 *limitation:*
3 1. *Visual inspection;*
4 2. *Surface sampling;*
5 3. *Air monitoring; and*
6 4. *Laboratory analysis.*
7 **Sec. 5.** *“Mold” means any form of multicellular fungi that*
8 *lives on plant or animal matter and in indoor environments. Types*
9 *of mold include, without limitation:*
10 1. *Cladosporium;*
11 2. *Penicillium;*
12 3. *Alternaria;*
13 4. *Aspergillus;*
14 5. *Fuarim;*
15 6. *Trichoderma;*
16 7. *Memnoniella;*
17 8. *Mucor; and*
18 9. *Stachybotrys chartarum.*
19 **Sec. 6.** *“Occupation” means a specific discipline involved in*
20 *a project for the control of mold, including, without limitation,*
21 *those tasks performed respectively by an inspector, management*
22 *planner, consultant, project designer, contractor, supervisor or*
23 *worker engaged in the control of mold.*
24 **Sec. 7.** *“Remediation of mold” includes, without limitation:*
25 1. *The enclosure or removal of mold or material containing*
26 *mold from a building or structure, including any associated*
27 *mechanical systems inside or outside the building or structure;*
28 2. *The abatement of the danger posed to human beings by the*
29 *presence of mold or material containing mold in a building or*
30 *structure, including any associated mechanical systems inside*
31 *or outside the building or structure;*
32 3. *The repair, renovation or demolition of a building or*
33 *structure containing mold or material containing mold; or*
34 4. *Any activity connected with the enclosure, removal,*
35 *abatement, repair, renovation or demolition of a building or*
36 *structure containing mold or material containing mold.*
37 **Sec. 8.** *“Worker” means any person actually engaged in*
38 *work directly related to the control of mold on a project for the*
39 *control of mold who is not required to be licensed in any other*
40 *occupation.*
41 **Sec. 9.** *Sections 2 to 28, inclusive, of this act do not apply to*
42 *the control of mold by a person in his own residence.*



1 **Sec. 10. 1.** *The Division shall adopt regulations*
2 *establishing standards and procedures for the licensure of each*
3 *occupation. The regulations must include, without limitation,*
4 *standards for:*
5 (i) *Examinations;*
6 (ii) *Qualifications;*
7 (iii) *Renewal of licenses; and*
8 (iv) *Revocation of licenses.*
9 **2.** *The Division shall adopt, by regulation, standards for:*
10 (i) *Projects for the control of mold;*
11 (ii) *Specifying the amount of mold within a material which*
12 *must be present to qualify the material as a “material containing*
13 *mold” for the purposes of sections 2 to 28, inclusive, of this act;*
14 (iii) *Laboratories which analyze material for the presence of*
15 *mold;*
16 (iv) *Laboratories which collect or analyze air samples for*
17 *projects for the control of mold; and*
18 (v) *The assessment of the exposure of occupants of a building*
19 *or structure at the completion of a project for the control of mold.*
20 **3.** *The Division shall adopt, by regulation, a standard for the*
21 *assessment of the exposure of the occupants of a building or*
22 *structure to mold. The standard:*
23 (i) *Must be at least as stringent as the corresponding federal*
24 *standard, if one has been adopted;*
25 (ii) *May be used:*
26 (1) *To assess the need to respond to the presence of mold in*
27 *a building or structure; or*
28 (2) *To determine which buildings or structures are most in*
29 *need of such response; and*
30 (iii) *Does not create a duty for the Division to inspect any*
31 *building or structure except in connection with the enforcement of*
32 *this chapter.*
33 **4.** *The Division may adopt such other regulations as are*
34 *necessary to carry out the provisions of sections 2 to 28, inclusive,*
35 *of this act.*
36 **Sec. 11. 1.** *The costs of carrying out the provisions of*
37 *sections 2 to 28, inclusive, of this act must be paid from*
38 *assessments payable by each insurer based upon expected annual*
39 *expenditures for claims. The Division shall adopt regulations*
40 *which establish formulas for assessments which result in an*
41 *equitable distribution of costs among the insurers.*
42 **2.** *The Division shall establish, by regulation, a schedule of*
43 *fees designed to recover revenue to defray the cost of carrying out*
44 *the provisions of sections 2 to 28, inclusive, of this act. The*
45 *Division may collect reasonable fees for applications, the issuance*



1 *and renewal of licenses, examinations, job notifications and*
2 *inspections, recordkeeping, and any other activity of the Division*
3 *related to the provisions of sections 2 to 28, inclusive, of this act.*

4 *3. Any fees collected pursuant to this section must be used to*
5 *offset the assessments established pursuant to this section.*

6 *4. As used in this section, "insurer" has the meaning ascribed*
7 *to it in NRS 232.550.*

8 **Sec. 12.** *The State Environmental Commission shall adopt,*
9 *by regulation, standards for the disposal of mold and material*
10 *containing mold.*

11 **Sec. 13.** *All mold and material containing mold removed*
12 *from a building or structure during a project for the control of*
13 *mold must be disposed of in accordance with the regulations*
14 *adopted by the State Environmental Commission for the disposal*
15 *of mold and materials containing mold.*

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

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

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

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

25 *1. Submit an application on a form prescribed and furnished*
26 *by the Division, accompanied by the fee prescribed by the*
27 *Division;*

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

30 *3. If the person is a contractor, present proof satisfactory to*
31 *the Division that he is insured to the extent determined necessary*
32 *by the Administrator for the appropriate activities for the control*
33 *of mold permitted under the requested license, for the effective*
34 *period of the license; and*

35 *4. Meet any additional requirements established by the*
36 *Division.*

37 **Sec. 17. 1.** *An applicant for the issuance or renewal of a*
38 *license in an occupation shall submit to the Division the statement*
39 *prescribed by the Welfare Division of the Department of Human*
40 *Resources pursuant to NRS 425.520. The statement must be*
41 *completed and signed by the applicant.*

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

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



1 (b) A separate form prescribed by the Division.
2 3. A license in an occupation may not be issued or renewed
3 by the Division if the applicant:
4 (a) Fails to submit the statement required pursuant to
5 subsection 1; or
6 (b) Indicates on the statement submitted pursuant to
7 subsection 1 that he is subject to a court order for the support of a
8 child and is not in compliance with the order or a plan approved
9 by the district attorney or other public agency enforcing the order
10 for the repayment of the amount owed pursuant to the order.
11 4. If an applicant indicates on the statement submitted
12 pursuant to subsection 1 that he is subject to a court order for the
13 support of a child and is not in compliance with the order or a
14 plan approved by the district attorney or other public agency
15 enforcing the order for the repayment of the amount owed
16 pursuant to the order, the Division shall advise the applicant to
17 contact the district attorney or other public agency enforcing the
18 order to determine the actions that the applicant may take to
19 satisfy the arrearage.
20 **Sec. 18.** An application for the issuance of a license in an
21 occupation must include the social security number of the
22 applicant.
23 **Sec. 19.** 1. To renew a license, a person must, on or before
24 January 1 of each year:
25 (a) Apply to the Division for renewal;
26 (b) Submit the statement required pursuant to section 17 of
27 this act;
28 (c) Pay the annual fee for renewal set by the Division; and
29 (d) Submit evidence satisfactory to the Division of his
30 completion of the requirements for continuing education or
31 training established by the Division, if any.
32 2. The Division may adopt regulations requiring continuing
33 education or training of the licensees in any occupation and, as a
34 prerequisite to the renewal or restoration of a license, require each
35 licensee to comply with those requirements.
36 **Sec. 20.** The Division shall not issue a license as a contractor
37 for projects for the control of mold on the basis of the status of a
38 person pursuant to chapter 624 of NRS as a qualified employee.
39 **Sec. 21.** A person licensed as a contractor for projects for the
40 control of mold shall:
41 1. If a laboratory is used for any aspect of collecting or
42 analyzing air samples for a project, use only a laboratory which
43 meets the standards adopted by the Division.



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

6 3. *Comply with the standards adopted by the Division for*
7 *projects for the control of mold.*

8 4. *Unless specifically exempted by the Division, refrain from*
9 *providing any of the services of an inspector, management*
10 *planner, consultant or project designer on a project.*

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

15 **Sec. 23.** *The Division or a person authorized by the Division*
16 *shall inspect annually at least one project for the control of mold*
17 *conducted by each contractor licensed pursuant to section 15 of*
18 *this act. The contractor shall, upon request of the Division or a*
19 *person authorized by the Division, allow the inspection of all*
20 *property, activities and facilities at the project and all related*
21 *documents and records.*

22 **Sec. 24.** 1. *If the Division receives a copy of a court order*
23 *issued pursuant to NRS 425.540 that provides for the suspension*
24 *of all professional, occupational and recreational licenses,*
25 *certificates and permits issued to a person who is the holder of a*
26 *license in an occupation, the Division shall deem the license*
27 *issued to that person to be suspended at the end of the 30th day*
28 *after the date on which the court order was issued unless the*
29 *Division receives a letter issued to the holder of the license by the*
30 *district attorney or other public agency pursuant to NRS 425.550*
31 *stating that the holder of the license has complied with the*
32 *subpoena or warrant or has satisfied the arrearage pursuant to*
33 *NRS 425.560.*

34 2. *The Division shall reinstate a license in an occupation that*
35 *has been suspended by a district court pursuant to NRS 425.540 if*
36 *the Division receives a letter issued by the district attorney or other*
37 *public agency pursuant to NRS 425.550 to the person whose*
38 *license was suspended stating that the person whose license was*
39 *suspended has complied with the subpoena or warrant or has*
40 *satisfied the arrearage pursuant to NRS 425.560.*

41 **Sec. 25.** 1. *If the Division finds that a person, other than a*
42 *worker, has violated any of the provisions of sections 13, 14, 21 or*
43 *22 of this act, or the standards or regulations adopted pursuant to*
44 *sections 2 to 28, inclusive, of this act, the Division may:*



- 1 (a) Upon the first violation, impose upon the person an
2 administrative fine of not more than \$15,000.
- 3 (b) Upon the second and subsequent violations:
- 4 (1) Impose upon the person an administrative fine of not
5 more than \$25,000; and
- 6 (2) If the person is licensed pursuant to section 15 of this
7 act, revoke his license and require the person to fulfill certain
8 requirements, as determined by the Division, to have his license
9 reinstated.
- 10 2. Any penalty imposed pursuant to this section does not
11 relieve the person from criminal prosecution for engaging in the
12 control of mold without a license.
- 13 3. If the license of a contractor for projects for the control of
14 mold is revoked pursuant to this section and the owner of a
15 building or structure upon which the contractor is engaged in a
16 project employs another licensed contractor to complete the
17 project, the original contractor may not bring an action against
18 the owner of the building or structure for breach of contract or
19 damages based on the employment of another contractor.
- 20 **Sec. 26.** 1. If the Division intends to revoke a person's
21 license, the Division shall first notify the person by certified mail.
22 The notice must contain a statement of the Division's legal
23 authority, jurisdiction and reasons for the proposed action.
- 24 2. Notwithstanding the notification requirements of
25 subsection 1, if the Division finds that protection of the public
26 health requires immediate action, the Division may order a
27 summary suspension of a license pending proceedings for
28 revocation.
- 29 3. A person is entitled to a hearing to contest the summary
30 suspension or proposed revocation of his license. A request for
31 such a hearing must be made pursuant to regulations adopted by
32 the Division.
- 33 4. Upon receiving a request for a hearing to contest a
34 summary suspension, the Division shall hold a hearing within 10
35 days after the date of the receipt of the request.
- 36 **Sec. 27.** 1. The Division may maintain in any court of
37 competent jurisdiction a suit for an injunction against any person
38 engaged in the control of mold in violation of the provisions of
39 sections 13, 14, 21 or 22 of this act or the standards or regulations
40 adopted by the Division pursuant to sections 2 to 28, inclusive, of
41 this act.
- 42 2. An injunction:
- 43 (a) May be issued without proof of actual damage sustained by
44 any person, this provision being a preventive as well as a punitive
45 measure.



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

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

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

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

10 (a) Apply to the Division for renewal;

11 (b) ~~Submit the statement required pursuant to~~
12 ~~NRS 618.801;~~

13 ~~(e)~~ Pay the annual fee for renewal set by the Division;
14 and

15 ~~(d)~~ (c) Submit evidence satisfactory to the Division of
16 his completion of the requirements for continuing education
17 or training established by the Division, if any.

18 2. The Division may adopt regulations requiring
19 continuing education or training of the licensees in any
20 occupation and, as a prerequisite to the renewal or restoration
21 of a license, require each licensee to comply with those
22 requirements.

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

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

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

33 (b) Are in arrears in the payment for the support of one or more
34 children,
35 are repealed by the Congress of the United States.

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

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



1 (b) Are in arrears in the payment for the support of one or more
2 children,
3 are repealed by the Congress of the United States.

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