

By the Committee on Natural Resources; and Senators Jones and Garcia

312-1965A-02

1 A bill to be entitled
2 An act relating to lead poisoning prevention;
3 creating the "Florida Lead-Poisoning Prevention
4 Act"; providing legislative findings; providing
5 definitions; establishing the Lead-Based-Paint
6 Hazard-Reduction Program within the Department
7 of Business and Professional Regulation;
8 providing for the adoption of rules for the
9 licensing or certification of persons
10 performing lead-hazard detection and
11 lead-hazard-reduction services; providing rule
12 criteria; requiring the establishment of fees
13 for the approval of training programs;
14 requiring the department to establish training
15 and licensure requirements; requiring the
16 department to establish specified fees;
17 prohibiting the performance of, or training of
18 persons to perform, any lead-based-paint
19 activities regulated under the act without
20 appropriate licensure or certification;
21 providing exceptions; requiring the department
22 to adopt rules establishing standards of
23 professional conduct for the performance of
24 lead-hazard detection and lead-hazard-reduction
25 activities and grounds for reprimand of a
26 licensee, suspension or revocation of a
27 license, and denial of issuance or renewal of a
28 license; authorizing the department to adopt
29 rules for the implementation and enforcement of
30 the act; providing a civil penalty; requiring
31 the department to provide current federal

1 regulations to persons licensed or certified
2 under the act; authorizing the department to
3 issue corrective orders for violations of the
4 act; providing a penalty; providing an
5 effective date.

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7 Be It Enacted by the Legislature of the State of Florida:

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9 Section 1. Short title.--This act may be cited as the
10 "Florida Lead-Poisoning Prevention Act."

11 Section 2. Legislative findings.--

12 (1) The Legislature finds that childhood lead
13 poisoning is a devastating environmental health hazard to the
14 children of this state. Exposure to even low levels of lead
15 increases a child's risks of developing permanent reading and
16 learning disabilities, intelligence-quotient deficiencies,
17 impaired hearing, reduced attention span, hyperactivity,
18 behavior problems, and other neurological problems. It is
19 estimated that thousands of children below the age of 6 are
20 affected by lead poisoning in Florida. Childhood lead
21 poisoning is dangerous to the public health, safety, and
22 welfare.

23 (2) Childhood lead poisoning is the result of
24 environmental exposure to lead. The most significant source of
25 environmental lead exposure is lead-based paint, found in
26 housing built prior to 1978, particularly houses built prior
27 to 1960, which becomes accessible to children in lead-based
28 paint chips, lead-contaminated dust, and lead-contaminated
29 soil. The danger posed by lead-based paint hazards can be
30 controlled by abatement or interim controls of lead-based

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1 paint or by measures to limit exposure to lead-based paint
2 hazards.

3 (3) It is crucial that the identification of lead
4 hazards, including lead-contaminated waste, and subsequent
5 implementation of interim controls or abatement procedures be
6 accomplished in a manner that does not result in additional
7 harm to the public or the environment. Improper lead-hazard
8 abatement constitutes a serious threat to persons residing in
9 or otherwise using an affected structure or site, to those
10 performing lead-hazard-abatement procedures, to the
11 environment, and to the public.

12 (4) The Legislature finds that it is in the public
13 interest to establish minimum standards for the training,
14 certification, and licensure of all persons performing
15 lead-hazard detection and lead-hazard-reduction activities,
16 including inspections, risk assessments, and planning and
17 performance of interim controls or abatement measures.

18 Section 3. Definitions.--As used in this act, the
19 term:

20 (1) "Abatement" means any set of measures designed to
21 eliminate lead-based-paint hazards, in accordance with
22 standards developed by the department in consultation with the
23 Department of Environmental Protection, including removal of
24 lead-based paint and lead-contaminated dust, the permanent
25 containment or encapsulation of lead-based paint, the
26 replacement of lead-painted surfaces or fixtures, the removal
27 or covering of lead-contaminated soil, and all preparation,
28 cleanup, disposal, and postabatement clearance-testing
29 activities associated with such measures.

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1 (2) "Accessible surface" means an interior or exterior
2 surface painted with lead-based paint which is accessible for
3 a young child to place in his or her mouth or to chew.

4 (3) "Department" means the Department of Business and
5 Professional Regulation.

6 (4) "Friction surface" means an interior or exterior
7 surface that is subject to abrasion or friction, including
8 certain window, floor, and stair surfaces.

9 (5) "Impact surface" means an interior or exterior
10 surface or fixture that is subject to damage by repeated
11 impacts, including certain parts of door frames.

12 (6) "Inspection" means a surface-by-surface
13 investigation to determine the presence of lead-based paint
14 and the provision of a report explaining the results of the
15 investigation.

16 (7) "Interim controls" means a measure or set of
17 measures, as specified by the department, taken by the owner
18 of a structure which is designed to temporarily control human
19 exposure or likely exposure to lead-based-paint hazards.

20 (8) "Lead Abatement Supervisor/Contractor" means a
21 person who supervises and conducts lead abatement activities
22 and prepares occupant protection plans and abatement activity
23 reports.

24 (9) "Lead-based paint" means paint or other surface
25 coatings that contain lead in excess of limits established by
26 the department, in consultation with the Department of Health.

27 (10) "Lead-contaminated dust" means surface dust in a
28 residential dwelling or in any other facility occupied or
29 regularly used by children which contains an area or mass
30 concentration of lead in excess of levels determined by the
31 department, in consultation with the Department of Health, to

1 pose a threat of adverse health effects in pregnant women or
2 young children.

3 (11) "Lead-contaminated soil" means bare soil on
4 residential real property or on other sites frequented by
5 children which contains lead at or in excess of levels
6 determined by the department, in consultation with the
7 Department of Health, to be hazardous to human health.

8 (12) "Lead-contaminated waste" means any discarded
9 material resulting from an abatement activity that fails the
10 toxicity characteristics determined by the department in
11 consultation with the Department of Environmental Protection.

12 (13) "Lead firm" means a company, partnership,
13 corporation, sole proprietorship, association, or other
14 business entity that employs or contracts with persons to
15 perform lead-based-paint hazard-reduction activities.

16 (14) "Lead hazard" means any condition that causes
17 exposure to lead from lead-contaminated dust,
18 lead-contaminated soil, or lead-contaminated paint which is
19 characterized by deterioration or is present in accessible
20 surfaces, friction surfaces, or impact surfaces and would
21 result in adverse human health effects as established by the
22 department, in consultation with the Department of Health.

23 (15) "Lead-based-paint activities" means the
24 inspection and assessment of lead-based paint or lead hazards
25 and the planning, implementation, and inspection of interim
26 controls and abatement activities as determined by the
27 department.

28 (16) "Lead-project designer" means a person who plans
29 or designs abatement activities and interim controls.

30 (17) "Lead inspector" means a person who conducts
31 inspections to determine the presence of lead-based-paint or

1 clearance testing to document the absence of lead-based paint
2 hazards after activities that disturb lead-based paint.

3 (18) "Program" means the Florida Lead-Based-Paint
4 Hazard-Reduction Program within the Department of Business and
5 Professional Regulation as established by this act.

6 (19) "Lead risk assessment" means an onsite
7 investigation to determine and report the existence, nature,
8 severity, and location of lead-based-paint hazards in or on
9 any structure or site, including:

10 (a) Information gathering regarding the age and
11 history of the structure and the occupancy or other use by
12 young children.

13 (b) Visual inspection.

14 (c) Limited wipe sampling or other environmental
15 sampling techniques.

16 (d) Any other appropriate investigative activity.

17 (e) Provision of a report explaining the results of
18 the investigation.

19 (20) "Lead-risk assessor" means a person who conducts
20 onsite risk assessments of lead hazards.

21 (21) "Lead worker" means any person or employee
22 performing lead-hazard detection or lead-hazard-reduction
23 activities.

24 Section 4. Florida Lead-Based-Paint Certification
25 Program.--

26 (1) There is established within the Department of
27 Business and Professional Regulation the Florida
28 Lead-Based-Paint Certification Program. The department is
29 designated as the state agency responsible for implementation,
30 administration, and enforcement of the program.

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1 (2) Not later than 1 year after the effective date of
2 this act, the department shall adopt rules pursuant to
3 sections 120.536(1) and 120.54, Florida Statutes, requiring
4 the development and approval of training programs for the
5 licensing or certification of persons performing lead-hazard
6 detection and lead-hazard-reduction services, which may
7 include, but need not be limited to, lead inspectors,
8 lead-risk assessors, lead-project designers, lead supervisors,
9 and lead workers employed by such persons or entities. Rules
10 for the approval of training programs shall include minimum
11 requirements for approval of training providers, curriculum
12 requirements, training-hour requirements, hands-on-training
13 requirements, examinations of competency and proficiency, and
14 training-program quality control. The rules shall provide for
15 reciprocal approval of training programs having comparable
16 requirements which are approved by other states or by the
17 Federal Government. The approval program may be designed to
18 meet the minimum requirements for federal approval under the
19 United States Toxic Substances Control Act and the department
20 shall apply for such approval. The department shall establish
21 by rule fees for the approval of such training programs.

22 (3) Not later than 1 year after the effective date of
23 this act, the department shall establish training, licensure,
24 and licensure-renewal requirements for lead inspectors,
25 lead-risk assessors, lead-reduction planners, lead-project
26 designers, and lead contractors, and shall establish
27 certification requirements for workers employed by such
28 persons or entities. A person may not be licensed under this
29 act unless such person has successfully completed the
30 appropriate training program, passed an examination approved
31 by the department for the appropriate category of license, and

1 completed any additional requirement imposed by the department
2 by rule. The department may accept any lead-based paint
3 activity training from a training program accredited by the
4 United States Environmental Protection Agency or from
5 state-accredited training providers approved by the United
6 States Environmental Protection Agency which are conducted no
7 more than 12 months before the date of application for
8 licensure, in full or partial satisfaction of the training
9 requirements under this act. The department may establish
10 continuing-education requirements for licensees as a condition
11 of license renewal.

12 (4) The department shall by rule establish examination
13 fees, license fees, and license-renewal fees for all licenses
14 issued under this act, provided that such fees must be
15 reasonable, must reflect the cost of issuing and renewing such
16 licenses and the cost of licensing activities regulated under
17 the act, and must be determined in such a manner as to
18 approximate the total of the direct and indirect costs to the
19 state of the operation and administration of the program. Fees
20 may be refunded for good cause as determined by the
21 department.

22 (5) No more than 6 months after the effective date of
23 rules promulgated by the department as provided in subsection
24 (3), a person may not perform, represent that such person is
25 qualified to perform, or engage in the training of persons to
26 perform any lead-based-paint activities regulated under this
27 act unless such person possesses the appropriate license or
28 certification as determined by the department. The
29 requirements for licensure or certification to perform
30 lead-based-paint activities regulated under this act do not
31 apply to:

1 (a) An owner of a residential dwelling unit performing
2 abatement upon the residential dwelling unit in which he or
3 she resides;

4 (b) An employee of a property-management company
5 performing routine cleaning or repainting upon property
6 managed by that company where there is insignificant damage,
7 wear, or corrosion of existing lead-based paint or
8 lead-containing-coating substances; or

9 (c) An owner routinely cleaning or repainting his or
10 her property where there is insignificant damage to, wear of,
11 or corrosion of existing lead-based paint or
12 lead-containing-coating substances.

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14 A person who is employed by a state or county health
15 department or state or federal agency and is licensed pursuant
16 to subsection (3) as a lead inspector or lead risk assessor is
17 not required to pay any fees as otherwise required under this
18 act or under rules adopted by the department under this act.

19 (6) The department shall adopt rules pursuant to
20 sections 120.536(1) and 120.54, Florida Statutes, establishing
21 standards of acceptable professional conduct for the
22 performance of lead-hazard-detection activities and
23 lead-hazard-reduction activities, as well as specific acts and
24 omissions that constitute grounds for the reprimand of any
25 licensee, the suspension or revocation of a license, or the
26 denial of issuance or renewal of a license. The department is
27 authorized to revoke or suspend any license, certification,
28 approval, or accreditation issued hereunder in accordance with
29 rules adopted pursuant to this act.

30 (7) The department may adopt rules pursuant to
31 sections 120.536(1) and 120.54, Florida Statutes, necessary

1 for the implementation and enforcement of this act. In
2 addition to any action that may be taken to reprimand a
3 licensee or to revoke or suspend a license, any person who
4 violates any provision of this act, any rule adopted pursuant
5 to this act, or any term or condition of licensure may be
6 subject to a civil penalty of not more than \$10,000 to be
7 imposed by the department. Each day or any portion thereof in
8 which a violation continues shall constitute a separate
9 violation for the purpose of calculating the civil penalty
10 imposed under this subsection.

11 (8) The department shall make available to all persons
12 licensed or certified under this act current federal
13 regulations affecting such licensees or certified persons.

14 (9) The department may issue a corrective order to any
15 person in violation of this act or any rule adopted pursuant
16 thereto. The order must specify the provisions of this act or
17 any rule alleged to have been violated and shall order
18 necessary corrective action to be taken within a reasonable
19 time to be prescribed in such order.

20 (10) Any person who violates the provisions of this
21 act commits a misdemeanor of the second degree, punishable as
22 provided in section 775.082 or section 775.083, Florida
23 Statutes.

24 Section 5. This act shall take effect upon becoming a
25 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1692

The committee substitute establishes the Florida Lead-Based-Paint Certification Program in the Department of Business and Professional Regulation. Provides legislative findings. Specifies that the most significant source of environmental lead exposure is lead-based paint found in housing built prior to 1978, particularly houses built prior to 1960. Provides that any standards for abatement and lead-contaminated waste developed by the department must be developed in consultation with the Department of Environmental Protection. Certain determinations regarding health risks associated with lead exposure must be determined by the department in consultation with the Department of Health. "Lead Abatement Supervisor/Contractor" is defined. The program may be designed to meet the minimum requirements for federal approval under the U.S. Toxic Substances Control Act and the department shall apply for such approval.