

HB 1197

2008

1 A bill to be entitled
2 An act relating to lead poisoning prevention; creating s.
3 381.99, F.S.; providing a short title; providing
4 definitions; creating the Florida Lead-based Paint
5 Reduction Program within the Department of Health;
6 requiring certification of individuals and firms
7 performing lead-reduction activities; requiring the
8 department to develop course accreditation and
9 certification standards and requirements; providing
10 exceptions for certain individuals from certification
11 requirements; requiring the department to adopt minimum
12 qualifications for certification; providing for renewal of
13 certification; requiring the department to establish
14 criteria and a fee schedule for examinations and
15 certification; providing for such fees to be deposited
16 into the Lead Poisoning Prevention Trust Fund; requiring a
17 person to provide notification of lead-based paint
18 abatement activities to the department; providing certain
19 exceptions; requiring the department to adopt standards;
20 requiring the department to prepare a fact sheet on
21 abatement for distribution to consumers; requiring the
22 department to adopt rules; providing a contingent
23 effective date.

24
25 WHEREAS, improperly conducted lead removal from housing and
26 the environment has contributed to severe childhood lead
27 poisoning, and

28 WHEREAS, ensuring that professionals are trained to
 29 properly perform lead-reduction activities will also help
 30 protect children from the irreversible effects of lead
 31 poisoning, which can contribute to learning disabilities,
 32 lowered intelligence, violent behavior, and poor school
 33 performance, and

34 WHEREAS, a significant cause of lead poisoning in children
 35 is the ingestion of lead particles from deteriorating lead-based
 36 paint in older, poorly maintained residential dwellings, and

37 WHEREAS, childhood lead poisoning can be prevented if
 38 property owners, project managers, construction managers, health
 39 professionals, lead-remediation workers, those who work with
 40 young children, and parents are informed about the risks of
 41 childhood lead poisoning and how to prevent it, and

42 WHEREAS, ensuring proper lead remediation will reduce the
 43 number of children in Florida requiring special medical and
 44 educational services, NOW, THEREFORE,

45
 46 Be It Enacted by the Legislature of the State of Florida:

47
 48 Section 1. Section 381.99, Florida Statutes, is created to
 49 read:

50 381.99 Lead-based paint reduction.--

51 (1) SHORT TITLE.--This section may be cited as the
 52 "Florida Lead-based Paint Reduction Program Act."

53 (2) DEFINITIONS.--As used in this section, the term:

54 (a) "Abatement" means any measure or set of measures
 55 designed to permanently eliminate lead-based paint hazards.

56 1. The term includes, but is not limited to:
 57 a. The removal of lead-based paint and lead-contaminated
 58 dust, the permanent enclosure or encapsulation of lead-based
 59 paint, the replacement of lead-painted surfaces or fixtures, and
 60 the removal or covering of lead-contaminated soil;
 61 b. All preparation, cleanup, disposal, and postabatement
 62 clearance-testing activities associated with the measures
 63 specified in sub-subparagraph a.;
 64 c. Any project for which there is a written contract or
 65 other documentation providing that a certified individual or a
 66 certified firm will be conducting activities in or to a
 67 residential dwelling or child-occupied facility which:
 68 (I) Results in the permanent elimination of lead-based
 69 paint hazards; or
 70 (II) Is designed to permanently eliminate lead-based paint
 71 hazards and is described in this paragraph;
 72 d. Any project resulting in the permanent elimination of
 73 lead-based paint hazards which is conducted by a firm or
 74 individual certified in accordance with this section, unless
 75 such project is covered by subparagraph 2.;
 76 e. Any project resulting in the permanent elimination of
 77 lead-based paint hazards which is conducted by a firm or
 78 individual who, through the company name or promotional
 79 literature, represents, advertises, or holds himself or herself
 80 out to be in the business of performing lead-based paint
 81 activities, unless such project is covered by subparagraph 2.;
 82 or

HB 1197

2008

83 f. Any project resulting in the permanent elimination of
84 lead-based paint hazards which is conducted in response to
85 abatement orders by the state or local government.

86 2. The term does not include renovation, remodeling,
87 landscaping, or other activities when such activities are not
88 designed to permanently eliminate lead-based paint hazards, but
89 are designed to repair, restore, or remodel a given structure or
90 residential dwelling, even though these activities may
91 incidentally result in a reduction or elimination of lead-based
92 paint hazards. The term does not include interim controls,
93 operations, and maintenance activities or other measures and
94 activities designed to temporarily, but not permanently, reduce
95 lead-based paint hazards.

96 (b) "Accredited training program" means a training program
97 that has been accredited by the Department of Health to provide
98 training for individuals engaged in lead-based paint activities.

99 (c) "Affected property" means a room or group of rooms
100 within a property constructed before January 1, 1960, or within
101 a property constructed between January 1, 1960, and January 1,
102 1978, where the owner has knowledge of the presence of lead-
103 based paint, which form a single, independent habitable dwelling
104 unit for occupation by one or more individuals and has
105 facilities for living, sleeping, eating, cooking, and
106 sanitation. The term does not include:

107 1. An area that is not used for living, sleeping, eating,
108 cooking, or sanitation, such as an unfinished basement;

109 2. A unit within a hotel, motel, or similar seasonal or
 110 transient facility, unless such unit is occupied by one or more
 111 persons at risk for a period exceeding 30 days;

112 3. An area that is secured and inaccessible to occupants;
 113 or

114 4. A unit that is not offered for rent.

115 (d) "Certified abatement worker" means an individual who
 116 has successfully completed an accredited training program and
 117 who is certified by the department to perform lead-based paint
 118 abatement activities.

119 (e) "Certified firm" means a company, partnership,
 120 corporation, sole proprietorship, association, or other business
 121 entity that performs lead-based paint activities and that is
 122 certified by the department.

123 (f) "Certified risk assessor" means an individual who is
 124 trained by an accredited training program and certified by the
 125 department to conduct risk assessments and to collect
 126 environmental samples for analysis of the presence of lead in
 127 paint chips, dust, and soil for the purposes of clearance
 128 inspections.

129 (g) "Certified supervisor" means an individual who is
 130 trained by an accredited training program and certified by the
 131 department to supervise and conduct abatements and prepare
 132 occupant-protection plans and abatement reports.

133 (h) "Child-occupied facility" means a building, or portion
 134 of a building, constructed before 1978, visited regularly by the
 135 same child who is 6 years of age or younger on at least 2 days
 136 within any week if each day's visit lasts at least 3 hours and

137 the combined annual visits last at least 60 hours. The term
 138 includes, but is not limited to, day care centers, preschools,
 139 and kindergarten classrooms.

140 (i) "Clearance inspection" means a visual inspection and
 141 the collection of environmental samples by an inspector or risk
 142 assessor and analysis by an accredited laboratory, as determined
 143 by the National Lead Laboratory Accreditation Program of the
 144 United States Environmental Protection Agency, upon completion
 145 of an abatement project, interim control intervention, or
 146 maintenance job that disturbs lead-based paint.

147 (j) "Department" means the Department of Health.

148 (k) "Dust-lead hazard" means surface dust in a residential
 149 dwelling or a facility occupied by a person at risk which
 150 contains a mass-per-area concentration of lead equal to or
 151 exceeding 40 micrograms per square foot on interior floors or
 152 250 micrograms per square foot on interior window sills based on
 153 wipe samples.

154 (l) "Elevated blood-lead level" means a quantity of lead
 155 in whole venous blood which exceeds 10 micrograms per deciliter.

156 (m) "Inspection" means a room-by-room, surface-by-surface
 157 investigation to determine the presence of lead-based paint and
 158 the provision of a report explaining the results of the
 159 investigation in accordance with current guidelines of the
 160 United States Department of Housing and Urban Development.

161 (n) "Lead-based paint" means paint or other surface
 162 coatings that contain lead equal to or exceeding 1 milligram per
 163 square centimeter, 0.5 percent by weight, or 5,000 parts per
 164 million by weight.

HB 1197

2008

165 (o) "Lead-based paint activities" means, in the case of
166 target housing and child-occupied facilities, inspection, risk
167 assessment, and abatement.

168 (p) "Lead-based paint hazard" means any one of the
169 following:

170 1. Any lead-based paint on a friction surface that is
171 subject to abrasion and where the lead levels on the nearest
172 horizontal surface underneath the friction surface, such as the
173 window sill or floor, are equal to or greater than the dust-lead
174 hazard levels.

175 2. Any damaged or otherwise deteriorated lead-based paint
176 on an impact surface that is caused by impact from a related
177 building material, such as a door knob that knocks into a wall
178 or a door that knocks against its door frame.

179 3. Any chewable lead-based painted surface on which there
180 is evidence of teeth marks.

181 4. Any other deteriorated lead-based paint in or on the
182 exterior of any residential building or any facility occupied by
183 a person at risk.

184 (q) "Person at risk" means a child younger than 6 years of
185 age or a pregnant woman who resides in or regularly spends at
186 least 24 hours per week in an affected property.

187 (r) "Reduction" means measures designed to reduce or
188 eliminate human exposure to lead-based paint hazards through
189 methods that include interim controls and abatement.

190 (s) "Residential dwelling" means:

191 1. A detached single-family dwelling unit, including
192 attached structures, such as porches and stoops; or

193 2. A single-family dwelling unit in a structure that
 194 contains more than one separate residential dwelling unit and
 195 that is used or occupied, or intended to be used or occupied, in
 196 whole or in part, as the home or residence of one or more
 197 persons.

198 (t) "Risk assessment" means:

199 1. An on-site investigation to determine the existence,
 200 nature, severity, and location of lead-based paint hazards; and

201 2. The provision of a report by the individual or the firm
 202 conducting the risk assessment which explains the results of the
 203 investigation and options for reducing lead-based paint hazards.

204 (u) "Target housing" means any housing constructed before
 205 1978, except housing for the elderly or persons with
 206 disabilities, unless one or more children 6 years of age or
 207 younger reside or are expected to reside in such housing and any
 208 zero-bedroom dwelling.

209 (3) PROGRAM CREATION.--The Florida Lead-based Paint
 210 Reduction Program is created within the Department of Health.

211 (4) TRAINING AND CERTIFICATION OF AN INDIVIDUAL.--

212 (a) An individual may not perform or offer to perform an
 213 inspection, risk assessment, or abatement of a target facility,
 214 affected property, or child-occupied facility unless the
 215 individual is certified by the department to perform such
 216 activity. To ensure that proper procedures are used while
 217 performing an inspection, risk assessment, or abatement, the
 218 certification requirement applies to each activity.

219 (b) The department shall develop course accreditation and
 220 certification standards and requirements for any abatement

HB 1197

2008

221 categories required under federal law. Certification as an
222 abatement inspector, risk assessor, or worker shall be granted
223 only to individuals who successfully complete a department-
224 accredited course conducted by a provider accredited by the
225 department.

226 (c) The certification requirement imposed by this
227 subsection does not apply to an individual who performs an
228 abatement of a residential dwelling that the individual owns and
229 occupies as a residence, unless the residential dwelling is
230 occupied by an individual or individuals other than the owner or
231 the owner's immediate family before, or for 1 year after, an
232 abatement is performed.

233 (5) CERTIFICATION OF A FIRM.--

234 (a) A firm or other entity may not perform or offer to
235 perform an inspection, risk assessment, or abatement of a target
236 facility unless the firm or entity is certified by the
237 department as qualified to perform the activity. A firm or
238 entity that performs an inspection, risk assessment, or
239 abatement of a target facility may not employ an individual to
240 perform the inspection, risk assessment, or abatement unless the
241 individual is certified by the department to perform the
242 activity.

243 (b) In order to be certified under this section, a firm or
244 entity must meet the qualification requirements set by the
245 department. The department shall adopt by rule minimum
246 qualifications for the certification of firms and course
247 providers.

248 (6) RENEWAL.--A certification of an individual, course
 249 provider, or firm issued under this section expires on the last
 250 day of the 36th month after the date of issuance. A
 251 certification shall be renewed by paying the renewal fee within
 252 the established timeframe and according to the adopted minimum
 253 qualifications for certification of an individual, course
 254 provider, or firm.

255 (7) CERTIFICATION AND ACCREDITATION FEES.--

256 (a) The department shall establish fees for:

- 257 1. Examination for individual certification.
- 258 2. Individual certification as an abatement worker.
- 259 3. Individual certification as a risk-assessor.
- 260 4. Individual certification as an inspector.
- 261 5. Individual certification as a supervisor.
- 262 6. Initial course provider accreditation.
- 263 7. Renewal course accreditation.
- 264 8. Firm certification.

265

266 The fees for examination and certification apply to each
 267 category in which a person is examined for certification or
 268 receives certification.

269 (b) The fees imposed under this subsection shall be
 270 sufficient to meet the cost of administering this section and
 271 shall be deposited by the department into the Lead Poisoning
 272 Prevention Trust Fund and used solely to support the Florida
 273 Lead-based Paint Reduction Program and the training and
 274 certification required under the program.

275 (8) ABATEMENT NOTIFICATION.--

HB 1197

2008

276 (a) A person may not conduct an abatement of a target
277 facility, a child-occupied facility, a residential dwelling, or
278 an affected property unless the person has provided notification
279 to the department of the abatement. The department shall
280 establish a procedure for providing notification. Notification
281 authorizes the department to enter and assess the identified
282 abatement worksite for the purpose of enforcing the requirements
283 of this section.

284 (b) An individual who owns a single-family dwelling,
285 conducts an abatement of the dwelling, and resides in the
286 dwelling after the abatement is complete is not required to
287 provide notification to the department unless the dwelling is
288 occupied by an individual or individuals other than the owner or
289 the owner's immediate family before, and for 1 year after, the
290 abatement is performed or unless a child residing in the
291 building has been identified as having an elevated blood-lead
292 level.

293 (9) STANDARDS AND PROCEDURES FOR ELIMINATION OF HAZARDS;
294 CONSUMER INFORMATION.--

295 (a) The department shall adopt standards established by
296 the United States Environmental Protection Agency to ensure that
297 abatement performed under this section results in the
298 elimination of lead-based paint hazards. An inspection, risk
299 assessment, or abatement performed under this section must be
300 performed in accordance with the procedures defined by rules of
301 the department.

302 (b) The department shall prepare a fact sheet on abatement
303 for distribution to consumers. The sheet shall list certified

HB 1197

2008

304 firms and various measures known to the department for the
305 abatement of target housing and child-occupied facilities.

306 (10) RULES.--The Department of Health shall adopt rules
307 pursuant to ss. 120.536(1) and 120.54 to administer this
308 section, including, but not limited to, methods, fees,
309 standards, and abatement procedures.

310 Section 2. This act shall take effect July 1, 2008, if HB
311 1199 or similar legislation is adopted in the same legislative
312 session or an extension thereof and becomes law.