

By Senator Joyner

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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 from certification requirements; requiring the
11 department to adopt minimum qualifications for
12 certification; providing for renewal of certification;
13 requiring the department to establish criteria and a fee
14 schedule for examinations and certification; providing for
15 such fees to be deposited into the Lead Poisoning
16 Prevention Trust Fund; requiring a person to provide
17 notification of lead-based paint abatement activities to
18 the department; providing certain exceptions; requiring
19 the department to adopt standards; requiring the
20 department to prepare a fact sheet on abatement for
21 distribution to consumers; requiring the department to
22 adopt rules; providing a contingent effective date.

23
24 WHEREAS, improperly conducted lead removal from housing and
25 the environment has contributed to severe childhood lead
26 poisoning, and

27 WHEREAS, ensuring that professionals are trained to properly
28 perform lead-reduction activities will also help protect children
29 from the irreversible effects of lead poisoning which can

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30 contribute to learning disabilities, lowered intelligence,
31 violent behavior, and poor school performance, and

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

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

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

43

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

45

46 Section 1. 381.99 Lead-based paint reduction.--

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

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

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

52 1. The term includes, but is not limited to:

53 a. The removal of lead-based paint and lead-contaminated
54 dust, the permanent enclosure or encapsulation of lead-based
55 paint, the replacement of lead-painted surfaces or fixtures, and
56 the removal or covering of lead-contaminated soil;

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57 b. All preparation, cleanup, disposal, and postabatement
58 clearance-testing activities associated with the measures
59 specified in sub-subparagraph a.;

60 c. Any project for which there is a written contract or
61 other documentation providing that an individual or certified
62 firm will be conducting activities in or to a residential
63 dwelling or child-occupied facility which:

64 (I) Results in the permanent elimination of lead-based
65 paint hazards; or

66 (II) Is designed to permanently eliminate lead-based paint
67 hazards and is described in this paragraph;

68 d. Any project resulting in the permanent elimination of
69 lead-based paint hazards which is conducted by a firm or
70 individual certified in accordance with this section, unless such
71 project is covered by subparagraph 2.;

72 e. Any project resulting in the permanent elimination of
73 lead-based paint hazards which is conducted by a firm or
74 individual who, through the company name or promotional
75 literature, represents, advertises, or holds himself or herself
76 out to be in the business of performing lead-based paint
77 activities, unless such project is covered by subparagraph 2.; or

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

81 2. The term does not include renovation, remodeling,
82 landscaping, or other activities when such activities are not
83 designed to permanently eliminate lead-based paint hazards, but
84 are designed to repair, restore, or remodel a given structure or
85 residential dwelling, even though these activities may

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86 incidentally result in a reduction or elimination of lead-based
87 paint hazards. The term does not include interim controls,
88 operations, and maintenance activities or other measures and
89 activities designed to temporarily, but not permanently, reduce
90 lead-based paint hazards.

91 (b) "Affected property" means a room or group of rooms
92 within a property constructed before January 1, 1960, or within a
93 property constructed between January 1, 1960, and January 1,
94 1978, where the owner has knowledge of the presence of lead-based
95 paint, which form a single, independent habitable dwelling unit
96 for occupation by one or more individuals and has facilities for
97 living, sleeping, eating, cooking, and sanitation. The term does
98 not include:

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

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

104 3. An area that is secured and inaccessible to occupants;
105 or

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

107 (c) "Accredited training program" means a training program
108 that has been accredited by the Department of Health to provide
109 training for individuals engaged in lead-based paint activities.

110 (d) "Certified firm" means a company, partnership,
111 corporation, sole proprietorship, association, or other business
112 entity that performs lead-based paint activities and that is
113 certified by the department.

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

118 (f) "Certified risk assessor" means an individual who is
119 trained by an accredited training program and certified by the
120 department to conduct risk assessments and to take samples for
121 the presence of lead in paint chips, dust, and soil for the
122 purposes of clearance inspections.

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

127 (h) "Child-occupied facility" means a building, or portion
128 of a building, constructed before 1978, visited regularly by the
129 same child who is 6 years of age or younger on at least 2 days
130 within any week if each day's visit lasts at least 3 hours and
131 the combined annual visits last at least 60 hours. The term
132 includes, but is not limited to, day care centers, preschools,
133 and kindergarten classrooms.

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

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

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142 (k) "Dust-lead hazard" means surface dust in a residential
143 dwelling or a facility occupied by a person at risk which
144 contains a mass-per-area concentration of lead equal to or
145 exceeding 40 micrograms per square foot on interior floors or 250
146 micrograms per square foot on interior window sills based on wipe
147 samples.

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

150 (m) "Inspection" means a room-by-room, surface-by-surface
151 investigation to determine the presence of lead-based paint and
152 the provision of a report explaining the results of the
153 investigation in accordance with current guidelines of the United
154 States Department of Housing and Urban Development.

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

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

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

164 1. Any lead-based paint on a friction surface that is
165 subject to abrasion and where the lead levels on the nearest
166 horizontal surface underneath the friction surface, such as the
167 window sill or floor, are equal to or greater than the dust-lead
168 hazard levels.

169 2. Any damaged or otherwise deteriorated lead-based paint
170 on an impact surface that is caused by impact from a related

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171 building material, such as a door knob that knocks into a wall or
172 a door that knocks against its door frame.

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

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

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

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

184 (s) "Residential dwelling" means:

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

187 2. A single-family dwelling unit in a structure that
188 contains more than one separate residential dwelling unit and
189 that is used or occupied, or intended to be used or occupied, in
190 whole or in part, as the home or residence of one or more
191 persons.

192 (t) "Risk assessment" means:

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

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

198 (u) "Target housing" means any housing constructed before
199 1978, except housing for the elderly or persons with

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200 | disabilities, unless one or more children 6 years of age or
201 | younger reside or are expected to reside in such housing and any
202 | zero-bedroom dwelling.

203 | (3) TRAINING AND CERTIFICATION OF AN INDIVIDUAL.--

204 | (a) An individual may not perform or offer to perform an
205 | inspection, risk assessment, or abatement of a target facility,
206 | affected property, or child-occupied facility unless the
207 | individual is certified by the department to perform such
208 | activity. To ensure that proper procedures are used while
209 | performing an inspection, risk assessment, or abatement, the
210 | certification requirement applies to each activity.

211 | (b) The department shall develop course accreditation and
212 | certification standards and requirements for any abatement
213 | categories required under federal law. Certification as an
214 | abatement inspector, risk assessor, or worker shall be granted
215 | only to individuals who successfully complete a department-
216 | accredited course conducted by a provider accredited by the
217 | department.

218 | (c) The certification requirement imposed by this
219 | subsection does not apply to an individual who performs an
220 | abatement of a residential dwelling that the individual owns and
221 | occupies as a residence, unless the residential dwelling is
222 | occupied by an individual or individuals other than the owner or
223 | the owner's immediate family before, or for 1 year after, an
224 | abatement is performed.

225 | (4) CERTIFICATION OF A FIRM.--

226 | (a) A firm or other entity may not perform or offer to
227 | perform an inspection, risk assessment, or abatement of a target
228 | facility unless the firm or entity is certified by the department

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229 as qualified to perform the activity. A firm or entity that
230 performs an inspection, risk assessment, or abatement of a target
231 facility may not employ an individual to perform the inspection,
232 risk assessment, or abatement unless the individual is certified
233 by the department to perform the activity.

234 (b) In order to be certified under this section, a firm or
235 entity must meet the qualification requirements set by the
236 department. The department shall adopt by rule minimum
237 qualifications for the certification of firms and course
238 providers.

239 (5) RENEWAL.--A certification of an individual, course
240 provider, or firm issued under this section expires on the last
241 day of the 36th month after the date of issuance. A certification
242 shall be renewed by paying the renewal fee within the established
243 timeframe and according to the adopted minimum qualifications for
244 certification of firms, course providers, and individuals.

245 (6) CERTIFICATION AND ACCREDITATION FEES.--

246 (a) The department shall establish fees for:

247 1. Examination for individual certification.

248 2. Individual certification as an abatement worker.

249 3. Individual certification as a risk-assessor.

250 4. Individual certification as an inspector.

251 5. Individual certification as a supervisor.

252 6. Initial course provider accreditation.

253 7. Renewal course accreditation.

254 8. Firm certification.

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256 The fees for examination and certification apply to each category
257 in which a person is examined for certification or receives
258 certification.

259 (b) The fees imposed under this subsection shall be
260 sufficient to meet the cost of administering this section and
261 shall be deposited by the department into the Lead Poisoning
262 Prevention Trust Fund and used solely to support the Florida
263 Lead-based Paint Reduction Program and the training and
264 certification required under the program.

265 (7) ABATEMENT NOTIFICATION.--

266 (a) A person may not conduct an abatement of a target
267 facility, a child-occupied facility, a residential dwelling, or
268 an affected property unless the person has provided notification
269 to the department of the abatement. The department shall
270 establish a procedure for providing notification. Notification
271 authorizes the department to enter and assess the identified
272 abatement worksite for the purpose of enforcing the requirements
273 of this section.

274 (b) An individual who owns a single-family dwelling,
275 conducts an abatement of the dwelling, and resides in the
276 dwelling after the abatement is complete is not required to
277 provide notification to the department unless the dwelling is
278 occupied by an individual or individuals other than the owner or
279 the owner's immediate family before, and for 1 year after, the
280 abatement is performed or unless a child residing in the building
281 has been identified as having an elevated blood-lead level.

282 (8) STANDARDS AND PROCEDURES FOR ELIMINATION OF HAZARDS;
283 CONSUMER INFORMATION.--

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284 (a) The department shall adopt standards established by the
285 United States Environmental Protection Agency to ensure that
286 abatement performed under this section results in the elimination
287 of lead-based paint hazards. An inspection, risk assessment, or
288 abatement performed under this section must be performed in
289 accordance with the procedures defined by rules of the
290 department.

291 (b) The department shall prepare a fact sheet on abatement
292 for distribution to consumers. The sheet shall list certified
293 firms and various measures known to the department for the
294 abatement of target housing and child-occupied facilities.

295 (9) RULES.--The Department of Health shall adopt rules to
296 administer this section, including, but not limited to, methods,
297 fees, standards, and abatement procedures.

298 Section 2. This act shall take effect July 1, 2008, if SB
299 ____, or similar legislation is adopted in the same legislative
300 session or an extension thereof and becomes law.