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SENATE BILL 519*
Health & Human Resources Committee Substitute Adopted 4/14/03
Third Edition Engrossed 4/16/03

Short Title: Child Lead Poisoning Prevention Prgm Amends.-AB

(Public)

Sponsors:

Referred to:

March 24, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW REGARDING THE PREVENTION AND
3 CONTROL OF LEAD POISONING IN CHILDREN.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 130A-131.7 reads as rewritten:

6 "§ 130A-131.7. Definitions.

7 ~~As used in this Part, unless the context requires otherwise, the term:~~The following
8 definitions apply in this Part:

9 (1) "Abatement" means undertaking any of the following measures to
10 eliminate a lead-based paint hazard:

- 11 a. Removing lead-based paint from a surface and repainting the
12 surface.
13 b. Removing a component, such as a windowsill, painted with
14 lead-based paint and replacing the component.
15 c. Enclosing a surface painted with lead-based paint with
16 paneling, vinyl siding, or another approved material.
17 d. Encapsulating a surface painted with lead-based paint with a
18 sealant.
19 e. Any other measure approved by the Commission.

20 (2) "Child-occupied facility" means a building, or portion of a building,
21 constructed ~~prior to~~before 1978, regularly visited by a child who is less
22 than ~~6-~~six years of age. Child-occupied facilities may include, but are
23 not limited to, child care facilities, preschools, nurseries, kindergarten
24 classrooms, schools, clinics, or treatment centers including the
25 common areas, the grounds, any outbuildings, or other structures
26 appurtenant to the facility.

- 1 (3) "Confirmed lead poisoning" means a blood lead concentration of 20
2 micrograms per deciliter or greater determined by the lower of two
3 consecutive blood tests within a six-month period.
- 4 (4) "Department" means the Department of Environment and Natural
5 Resources or its authorized agent.
- 6 (5) "Elevated blood lead level" means a blood lead concentration of 10
7 micrograms per deciliter or greater determined by the lower of two
8 consecutive blood tests within a six-month period.
- 9 (6) "Lead-based paint hazard" means a condition that is likely to ~~cause~~
10 ~~adverse health effects as a result of in~~ exposure to lead-based paint or
11 to soil or dust that contains lead ~~derived from lead-based paint at a~~
12 concentration that constitutes a lead poisoning hazard.
- 13 (7) "Lead poisoning hazard" means any of the presence of readily
14 accessible or mouthable lead-bearing substances, including lead-based
15 paint, measuring 1.0 milligram per square centimeter or greater by
16 X-ray fluorescence or five tenths of one percent (0.5%) or greater by
17 chemical analysis; or 15 parts per billion or greater in drinking water;
18 or 100 micrograms per square foot or greater for dust on floors; or 500
19 micrograms per square foot or greater for dust on windowsills; or 800
20 micrograms per square foot or greater for dust in window troughs, or
21 soil lead concentrations in an amount greater than or equal to 400 parts
22 per million that is determined by the Department to present a hazard in
23 light of (i) the condition and use of the land and (ii) other relevant
24 factors following:
- 25 a. Any lead-based paint or other substance that contains lead in an
26 amount equal to or greater than 1.0 milligrams lead per square
27 centimeter as determined by X-ray fluorescence or five-tenths
28 of a percent (0.5%) lead by weight as determined by chemical
29 analysis: (i) on any readily accessible substance or chewable
30 surface on which there is evidence of teeth marks or mouthing;
31 or (ii) on any other deteriorated or otherwise damaged interior
32 or exterior surface.
- 33 b. Any substance that contains lead intended for use by children
34 less than six years of age in an amount equal to or greater than
35 0.06 percent (0.06%) lead by weight as determined by chemical
36 analysis.
- 37 c. Any concentration of lead dust that is equal to or greater than
38 40 micrograms per square foot on floors or 250 micrograms per
39 square foot on interior windowsills, vinyl miniblinds, bathtubs,
40 kitchen sinks, or lavatories.
- 41 d. Any lead-based paint or other substance that contains lead on a
42 friction or impact surface that is subject to abrasion, rubbing,
43 binding, or damage by repeated contact and where the lead dust
44 concentrations on the nearest horizontal surface underneath the

- 1 friction or impact surface are equal to or greater than 40
2 micrograms per square foot on floors or 250 micrograms per
3 square foot on interior windowsills.
- 4 e. Any concentration of lead in bare soil in play areas, gardens, pet
5 sleeping areas, and areas within three feet of a residential
6 housing unit or child-occupied facility equal to or greater than
7 400 parts per million. Any concentration of lead in bare soil in
8 other locations of the yard equal to or greater than 1,200 parts
9 per million.
- 10 f. Any ceramic ware generating equal to or greater than three
11 micrograms of lead per milliliter of leaching solution for
12 flatware or 0.5 micrograms of lead per milliliter for cups, mugs,
13 and pitchers as determined by Method 973.32 of the
14 Association of Official Analytical Chemists.
- 15 g. Any concentration of lead in drinking water equal to or greater
16 than 15 parts per billion.
- 17 (8) "Lead-safe housing" is housing that was built since 1978 or has been
18 tested by a person that has been certified to perform risk assessments
19 and found to have no lead-based paint hazard within the meaning of
20 the Residential Lead-Based Paint Reduction Act of 1992, 42 U.S.C. §
21 4851b(15).
- 22 (9) "Maintenance standard" means the following:
- 23 a. Using safe work practices, repairing and repainting areas of
24 deteriorated paint inside a residential housing unit and for
25 single-family and duplex residential dwelling built ~~prior~~
26 ~~to~~before 1950, repairing and repainting areas of deteriorated
27 paint on interior and exterior surfaces;
- 28 b. Cleaning the interior of the unit to remove dust that constitutes
29 a lead poisoning hazard;
- 30 c. Adjusting doors and windows to minimize friction or impact on
31 surfaces;
- 32 d. Subject to the occupant's approval, appropriately cleaning any
33 carpets;
- 34 e. Taking such steps as are necessary to ensure that all interior
35 surfaces on which dust might collect are readily cleanable; and
- 36 f. Providing the occupant or occupants all information required to
37 be provided under the Residential Lead-Based Paint Hazard
38 Reduction Act of 1992, and amendments thereto.
- 39 (10) "Managing agent" means any person who has charge, care, or control
40 of a building or part thereof in which dwelling units or rooming units
41 are leased.
- 42 (11) ~~"Mouthable lead bearing substance" means any substance on surfaces~~
43 ~~or fixtures five feet or less from the floor or ground that form a~~
44 ~~protruding corner or similar edge, or protrude one half inch or more~~

1 from a flat wall surface, or are freestanding, containing
2 lead contaminated dust at a level that constitutes a lead poisoning
3 hazard. Mouthable surfaces or fixtures include toys, vinyl miniblinds,
4 doors, door jambs, stairs, stair rails, windows, windowsills, and
5 baseboards.

6 (12) "~~Persistent elevated blood lead level~~" means a blood lead
7 concentration of 15-19 micrograms per deciliter determined by the
8 lowest of three consecutive blood tests. The first two blood tests shall
9 be performed within a six month period, and the third blood test shall
10 be performed at least 12 weeks and not more than six months after the
11 second blood test.

12 (13) "~~Readily accessible lead-bearing substance~~" means any substance
13 containing lead at a level that constitutes a lead poisoning hazard
14 ~~which~~that can be ingested or inhaled by a child ~~under 6~~less than six
15 years of age. Readily accessible substances include deteriorated paint
16 that is peeling, chipping, cracking, flaking, or blistering to the extent
17 that the paint has separated from the substrate. Readily accessible
18 substances also include soil, ~~water,~~water, toys, vinyl miniblinds,
19 bathtubs, lavatories, doors, door jambs, stairs, stair rails, windows,
20 interior windowsills, baseboards, and paint that is chalking.

21 (14) "Regularly visits" means the presence at a residential housing unit or
22 child-occupied facility on at least two different days within any week,
23 provided that each day's visit lasts at least three hours and the
24 combined weekly visits last at least six hours, and the combined
25 annual visits last at least 60 hours.

26 (15) "Remediation" means the elimination or control of lead poisoning
27 hazards by methods approved by the Department.

28 (16) "Residential housing unit" means a dwelling, dwelling unit, or other
29 structure, all or part of which is designed or used for human habitation,
30 including the common areas, the grounds, any outbuildings, or other
31 structures appurtenant to the residential housing unit.

32 (17) "Supplemental address" means a residential housing unit or
33 child-occupied facility where a child with a ~~persistent elevated blood~~
34 ~~lead level or a confirmed lead poisoning~~ regularly visits or attends.
35 Supplemental address also means a residential housing unit or
36 child-occupied facility where a child resided, regularly visited, or
37 attended within the six months immediately preceding the
38 determination of a ~~persistent elevated blood lead level or a confirmed~~
39 ~~lead poisoning.~~"

40 **SECTION 2.** G.S. 130A-131.8 reads as rewritten:

41 **"§ 130A-131.8. Reports of blood levels in children.**

42 All laboratories doing business in this State shall report to the Department all blood
43 ~~lead levels of one microgram per deciliter or greater~~test results for children less than ~~6~~
44 six years of age and for individuals whose ages are unknown at the time of testing.

1 Reports shall be made within five working days after test completion on forms provided
2 by the Department or on self-generated forms containing: the child's full name, date of
3 birth, sex, race, address, and Medicaid number, if any; the name, address, and telephone
4 number of the requesting health care provider; the name, address, and telephone number
5 of the testing laboratory; the laboratory results, the specimen type – venous or capillary;
6 the laboratory sample number, and the dates the sample was collected and analyzed.
7 ~~Such~~The reports may be made by electronic submissions."

8 **SECTION 3.** G.S. 130A-131.9 reads as rewritten:

9 **"§ 130A-131.9. Examination and testing.**

10 When the Department has a reasonable suspicion that a child less than ~~6~~six years of
11 age has a ~~persistent~~an elevated blood lead level or a confirmed lead poisoning, the
12 Department may require that child to be examined and tested within 30 days. The
13 Department shall require from the owner, managing agent, or tenant of the residential
14 housing unit or child-occupied facility information on each child who resides in,
15 regularly visits, or attends, or, who has within the past six months, resided in, regularly
16 visited, or attended the unit or facility. The information required shall include each
17 child's name and date of birth, the names and addresses of each child's parents, legal
18 guardian, or full-time custodian. The owner, managing agent, or tenant shall submit the
19 required information within 10 days of receipt of the request from the Department."

20 **SECTION 4.** G.S. 130A-131.9A reads as rewritten:

21 **"§ 130A-131.9A. Investigation to identify lead poisoning hazards.**

22 (a) When the Department learns of a ~~persistent elevated blood lead level or a~~
23 ~~confirmed lead poisoning,~~ the Department shall conduct an investigation to identify the
24 lead poisoning hazards to children. The Department shall investigate the residential
25 housing unit ~~or child-occupied facility~~ where the child with ~~the persistent elevated blood~~
26 ~~lead level or the confirmed lead poisoning resides, regularly visits, or attends.~~resides.
27 The Department shall also investigate the supplemental addresses of the child who has a
28 ~~persistent elevated blood lead or a confirmed lead poisoning.~~

29 (a1) When the Department learns of an elevated blood lead level, the Department
30 shall, upon informed consent, investigate the residential housing unit where the child
31 with the elevated blood level resides. When consent to investigate is denied, the child
32 with the elevated blood lead level cannot be located, or the child's parent or guardian
33 fails to respond, the Department shall document the denial of consent, inability to
34 locate, or failure to respond.

35 (b) The Department shall also conduct an investigation when it reasonably
36 suspects that a lead poisoning hazard to children exists in a residential housing unit or
37 child-occupied facility occupied, regularly visited, or attended by a child less than ~~6~~six
38 years of age.

39 (c) In conducting an investigation, the Department may take samples of surface
40 materials, or other materials suspected of containing lead, for analysis and testing. If
41 samples are taken, chemical determination of the lead content of the samples shall be by
42 atomic absorption spectroscopy or equivalent methods approved by the Department."

43 **SECTION 5.** G.S. 130A-131.9B reads as rewritten:

44 **"§ 130A-131.9B. Notification.**

1 Upon determination that a lead poisoning hazard exists, the Department shall give
2 written notice of the lead poisoning hazard to the owner or managing agent of the
3 residential housing unit or child-occupied facility and to all persons residing in,
4 attending, or regularly visiting the unit or facility. The written notice to the owner or
5 managing agent shall include a list of possible methods of ~~abatement of the lead-based~~
6 ~~paint hazards and of possible methods of remediation of any other lead poisoning~~
7 ~~hazard.~~ remediation."

8 **SECTION 6.** G.S. 130A-131.9C reads as rewritten:

9 "**§ 130A-131.9C. ~~Abatement and remediation.~~ Remediation.**

10 (a) Upon determination that a child less than ~~6~~ six years of age has a confirmed
11 lead poisoning of 20 micrograms per deciliter or greater and that child resides ~~in,~~
12 ~~attends, or regularly visits,~~ in a residential housing unit ~~or child-occupied facility~~
13 containing lead poisoning hazards, the Department shall require ~~abatement of the lead-~~
14 ~~based paint hazards and the remediation of other~~ the lead poisoning hazards. The
15 Department shall also require ~~the abatement of the lead-based paint hazards and the~~
16 ~~remediation of other~~ the lead poisoning hazards identified at the supplemental addresses
17 of a child less than ~~6~~ six years of age with a confirmed lead poisoning of 20 micrograms
18 per deciliter or greater.

19 (b) When ~~abatement of lead-based paint hazards or remediation of other~~ lead
20 poisoning hazards is required under subsection (a) of this section, the owner or
21 managing agent shall submit a written remediation plan to the Department within 14
22 days of receipt of the lead poisoning hazard notification and shall obtain written
23 approval of the plan ~~prior to~~ before initiating ~~abatement of lead-based paint hazards or~~
24 ~~remediation of other lead poisoning hazards~~ activities. The remediation plan shall
25 comply with subsections (g), (h), and (i) of this section.

26 (c) If the remediation plan submitted fails to meet the requirements of this
27 section, the Department shall issue an order requiring submission of a modified plan.
28 The order shall indicate the modifications ~~which~~ that shall be made to the remediation
29 plan and the date ~~by which~~ that the plan as modified shall be submitted to the
30 Department.

31 (d) If the owner or managing agent does not submit a remediation plan within 14
32 days, the Department shall issue an order requiring submission of a remediation plan
33 within five days of receipt of the order.

34 (e) The owner or managing agent shall notify the Department and the occupants
35 of the dates of remediation activities at least three days ~~prior to~~ the before
36 commencement of the activities.

37 (f) ~~Abatement of lead-based paint hazards and remediation~~ Remediation of ~~other~~
38 the lead poisoning hazards shall be completed within 60 days of the Department's
39 approval of the remediation plan. If ~~these~~ the remediation activities are not completed
40 within 60 ~~days as required,~~ days, the Department shall issue an order requiring
41 completion of the activities. An owner or managing agent may apply to the Department
42 for an extension of the deadline. The Department may issue an order extending the
43 deadline for 30 days upon proper written application by the owner or managing agent.

1 (g) ~~The~~ All of the following methods of abatement-remediation of lead-based
2 paint hazards are prohibited:

- 3 (1) Stripping paint on-site with methylene chloride-based
4 solutions;~~solutions.~~
5 (2) Torch or flame burning;~~burning.~~
6 (3) Heating paint with a heat gun above 1,100 degrees
7 Fahrenheit;~~Fahrenheit.~~
8 (4) Covering with new paint or wallpaper unless all readily accessible
9 lead-based paint has been removed;~~removed.~~
10 (5) Uncontrolled abrasive blasting; or blasting, machine sanding, or
11 grinding, except when used with High Efficiency Particulate Air
12 (HEPA) exhaust control that removes particles of 0.3 microns or larger
13 from the air at ninety-nine and seven-tenths percent (99.7%) or greater
14 efficiency.
15 (6) Uncontrolled waterblasting.
16 (7) Dry scraping, unless used in conjunction with heat guns, or around
17 electrical outlets, or when treating no more than two square feet on
18 interior surfaces, or no more than 20 square feet on exterior surfaces.

19 (h) All lead-containing waste and residue shall be removed and disposed of in
20 accordance with applicable federal, State, and local laws and rules. Other substances
21 containing lead that are intended for use by children less than six years of age and vinyl
22 miniblinds that constitute a lead poisoning hazard shall be removed and disposed of in
23 accordance with applicable federal, State, and local laws and rules.

24 (i) All remediation plans shall require that the lead poisoning hazards be reduced
25 to below the following levels:

- 26 (1) Floor lead dust levels Fewer are less than 100-40 micrograms per
27 square foot;~~foot for lead dust on floors.~~
28 (2) Windowsill lead dust levels are less Fewer than 500-250 micrograms
29 per square foot;~~foot for lead dust on interior windowsills, bathtubs,~~
30 kitchen sinks, and lavatories.
31 (3) Window trough lead dust levels are less Fewer than 800-400
32 micrograms per square foot;~~foot for lead dust on window troughs.~~
33 (4) Soil lead levels are less Fewer than 400 parts per million or such other
34 level higher than 400 parts per million as determined by the
35 Department to prevent a hazard in light of the condition and use of the
36 land and in light of other relevant factors; and for lead in bare soil in
37 play areas, gardens, pet sleeping areas, and areas within three feet of
38 the residential housing unit or child-occupied facility. Lead in bare soil
39 in other locations of the yard shall be reduced to less than 1,200 parts
40 per million.
41 (5) Drinking water lead levels less Fewer than 15 parts per billion. billion
42 for lead in drinking water.

1 (j) The Department shall verify by visual inspection that the approved
2 remediation plan has been completed. The Department may also verify plan completion
3 by residual lead dust monitoring and soil or drinking water lead level measurement.

4 (j1) Compliance with the maintenance standard satisfies the remediation
5 requirements for confirmed lead poisoning cases identified on or after 1 October 1990
6 as long as all lead poisoning hazards identified on interior and exterior surfaces are
7 addressed by remediation. Except for owner-occupied residential housing units,
8 continued compliance shall be verified by means of an annual monitoring inspection
9 conducted by the Department. For owner-occupied residential housing units, continued
10 compliance shall be verified (i) by means of an annual monitoring inspection, (ii) by
11 documentation that no child less than six years of age has resided in or regularly visited
12 the residential housing unit within the past year, or (iii) by documentation that no child
13 less than six years of age residing in or regularly visiting the unit has an elevated blood
14 lead level.

15 (k) Removal of children from the residential housing unit or child-occupied
16 facility shall not constitute ~~abatement or remediation~~ if the property continues to be
17 used for a residential housing unit or child-occupied ~~facility-facility~~. The remediation
18 requirements imposed in subsection (a) of this section apply so long as the property
19 continues to be used as a residential housing unit or child-occupied facility."

20 **SECTION 7.** G.S. 130A-131.9G reads as rewritten:

21 "**§ 130A-131.9G. Resident responsibilities.**

22 In any residential housing unit occupied by a child less than ~~6-six~~ years old of age
23 who has an elevated blood lead level of 10 micrograms per deciliter or greater, the
24 Department shall advise, in writing, the owner or managing agent and the child's parents
25 or legal guardian ~~as to~~ of the importance of carrying out routine cleaning activities in the
26 units they occupy, own, or manage. ~~Such~~ The cleaning activities shall ~~include~~ include
27 all of the following:

- 28 (1) Wiping clean all windowsills with a damp cloth or sponge at least
29 ~~weekly~~ weekly.
- 30 (2) Regularly washing all surfaces accessible to ~~children~~ children.
- 31 (3) In the case of a leased residential housing unit, identifying any
32 deteriorated paint in the unit and notifying the owner or managing
33 agent of ~~such~~ the conditions within 72 hours of ~~discovery~~;
34 and discovery.
- 35 (4) Identifying and understanding potential lead poisoning hazards in the
36 environment of each child ~~under the age of 6~~ less than six years of age
37 in the unit (including toys, vinyl miniblinds, playground equipment,
38 drinking water, soil, and painted surfaces), and taking steps to prevent
39 children from ingesting lead such as encouraging children to wash
40 their faces and hands frequently and especially after playing outdoors."

41 **SECTION 8.** This act becomes effective 1 July 2003.