

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Procurement Code is amended by
5 adding Section 50-14.5 as follows:

6 (30 ILCS 500/50-14.5 new)

7 Sec. 50-14.5. Lead Poisoning Prevention Act violations.
8 Owners of residential buildings who have committed a willful or
9 knowing violation of the Lead Poisoning Prevention Act are
10 prohibited from doing business with the State of Illinois or
11 any State agency until the violation is mitigated.

12 Section 10. The Lead Poisoning Prevention Act is amended by
13 changing Sections 2, 3, 4, 5, 6, 7.1, 8, and 12 and by adding
14 Sections 6.01, 6.3, 9.2, 9.3, 9.4, and 12.1 as follows:

15 (410 ILCS 45/2) (from Ch. 111 1/2, par. 1302)

16 Sec. 2. Definitions. As used in this Act:

17 "Abatement" means the removal or encapsulation of all
18 leadbearing substances in a residential building or dwelling
19 unit.

20 "Child care facility" means any structure used by a child
21 care provider licensed by the Department of Children and Family
22 Services or public school structure frequented by children
23 through 6 years of age.

24 "Delegate agency" means a unit of local government or
25 health department approved by the Department to carry out the
26 provisions of this Act.

27 "Department" means the Department of Public Health of the
28 State of Illinois.

29 "Dwelling" means any structure all or part of which is
30 designed or used for human habitation.

1 "High risk area" means an area in the State determined by
2 the Department to be high risk for lead exposure for children
3 through 6 years of age. The Department shall consider, but not
4 be limited to, the following factors to determine a high risk
5 area: age and condition (using Department of Housing and Urban
6 Development definitions of "slum" and "blighted") of housing,
7 proximity to highway traffic or heavy local traffic or both,
8 percentage of housing determined as rental or vacant, proximity
9 to industry using lead, established incidence of elevated blood
10 lead levels in children, percentage of population living below
11 200% of federal poverty guidelines, and number of children
12 residing in the area who are 6 years of age or younger.

13 "Exposed surface" means any interior or exterior surface of
14 a dwelling or residential building.

15 "Lead abatement contractor" means any person or entity
16 licensed by the Department to perform lead abatement and
17 mitigation.

18 "Lead abatement worker" means any person employed by a lead
19 abatement contractor and licensed by the Department to perform
20 lead abatement and mitigation.

21 "Lead bearing substance" means any item containing or
22 coated with lead such that the lead content is more than
23 six-hundredths of one percent (0.06%) lead by total weight; or
24 any dust on surfaces or in furniture or other nonpermanent
25 elements of the dwelling; or ~~and~~ any paint or other surface
26 coating material containing more than five-tenths of one
27 percent (0.5%) lead by total weight (calculated as lead metal)
28 in the total non-volatile content of liquid paint; ~~or~~ or lead
29 bearing substances containing greater than one milligram per
30 square centimeter or any lower standard for lead content in
31 residential paint as may be established by federal law or
32 regulation; or more than 1 milligram per square centimeter in
33 the dried film of paint or previously applied substance; or
34 item or dust on item ~~object~~ containing lead in excess of the
35 amount specified in the rules and regulations authorized by
36 this Act or a lower standard for lead content as may be

1 established by federal law or regulation.

2 "Lead hazard" means a lead bearing substance that poses an
3 immediate health hazard to humans.

4 "Lead poisoning" means the condition of having blood lead
5 levels in excess of those considered safe under State and
6 federal rules and regulations.

7 "Low risk area" means an area in the State determined by
8 the Department to be low risk for lead exposure for children
9 through 6 years of age. The Department shall consider the
10 factors named in "high risk area" to determine low risk areas.

11 "Mitigation" means the remediation, in a manner described
12 in Section 9, of a lead hazard so that the lead bearing
13 substance does not pose an immediate health hazard to humans.

14 "Owner" means any person, who alone, jointly, or severally
15 with others:

16 (a) Has legal title to any dwelling or residential
17 building, with or without accompanying actual possession
18 of the dwelling or residential building, or

19 (b) Has charge, care or control of the dwelling or
20 residential building as owner or agent of the owner, or as
21 executor, administrator, trustee, or guardian of the
22 estate of the owner.

23 "Person" means any one or more natural persons, legal
24 entities, governmental bodies, or any combination.

25 "Residential building" means any room, group of rooms, or
26 other interior areas of a structure designed or used for human
27 habitation; common areas accessible by inhabitants; and the
28 surrounding property or structures.

29 "Risk assessment" means a questionnaire to be developed by
30 the Department for use by physicians and other health care
31 providers to determine risk factors for children through 6
32 years of age residing in areas designated as low risk for lead
33 exposure.

34 (Source: P.A. 89-381, eff. 8-18-95.)

35 (410 ILCS 45/3) (from Ch. 111 1/2, par. 1303)

1 Sec. 3. Lead bearing substance use. No person shall use or
2 apply lead bearing substances:

3 (a) In or upon any exposed surface of a dwelling or
4 dwelling unit;

5 (b) In or around the exposed surfaces of a child care
6 facility or other structure frequented by children;

7 (c) In or upon any fixtures or other objects used,
8 installed, or located in or upon any exposed surface of a
9 dwelling or residential building, or child care facility, or
10 intended to be so used, installed, or located and that, in the
11 ordinary course of use, are accessible to or ~~and~~ chewable by
12 children;

13 (d) In or upon any items, including, but not limited to,
14 clothing, accessories, jewelry, decorative objects, edible
15 items, candy, food, dietary supplements, toys, furniture, or
16 other articles used by or intended to be ~~and~~ chewable by
17 children;

18 (e) Within or upon a residential building or dwelling,
19 child care facility, school, playground, park, or recreational
20 area, or other areas regularly frequented by children.

21 (Source: P.A. 87-175.)

22 (410 ILCS 45/4) (from Ch. 111 1/2, par. 1304)

23 Sec. 4. Sale of items ~~toys or furniture~~ containing lead
24 bearing substance. No person shall sell, have, offer for sale,
25 or transfer toys, ~~or~~ furniture, clothing, accessories,
26 jewelry, decorative objects, edible items, candy, food,
27 dietary supplements, or other articles used by or intended to
28 be chewable by children that contains a lead bearing substance.

29 (Source: P.A. 87-175.)

30 (410 ILCS 45/5) (from Ch. 111 1/2, par. 1305)

31 Sec. 5. Sale of objects containing lead bearing substance.
32 No person shall sell or transfer or offer for sale or transfer
33 any fixtures or other objects intended to be used, installed,
34 or located in or upon any surface of a dwelling or residential

1 building, or child care facility, that contains a lead bearing
2 substance and that, in the ordinary course of use, are
3 accessible to or ~~and~~ chewable by children.

4 (Source: P.A. 87-175.)

5 (410 ILCS 45/6) (from Ch. 111 1/2, par. 1306)

6 Sec. 6. Warning statement. No person, firm, or corporation
7 shall have, offer for sale, sell, or give away any lead bearing
8 substance that may be used by the general public unless it
9 bears the warning statement as prescribed by federal
10 regulation. If no regulation is prescribed the warning
11 statement shall be as follows when the lead bearing substance
12 is a lead-based paint or surface coating: "WARNING--CONTAINS
13 LEAD. DRIED FILM OF THIS SUBSTANCE MAY BE HARMFUL IF EATEN OR
14 CHEWED. See Other Cautions on (Side or Back) Panel. Do not
15 apply on toys, or other children's articles, furniture, or
16 interior, or exterior exposed surfaces of any residential
17 building or facility that may be occupied or used by children.
18 KEEP OUT OF THE REACH OF CHILDREN.". If no regulation is
19 prescribed the warning statement shall be as follows when the
20 lead bearing substance contains lead-based paint or a form of
21 lead other than lead-based paint: "WARNING CONTAINS LEAD. MAY
22 BE HARMFUL IF EATEN OR CHEWED. MAY GENERATE DUST CONTAINING
23 LEAD. KEEP OUT OF THE REACH OF CHILDREN.".

24 (a) The generic term of a product, such as "paint" may be
25 substituted for the word "substance" in the above labeling.

26 (b) The placement, conspicuousness, and contrast of the
27 above labeling shall be in accordance with 16 C.F.R. 1500.121
28 ~~Section 191.101 of the regulations promulgated under the~~
29 ~~provisions of the Federal Hazardous Substances Act.~~

30 (Source: P.A. 87-175.)

31 (410 ILCS 45/6.01 new)

32 Sec. 6.01. Warning statement where supplies sold.

33 (a) Any retailer, store, or commercial establishment that
34 offers paint or other supplies intended for the removal of

1 paint shall display, in a prominent and easily visible
2 location, a poster containing, at a minimum, the following:

3 (1) a statement that dry sanding and dry scraping of
4 paint in dwellings built before 1978 is dangerous;

5 (2) a statement that the improper removal of old paint
6 is a significant source of lead dust and the primary cause
7 of lead poisoning; and

8 (3) contact information where consumers can obtain
9 more information.

10 (b) The Department shall provide sample posters and
11 brochures that commercial establishments may use. The
12 Department shall make these posters and brochures available in
13 hard copy and via download from the Department's Internet
14 website.

15 (c) A commercial establishment shall be deemed to be in
16 compliance with this Section if the commercial establishment
17 displays lead poisoning prevention posters or provides
18 brochures to its customers that meet the minimum requirements
19 of this Section but come from a source other than the
20 Department.

21 (410 ILCS 45/6.3 new)

22 Sec. 6.3. Information provided by the Department of
23 Healthcare and Family Services.

24 (a) The Director of Healthcare and Family Services shall
25 provide, upon request of the Director of Public Health, an
26 electronic record of all children less than 7 years of age who
27 receive Medicaid, Kidcare, or other health care benefits from
28 the Department of Healthcare and Family Services. The records
29 shall include a history of claims filed for each child and the
30 health care provider who rendered the services. On at least an
31 annual basis, the Director of Public Health shall match the
32 records provided by the Department of Healthcare and Family
33 Services with the records of children receiving lead tests, as
34 reported to the Department under Section 7 of this Act.

35 (b) The Director shall prepare a report documenting the

1 frequency of lead testing and elevated blood and lead levels
2 among children receiving benefits from the Department of
3 Healthcare and Family Services. On at least an annual basis,
4 the Director shall prepare and deliver a report to each health
5 care provider who has rendered services to children receiving
6 benefits from the Department of Healthcare and Family Services.
7 The report shall contain the aggregate number of children
8 receiving benefits from the Department of Healthcare and Family
9 Services to whom the provider has provided services, the number
10 and percentage of children tested for lead poisoning, and the
11 number and percentage of children having an elevated lead
12 level. The Department of Public Health may exclude health care
13 providers who provide specialized or emergency medical care and
14 who are unlikely to be the primary medical care provider for a
15 child. Upon the request of a provider, the Department of Public
16 Health may generate a list of individual patients treated by
17 that provider according to the claims records and the patients'
18 lead test results.

19 (410 ILCS 45/7.1) (from Ch. 111 1/2, par. 1307.1)

20 Sec. 7.1. Child care facilities must require lead blood
21 level screening for admission. By January 1, 1993, each day
22 care center, day care home, preschool, nursery school,
23 kindergarten, or other child care facility, licensed or
24 approved by the State, including such programs operated by a
25 public school district, shall include a requirement that each
26 parent or legal guardian of a child between the ages of 6
27 months through 6 years provide a statement from a physician or
28 health care provider that the child has been risk assessed, as
29 provided in Section 6.2, if the child resides in an area
30 defined as low risk by the Department, or screened for lead
31 poisoning as provided for in Section 6.2, if the child resides
32 in an area defined as high risk. This statement shall be
33 provided prior to admission and subsequently in conjunction
34 with required physical examinations.

35 Nothing in this Section shall be construed to require any

1 child to undergo a lead blood level screening or test whose
2 parent or guardian objects on the grounds that the screening or
3 test conflicts with his or her religious beliefs.

4 Child care facilities that participate in the Illinois
5 Child Care Assistance Program (CCAP) shall annually send or
6 deliver to the parents or guardians of children enrolled in the
7 facility's care an informational pamphlet regarding awareness
8 of lead paint poisoning. Pamphlets shall be produced and made
9 available by the Department and shall be downloadable from the
10 Department's Internet website. The Department of Human
11 Services and the Department of Public Health shall assist in
12 the distribution of the pamphlet.

13 (Source: P.A. 89-381, eff. 8-18-95.)

14 (410 ILCS 45/8) (from Ch. 111 1/2, par. 1308)

15 Sec. 8. Inspection of buildings occupied by a person
16 screening positive. A representative of the Department, or
17 delegate agency, may, after notification that an occupant of
18 the dwelling unit in question is found to have a blood lead
19 value of the value set forth in Section 7, upon presentation of
20 the appropriate credentials to the owner, occupant, or his
21 representative, inspect dwelling or dwelling units, at
22 reasonable times, for the purposes of ascertaining that all
23 surfaces accessible to children are intact and in good repair,
24 and for purposes of ascertaining the existence of lead bearing
25 substances. Such representative of the Department, or delegate
26 agency, may remove samples or objects necessary for laboratory
27 analysis, in the determination of the presence of lead-bearing
28 substances in the designated dwelling or dwelling unit.

29 If a building is occupied by a child of less than 3 years
30 of age screening positive, the Department, in addition to all
31 other requirements of this Section, must inspect the dwelling
32 unit and common place area of the child screening positive.

33 Following the inspection, the Department or its delegate
34 agency shall:

35 (1) Prepare an inspection report which shall:

1 (A) State the address of the dwelling unit.

2 (B) Describe the scope of the inspection, the
3 inspection procedures used, and the method of ascertaining
4 the existence of a lead bearing substance in the dwelling
5 unit.

6 (C) State whether any lead bearing substances were
7 found in the dwelling unit.

8 (D) Describe the nature, extent, and location of any
9 lead bearing substance that is found.

10 (E) State either that a lead hazard does exist or that
11 a lead hazard does not exist. If a lead hazard does exist,
12 the report shall describe the source, nature and location
13 of the lead hazard. The existence of intact lead paint does
14 not alone constitute a lead hazard for the purposes of this
15 Section.

16 (F) Give the name of the person who conducted the
17 inspection and the person to contact for further
18 information regarding the inspection and the requirements
19 of this Act.

20 (2) Mail or otherwise provide a copy of the inspection
21 report to the property owner and to the occupants of the
22 dwelling unit. If a lead bearing substance is found, at the
23 time of providing a copy of the inspection report, the
24 Department or its delegate agency shall attach an informational
25 brochure.

26 (Source: P.A. 87-175; 87-1144.)

27 (410 ILCS 45/9.2 new)

28 Sec. 9.2. Multiple mitigation notices. When mitigation
29 notices are issued for 2 or more dwelling units in a building
30 within a 5-year time period, the Department may inspect common
31 areas in the building and shall inspect units where (i)
32 children under the age of 6 reside, at the request of a parent
33 or guardian of the child or (ii) a pregnant woman resides, at
34 the pregnant woman's request. All lead hazards must be
35 mitigated in a reasonable time frame, as determined by rules

1 adopted by the Department. In determining the time frame for
2 completion of mitigation of hazards identified under this
3 Section, the Department shall consider, in addition to the
4 considerations in subsection (6) of Section 9 of this Act, the
5 owner's financial ability to complete the mitigation.

6 (410 ILCS 45/9.3 new)

7 Sec. 9.3. Financial assistance for mitigation. Whenever a
8 mitigation notice is issued pursuant to Section 9 or Section
9 9.2 of this Act, the Department shall make the owner aware of
10 any financial assistance programs that may be available for
11 lead mitigation through the federal, State, or local government
12 or a not-for-profit organization.

13 (410 ILCS 45/9.4 new)

14 Sec. 9.4. Owner's obligation to post notice. The owner of a
15 dwelling unit or residential building who has received a
16 mitigation notice under Section 9 of this Act shall post
17 notices in common areas of the building specifying the
18 identified lead hazards. The posted notices, drafted by the
19 Department and sent to the property owner with the notification
20 of lead hazards, shall indicate the following:

21 (1) that a unit or units in the building have been
22 found to have lead hazards;

23 (2) that other units in the building may have lead
24 hazards;

25 (3) that the Department recommends that children 6
26 years of age or younger receive a blood lead screening;

27 (4) where to seek further information; and

28 (5) whether mitigation notices have been issued for 2
29 or more dwelling units within a 5-year period of time.

30 Once the owner has complied with a mitigation notice or
31 mitigation order issued by the Department, the owner may remove
32 the notices posted pursuant to this Section.

33 (410 ILCS 45/12) (from Ch. 111 1/2, par. 1312)

1 Sec. 12. Violations of Act.

2 (a) Violation of any Section of this Act other than Section
3 6.01 or Section 7 shall be punishable as a Class A misdemeanor.
4 A violation of Section 6.01 shall cause the Department to issue
5 a written warning for a first offense and shall be a petty
6 offense for a second or subsequent offense if the violation
7 occurs at the same location within 12 months after the first
8 offense.

9 (b) In cases where a person is found to have mislabeled,
10 possessed, offered for sale or transfer, sold or transferred,
11 or given away lead-bearing substances, a representative of the
12 Department shall confiscate the lead-bearing substances and
13 retain the substances until they are shown to be in compliance
14 with this Act.

15 (c) In addition to any other penalty provided under this
16 Act, the court in an action brought under subsection (e) may
17 impose upon any person who violates or does not comply with a
18 notice of deficiency and a mitigation order issued under
19 subsection (7) of Section 9 of this Act or who fails to comply
20 with subsection (3) or subsection (5) of Section 9 of this Act
21 a civil penalty not exceeding \$2,500 for each violation, plus
22 \$250 for each day that the violation continues.

23 Any civil penalties collected in a court proceeding shall
24 be deposited into a delegated county lead poisoning screening,
25 prevention, and abatement fund or, if no delegated county or
26 lead poisoning screening, prevention, and abatement fund
27 exists, into the Lead Poisoning Screening, Prevention, and
28 Abatement Fund established under Section 7.2.

29 (d) Whenever the Department finds that an emergency exists
30 that requires immediate action to protect the health of
31 children under this Act, it may, without administrative
32 procedure or notice, cause an action to be brought by the
33 Attorney General or the State's Attorney of the county in which
34 a violation has occurred for a temporary restraining order or a
35 preliminary injunction to require such action as is required to
36 meet the emergency and protect the health of children.

1 (e) The State's Attorney of the county in which a violation
2 occurs or the Attorney General may bring an action for the
3 enforcement of this Act and the rules adopted and orders issued
4 under this Act, in the name of the People of the State of
5 Illinois, and may, in addition to other remedies provided in
6 this Act, bring an action for a temporary restraining order or
7 preliminary injunction as described in subsection (d) or an
8 injunction to restrain any actual or threatened violation or to
9 impose or collect a civil penalty for any violation.

10 (Source: P.A. 92-447, eff. 8-21-01.)

11 (410 ILCS 45/12.1 new)

12 Sec. 12.1. Attorney General and State's Attorney report to
13 General Assembly. The Attorney General and State's Attorney
14 offices shall report to the General Assembly annually the
15 number of lead poisoning cases that have been referred by the
16 Department for enforcement due to violations of this Act or for
17 failure to comply with a notice of deficiency and mitigation
18 order issued pursuant to subsection (7) of Section 9 of this
19 Act.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.