



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2426

by Rep. Robyn Gabel

SYNOPSIS AS INTRODUCED:

See Index

Amends the Lead Poisoning Prevention Act. Makes a change to the definitions and defines "certified renovator", "certified renovation firm", "child-occupied facility", and "renovation". Includes treatment and abatement programs and the implementation and enforcement of the Act as items for which moneys shall be appropriated from the Lead Poisoning Screening, Prevention, and Abatement Fund to the Department of Public Health. Adds to the prohibition against a person making inspections without first being licensed by the Department of Public Health a condition that a certified renovator who is testing painted surfaces to be impacted by a renovation using methods approved by the Department for use by a certified renovator shall not be considered an inspection. Makes changes in the provision concerning warrant procedures. Includes renovation in the provision concerning the manner of mitigation of lead hazards. Provides that all renovation must be performed by a certified renovation firm and that the certified renovation firm must utilize a certified renovator to supervise each renovation and all other staff must be certified renovators or trained by a certified renovator. Makes changes in the provisions concerning licensing and administrative action.

LRB098 08924 RPM 39056 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Lead Poisoning Prevention Act is amended by
5 changing Sections 2, 7.2, 8.1, 8.2, 11, 11.1, and 11.2 and by
6 adding Section 11.01 as follows:

7 (410 ILCS 45/2) (from Ch. 111 1/2, par. 1302)

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

9 "Abatement" means the removal or encapsulation of all
10 leadbearing substances in a residential building,
11 child-occupied facility, or dwelling unit.

12 "Certified renovator" means any person employed by a
13 certified renovation firm and licensed by the Department to
14 perform renovation.

15 "Certified renovation firm" means any person or entity
16 licensed by the Department to perform renovation.

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

21 "Child-occupied facility" means a structure or portion of a
22 structure constructed prior to 1978, visited regularly by the
23 same child, 6 years of age or younger, as defined by the

1 Department in regulation.

2 "Delegate agency" means a unit of local government or
3 health department approved by the Department to carry out the
4 provisions of this Act.

5 "Department" means the Department of Public Health of the
6 State of Illinois.

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

9 "High risk area" means an area in the State determined by
10 the Department to be high risk for lead exposure for children
11 through 6 years of age. The Department shall consider, but not
12 be limited to, the following factors to determine a high risk
13 area: age and condition (using Department of Housing and Urban
14 Development definitions of "slum" and "blighted") of housing,
15 proximity to highway traffic or heavy local traffic or both,
16 percentage of housing determined as rental or vacant, proximity
17 to industry using lead, established incidence of elevated blood
18 lead levels in children, percentage of population living below
19 200% of federal poverty guidelines, and number of children
20 residing in the area who are 6 years of age or younger.

21 "Exposed surface" means any interior or exterior surface of
22 a dwelling or residential building.

23 "Lead abatement contractor" means any person or entity
24 licensed by the Department to perform lead abatement and
25 mitigation.

26 "Lead abatement worker" means any person employed by a lead

1 abatement contractor and licensed by the Department to perform
2 lead abatement and mitigation.

3 "Lead bearing substance" means any item containing or
4 coated with lead such that the lead content is more than
5 six-hundredths of one percent (0.06%) lead by total weight; or
6 any dust on surfaces or in furniture or other nonpermanent
7 elements of the dwelling; or any paint or other surface coating
8 material containing more than five-tenths of one percent (0.5%)
9 lead by total weight (calculated as lead metal) in the total
10 non-volatile content of liquid paint; or lead bearing
11 substances containing greater than one milligram per square
12 centimeter or any lower standard for lead content in
13 residential paint as may be established by federal law or
14 regulation; or more than 1 milligram per square centimeter in
15 the dried film of paint or previously applied substance; or
16 item or dust on item containing lead in excess of the amount
17 specified in the rules and regulations authorized by this Act
18 or a lower standard for lead content as may be established by
19 federal law or regulation. "Lead bearing substance" does not
20 include firearm ammunition or components as defined by the
21 Firearm Owners Identification Card Act.

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

24 "Lead poisoning" means the condition of having blood lead
25 levels in excess of those considered safe under State and
26 federal rules and regulations.

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

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

8 "Owner" means any person, who alone, jointly, or severally
9 with others:

10 (a) Has legal title to any dwelling or residential
11 building, with or without accompanying actual possession
12 of the dwelling or residential building, or

13 (b) Has charge, care or control of the dwelling or
14 residential building as owner or agent of the owner, or as
15 executor, administrator, trustee, or guardian of the
16 estate of the owner.

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

19 "Renovation" means the modification of any existing
20 dwelling, residential building, or child-occupied facility (or
21 in any building being converted into a dwelling, residential
22 building, or child-occupied facility) built prior to 1978, or
23 portion thereof, performed for compensation, which results in
24 the disturbance of painted surfaces, unless resulting from
25 abatement. The Department may, by rule, establish exemptions or
26 alternative requirements for renovations that disturb only

1 minimal amounts of paint or creates a minimal amount of leaded
2 dust, renovations that only disturb paint shown not to be a
3 lead-bearing substance through means approved by the
4 Department, or renovations performed in response to an
5 emergency situation.

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

10 "Risk assessment" means a questionnaire to be developed by
11 the Department for use by physicians and other health care
12 providers to determine risk factors for children through 6
13 years of age residing in areas designated as low risk for lead
14 exposure.

15 (Source: P.A. 94-879, eff. 6-20-06.)

16 (410 ILCS 45/7.2) (from Ch. 111 1/2, par. 1307.2)

17 Sec. 7.2. Laboratory fees for blood lead screening; Lead
18 Poisoning Fund.

19 (a) The Department may establish fees according to a
20 reasonable fee structure to cover the cost of providing a
21 testing service for laboratory analysis of blood lead tests and
22 any necessary follow-up. Fees collected from the Department's
23 testing service shall be placed in a special fund in the State
24 treasury known as the Lead Poisoning Screening, Prevention, and
25 Abatement Fund. Other State and federal funds for expenses

1 related to lead poisoning screening, follow-up, treatment, and
2 abatement programs may also be placed in the Fund. Moneys shall
3 be appropriated from the Fund to the Department of Public
4 Health solely for the purposes of providing lead screening,
5 follow-up, treatment, or abatement programs or for the
6 implementation and enforcement of this Act ~~and treatment~~
7 ~~programs.~~

8 (b) Any delegate agency may establish fees, according to a
9 reasonable fee structure, to cover the costs of drawing blood
10 for blood lead screening and any necessary follow-up.

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

12 (410 ILCS 45/8.1) (from Ch. 111 1/2, par. 1308.1)

13 Sec. 8.1. Licensing of lead inspectors.

14 (a) By January 1, 1994, the Department shall establish
15 standards and licensing procedures for lead inspectors. An
16 integral element of these procedures shall be an education and
17 training program prescribed by the Department which shall
18 include but not be limited to scientific sampling, chemistry,
19 and construction techniques. No person shall make inspections
20 without first being licensed by the Department, provided that a
21 certified renovator testing painted surfaces to be impacted by
22 a renovation using methods approved by the Department for use
23 by a certified renovator shall not be considered an inspection.
24 The penalty for inspection without a license shall be a Class A
25 misdemeanor.

1 (b) The Department shall charge licensed inspectors
2 reasonable license fees and the fees shall be placed in the
3 Lead Poisoning Screening, Prevention, and Abatement Fund and
4 used to fund the Department's licensing of inspectors and any
5 other activities prescribed by this Act. An inspector employed
6 by the Department or its delegate agency shall not be charged a
7 license fee.

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

9 (410 ILCS 45/8.2) (from Ch. 111 1/2, par. 1308.2)

10 Sec. 8.2. Warrant procedures. If the occupant of a
11 residential building or dwelling designated for inspection
12 under Section 8 refuses to allow inspection, or if an
13 individual engaged in renovation or the owner of a building
14 undergoing renovation refuses to allow inspection or
15 monitoring of the renovation, an agent of the Department or of
16 the Department's delegate agency may apply for a search warrant
17 to permit entry. A court may issue a warrant upon a showing
18 that a victim of lead poisoning resides or has recently resided
19 in the residential building or that a renovation is underway or
20 has been recently completed. The findings of the inspection
21 shall be reported to the Department and to the appropriate
22 enforcement authorities established in this Act.

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

24 (410 ILCS 45/11) (from Ch. 111 1/2, par. 1311)

1 Sec. 11. Manner of mitigation of lead hazards and of
2 renovation. All mitigation and renovation shall be
3 accomplished in a manner which will not endanger the health or
4 well-being of residential building or dwelling unit occupants,
5 and will result in the safe removal from the premises, and the
6 safe disposition, of flakes, chips, debris, dust, and other
7 potentially harmful materials. The Department may establish,
8 by rule, work practice requirements for mitigation and
9 renovation.

10 (Source: P.A. 87-175; 87-1144; 88-670, eff. 12-2-94.)

11 (410 ILCS 45/11.01 new)

12 Sec. 11.01. Renovation. All renovation must be performed by
13 a certified renovation firm. The certified renovation firm must
14 utilize a certified renovator to supervise each renovation and
15 all other staff must be certified renovators or trained by a
16 certified renovator. The certified renovation firm must follow
17 the requirements established by the Department under Section 11
18 of this Act, provide notice to the property owners and
19 occupants prior to renovation, demonstrate that flakes, chips,
20 debris, and dust were removed through means approved by the
21 Department, retain for a period of 3 years documentation
22 required to demonstrate compliance with this Act, and provide
23 notice to the property owner and occupants of the results of
24 the renovation. Certified renovation firms shall allow the
25 Department or a delegate agency access to renovation job sites

1 as well as to all documentation required to demonstrate
2 compliance for the purposes of inspecting, monitoring, taking
3 samples, or assessing compliance with this Act and any
4 regulations issued by the Department.

5 (410 ILCS 45/11.1) (from Ch. 111 1/2, par. 1311.1)

6 Sec. 11.1. Licensing of lead abatement contractors, lead
7 abatement ~~and~~ workers, certified renovators, and certified
8 renovation firms. Except as otherwise provided in this Act,
9 performing lead abatement, ~~or~~ mitigation, or renovation
10 without a license is a Class A misdemeanor. The Department
11 shall provide by rule for the licensing of lead abatement
12 contractors, ~~and~~ lead abatement workers, certified renovators,
13 and certified renovation firms and shall establish standards
14 and procedures for the licensure. The Department may collect a
15 reasonable fee for the licenses. The fees shall be deposited
16 into the Lead Poisoning Screening, Prevention, and Abatement
17 Fund and used by the Department for the ~~costs of licensing lead~~
18 ~~abatement contractors and workers and other~~ activities
19 prescribed by this Act.

20 The Department shall promote and encourage minorities and
21 females and minority and female owned entities to apply for
22 licensure under this Act ~~as either licensed lead abatement~~
23 ~~workers or licensed lead abatement contractors.~~

24 The Department may adopt any rules necessary to ensure
25 proper implementation and administration of this Act and of the

1 federal Toxic Substances Control Act, 15 USC 2682, ~~and~~ 2684,
2 and 2686 and the regulations promulgated thereunder: Lead;
3 Requirements for Lead-Based Paint Activities (40 CFR 745). The
4 application of this Section shall not be limited to the
5 activities taken in regard to lead poisoned children and shall
6 include all activities related to lead abatement, mitigation,
7 renovation, and training.

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

9 (410 ILCS 45/11.2) (from Ch. 111 1/2, par. 1311.2)

10 Sec. 11.2. Administrative action. Pursuant to the Illinois
11 Administrative Procedure Act and rules promulgated thereunder,
12 the Department may deny, suspend, or revoke any license if the
13 Department finds failure or refusal to comply with provisions
14 of this Act or rules promulgated pursuant to the Act.

15 The Department may assess civil penalties against any
16 licensed lead worker, licensed lead professional, licensed
17 lead contractor, certified renovator, certified renovation
18 firm, or approved lead training provider for violations of this
19 Act and the rules promulgated hereunder, pursuant to rules for
20 penalties established by the Department. Any penalties
21 collected shall be deposited into the Lead Poisoning Screening,
22 Prevention, and Abatement Fund.

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

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Statutes amended in order of appearance

- 410 ILCS 45/2 from Ch. 111 1/2, par. 1302
- 410 ILCS 45/7.2 from Ch. 111 1/2, par. 1307.2
- 410 ILCS 45/8.1 from Ch. 111 1/2, par. 1308.1
- 410 ILCS 45/8.2 from Ch. 111 1/2, par. 1308.2
- 410 ILCS 45/11 from Ch. 111 1/2, par. 1311
- 410 ILCS 45/11.01 new
- 410 ILCS 45/11.1 from Ch. 111 1/2, par. 1311.1
- 410 ILCS 45/11.2 from Ch. 111 1/2, par. 1311.2