

House Bill 1355 (AS PASSED HOUSE AND SENATE)

By: Representatives Dempsey of the 13th, Cooper of the 43rd, Drenner of the 85th, Gambill of the 15th, Newton of the 123rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 41 of Title 31 of the Official Code of Georgia Annotated, relating to lead
2 poisoning prevention, so as to update provisions to comport with nationally recognized
3 guidelines; to revise definitions; to revise provisions relating to abatement of lead poisoning
4 hazards; to expand written advisement requirements; to expand applicability of provisions;
5 to provide for related matters; to provide for a funding contingency; to repeal conflicting
6 laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 41 of Title 31 of the Official Code of Georgia Annotated, relating to lead poisoning
10 prevention, is amended in Code Section 31-41-4, relating to the establishment of lead-based
11 paint hazard reduction program, training programs, licensure and certification requirements,
12 written information on renovation, and record keeping requirements, by revising
13 paragraph (3) of subsection (c) as follows:

14 "(3) A person who is employed by a state or county health department or state or federal
15 agency to conduct lead investigations to determine the sources of lead poisonings, as
16 determined by the department, shall be subject to licensing pursuant to paragraph (2) of

17 this subsection as a lead inspector or lead risk assessor but shall not be required to pay
18 any fees as otherwise required under this chapter or under rules and regulations
19 promulgated by the board under this chapter."

20

SECTION 2.

21 Said chapter is further amended in Code Section 31-41-11, relating to legislative findings
22 regarding the "Childhood Lead Exposure Control Act," by revising subsection (a) as follows:

23 "(a) The General Assembly finds that childhood lead poisoning prevention activities are
24 currently carried out within the Environmental Health ~~and Injury Prevention~~, Epidemiology
25 ~~and Prevention~~, and Laboratory ~~Branches~~ sections of the Department of Public Health.
26 These activities include lead poisoning case identification, laboratory support,
27 identification of exposure sources, environmental management, and lead hazard reduction.
28 Childhood lead poisoning cases are identified through screening tests conducted by public
29 health clinics and private health care providers and by laboratory reporting of test results.
30 In 1994, lead poisoning was established as a notifiable condition and made part of the
31 Notifiable Disease reporting system."

32

SECTION 3.

33 Said chapter is further amended by revising Code Section 31-41-12, relating to definitions
34 regarding the "Childhood Lead Exposure Control Act," as follows:

35 "31-41-12.

36 As used in this article, the term:

37 (1) 'Confirmed lead poisoning' means a confirmed concentration of lead ~~in whole blood~~
38 equal to or greater than ~~20~~ 3.5 micrograms of lead per deciliter ~~for using a single venous~~
39 blood test or between 15 and 19 micrograms of lead per deciliter in two capillary blood
40 tests taken ~~at least three months apart~~ within 12 weeks of each other.

41 (2) 'Day-care facility' means a structure or structures used as a school, nursery, child care
42 center, clinic, treatment center, or other facility serving the needs of children under six
43 years of age including the grounds, any outbuildings, or other structures appurtenant to
44 the facility.

45 (3) 'Department' means the Department of Public Health.

46 (4) 'Dwelling,' 'dwelling unit,' or 'residential housing unit' means the interior or exterior
47 of a structure, all or part of which is designed or used for human habitation.

48 (5) 'Elevated blood lead level' means a blood lead concentration of ~~ten~~ 3.5 micrograms
49 per deciliter or greater ~~as determined by the lower of two consecutive blood tests within~~
50 ~~a six-month period~~ in any test.

51 (5.1) 'Lead hazard abatement' means the removal and correction, in a manner no more
52 strict than what is determined to be absolutely necessary, of a specifically identified
53 hazard which causes a confirmed lead poisoning.

54 (6) 'Lead poisoning hazard' means the presence of readily accessible or mouthable
55 lead-bearing substances measuring 1.0 milligram per square centimeter or greater by
56 X-ray fluorescence or 0.5 percent or greater by chemical analysis; ~~100~~ 10 micrograms per
57 square foot or greater for dust on floors; ~~500~~ 100 micrograms per square foot or greater
58 for dust on window sills; or 400 parts per million in bare soil in outdoor areas of a
59 dwelling, dwelling unit, school, or day-care facility used by children as play areas or an
60 average of 1,200 parts per million in bare soil in other outdoor areas of the dwelling,
61 dwelling unit, school, or day-care facility not used for children's play.

62 (7) 'Lead safe housing' is housing that was built since 1978 or that has been tested by a
63 person who has been licensed or certified by the Board of Natural Resources to perform
64 such testing and either found to have no lead-based paint hazards within the meaning of
65 Title X of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 14 U.S.C.
66 Code Section 185(b)(15) or housing that has been found to meet the requirements of the
67 maintenance standard.

- 68 (8) 'Maintenance standard' means the following:
- 69 (A) Repairing and repainting areas of deteriorated paint inside a residential housing
70 unit;
- 71 (B) Cleaning the interior of the unit to a standard of cleaning which is at least
72 customary in the local area at lease origination or as part of the abatement plan,
73 whichever is first, to remove dust that constitutes a lead poisoning hazard;
- 74 (C) Adjusting doors and windows to minimize friction or impact on surfaces;
- 75 (D) Subject to the occupant's approval, appropriately cleaning any carpets at lease
76 origination or as part of the abatement plan, whichever is first;
- 77 (E) Taking such steps as are necessary to ensure that all interior surfaces on which dust
78 might collect are readily cleanable; and
- 79 (F) Providing the occupant or occupants all information required to be provided under
80 the Residential Lead-Based Paint Hazard Reduction Act of 1992 and amendments
81 thereto.
- 82 (9) 'Managing agent' means any person who has charge, care, or control of a building or
83 part thereof in which dwelling units or rooming units are leased.
- 84 (10) 'Mouthable lead-bearing substance' means any substance on surfaces or fixtures five
85 feet or less from the floor or ground that form a protruding corner or similar edge,
86 protrude one-half inch or more from a flat wall surface, or are freestanding and contain
87 lead contaminated dust at a level that constitutes a lead poisoning hazard. Mouthable
88 surfaces or fixtures include vinyl miniblinds, doors, door jambs, stairs, stair rails,
89 windows, window sills, and baseboards.
- 90 ~~(11) 'Persistent elevated blood lead level' means a blood lead concentration of 15 to 19~~
91 ~~micrograms per deciliter as determined by the lowest of three consecutive blood tests.~~
92 ~~The first two blood tests shall be performed within a six-month period, and the third~~
93 ~~blood test shall be performed at least 12 weeks and not more than six months after the~~
94 ~~second blood test.~~

95 ~~(12)~~(11) 'Readily accessible lead-bearing substance' means any substance containing lead
 96 at a level that constitutes a lead poisoning hazard which can be ingested or inhaled by a
 97 child under six years of age. Readily accessible substances include deteriorated paint that
 98 is peeling, chipping, cracking, flaking, or blistering to the extent that the paint has
 99 separated from the substrate. Readily accessible substances also include paint that is
 100 chalking.

101 ~~(13)~~(12) 'Regularly visits' means presence at a dwelling, dwelling unit, school, or
 102 day-care facility for at least two days a week for more than three hours per day.

103 ~~(14)~~(13) 'Supplemental address' means a dwelling, dwelling unit, school, or day-care
 104 facility where a child with a ~~persistent~~ an elevated blood lead level or a confirmed lead
 105 poisoning regularly visits or attends. Supplemental address also means a dwelling,
 106 school, or day-care facility where a child resided, regularly visited, or attended within the
 107 six months immediately preceding the determination of a ~~persistent~~ an elevated blood
 108 lead level or a confirmed lead poisoning."

109 **SECTION 4.**

110 Said chapter is further amended by revising Code Section 31-41-14, relating to abatement
 111 of lead poisoning hazard, as follows:

112 "31-41-14.

113 (a) Upon determination that a child less than six years of age has a confirmed lead
 114 poisoning and that the child resides in, attends, or regularly visits a dwelling, dwelling unit,
 115 school, or day-care facility containing lead poisoning hazards, the department shall require
 116 a lead hazard abatement. The department shall also require a lead hazard abatement at the
 117 supplemental addresses of a child less than six years of age with a confirmed lead
 118 poisoning. Upon confirming that all other potential sources of the confirmed lead
 119 poisoning have tested negative and making every reasonable effort to obtain consent from
 120 such dwelling's owner or managing agent to comply with this Code section, the department

121 shall solicit a court order from the superior court with jurisdiction over such dwelling to
122 order the dwelling's owner to perform a lead hazard abatement.

123 (b) When abatement is required under subsection (a) of this Code section, the owner or
124 managing agent shall submit a written lead poisoning hazard abatement plan to the
125 department within ~~14~~ 30 days of receipt of the lead poisoning hazard notification and shall
126 obtain written approval of the plan prior to initiating abatement. The lead poisoning hazard
127 abatement plan shall comply with subsection (g) of this Code section. The written plan
128 shall be deemed approved if the department does not respond within ~~14~~ 30 days of receipt.

129 (c) If the abatement plan submitted fails to meet the requirements of this Code section, the
130 department shall issue an abatement order requiring submission of a modified abatement
131 plan. The order shall indicate the modifications which shall be made to the abatement plan
132 and the date by which the plan as modified shall be submitted to the department.

133 (d) If the owner or managing agent does not submit an abatement plan within ~~14~~ 30 days,
134 the department shall issue an abatement order requiring submission of an abatement plan
135 within five days of receipt of the order.

136 (e) The owner or managing agent shall notify the department and the occupants of the
137 dates of abatement activities at least three days prior to the commencement of abatement
138 activities.

139 (f) Abatement shall be completed within 60 days of the department's approval of the
140 abatement plan. If the abatement activities are not completed within 60 days as required,
141 the department shall issue an order requiring completion of abatement activities. An owner
142 or managing agent may apply to the department for an extension of the deadline for
143 abatement. The department may issue an order extending the deadline for 30 days upon
144 proper written application by the owner or managing agent.

145 (g) All lead-containing waste and residue of the abatement of lead shall be removed and
146 disposed of by the person performing the abatement in accordance with applicable federal,
147 state, and local laws and rules.

148 (h) The department shall verify by ~~visual~~ clearance inspection that the approved abatement
149 plan has been completed. The department may also ~~verify plan completion by~~ require
150 residual lead dust monitoring. ~~Compliance with the maintenance standard shall be deemed~~
151 ~~equivalent to meeting the abatement plan requirements.~~

152 (i) Removal or exclusion of children from the dwelling, school, or day-care facility shall
153 not constitute abatement if the property continues to be used ~~for~~ as a dwelling, school, or
154 day-care facility. If the property will not be used as a dwelling, school, or day-care facility,
155 the property owner shall submit a notarized document to the department certifying that the
156 structure or structures will no longer be used as a dwelling, school, or day-care facility."

157 **SECTION 5.**

158 Said chapter is further amended by revising Code Section 31-41-17, relating to advice
159 regarding cleaning activities in homes occupied by children with elevated blood lead levels,
160 as follows:

161 "31-41-17.

162 In any residential housing unit, day-care facility, or school occupied by a child less than
163 six years old who has an elevated blood lead level ~~of ten micrograms per deciliter or~~
164 ~~greater~~, the department shall advise, in writing, the owner or managing agent and the child's
165 parents or legal guardian as to the importance of carrying out routine cleaning activities in
166 the units they occupy, own, or manage. Such cleaning activities shall include:

167 (1) Wiping clean all window sills with a damp cloth or sponge at least weekly;

168 (2) Regularly washing all surfaces accessible to the child;

169 (3) In the case of a leased residential housing unit, identifying any deteriorated paint in
170 the unit and notifying the owner or managing agent of such conditions within 72 hours
171 of discovery; and

172 (4) Identifying and understanding potential lead poisoning hazards in the environment
173 of each child under the age of six in the housing unit, including vinyl miniblinds,

174 playground equipment, soil, and painted surfaces, and taking steps to prevent the child
175 from ingesting lead, such as encouraging the child to wash his or her face and hands
176 frequently and especially after playing outdoors."

177 **SECTION 6.**

178 Said chapter is further amended by revising Code Section 31-41-18, relating to the
179 application of the "Childhood Lead Exposure Control Act," as follows:

180 "31-41-18.

181 This article shall only apply to:

- 182 (1) Owners of residential rental property that accept compensation for the use of
183 residential property by another; and
184 (2) Landlords that accept compensation for the use of residential property by another;
185 (3) Day-care facilities; and
186 (4) Schools."

187 **SECTION 7.**

188 This Act shall become effective only upon the effective date of a specific appropriation of
189 funds for purposes of this Act, as expressed in a line item making specific reference to this
190 Act in a General Appropriations Act enacted by the General Assembly.

191 **SECTION 8.**

192 All laws and parts of laws in conflict with this Act are repealed.