

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S

2

SENATE BILL 519*
Health & Human Resources Committee Substitute Adopted 4/14/03

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.
27 (3) "Confirmed lead poisoning" means a blood lead concentration of 20
28 micrograms per deciliter or greater determined by the lower of two
29 consecutive blood tests within a six-month period.

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

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

1 doors, door jambs, stairs, stair rails, windows, windowsills, and
2 baseboards.

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

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

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

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

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

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

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

38 **"§ 130A-131.8. Reports of blood levels in children.**

39 All laboratories doing business in this State shall report to the Department all blood
40 ~~lead levels of one microgram per deciliter or greater~~test results for children less than 6
41 six years of age and for individuals whose ages are unknown at the time of testing.
42 Reports shall be made within five working days after test completion on forms provided
43 by the Department or on self-generated forms containing: the child's full name, date of
44 birth, sex, race, address, and Medicaid number, if any; the name, address, and telephone

1 number of the requesting health care provider; the name, address, and telephone number
2 of the testing laboratory; the laboratory results, the specimen type – venous or capillary;
3 the laboratory sample number, and the dates the sample was collected and analyzed.
4 ~~Such~~The reports may be made by electronic submissions."

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

6 "**§ 130A-131.9. Examination and testing.**

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

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

18 "**§ 130A-131.9A. Investigation to identify lead poisoning hazards.**

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

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

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

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

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

41 "**§ 130A-131.9B. Notification.**

42 Upon determination that a lead poisoning hazard exists, the Department shall give
43 written notice of the lead poisoning hazard to the owner or managing agent of the
44 residential housing unit or child-occupied facility and to all persons residing in,

1 attending, or regularly visiting the unit or facility. The written notice to the owner or
2 managing agent shall include a list of possible methods of ~~abatement of the lead-based~~
3 ~~paint hazards and of possible methods of remediation of any other lead poisoning~~
4 ~~hazard.~~ remediation."

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

6 "**§ 130A-131.9C. Abatement and remediation.**Remediation.

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

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

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

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

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

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

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

- 43 (1) Stripping paint on-site with methylene chloride-based
44 ~~solutions;~~ solutions.

- 1 (2) Torch or flame ~~burning~~; burning.
- 2 (3) Heating paint with a heat gun above 1,100 degrees
3 ~~Fahrenheit~~; Fahrenheit.
- 4 (4) Covering with new paint or wallpaper unless all readily accessible
5 lead-based paint has been ~~removed~~; removed.
- 6 (5) Uncontrolled abrasive ~~blasting~~; or blasting, machine sanding, or
7 grinding, except when used with High Efficiency Particulate Air
8 (HEPA) exhaust control that removes particles of 0.3 microns or larger
9 from the air at ninety-nine and seven-tenths percent (99.7%) or greater
10 efficiency.
- 11 (6) Uncontrolled waterblasting.
- 12 (7) Dry scraping, unless used in conjunction with heat guns, or around
13 electrical outlets, or when treating no more than two square feet on
14 interior surfaces, or no more than 20 square feet on exterior surfaces.
- 15 (h) All lead-containing waste and residue shall be removed and disposed of in
16 accordance with applicable federal, State, and local laws and rules. Other substances
17 containing lead that are intended for use by children less than six years of age and vinyl
18 miniblinds that constitute a lead poisoning hazard shall be removed and disposed of in
19 accordance with applicable federal, State, and local laws and rules.
- 20 (i) All remediation plans shall require that the lead poisoning hazards be reduced
21 to ~~below~~ the following levels:
- 22 (1) ~~Floor lead dust levels~~ Less are less than ~~100-40~~ 40 micrograms per square
23 ~~foot~~; foot for lead dust on floors.
- 24 (2) ~~Windowsill lead dust levels are less~~ Less than ~~500-250~~ 250 micrograms per
25 square ~~foot~~; foot for lead dust on interior windowsills, bathtubs, kitchen
26 sinks, and lavatories.
- 27 (3) ~~Window trough lead dust levels are less~~ Less than ~~800-400~~ 400 micrograms
28 per square ~~foot~~; foot for lead dust on window troughs.
- 29 (4) ~~Soil lead levels are less~~ Less than 400 parts per million ~~or such other~~
30 ~~level higher than 400 parts per million as determined by the~~
31 ~~Department to prevent a hazard in light of the condition and use of the~~
32 ~~land and in light of other relevant factors; and~~ for lead in bare soil in
33 play areas, gardens, pet sleeping areas, and areas within three feet of
34 the residential housing unit or child-occupied facility. Lead in bare soil
35 in other locations of the yard shall be reduced to less than 1,200 parts
36 per million.
- 37 (5) ~~Drinking water lead levels less~~ Less than 15 parts per ~~billion~~. billion
38 for lead in drinking water.
- 39 (j) The Department shall verify by visual inspection that the approved
40 remediation plan has been completed. The Department may also verify plan completion
41 by residual lead dust monitoring and soil or drinking water lead level measurement.
- 42 (j1) Compliance with the maintenance standard satisfies the remediation
43 requirements for confirmed lead poisoning cases identified on or after 1 October 1990
44 as long as all lead poisoning hazards identified on interior and exterior surfaces are

1 addressed by remediation. Except for owner-occupied residential housing units,
2 continued compliance shall be verified by means of an annual monitoring inspection
3 conducted by the Department. For owner-occupied residential housing units, continued
4 compliance shall be verified (i) by means of an annual monitoring inspection, (ii) by
5 documentation that no child less than six years of age has resided in or regularly visited
6 the residential housing unit within the past year, or (iii) by documentation that no child
7 less than six years of age residing in or regularly visiting the unit has an elevated blood
8 lead level.

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

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

15 "**§ 130A-131.9G. Resident responsibilities.**

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

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

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