

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2287 Session of
2015

INTRODUCED BY CRUZ, YOUNGBLOOD, SCHLOSSBERG, ACOSTA, V. BROWN,
ROZZI, COOK-ARTIS, BOBACK, D. COSTA, ENGLISH, CALTAGIRONE,
W. KELLER, THOMAS AND SAVAGE, AUGUST 16, 2016

REFERRED TO COMMITTEE ON HEALTH, AUGUST 16, 2016

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," in departmental powers and
4 duties as to supervision, providing for lead testing; and, in
5 departmental powers and duties as to licensing, providing for
6 lead testing.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The act of June 13, 1967 (P.L.31, No.21), known
10 as the Human Services Code, is amended by adding sections to
11 read:

12 Section 912. Lead Testing.--(a) A person seeking to
13 operate, or to continue to operate, a children's institution
14 shall submit:

15 (1) a lead certification from an individual or laboratory
16 accredited by the Department of Environmental Protection that
17 includes lead levels in water; and

18 (2) for a building built prior to 1978, a lead inspection
19 completed by a certified contractor, an inspector-risk assessor

1 or an inspector-technician in accordance with the act of July 6,
2 1995 (P.L.291, No.44), known as the Lead Certification Act, that
3 includes testing for lead levels in paint, dust and soil and
4 hazardous conditions. A children's institution built prior to
5 1978 shall not be required to test for lead levels in paint if a
6 full remediation or abatement of all lead paint has been
7 completed and a certification or inspection report of such is
8 produced.

9 (b) The department shall not permit initial operation of a
10 children's institution if the lead certification and lead
11 inspection required under subsection (a) have either of the
12 following:

13 (1) Lead levels in water that are:

14 (i) in excess of the level set by the Environmental
15 Protection Agency in the national primary drinking water
16 regulations; or

17 (ii) in excess of the lead levels set by the Department of
18 Environmental Protection in accordance with the act of May 1,
19 1984 (P.L.206, No.43), known as the Pennsylvania Safe Drinking
20 Water Act.

21 (2) For a building built prior to 1978, lead levels in
22 paint, dust and soil that are:

23 (i) in excess of the levels set by the Environmental
24 Protection Agency through its hazard standards for lead in
25 paint, dust and soil under section 403 of the Toxic Substances
26 Control Act (Public Law 94-469, 15 U.S.C. § 2683);

27 (ii) in excess of the levels set by the United States
28 Department of Housing and Urban Development through its
29 Guidelines for the Evaluation and Control of Lead-Based Paint
30 Hazards in Housing;

1 (iii) in excess of the levels recommended by the Centers for
2 Disease Control and Prevention, Advisory Committee on Childhood
3 Lead Poisoning Prevention; or

4 (iv) in excess of the lead levels set by State law or
5 regulation.

6 (c) The department shall require corrective action for
7 continued operation of a children's institution if the lead
8 certification and lead inspection required under subsection (a)
9 have either of the levels under subsection (b).

10 (d) This section shall not affect the department's authority
11 to refuse to permit the operation of a children's institution or
12 take any other action under any applicable statute or
13 regulation.

14 (e) Every parent or legal guardian who has a child enrolled
15 in a children's institution shall be provided notification of
16 the results of the lead certification and lead inspection under
17 this section. In addition, the results of the lead certification
18 and lead inspection shall be posted on the department's publicly
19 accessible Internet website and, if available, the publicly
20 accessible Internet website of the children's institution
21 holding a license from the department.

22 (f) As used in this section, the following words and phrases
23 shall have the meanings given to them in this subsection unless
24 the context clearly indicates otherwise:

25 "Certified contractor" means a person approved by the
26 Department of Labor and Industry to perform lead-based paint
27 activities in this Commonwealth under the act of July 6, 1995
28 (P.L.291, No.44), known as the Lead Certification Act.

29 "Children's institution" means an institution or facility
30 that provides care in lieu of parental care given for part of

1 the twenty-four-hour day to children under sixteen years of age,
2 away from their own homes. The term does not include child day
3 care furnished in places of worship during religious services.

4 "Hazardous condition" means any condition that causes
5 exposure to lead from lead-contaminated dust, lead-contaminated
6 soil or a lead-contaminated paint that is deteriorated or
7 present in accessible surfaces, friction surfaces or impact
8 surfaces that would result in adverse human health effects as
9 established by the administrator of the Environmental Protection
10 Agency under section 403 of the Toxic Substances Control Act
11 (Public Law 94-469, 15 U.S.C. § 2683).

12 "Inspector-risk assessor" means a person trained and
13 certified in accordance with the requirements of the act of July
14 6, 1995 (P.L.291, No.44), known as the Lead Certification Act,
15 to perform all activities of the inspector-technician, as well
16 as to identify the presence of lead-based paint and to collect
17 additional information designed to assess the level of risk to
18 residents of residential dwellings.

19 "Inspector-technician" means a person trained and certified
20 in accordance with the requirements of the act of July 6, 1995
21 (P.L.291, No.44), known as the Lead Certification Act, to
22 perform inspections solely for the purpose of determining the
23 presence of lead-based paint through the use of onsite testing,
24 such as XRF analysis, and the collection of samples for
25 laboratory analysis.

26 Section 1004. Lead Testing.--(a) A person desiring to
27 obtain or renew a license for maintaining, operating and
28 conducting a child day care center or family child care home
29 shall submit:

30 (1) a lead certification from an individual or laboratory

accredited by the Department of Environmental Protection that
includes lead levels in water; and

(2) for a building build prior to 1978, a lead inspection
completed by a certified contractor, an inspector-risk assessor
or an inspector-technician in accordance with the act of July 6,
1995 (P.L.291, No.44), known as the Lead Certification Act, that
includes testing for lead levels in paint, dust and soil and
hazardous conditions. A child day care center or family child
care home built prior to 1978 shall not be required to test for
lead paint if a full remediation or abatement of all lead paint
has been completed and a certification or inspection report of
such is produced.

(b) The department shall not issue an initial license for
maintaining, operating and conducting a child day care center or
family child care home if the lead certification and lead
inspection required under subsection (a) have either of the
following:

(1) Lead levels in water that are:

(i) in excess of the level set by the Environmental
Protection Agency in the national primary drinking water
regulations; or

(ii) in excess of the lead levels set by the Department of
Environmental Protection in accordance with the act of May 1,
1984 (P.L.206, No.43), known as the Pennsylvania Safe Drinking
Water Act.

(2) For a building built prior to 1978, lead levels in
paint, dust and soil that are:

(i) in excess of the levels set by the Environmental
Protection Agency through its hazard standards for lead in
paint, dust and soil under section 403 of the Toxic Substances

1 Control Act (Public Law 94-469, 15 U.S.C. § 2683);

2 (ii) in excess of the levels set by the United States
3 Department of Housing and Urban Development through its
4 Guidelines for the Evaluation and Control of Lead-Based Paint
5 Hazards in Housing;

6 (iii) in excess of the levels recommended by the Centers for
7 Disease Control and Prevention, Advisory Committee on Childhood
8 Lead Poisoning Prevention; or

9 (iv) in excess of the lead levels set by State law or
10 regulation.

11 (c) The department shall issue a provisional license in
12 accordance with section 1008 to a person desiring to secure an
13 annual renewal of a license for maintaining, operating and
14 conducting a child day care center or family child care home if
15 the lead certification and lead inspection required under
16 subsection (a) has either of the levels under subsection (b).

17 (d) The department shall require corrective action for
18 continued operation of a child day care center or family child
19 care home if the lead certification required under subsection
20 (a) has either of the levels under subsection (b).

21 (e) This section shall not affect the department's authority
22 to refuse to issue or revoke a license in accordance with
23 section 1026 or take any other action under applicable statute
24 or regulation.

25 (f) Every parent or legal guardian who has a child enrolled
26 in a child day care center or family child care home shall be
27 provided notification of the results of the lead certification
28 and lead inspection under this section. In addition, the results
29 of the lead certification and lead inspection shall be posted on
30 the department's publicly accessible Internet website and, if

1 available, the publicly accessible Internet website of the child
2 day care center or family child care home holding a license from
3 the department.

4 (g) As used in this section, the following words and phrases
5 shall have the meanings given to them in this subsection unless
6 the context clearly indicates otherwise:

7 "Certified contractor" means a person approved by the
8 Department of Labor and Industry to perform lead-based paint
9 activities in this Commonwealth under the act of July 6, 1995
10 (P.L.291, No.44), known as the Lead Certification Act.

11 "Hazardous condition" means any condition that causes
12 exposure to lead from lead-contaminated dust, lead-contaminated
13 soil or a lead-contaminated paint that is deteriorated or
14 present in accessible surfaces, friction surfaces or impact
15 surfaces that would result in adverse human health effects as
16 established by the administrator of the Environmental Protection
17 Agency under section 403 of the Toxic Substances Control Act
18 (Public Law 94-469, 15 U.S.C. § 2683).

19 "Inspector-risk assessor" means a person trained and
20 certified in accordance with the requirements of the act of July
21 6, 1995 (P.L.291, No.44), known as the Lead Certification Act,
22 to perform all activities of the inspector-technician, as well
23 as to identify the presence of lead-based paint and to collect
24 additional information designed to assess the level of risk to
25 residents of residential dwellings.

26 "Inspector-technician" means a person trained and certified
27 in accordance with the requirements of the act of July 6, 1995
28 (P.L.291, No.44), known as the Lead Certification Act, to
29 perform inspections solely for the purpose of determining the
30 presence of lead-based paint through the use of onsite testing,

1 such as XRF analysis, and the collection of samples for
2 laboratory analysis.

3 Section 2. This act shall take effect in 180 days.