

West's Code of Georgia Annotated Currentness

Title 31. Health

→ Chapter 41. Lead Poisoning Prevention

Article 1. General Provisions ([Refs & Annos](#))

§ 31-41-1. Short title

This chapter shall be known and may be cited as the "Georgia Lead Poisoning Prevention Act of 1994."

§ 31-41-2. Legislative findings

(a) The General Assembly finds that childhood lead poisoning is a devastating environmental health hazard to the children of this state. Exposure to even low levels of lead increases a child's risks of developing permanent reading and learning disabilities, intelligence quotient deficiencies, impaired hearing, reduced attention span, hyperactivity, behavior problems, and other neurological problems. It is estimated that thousands of children below the age of six are affected by lead poisoning in Georgia. Childhood lead poisoning is dangerous to the public health, safety, and general welfare.

(b) Childhood lead poisoning is the result of environmental exposure to lead. The most significant source of environmental lead is lead-based paint, particularly in housing built prior to 1978, which becomes accessible to children as paint chips, house dust, and soil contaminated by lead-based paint. The danger posed by lead-based paint hazards can be controlled by abatement or interim controls of lead-based paint or by measures to limit exposure to lead-based paint hazards.

(c) It is crucial that the identification of lead hazards and subsequent implementation of interim control or abatement procedures be accomplished in a manner that does not result in additional harm to the public or the environment. Improper lead abatement constitutes a serious threat to persons residing in or otherwise using an affected structure or site, to those performing such work, to the environment, and to the general public.

(d) The General Assembly finds that it is in the public interest to establish minimum standards for the training and certification or licensure of all persons performing lead hazard reduction activities, including inspections, risk assessments, and planning and performance of interim controls or abatement measures.

§ 31-41-3. Definitions

As used in this chapter, the term:

(1) "Abatement" means any set of measures designed to eliminate lead-based paint hazards, in accordance with standards developed by the board, including:

(A) Removal of lead-based paint and lead contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead contaminated soil; and

- (B) All preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.
- (2) "Accessible surface" means an interior or exterior surface painted with lead-based paint that is accessible for a young child to mouth or chew.
- (2.1) "Board" means the Board of Natural Resources of the State of Georgia.
- (3) "Department" means the Department of Natural Resources.
- (4) "Friction surface" means an interior or exterior surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces.
- (5) "Impact surface" means an interior or exterior surface or fixture that is subject to damage by repeated impacts, for example, certain parts of door frames.
- (6) "Inspection" means a surface by surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.
- (7) "Interim controls" means a measure or set of measures as specified by the board taken by the owner of a structure that are designed to control temporarily human exposure or likely exposure to lead-based paint hazards.
- (8) "Lead-based paint" means paint or other surface coatings that contain lead in excess of limits established by board regulation.
- (9) "Lead-based paint activities" means the inspection and assessment of lead hazards and the planning, implementation, and inspection of interim controls and abatement activities as determined by the department.
- (10) "Lead-based paint hazard" means any condition that causes exposure to lead from lead contaminated dust, lead contaminated soil, or lead contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established pursuant to Section 403 of the Toxic Substances Control Act. [FN1]
- (11) "Lead contaminated dust" means surface dust in residential dwellings or in other facilities occupied or regularly used by children that contains an area or mass concentration of lead in excess of levels determined pursuant to Section 403 of the Toxic Substances Control Act.
- (12) "Lead contaminated soil" means bare soil on residential real property or on other sites frequented by children that contains lead at or in excess of levels determined to be hazardous to human health pursuant to Section 403 of the Toxic Substances Control Act.
- (13) "Lead contaminated waste" means any discarded material resulting from an abatement activity that fails the toxicity characteristics determined by the department.
- (14) "Lead firm" means a company, partnership, corporation, sole proprietorship, association, or other busi-

ness entity that employs or contracts with persons to perform lead-based paint activities.

(15) "Lead inspector" means a person who conducts inspections to determine the presence of lead-based paint or lead-based paint hazards.

(16) "Lead project designer" means a person who plans or designs abatement activities and interim controls.

(17) "Lead risk assessor" means a person who conducts on-site risk assessments of lead hazards.

(18) "Lead supervisor" means a person who supervises and conducts abatement of lead-based paint hazards.

(19) "Lead worker" means any person performing lead hazard reduction activities.

(20) "Risk assessment" means an on-site investigation to determine and report the existence, nature, severity, and location of lead-based paint hazards in or on any structure or site, including:

(A) Information gathering regarding the age and history of the structure and the occupancy or other use by young children;

(B) Visual inspection;

(C) Limited wipe sampling or other environmental sampling techniques;

(D) Other activity as may be appropriate; and

(E) Provision of a report explaining the results of the investigation.

[FN1] [15 U.S.C.A. § 2683](#).

§ 31-41-4. Georgia Lead-Based Paint Hazard Reduction Program created; training, licensing, and certification of persons performing lead hazard detection and reduction services

(a) There is established the Georgia Lead-Based Paint Hazard Reduction Program. The Department of Natural Resources is designated as the state agency responsible for implementation, administration, and enforcement of such program. The commissioner may delegate such duties to the Environmental Protection Division.

(b) The Board of Natural Resources not later than one year after the effective date of regulations promulgated by the federal Environmental Protection Agency relating to lead paint abatement certification programs shall issue regulations requiring the development and approval of training programs for the licensing or certification of persons performing lead-based paint hazard detection or lead-based paint activities, which may include, but shall not be limited to, lead inspectors, lead risk assessors, lead project designers, lead firms, lead supervisors, and lead workers of such persons. The regulations for the approval of training programs shall include minimum requirements for approval of training providers, curriculum requirements, training hour requirements, hands-on training requirements, examinations of competency and proficiency, and training program quality control. The approval program shall provide for reciprocal approval of training programs with comparable requirements approved by other states or the United States. The approval program may be designed to meet the minimum requirements for federal approval under Section 404 of the federal Toxic Substances Control Act [FN1] and the

department may apply for such approval. The department shall establish fees for approval of such training programs.

(c)(1) The Board of Natural Resources not later than one year after the effective date of regulations promulgated by the federal Environmental Protection Agency relating to lead paint abatement certification programs shall establish training and licensure requirements for lead inspectors, lead risk assessors, lead project designers, lead firms, lead supervisors, and lead workers. No person shall be licensed under this chapter unless such person has successfully completed the appropriate training program, passed an examination approved by the department for the appropriate category of license, and completed any additional requirements imposed by the board by regulation. The department is authorized to accept any lead-based paint hazard training completed after January 1, 1990, in full or partial satisfaction of the training requirements. The board may establish requirements for periodic refresher training for all licensees as a condition of license renewal. The board shall establish examination fees, license fees, and renewal fees for all licenses issued under this chapter, provided that such fees shall reflect the cost of issuing and renewing such licenses, regulating licensed activities, and administering the program.

(2) On and after the effective date of regulations promulgated by the board as provided in subsection (b) of this Code section, no person shall perform or represent that such person is qualified to perform any lead-based paint activities unless such person possesses the appropriate licensure or certification as determined by the board or unless such person is:

(A) An owner performing abatement upon that person's own residential property, unless the residential property is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level;

(B) An employee of a property management company doing routine cleaning and repainting upon property managed by that company where there is insignificant damage, wear, or corrosion of existing lead-containing paint or coating substances; or

(C) An owner routinely cleaning or repainting his or her property where there is insignificant damage to, wear of, or corrosion of existing lead-containing paint or coating substances.

(3) A person who is employed by a state or county health department or state or federal agency to conduct lead investigations to determine the sources of lead poisonings, as determined by the department, shall be subject to licensing pursuant to paragraph (2) of this subsection as a lead risk assessor but shall not be required to pay any fees as otherwise required under this chapter or under rules and regulations promulgated by the board under this chapter.

(d) The board shall promulgate regulations establishing standards of acceptable professional conduct for the performance of lead-based paint activities, as well as specific acts and omissions that constitute grounds for the reprimand of any licensee, the suspension, modification, or revocation of a license, or the denial of issuance or renewal of a license.

[FN1] [15 U.S.C.A. § 2684](#).

§ 31-41-5. Regulations; civil penalties

The Board of Natural Resources shall be authorized to promulgate all necessary regulations for the implementation and enforcement of this chapter. In addition to any action which may be taken to reprimand a licensee or to revoke or suspend a license, any person who violates any provision of this chapter or any regulation promulgated pursuant to this chapter or any term or condition of licensure may be subject to a civil penalty of not more than \$10,000.00, to be imposed by the department. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty.

§ 31-41-6. Availability of current federal regulations; fees; corrective orders; revocation or suspension of license; unlawful acts; penalties

- (a) The department shall make available to all persons licensed or certified under this chapter current federal regulations affecting such licensees or certified persons.
- (b) The department is authorized to charge an application fee, a license fee, a license renewal fee, or a similar fee and the amount of such fees shall be established by the Board of Natural Resources. Each fee so established shall be reasonable and shall be determined in such a manner that the total of the fees charged shall approximate the total of the direct and the indirect costs to the state of the operation of the licensing program. Fees may be refunded for good cause as determined by the department.
- (c) The department is authorized to issue a corrective order to any person in violation of this chapter or any regulation promulgated pursuant thereto. The order shall specify the provisions of this chapter or any regulation alleged to have been violated and shall order necessary corrective action be taken within a reasonable time to be prescribed in such order.
- (d) The department is authorized to revoke or suspend any license, certification, approval, or accreditation issued hereunder in accordance with regulations promulgated pursuant to this chapter.
- (e) It shall be unlawful for any person to engage in training or lead-based paint activities regulated under this chapter except in such a manner as to conform to and comply with this chapter and all applicable regulations and orders established under this chapter.
- (f) Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor.

Article 2. Childhood Lead Exposure Control (Refs & Annos)

§ 31-41-10. Short title

This article shall be known and may be cited as the "Childhood Lead Exposure Control Act."

§ 31-41-11. Legislative findings

- (a) The General Assembly finds that childhood lead poisoning prevention activities are currently carried out within the Environmental Health and Injury Prevention, Epidemiology and Prevention, and Laboratory Branches

of the Division of Public Health. These activities include lead poisoning case identification, laboratory support, identification of exposure sources, environmental management, and lead hazard reduction. Childhood lead poisoning cases are identified through screening tests conducted by public health clinics and private health care providers and by laboratory reporting of test results. In 1994, lead poisoning was established as a notifiable condition and made part of the Notifiable Disease reporting system.

(b) The General Assembly further finds that the Georgia Public Health Laboratory is licensed and certified to analyze blood specimens for lead. Laboratory services are provided for children screened in public health clinics and for children without health insurance screened by private health care providers. For each reported case of lead poisoning, an environmental investigation is conducted to identify the source of lead. Environmental health specialists assess the primary residence and other locations frequented by the lead poisoned child. Information is collected from parents and caregivers; on-site surface testing and environmental sample collection and analysis are done as needed. When the lead source is identified, recommendations are made for the mitigation or abatement of the lead hazard. Identified lead poisoning cases are tracked collaboratively by public health nurses and environmental health specialists to assure that appropriate treatment is received and that the child does not reenter the environment where the exposure occurred.

§ 31-41-12. Definitions

As used in this article, the term:

- (1) "Confirmed lead poisoning" means a confirmed concentration of lead in whole blood equal to or greater than 20 micrograms of lead per deciliter for a single test or between 15 and 19 micrograms of lead per deciliter in two tests taken at least three months apart.
- (2) "Day-care facility" means a structure or structures used as a school, nursery, child care center, clinic, treatment center, or other facility serving the needs of children under six years of age including the grounds, any outbuildings, or other structures appurtenant to the facility.
- (3) "Division" means the Division of Public Health.
- (4) "Dwelling," "dwelling unit," or "residential housing unit" means the interior of a structure, all or part of which is designed or used for human habitation.
- (5) "Elevated blood lead level" means a blood lead concentration of ten micrograms per deciliter or greater as determined by the lower of two consecutive blood tests within a six-month period.
- (5.1) "Lead hazard abatement" means the removal and correction, in a manner no more strict than what is determined to be absolutely necessary, of a specifically identified hazard which causes a confirmed lead poisoning.
- (6) "Lead poisoning hazard" means the presence of readily accessible or mouthable lead-bearing substances measuring 1.0 milligram per square centimeter or greater by X-ray fluorescence or 0.5 percent or greater by chemical analysis; 100 micrograms per square foot or greater for dust on floors; 500 micrograms per square foot or greater for dust on window sills.

(7) "Lead safe housing" is housing that was built since 1978 or that has been tested by a person who has been licensed or certified by the Board of Natural Resources to perform such testing and either found to have no lead-based paint hazards within the meaning of Title X of the Residential Lead-Based Paint Hazard Reduction Act of 1992, [FN1] 14 U.S.C. Code Section 185(b) (15) or housing that has been found to meet the requirements of the maintenance standard.

(8) "Maintenance standard" means the following:

(A) Repairing and repainting areas of deteriorated paint inside a residential housing unit;

(B) Cleaning the interior of the unit to a standard of cleaning which is at least customary in the local area at lease origination or as part of the abatement plan, whichever is first, to remove dust that constitutes a lead poisoning hazard;

(C) Adjusting doors and windows to minimize friction or impact on surfaces;

(D) Subject to the occupant's approval, appropriately cleaning any carpets at lease origination or as part of the abatement plan, whichever is first;

(E) Taking such steps as are necessary to ensure that all interior surfaces on which dust might collect are readily cleanable; and

(F) Providing the occupant or occupants all information required to be provided under the Residential Lead-Based Paint Hazard Reduction Act of 1992 and amendments thereto.

(9) "Managing agent" means any person who has charge, care, or control of a building or part thereof in which dwelling units or rooming units are leased.

(10) "Mouthable lead-bearing substance" means any substance on surfaces or fixtures five feet or less from the floor or ground that form a protruding corner or similar edge, protrude one-half inch or more from a flat wall surface, or are freestanding and contain lead contaminated dust at a level that constitutes a lead poisoning hazard. Mouthable surfaces or fixtures include vinyl miniblinds, doors, door jambs, stairs, stair rails, windows, window sills, and baseboards.

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

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

(13) "Regularly visits" means presence at a dwelling, dwelling unit, school, or day-care facility for at least two

days a week for more than three hours per day.

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

[FN1] [42 U.S.C.A. § 4851 et seq.](#)

§ 31-41-13. Notice of lead poisoning hazard

Upon determination that a lead poisoning hazard exists, the division shall give written notice of the lead poisoning hazard to the owner of the dwelling, dwelling unit, school, or day-care facility and to all persons residing in or attending the dwelling or facility. The division shall also make every reasonable and practicable effort to provide written notice to the managing agent of the dwelling, dwelling unit, school, or day-care facility. The written notice to the owner, managing agent, or tenant shall include a list of possible methods of abatement of the lead poisoning hazard.

§ 31-41-14. Abatement of lead poisoning hazard

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

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

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

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

(e) The owner or managing agent shall notify the division and the occupants of the dates of abatement activities

at least three days prior to the commencement of abatement activities.

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

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

(h) The division shall verify by visual inspection that the approved abatement plan has been completed. The division may also verify plan completion by residual lead dust monitoring. Compliance with the maintenance standard shall be deemed equivalent to meeting the abatement plan requirements.

(i) Removal of children from the dwelling, school, or day-care facility shall not constitute abatement if the property continues to be used for a dwelling, school, or day-care facility.

§ 31-41-15. Effect of compliance with maintenance standard

Any owner of a residential housing unit constructed prior to 1978 who is sued by a current or former occupant seeking damages for injuries allegedly arising from exposure to lead-based paint or lead-contaminated dust shall not be deemed liable: (1) for any injuries sustained by that occupant after the owner first complied with the maintenance standard defined under paragraph (8) of [Code Section 31-41-12](#), provided that the owner has repeated the steps provided for in the maintenance standard annually and obtained a certificate of compliance under [Code Section 31-41-16](#) annually during such occupancy; or (2) if the owner is able to show that the unit was lead safe housing containing no lead-based paint hazards during the period when the injuries were sustained. Nothing contained in this article shall be construed or interpreted as imposing or creating any liability on or creating any cause of action against any owner or managing agent of a dwelling, dwelling unit, or residential housing unit arising from exposure to lead-based paint or lead-contaminated dust, regardless of when such dwelling, dwelling unit, or residential housing unit was constructed and regardless of whether the requirements of this article have been complied with or accomplished.

§ 31-41-16. Certificate evidencing compliance with maintenance standard

An owner of a unit who has complied with the maintenance standard may apply annually to the division for, and upon presentation of acceptable proof of compliance shall be provided by the division a certificate evidencing such compliance. The owner shall be entitled to the liability relief provided for in [Code Section 31-41-15](#) upon obtaining such certificate or certificates.

§ 31-41-17. Notice of importance of cleaning activities

In any residential housing unit occupied by a child less than six years old who has an elevated blood lead level of ten micrograms per deciliter or greater, the division shall advise, in writing, the owner or managing agent and the child's parents or legal guardian as to the importance of carrying out routine cleaning activities in the units

they occupy, own, or manage. Such cleaning activities shall include:

- (1) Wiping clean all window sills with a damp cloth or sponge at least weekly;
- (2) Regularly washing all surfaces accessible to the child;
- (3) In the case of a leased residential housing unit, identifying any deteriorated paint in the unit and notifying the owner or managing agent of such conditions within 72 hours of discovery; and
- (4) Identifying and understanding potential lead poisoning hazards in the environment of each child under the age of six in the housing unit including vinyl miniblinds, playground equipment, soil, and painted surfaces and taking steps to prevent the child from ingesting lead, such as encouraging the child to wash his or her face and hands frequently and especially after playing outdoors.

§ 31-41-18. Applicability

This article shall only apply to:

- (1) Owners of residential rental property; and
- (2) Landlords

that accept compensation for the use of residential property by another.

§ 31-41-19. Regulations

The Division of Public Health shall be authorized to promulgate all necessary regulations for the implementation and enforcement of this article.

Current through the 2009 Regular Session.

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