

Vernon's Annotated Missouri Statutes Currentness

Title XLI. Codes and Standards

Chapter 701. State Standards (Refs & Annos)

→ Lead Abatement and Prevention of Lead Poisoning

701.300. Definitions

As used in sections 701.300 to 701.338, the following terms mean:

(1) "**Abatement**",

(a) Any measure regulated solely by the Missouri department of health and senior services designed to permanently eliminate lead hazards, which shall include:

a. The removal of lead-bearing substances, the replacement of lead-painted surfaces or fixtures, or the permanent enclosure or encapsulation of lead-bearing substances; and

b. All preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures;

(b) "**Abatement**" shall not include any measure involving a de minimis surface area or activity excluded from this definition by rule;

(2) "**Child-occupied facility**", a building or portion of a building constructed prior to 1978 and visited regularly by the same child who is six or fewer years of age including, but not limited to, day care centers, preschools and kindergarten classrooms. For the purposes of this subdivision, "**visited regularly**" means a minimum of two visits on different days within any week, provided that each visit lasts at least three hours and the combined weekly visits last at least six hours and the combined annual visits last at least sixty hours;

(3) "**Deleading**", the removal of lead-bearing substances;

(4) "**Department**", the department of health and senior services;

(5) "**Deteriorated lead-bearing substance**", any interior or exterior lead-bearing surface coating material as defined by rule that is peeling, chipping, chalking, or cracking or any lead-bearing substance located on an interior or exterior surface or fixture that is damaged, deteriorated or otherwise separating from the substrate or a structure component;

(6) "**Director**", the director of the department of health and senior services;

(7) "**Dwelling**", either:

(a) A single-family dwelling, including attached structures such as porches and stoops; or

(b) A single-family dwelling unit in a structure that contains more than one separate residential dwelling unit

and in which each such unit is used or occupied or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons;

(8) "**Encapsulant**", a liquid coating or adhesively bonded substance applied to a surface to form a barrier between a lead-bearing substance and the environment;

(9) "**Encapsulation**", the application of an encapsulant;

(10) "**Enclosure**", the use of rigid, durable construction materials mechanically fastened to a substrate to act as a barrier between a lead-bearing substance and the environment;

(11) "**Health care professional**", any physician, hospital, or other person which is licensed or otherwise authorized in this state to furnish health care services;

(12) "**Interim control**", any measure designed to temporarily reduce human exposure or likely human exposure to lead hazards. Such measures may include, but are not limited to, specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead hazards or potential hazards, or the establishment and operation of management and resident education programs;

(13) "**Lead abatement contractor**", a person or entity licensed by the department to conduct lead-bearing substance activities at a location other than the contractor's own place of business;

(14) "**Lead abatement project**":

(a) The encapsulation, enclosure or removal of a lead-bearing substance;

(b) "**Lead abatement project**" shall not include any measure involving a de minimis surface area or activity excluded from this definition by rule;

(15) "**Lead abatement supervisor**", a person licensed by the department to direct, control or supervise personnel in a lead abatement project;

(16) "**Lead abatement worker**", a person licensed by the department to work on a lead abatement project;

(17) "**Lead-bearing substance activity**", any activity associated with a lead abatement project including, but not limited to, project design, risk assessment, inspection, abatement or deleading under this chapter;

(18) "**Lead-bearing substance**", (a) includes:

a. Any paint or other surface coating materials that contain lead equal to or in excess of one milligram per square centimeter or more than five-tenths percent by weight or such other standard for lead content in paint as may be established by federal law or regulation;

b. Surface dust that contains a concentration of lead specified by rules promulgated by the department that shall be consistent with the purposes of laws enacted by the United States Congress and regulations promulgated or guidance issued by any federal agency;

c. Bare soil that contains a concentration of lead specified by rules promulgated by the department that shall be consistent with the purposes of laws enacted by the United States Congress and regulations promulgated or guidance issued by any federal agency; or

d. Any lead-based paint, lead-based paint hazard or lead-based paint activity consistent with the purposes of laws enacted by the United States Congress and regulations promulgated or guidance issued by any federal agency; and

(b) "**Lead-bearing substance**" as regulated by the Missouri department of health and senior services does not include any substance generated through the mining, milling or smelting of lead ore or scrap, or generated through lead product manufacturing or use provided that such substance has not migrated off or been transported from the mining, smelting, or manufacturing site and entered a residential area or any other public access environment;

(19) "**Lead hazard**", any condition that causes exposure to lead that would result in adverse human health effects from deteriorated lead-bearing substances or lead-bearing substances present in "**accessible surfaces**", "**friction surfaces**", or "**impact surfaces**", as such terms are defined in [15 U.S.C. 2681](#);

(20) "**Lead inspection**", a surface-by-surface investigation to determine the presence of lead-bearing substances and a report or provision of a report which explains the results of such an investigation;

(21) "**Lead inspector**", a person licensed by the department to conduct lead inspections;

(22) "**Lead poisoning**", the laboratory determination of a human whole blood lead level as established by the federal Centers for Disease Control;

(23) "**Owner**", any person, who alone, jointly or severally with others:

(a) Has legal title to any child-occupied facility, dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(b) Has charge, care or control of any child-occupied facility, dwelling or dwelling unit as owner or agent of the owner, or as executor, administrator, trustee, or guardian of, the estate of the owner;

(24) "**Project designer**", a person licensed by the department to conduct activities including, but not limited to, the development and implementation of occupant protection plans, lead-bearing substance abatement and hazard reduction methods, interior dust abatement and cleanup methods, hazard control and reduction methods, clearance standards and testing protocols and integration of lead-bearing substance abatement methods with modernization and rehabilitation projects for lead abatement projects;

(25) "**Risk assessment**", an on-site investigation to determine the existence, nature, severity and location of lead hazards, and the provision of a report by the person conducting the risk assessment explaining the results of the investigation and options for reducing lead hazards;

(26) "**Risk assessor**", a person licensed by the department to conduct risk assessments;

(27) "**Work practice standards**", requirements or standards that ensure that lead-bearing substance abatement activities are conducted reliably, effectively and safely.

701.301. Promulgation of rules, protection of human health and environment

The department shall promulgate rules necessary to implement and administer the provisions of [sections 701.300 to 701.338](#), including requirements, procedures and standards relating to lead-bearing substance activities. The rules established by the department shall be at least as protective of human health and the environment as the federal program established by the Residential Lead-Based Paint Hazard Reduction Act, as amended, [42 U.S.C. 4851, et seq.](#), and the Toxic Substances Control Act, as amended, [15 U.S.C. 2605, 2607, and 2681 to 2692](#), and any federal regulations promulgated pursuant to such authority. Nothing in [sections 701.300 to 701.338](#) shall be applied or interpreted to affect the statutes or regulations of any other state agency or the activities subject to regulation by any other state agency.

701.302. Advisory committee on lead poisoning established--membership-- recommendation of legislation--other recommendations--compensation--annual report--submission of records

1. There is hereby established the "Advisory Committee on Lead Poisoning". The members of the committee shall consist of twenty-seven persons who shall be appointed by the governor with the advice and consent of the senate, except as otherwise provided in this subsection. At least five of the members of the committee shall be African-Americans or representatives of other minority groups disproportionately affected by lead poisoning. The members of the committee shall include:

- (1) The director of the department of health and senior services or the director's designee, who shall serve as an ex officio member;
- (2) The director of the department of economic development or the director's designee, who shall serve as an ex officio member;
- (3) The director of the department of natural resources or the director's designee, who shall serve as an ex officio member;
- (4) The director of the department of social services or the director's designee, who shall serve as an ex officio member;
- (5) The director of the department of labor and industrial relations or the director's designee, who shall serve as an ex officio member;
- (6) One member of the senate, appointed by the president pro tempore of the senate, and one member of the house of representatives, appointed by the speaker of the house of representatives;
- (7) A representative of the office of the attorney general, who shall serve as an ex officio member;
- (8) A member of a city council, county commission or other local governmental entity;
- (9) A representative of a community housing organization;

- (10) A representative of property owners;
- (11) A representative of the real estate industry;
- (12) One representative of an appropriate public interest organization and one representative of a local public health agency promoting environmental health and advocating protection of children's health;
- (13) A representative of the lead industry;
- (14) A representative of the insurance industry;
- (15) A representative of the banking industry;
- (16) A parent of a currently or previously lead-poisoned child;
- (17) A representative of the school boards association or an employee of the department of elementary and secondary education, selected by the commissioner of elementary and secondary education;
- (18) Two representatives of the lead abatement industry, including one licensed lead abatement contractor and one licensed lead abatement worker;
- (19) A physician licensed under chapter 334, RSMo;
- (20) A representative of a lead testing laboratory;
- (21) A lead inspector or risk assessor;
- (22) The chief engineer of the department of transportation or the chief engineer's designee, who shall serve as an ex officio member;
- (23) A representative of a regulated industrial business; and
- (24) A representative of a business organization.

2. The committee shall make recommendations relating to actions to:

- (1) Eradicate childhood lead poisoning by the year 2012;
- (2) Screen children for lead poisoning;
- (3) Treat and medically manage lead-poisoned children;
- (4) Prevent lead poisoning in children;
- (5) Maintain and increase laboratory capacity for lead assessments and screening, and a quality control program for laboratories;
- (6) Abate lead problems after discovery;

(7) Identify additional resources, either through a tax or fee structure, to implement programs necessary to address lead poisoning problems and issues;

(8) Provide an educational program on lead poisoning for the general public and health care providers;

(9) Determine procedures for the removal and disposal of all lead contaminated waste in accordance with the Toxic Substances Control Act, as amended, [42 U.S.C. 2681, et seq.](#), solid waste and hazardous waste statutes, and any other applicable federal and state statutes and regulations.

3. The committee members shall receive no compensation but shall, subject to appropriations, be reimbursed for actual and necessary expenses incurred in the performance of their duties. All public members and local officials shall serve for a term of two years and until their successors are selected and qualified, and other members shall serve for as long as they hold the office or position from which they were appointed.

4. No later than December fifteenth of each year, the committee shall provide a written annual report of its recommendations for actions as required pursuant to subsection 2 of this section to the governor and general assembly, including any legislation proposed by the committee to implement the recommendations.

5. The committee shall submit records of its meetings to the secretary of the senate and the chief clerk of the house of representatives in accordance with [sections 610.020 and 610.023, RSMo.](#)

701.304. Inspection of dwellings or child-occupied facility--purpose-- warrant--samples

1. A representative of the department, or a representative of a unit of local government or health department licensed by the department for this purpose, may conduct an inspection or a risk assessment at a dwelling or a child-occupied facility for the purpose of ascertaining the existence of a lead hazard under the following conditions:

(1) The department, owner of the dwelling, and an adult occupant of a dwelling which is rented or leased have been notified that an occupant of the dwelling or a child six or fewer years of age who regularly visits the child-occupied facility has been identified as having an elevated blood lead level as defined by rule; and

(2) The inspection or risk assessment occurs at a reasonable time; and

(3) The representative of the department or local government presents appropriate credentials to the owner or occupant; and

(4) Either the dwelling's owner or adult occupant or the child-occupied facility's owner or agent grants consent to enter the premises to conduct an inspection or risk assessment; or

(5) If consent to enter is not granted, the representative of the department, local government, or local health department may petition the circuit court for an order to enter the premises and conduct an inspection or risk assessment after notifying the dwelling's owner or adult occupant in writing of the time and purpose of the inspection or risk assessment at least forty-eight hours in advance. The court shall grant the order upon a showing that an occupant of the dwelling or a child six or fewer years of age who regularly visits the child-occupied facility has been identified as having an elevated blood lead level as defined by rule.

2. In conducting such an inspection or risk assessment, a representative of the department, or representative of a unit of local government or health department licensed by the department for this purpose, may remove samples necessary for laboratory analysis in the determination of the presence of a lead-bearing substance or lead hazard in the designated dwelling or child-occupied facility.

3. The director shall assess fees for licenses and accreditation and impose administrative penalties in accordance with rules promulgated pursuant to [sections 701.300 to 701.338](#). All such fees and fines shall be deposited into the state treasury to the credit of the public health services fund established in [section 192.900, RSMo](#).

701.305. Internet web site to include explanation of rights and responsibilities

The department of health and senior services shall provide on its Internet web site educational information that explains the rights and responsibilities of the property owner and tenants of a dwelling and the lead inspectors, risk assessors, and the lead abatement contractors.

701.306. Notification of confirmed presence of lead hazard--content-- recipients

If the department, or a representative of a unit of local government or health department licensed by the department for this purpose, determines that there is a lead hazard at a dwelling or child-occupied facility which poses a risk of adverse health effects upon young children, the department or its licensed local representative:

- (1) Shall provide written notification to the owner and an adult occupant of the dwelling or the owner or agent of a child-occupied facility of the confirmed presence of a lead hazard which may lead to adverse health effects upon small children who reside in or regularly visit the residence or facility. The written notification shall include options appropriate for reduction of the lead hazard to an acceptable level and a reasonable time period for abating or establishing interim controls for any such lead hazard that is accessible to small children who reside in or regularly visit the dwelling or facility; and
- (2) May provide written notification to the parents or guardians of children who regularly visit a child-occupied facility of the confirmed presence of a lead hazard that may lead to adverse health effects; and
- (3) May provide a copy of the written notification to the local health officers.

701.308. Abatement--eviction of tenant--violations--relocation of tenant-- prosecutor may take additional measures to ensure compliance

1. Upon receipt of written notification as described in section 701.306, of the presence of a lead hazard, the owner shall comply with the requirement for abating or establishing interim controls for the lead hazard in a manner consistent with the options provided by the department and within the applicable time period. If the dwelling or child-occupied facility is a rental or leased property, the owner may remove it from the rental market.
2. Except as provided in subsection 1 of this section, no tenant shall be evicted because an individual with an elevated blood lead level or with suspected lead poisoning resides in the dwelling, or because of any action required of the dwelling owner as a result of enforcement of [sections 701.300 to 701.338](#). The provisions of this subsection shall not operate to prevent the owner of any such dwelling from evicting a tenant for any other reas-

on as provided by law.

3. No child shall be denied attendance at a child-occupied facility because of an elevated blood lead level or suspected lead poisoning or because of any action required of the facility owner as a result of enforcement of [sections 701.300 to 701.338](#). The provisions of this subsection shall not prevent the owner or agent of any such child-occupied facility from denying attendance for any other reason allowed by law.

4. A representative of the department, or a representative of a unit of local government or health department licensed by the department for this purpose, is authorized to reenter a dwelling or child-occupied facility to determine if the owner has taken the required actions for abating or establishing interim controls for the lead hazard in a manner consistent with the options provided by the department and lead hazards have been reduced to an acceptable level. If consent to enter is not granted, the representative of the department, local government, or local health department may petition the court for an order to enter the premises to determine if the owner has taken the required actions for abating or establishing interim controls for the lead hazard in a manner consistent with the options provided by the department, and provided that the lead hazards have been reduced to an acceptable level. The court shall grant the order upon a showing that the representative of the department, local government, or local health department has attempted to notify the dwelling's owner or adult occupant in writing of the time and purpose of the reentry at least forty-eight hours in advance.

5. Upon reentry, if the department or a representative of a unit of local government or local health department licensed by the department for this purpose finds that the owner has not taken the required actions for abating or establishing interim controls for the lead hazard in a manner consistent with the options provided by the department, and lead hazards have not been reduced to an acceptable level, the owner shall be deemed to be in violation of [sections 701.300 to 701.338](#). Such violation shall not by itself create a cause of action. The department or the local government or local health department shall:

- (1) Notify in writing the owner found to be causing, allowing or permitting the violation to take place; and
- (2) Order that the owner of the dwelling or child-occupied facility shall cease and abate causing, allowing or permitting the violation and shall take such action as is necessary to comply with this section and the rules promulgated pursuant to this section.

6. If, upon reentry, the lead hazard has not been reduced to an acceptable level, the following steps may be taken:

- (1) The local health officer and local building officials may, as practical, use such community or other resources as are available to effect the relocation of the individuals who occupied the affected dwelling or child-occupied facility until the owner complies with the notice; or
- (2) The department or representative of a unit of local government or health department licensed by the department for this purpose may report any violation of [sections 701.300 to 701.338](#) to the prosecuting attorney of the county in which the dwelling or child-occupied facility is located and notify the owner that such a report has been made. The prosecuting attorney shall seek injunctive relief to ensure that the lead hazard is abated or that interim controls are established.

7. In commercial lead production areas, if the department identifies lead hazards due to paint, mini-blinds, or other household products/sources in a property where a child has been identified with an elevated blood level, the owner shall comply with the requirement for abating or establishing interim controls for the above-stated hazards, in a manner consistent with the recommendations described by the department and within the applicable time period. Residential property owners in commercial lead production areas shall not be deemed in violation pursuant to this section after compliance with the requirement for abating or establishing interim controls established by the department per the initial risk assessment, or made to pay for any type of lead remediation necessary due to the commercial lead production and transport. If the residential property is owned by a commercial lead production or transport company, which has not taken the required actions for abating or establishing interim controls for the lead hazard in a manner consistent with the options provided by the department and the lead hazards have not been reduced to an acceptable level, the commercial lead production or transport company shall be deemed to be in violation of [sections 701.300 to 701.308](#).

701.309. Notification, lead abatement project

1. At least ten days prior to the onset of a lead abatement project, the lead abatement contractor conducting such an abatement project shall:

(1) Submit to the department a written notification as prescribed by the department; and

(2) Pay a notification fee of twenty-five dollars.

2. The lead abatement contractor and any public agency, local community organization, government agency, or quasi-government agency issuing grants or loans for lead abatement projects or interim controls shall inform the owners and tenants of a dwelling that information regarding potential lead hazards can be accessed on the department's Internet web site.

3. In addition to the specified penalties in [section 701.320](#), failure to notify the department prior to the onset of a lead abatement project shall result in a fine of two hundred fifty dollars imposed against the lead abatement contractor for the first identified offense, five hundred dollars for the second identified offense, and thereafter, fines shall be doubled for each identified offense.

4. Written notification as prescribed by the department shall include disclosure of any potential lead hazards to the owners and tenants of a dwelling by the licensed risk assessor who conducted the initial risk assessment.

5. If the lead abatement contractor is unable to comply with the requirements of subsection 1 of this section because of an emergency situation as defined by rule, the contractor shall:

(1) Notify the department by other means of communication within twenty-four hours of the onset of the project; and

(2) Submit the written notification and notification fee prescribed in subsection 1 of this section to the department no more than five days after the onset of the project.

6. Upon completion of the abatement, the lead abatement contractor shall submit to the department written notification and the final clearance results report.

701.310. Manner of abatement--owner may perform abatement

1. Any abatement of the lead hazard from the dwelling or child-occupied facility shall be performed in a manner so as not to endanger the health of its occupants or persons performing the abatement.
2. To the extent permitted by federal regulations, an individual who is an owner, a partner in a partnership owning, or a corporate officer in a corporation owning a dwelling and who is not licensed pursuant to [section 701.312](#) may personally perform lead abatement within a dwelling that he or she owns, unless the residential dwelling 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. Prior to beginning such abatement, the owner shall consult with the department regarding the most effective method of conducting such lead abatement activities and of the proper procedures in performing those activities.

701.311. Compliance inspections--notice of violations--hearings-- promulgation of rules--emergency

1. Any authorized representative of the department who presents appropriate credentials may, at all reasonable times, enter public or private property to conduct compliance inspections of lead abatement contractors as may be necessary to implement the provisions of [sections 701.300 to 701.338](#) and any rules promulgated pursuant to [sections 701.300 to 701.338](#).
2. It is unlawful for any person to refuse entry or access requested for inspecting or determining compliance with [sections 701.300 to 701.338](#). A suitably restricted search warrant, upon a showing of probable cause in writing and upon oath, shall be issued by any circuit or associate circuit judge having jurisdiction for the purpose of enabling such inspections.
3. Whenever the director determines through a compliance inspection that there are reasonable grounds to believe that there has been a violation of any provision of [sections 701.300 to 701.338](#) or the rules promulgated pursuant to [sections 701.300 to 701.338](#), the director may give notice of such alleged violation to the owner or person responsible, as provided in this section. The notice shall:
 - (1) Be in writing;
 - (2) Include a statement of the reasons for the issuance of the notice;
 - (3) Allow reasonable time as determined by the director for the performance of any act the notice requires;
 - (4) Be served upon the property owner or person responsible as the case may require, provided that such notice shall be deemed to have been properly served upon such person when a copy of such notice has been sent by registered or certified mail to the person's last known address as listed in the local property tax records concerning such property, or when such person has been served with such notice by any other method authorized by law;
 - (5) Contain an outline of corrective action which is required to effect compliance with [sections 701.300 to 701.338](#) and the rules promulgated pursuant to [sections 701.300 to 701.338](#).
4. If an owner or person files a written request for a hearing within ten days of the date of receipt of a notice, a

hearing shall be held within thirty days from the date of receipt of the notice before the director or the director's designee to review the appropriateness of the corrective action. The director shall issue a written decision within thirty days of the date of the hearing. Any final decision of the director may be appealed to the administrative hearing commission as provided in chapter 621, RSMo. Any decision of the administrative hearing commission may be appealed as provided in [sections 536.100 to 536.140, RSMo](#).

5. The attorney general or the prosecuting attorney of the county in which any violation of [sections 701.300 to 701.338](#) or the rules promulgated pursuant to [sections 701.300 to 701.338](#) occurred shall, at the request of the city, county or department, institute appropriate proceedings for correction.

6. When the department determines that an emergency exists which requires immediate action to protect the health and welfare of the public, the department is authorized to seek a temporary restraining order and injunction. Such action shall be brought at the request of the director by the local prosecuting attorney or the attorney general. For the purposes of this subsection, an "**emergency**" means any set of circumstances that constitutes an imminent health hazard or the threat of an imminent health hazard.

7. Nothing in [sections 701.300 to 701.338](#) or rules promulgated pursuant to [sections 701.300 to 701.338](#) shall be construed as requiring the department of health and senior services to issue a notice of violation pursuant to subsection 3 of this section whenever the department of health and senior services believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

8. The department shall develop, publish, and post on its web site an enforcement manual that:

(1) Delineates the categories of violations for which the department shall issue a notice of violation under subsection 3 of this section; and

(2) Delineates the categories of violations for which the department may either issue a notice of violation under subsection 3 of this section or issue a suitable written notice or warning.

[701.312. Training and licensing of lead inspectors--rulemaking--temporary inspections without license--temporary risk assessor licenses](#)

1. The director of the department of health and senior services shall develop a program to license lead inspectors, risk assessors, lead abatement supervisors, lead abatement workers, project designers and lead abatement contractors. The director shall promulgate rules and regulations including, but not limited to:

(1) The power to issue, restrict, suspend, revoke, deny and reissue licenses;

(2) The power to issue notices of violation, written notices and letters of warning;

(3) The ability to enter into reciprocity agreements with other states that have similar licensing provisions;

(4) Fees for any such licenses;

(5) Training, education and experience requirements; and

(6) The implementation of work practice standards, reporting requirements and licensing standards.

2. The director shall require, as a condition of licensure, lead abatement contractors to purchase and maintain liability and errors and omissions insurance. The director shall require a licensee or an applicant for licensure to provide evidence of their ability to indemnify any person that may suffer damage from lead-based paint activities of which the licensee or applicant may be liable.

701.313. Issuers of grants or loans for lead abatement projects, notice to department required

1. Any local community organization, government agency, or quasi-government agency issuing grants or loans for lead abatement projects must provide written notification to the department no later than ten days prior to the onset of a lead abatement project. The written notification shall include, but not be limited to, the name of the lead abatement contractor, the address of the property on which the lead abatement project shall be conducted, and the date on which the lead abatement project shall be conducted.

2. If the local community organization, government agency, or quasi-government agency fails to provide written notification for each property pursuant to subsection 1 of this section, a fine of two hundred fifty dollars shall be levied by the department.

3. If the local community organization, the government agency, or quasi-government agency is unable to comply with the requirements in subsection 1 of this section due to an emergency situation, as defined by the department, the local community organization, government agency, or quasi-government agency shall:

(1) Notify the department by other means of communication within twenty-four hours of the onset of the lead abatement project; and

(2) Provide written notification to the department no later than five days after the onset of the lead abatement project.

701.314. Accreditation of training providers for supervisors, lead abatement workers and project designers--rules

The director of the department of health and senior services shall develop a program to accredit training providers to train lead inspectors, risk assessors, lead abatement supervisors, lead abatement workers and project designers. The director shall promulgate rules and regulations including, but not limited to:

(1) The power to grant, restrict, suspend, revoke, deny or renew accreditation;

(2) The power to issue notices of violation, written notices and letters of warning;

(3) The ability to enter into reciprocity agreements with other states that have similar accreditation provisions;

(4) Fees for any such accreditation;

(5) The curriculum for training;

(6) The development of standards for accreditation; and

(7) Procedures for monitoring, training, record keeping and reporting requirements for training providers.

701.316. Inspections or abatements by unlicensed persons--lists of licensed persons--restriction, suspension or revocation of license--cease-work order

1. Except as otherwise authorized by [subsection 2 of section 701.310](#), no person shall engage in or conduct lead-bearing substance activities without having successfully completed a department or United States Environmental Protection Agency accredited training program and without having been licensed by the department.

2. The department shall develop and periodically update lists of all licensed inspectors, contractors, supervisors, workers, and other persons who perform lead hazard inspection and abatement and shall make such lists available free of charge to interested parties and the public.

3. The department may restrict, revoke, suspend or deny any license at any time if it believes that the terms or conditions of such license are being violated or that the holder of, or applicant for, the license has violated any regulation of the department or any other state law or regulation, or any federal law or regulation, or the laws or regulations of other states. The restriction, revocation, suspension or denial shall be effective immediately. Any person aggrieved by a determination by the department to restrict, deny, revoke or suspend any license may request a hearing before the administrative hearing commission within thirty days of receipt of the notice of license restriction, revocation, suspension or denial. The licensure shall remain restricted, revoked, suspended or denied while the hearing is pending.

4. The director may issue an immediate cease-work order to any person who violates the terms or conditions of any license issued pursuant to any provision of [sections 701.300 to 701.338](#) or any regulation promulgated pursuant to [sections 701.300 to 701.338](#) if, in the best judgment of the director, such violation presents a health risk to any person.

701.317. Administrative penalty--appeal, final order, judicial review

1. In addition to any other remedy provided by law, upon a determination by the director that a provision of [sections 701.300 to 701.338](#), or a standard, limitation, order, rule or regulation promulgated pursuant thereto, or a term or condition of any license has been violated, the director may issue an order assessing an administrative penalty upon the violator under this section. An administrative penalty shall not be imposed until the director has issued a notice of violation pursuant to [section 701.311](#) to the violator regarding the same type of violation within the calendar year. Any order assessing an administrative penalty shall state that an administrative penalty is being assessed under this section and that the person subject to the penalty may appeal as provided by this section. Any such order that fails to state the statute under which the penalty is being sought, the manner of collection or rights of appeal shall result in the state's waiving any right to collection of the penalty.

2. The director shall promulgate rules and regulations for the assessment of administrative penalties. Such rules shall take into consideration the harm or potential harm which the violation causes, or may cause, the violator's previous compliance record, and any other factors which the department may reasonably deem relevant.

3. An administrative penalty shall be paid within sixty days from the date of issuance of the order assessing the penalty. Any person subject to an administrative penalty may appeal to the department within ten days after re-

ceipt of the imposition of penalty. Upon receipt of a request for hearing, the department shall schedule the hearing to be held within thirty days. Any appeal will stay the due date of such administrative penalty until the appeal is resolved. Any person who fails to pay an administrative penalty by the final due date shall be liable to the state for a surcharge of fifteen percent of the penalty plus ten percent per annum on any amounts owed. An action may be brought in the appropriate circuit court to collect any unpaid administrative penalty, and for attorney's fees and costs incurred directly in the collection thereof.

4. An administrative penalty shall not be increased in those instances where department action, or failure to act, has caused a continuation of the violation that was a basis for the penalty. Any administrative penalty must be assessed within two years following the department's initial discovery of such alleged violation, or from the date of the department in the exercise of ordinary diligence should have discovered such alleged violation.

5. Any final order imposing an administrative penalty is subject to judicial review on the record upon the filing of a petition pursuant to [section 536.100, RSMo](#), by any person subject to the administrative penalty. The appeal shall be filed in the circuit court of the county where the violation occurred.

6. The director may elect to assess an administrative penalty, or, in lieu thereof, to request that the attorney general or prosecutor file an appropriate legal action seeking a civil penalty in the appropriate circuit court.

7. The penalties collected pursuant to this section shall be deposited in the Missouri Lead Abatement Loan Fund as established in [section 701.337](#). Such penalties shall not be considered charitable contributions for tax purposes.

701.318. Laboratory analysis of lead-bearing substances--regulations governing--laboratories to comply with federal law--blood level test reports

1. The department shall develop regulations for laboratory analysis of lead-bearing substances. Such regulations shall include, but not be limited to, provisions establishing a mandatory quality assurance and quality control program.

2. All laboratories performing blood lead analyses shall be in compliance with the conditions of the federal Clinical Lab Improvement Act (CLIA). [FN1]

3. All laboratories shall report blood lead testing results as required by rule.

[FN1] [42 U.S.C.A. § 263a](#).

701.320. Violations

1. Except as otherwise provided, violation of the provisions of [sections 701.308, 701.309, 701.310, 701.311 and 701.316](#) is a class A misdemeanor.

2. Any lead inspector, risk assessor, lead abatement supervisor, lead abatement worker, project designer, or lead abatement contractor who engages in a lead abatement project while such person's license, issued under [section 701.312](#), is under suspension or revocation is guilty of a class D felony.

701.322. Department of health may provide laboratory services on request-- fees

Upon request of a physician, health care facility or third-party insurer, the department may provide laboratory services for tests related to contagious or infectious diseases. The department may conduct laboratory testing of blood specimens for lead content on behalf of a physician, hospital, clinic, free clinic, municipality or private organization which cannot secure or provide such services through other sources. The department of health and senior services may charge a fee for laboratory services rendered pursuant to this section. Fees for tests related to contagious or infectious diseases shall be deposited in a separate account in the Missouri public health services fund, created in [section 192.900, RSMo](#), and funds in such account shall be used to provide laboratory testing services by the department. Fees for laboratory testing of blood specimens for lead content shall be deposited in the childhood lead testing fund created in [section 701.345](#).

701.324. Right of action not impaired--ordinances regulating lead poisoning

Nothing in [sections 701.300](#) to [701.324](#) shall be interpreted or applied in any manner to defeat or impair the right of any person, entity, municipality or other political subdivision to maintain an action or suit for damages sustained or for equitable relief, or for violation of an ordinance by reason of or in connection with any violation of [sections 701.300](#) to [701.330](#). [Sections 701.300](#) to [701.338](#) shall not prohibit any city, village, township or other political subdivision from enacting and enforcing ordinances establishing a system of lead poisoning control which provides the same or higher standards than those set forth in [sections 701.300](#) to [701.338](#).

701.326. Lead poisoning information and reporting system--health care professional to provide information

1. The department of health and senior services shall establish and maintain a lead poisoning information reporting system which shall include a record of lead poisoning cases which occur in Missouri along with the information concerning these cases which is deemed necessary and appropriate to conduct comprehensive epidemiologic studies of lead poisoning in this state and to evaluate the appropriateness of lead abatement programs.
2. The director of the department of health and senior services shall promulgate rules and regulations specifying the level of lead poisoning which shall be reported and any accompanying information to be reported in each case. Such information may include the patient's name, full residence address, and diagnosis, including the blood lead level. Such information may include pathological findings, the stage of the disease, environmental and known occupational factors, method of treatment and other relevant data from medical histories. Reports of lead poisoning shall be filed with the director of the department of health and senior services within a period of time specified by the director. The department shall prescribe the form and manner in which the information shall be reported.
3. The attending health care professional of any patient with lead poisoning shall provide to the department of health and senior services the information required pursuant to this section.
4. When a case of lead poisoning is reported to the director, the director shall inform such local boards of health, public health agencies, and other persons and organizations as the director deems necessary; provided that, the name of any child contracting lead poisoning shall not be included unless the director determines that such inclusion is necessary to protect the health and well-being of the affected individual.

701.328. Identity of patient and physician protected--consent to release information--use of reports

1. The department of health and senior services shall protect the identity of the patient and physician involved in the reporting required by [sections 701.318 to 701.349](#). Such identity shall not be revealed except that the identity of the patient shall be released only upon written consent of the patient. The identity of the physician shall be released only upon written consent of the physician.
2. The department may release without consent any information obtained pursuant to [sections 701.318 to 701.349](#), including the identities of certain patients or physicians, when the information is necessary for the performance of duties by public employees within, or the legally designated agents of, any federal, state, or local agency, department or political subdivision, but only when such employees and agents need to know such information to perform their public duties.
3. The department shall use or publish reports based upon materials reported pursuant to [sections 701.318 to 701.349](#) to advance research, education, treatment and lead abatement. The department shall geographically index the data from lead testing reports to determine the location of areas of high incidence of lead poisoning. The department shall provide qualified researchers with data from the reported information upon the researcher's compliance with appropriate conditions as provided by rule and upon payment of a fee to cover the cost of processing the data.

701.330. Immunity from liability for providing information--compelling person to submit to examination, treatment, or supervision

1. No individual or organization providing information to the department in accordance with [sections 701.318 to 701.330](#) shall be deemed to be, or be held, liable, either civilly or criminally, for divulging confidential information unless such individual or organization acted in bad faith, negligently, or with malicious purpose.
2. Nothing in [sections 701.318 to 701.330](#) shall be construed to compel any individual to submit to a medical or health department examination, treatment or supervision of any kind.
3. Any violation of [sections 701.318 to 701.330](#) is an infraction.

701.332. Asbestos abatement--excluded structures

For purposes of [sections 643.225 to 643.250, RSMo](#), the term "project" shall exclude any single-family owner-occupied dwellings and vacant public or privately owned residential structures of four dwelling units or less being demolished for the sole purpose of public health, safety or welfare. All vacant structures of four dwelling units or less located in any city not within a county shall be exempt from all geographical and time restrictions for the purpose of demolition pursuant to the National Emissions Standards for Asbestos. Excluded structures that are not located within a city not within a county shall be geographically dispersed. All excluded structures shall be demolished pursuant to a public safety determination by a local or state governmental agency and pose a threat to public safety.

701.334. Minority and female participation in licensure encouraged

The department shall promote and encourage minorities and females and minority-and female-owned entities to

apply for licensure pursuant to [section 701.312](#) as licensed lead inspectors, risk assessors, project designers, and lead abatement contractors, supervisors and workers.

701.336. Public education activities--information clearinghouse--family services to inform as to lead screening and treatment services

1. The department of health and senior services shall cooperate with the federal government in implementing subsections (d) and (e) of [15 U.S.C. 2685](#) to establish public education activities and an information clearinghouse regarding childhood lead poisoning. The department may develop additional educational materials on lead hazards to children, lead poisoning prevention, lead poisoning screening, lead abatement and disposal, and on health hazards during abatement.
2. The department of health and senior services and the department of social services, in collaboration with related not-for-profit organizations, health maintenance organizations, and the Missouri consolidated health care plan, shall devise an educational strategy to increase the number of children who are tested for lead poisoning under the Medicaid program. The goal of the educational strategy is to have seventy-five percent of the children who receive Medicaid tested for lead poisoning. The educational strategy shall be implemented over a three-year period and shall be in accordance with all federal laws and regulations.
3. The division of family services, in collaboration with the department of health and senior services, shall regularly inform eligible clients of the availability and desirability of lead screening and treatment services, including those available through the early and periodic screening, diagnosis, and treatment (EPSDT) component of the Medicaid program.

701.337. Lead abatement plan, financial assistance

1. The department shall have the authority to develop a plan for implementing a program that provides financial assistance via loans or grants to owners of dwellings or child-occupied facilities for performing lead abatement projects. In developing the plan, the department shall consult with the department of natural resources and the department of economic development.
2. The program shall accept applications from local entities for implementing at the local level of lead abatement projects that conform with the requirements of [sections 701.300 to 701.338](#), and any rules promulgated thereunder. For purposes of this section, "**local entities**" shall include any municipality or county, any local not-for-profit community or housing organization or any community assistance project agency.
3. There is hereby established in the state treasury the "Missouri Lead Abatement Loan Fund". The state treasurer shall receive and deposit to the credit of the fund moneys from appropriations by the general assembly, penalties paid because of violations of [sections 701.301 to 701.338](#) and those rules promulgated thereto, repayments by applicants of loans made pursuant to this section, including interest on such loans, and gifts, bequests, donations or any other payments made by any public or private entity for use in carrying out the provisions of this section. The state treasurer shall deposit all moneys in the fund in any of the qualified depositories of the state. All such deposits shall be secured in such a manner and shall be made upon such terms and conditions as are now or may hereafter be provided by law relative to state deposits. Interest accrued by the fund shall be credited to the fund. Notwithstanding the provisions of [section 33.080, RSMo](#), to the contrary, moneys in the fund shall

not revert to the credit of the general revenue fund at the end of the biennium. The fund shall be used solely for the purposes of this section and for no other purpose.

701.338. Rulemaking, effective date

No rule or portion of a rule promulgated under the authority of sections 701.300 to 701.338 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

701.340. Childhood lead testing program

1. Beginning January 1, 2002, the department of health and senior services shall, subject to appropriations, implement a childhood lead testing program which requires every child less than six years of age to be tested for lead poisoning in accordance with the provisions of sections 701.340 to 701.349. In coordination with the department of health and senior services, every health care facility serving children less than six years of age, including but not limited to hospitals and clinics licensed pursuant to chapter 197, RSMo, shall take appropriate steps to ensure that their patients receive such lead poisoning testing.
2. The test for lead poisoning shall consist of a blood sample that shall be sent for analysis to a laboratory licensed pursuant to the federal Clinical Lab Improvement Act (CLIA). The department of health and senior services shall, by rule, determine the blood test protocol to be used.
3. Nothing in sections 701.340 to 701.349 shall be construed to require a child to undergo lead testing whose parent or guardian objects to the testing in a written statement that states the parent's or guardian's reason for refusing such testing.

701.342. Identification of high risk areas for lead poisoning

1. The department of health and senior services shall, using factors established by the department, including but not limited to the geographic index from data from testing reports, identify geographic areas in the state that are at high risk for lead poisoning. All children less than six years of age who reside or spend more than ten hours a week in an area identified as high risk by the department shall be tested annually for lead poisoning.
2. Every child less than six years of age not residing or spending more than ten hours a week in geographic areas identified as high risk by the department shall be assessed annually using a questionnaire to determine whether such child is at high risk for lead poisoning. The department, in collaboration with the department of social services, shall develop the questionnaire, which shall follow the recommendations of the federal Centers for Disease Control and Prevention. The department may modify the questionnaire to broaden the scope of the high-risk category. Local boards or commissions of health may add questions to the questionnaire.
3. Every child deemed to be at high risk for lead poisoning according to the questionnaire developed pursuant to subsection 2 of this section shall be tested using a blood sample.
4. Any child deemed to be at high risk for lead poisoning pursuant to this section who resides in housing currently undergoing renovations may be tested at least once every six months during the renovation and once after the completion of the renovation.

5. Any laboratory providing test results for lead poisoning pursuant to [sections 701.340 to 701.349](#) shall notify the department of the test results of any child tested for lead poisoning as required in [section 701.326](#). Any child who tests positive for lead poisoning shall receive follow-up testing in accordance with rules established by the department. The department shall, by rule, establish the methods and intervals of follow-up testing and treatment for such children.

6. When the department is notified of a case of lead poisoning, the department shall require the testing of all other children less than six years of age, and any other children or persons at risk, as determined by the director, who are residing or have recently resided in the household of the lead-poisoned child.

701.343. Department of health; duties regarding childhood lead testing

The department of health and senior services shall have the following duties regarding the childhood lead testing program:

(1) By January 1, 2002, the department shall develop an educational mailing to be sent to every physician licensed by and practicing in this state informing such physician of the childhood lead testing program and the responsibilities of physicians pursuant to such program;

(2) The department of health and senior services shall, by January 1, 2002, develop guidelines, educational materials and a questionnaire to be used by physicians to determine whether pregnant women are at high risk and should be tested for lead poisoning;

(3) The department shall apply for, take all steps necessary to qualify for and accept any federal funds made available or allotted pursuant to any federal act or program for state lead poisoning prevention programs;

(4) The director of the department of health and senior services or the director's designee may, subject to appropriations, contract with a public agency or a university, or collaborate with any agencies, individuals or groups to provide necessary services, develop educational programs, scientific research and organization, and interpret data from lead testing reports;

(5) The department shall promulgate such rules as may be necessary; and

(6) Beginning January 1, 2003, and every January first thereafter, the department of health and senior services shall submit a report evaluating the childhood lead testing program as set forth in [sections 701.340 to 701.349](#) to the governor and the following committees of the Missouri legislature: senate appropriations committee, senate public health and welfare committee, house appropriations--health and mental health committee and house public health committee.

701.344. High risk areas for lead poisoning; child care facilities; proof of lead poisoning test

1. In geographic areas determined to be of high risk for lead poisoning as set forth in [section 701.342](#), every child care facility, as defined in [section 210.201, RSMo](#), and every child care facility affiliated with a school system, a business organization or a nonprofit organization shall, within thirty days of enrolling a child, require the child's parent or guardian to provide evidence of lead poisoning testing in the form of a statement from the health care professional that administered the test or provide a written statement that states the parent's or guard-

ian's reason for refusing such testing. If there is no evidence of testing, the person in charge of the facility shall provide the parent or guardian with information about lead poisoning and locations in the area where the child can be tested. When a parent or guardian cannot obtain such testing, the person in charge of the facility may arrange for the child to be tested by a local health officer with the consent of the child's parent or guardian. At the beginning of each year of enrollment in such facility, the parent or guardian shall provide proof of testing in accordance with the provisions of [sections 701.340 to 701.349](#) and any rules promulgated thereunder.

2. No child shall be denied access to education or child care because of failure to comply with the provisions of [sections 701.340 to 701.349](#).

701.345. Childhood Lead Testing Fund

1. There is hereby created in the state treasury the "Childhood Lead Testing Fund". The state treasurer shall deposit to the credit of the fund all moneys which may be appropriated to it by the general assembly and also any gifts, contributions, grants, bequests or other aid received from federal, private or other sources related to lead testing, education and screening. The general assembly may appropriate moneys to the fund for the support of the childhood lead testing program established in [sections 701.340 to 701.349](#). The moneys in the fund shall be used to fund the administration of childhood lead programs, the administration of blood tests to uninsured children, educational materials and analysis of lead blood test reports and case management.

2. Notwithstanding the provisions of [section 33.080, RSMo](#), to the contrary, moneys in the fund shall not revert to the credit of the general revenue fund at the end of the biennium.

701.346. Rules

The department of health and senior services shall promulgate rules to implement the provisions of [sections 701.340 to 701.349](#). No rule or portion of a rule promulgated under the authority of [sections 701.340 to 701.349](#) shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

701.348. Ordinances, rules or laws regarding the prevention and detection of lead poisoning

Nothing in [sections 701.340 to 701.349](#) shall prohibit a political subdivision of this state or a local board of health from enacting and enforcing ordinances, rules or laws for the prevention, detection and control of lead poisoning which provide the same or more stringent provisions as [sections 701.340 to 701.349](#), or the rules promulgated thereunder.

701.349. Severability

If any provisions of [sections 701.340 to 701.349](#), or the application thereof, to any persons or circumstances are [FN1] held invalid, such validity shall not affect other provisions or applications of [sections 701.340 to 701.349](#) that can be given effect without the invalid provision or application, and to this end the provisions of [sections 701.340 to 701.349](#) are declared to be severable.

[FN1]Word "is" appears in original rolls.

Statutes are current with emergency legislation approved through June 26, 2009, of the 2009 First Regular Ses-

sion of the 95th General Assembly,
tion.

Constitution are current through November 4, 2008 General Elec-

END OF DOCUMENT