

Code of Laws of South Carolina 1976 Annotated Currentness

Title 44. Health

↳ Chapter 53. Poisons, Drugs and Other Controlled Substances

→ Article 13. Childhood Lead Poisoning Prevention and Control

§ 44-53-1310. Short title.

This article may be cited as the "Childhood Lead Poisoning Prevention and Control Act".

§ 44-53-1320. Definitions.

As used in this article, unless the context requires otherwise:

- (1) "Accessible surface" means any protruding interior or exterior surface that a child can mouth or chew including, but not limited to, an interior windowsill.
- (2) "Child" or "children" means a person under six years of age.
- (3) "Childcare facility" means a structure or portion of a structure in which children are present on a regular basis, including a structure used as a school, nursery, childcare facility, or other facility catering to the needs of children, including an outbuilding, fencing, or other structure used in conjunction with the structure.
- (4) "Department" means the Department of Health and Environmental Control.
- (5) "Dwelling" means a structure, all or part of which is designed or used for human habitation, including a primary residence, secondary residence, outbuilding, fencing, or other structure used in conjunction with the structure.
- (6) "Dwelling unit" means a room, group of rooms, or other areas of a dwelling.
- (7) "Friction surface" means an interior or exterior surface subject to abrasion or friction including, but not limited to, a window or stair tread.
- (8) "Householder" means the occupant of a dwelling or dwelling unit or the occupant's agent, the owner of an unoccupied dwelling unit or the owner's agent, or the owner or occupant of a childcare facility or the owner's or occupant's agent.
- (9) "Impact surface" means an interior or exterior surface subject to damage by repeated impact on contact including, but not limited to, doors and door jambs.
- (10) "Lead-based hazard" means a condition that causes exposure to lead from lead-contaminated paint, lead-contaminated dust, bare lead-contaminated soil, or other lead-based substance that is deteriorated in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects.
- (11) "Lead-base substance" means paint, lacquer, glaze, or other material containing more than six hundredths of

one percent (0.06 percent) lead by weight, or seven-tenths or more milligrams per square centimeter (0.7 mg/cm²) of lead in the dried paint film applied. Standards for lead-contaminated dust and lead-contaminated soil must be the same as those established by the United States Environmental Protection Agency.

(12) "Person" means an individual, firm, corporation, association, trust, or partnership.

(13) "Lead poisoning" means a blood lead level at an elevation hazardous to health as established by the Department of Health and Environmental Control.

§§ 44-53-1330, 44-53-1340. Omitted by 2005 Act No. 142, § 1, eff June 7, 2005.

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§ 44-53-1350. Exemptions.

The provisions of this article do not apply to items that are exempt pursuant to federal law.

§ 44-53-1360. Program for early diagnosis of cases of childhood lead poisoning; examinations; records.

(A) The department may establish a program for the early diagnosis of cases of childhood lead poisoning. The program must provide for systematic examination for lead poisoning of children at risk residing within the State. Examinations must be made by such means and at such intervals as the department determines to be medically necessary.

The program must give priority in examinations to those children residing, or who have recently resided, in areas where significant numbers of lead poisoning cases have been reported recently or where other reliable evidence indicates that significant numbers of lead poisoning cases may be found.

(B) When the department is notified of a case of lead poisoning, the department shall examine or refer for examination within thirty days all other children under six years of age, and other children as the department finds advisable to examine, residing or recently residing in the household of the victim or in all other dwelling units in the dwelling of the victim or in a childcare facility occupied by the victim, unless the parents or guardian of the child objects to the examination because it conflicts with his or her religious beliefs or practices.

The department shall maintain comprehensive records of all examinations conducted pursuant to this section. These records are strictly confidential and may not be released except as required by law or by court order.

§ 44-53-1370. Childhood lead poisoning prevention education program.

The department may institute a childhood lead poisoning prevention education program. The program shall emphasize the dangers and sources of lead poisoning and the methods of lead poisoning prevention and lead-based hazard remediation.

§ 44-53-1380. Notification of incidents of lead poisoning.

(A) If a physician, hospital, public health nurse, or other diagnosing person or agency knows or has reason to believe that a child he or she examines or treats has or is suspected of having lead poisoning, the person shall noti-

fy the department within seven days. The department shall specify the procedure to be followed and shall provide the necessary forms.

(B) A laboratory doing business in this State shall notify the department of the results of any blood lead analyses conducted on children under six years of age; this notification must be submitted to the department within thirty days of completion of the analysis.

§ 44-53-1390. Investigation of lead poisoning case reports; right of entry.

When the department is notified of a lead poisoning case, the department, upon presentation of the appropriate credentials to the householder, and with the consent of the householder or his agent, may enter a dwelling, dwelling unit, or childcare facility at reasonable times and in a reasonable manner for the purpose of conducting a lead-based hazard investigation and may remove samples of objects necessary for laboratory analysis. If the householder refuses admission to the premises, the department may obtain an administrative warrant from a court of competent jurisdiction to investigate the premises. This section also applies to secondary residences and any other premises routinely occupied by the child.

§ 44-53-1400. Warrants for purpose of conducting investigation; oath or affirmation showing probable cause; contents of warrant.

The issuance and execution of an administrative warrant to investigate must be as follows:

(1) A judge or magistrate of a court having jurisdiction where the investigation is to be conducted, upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting investigations authorized by this article or regulations promulgated pursuant to this article and removing samples of objects from the premises appropriate to the investigations. For the purpose of this section, "probable cause" exists when the circumstances indicate there is reason to believe a child has been exposed or is at risk of being exposed to a lead-based hazard at the premises specified in the warrant.

(2) A warrant must be issued only upon an affidavit of a department employee designated and having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, the judge or magistrate shall issue a warrant identifying the area, premises, building, or conveyance to be investigated, the purpose of the investigation, and, where appropriate, the type of property to be investigated. The warrant must authorize the removal of samples of objects for laboratory analysis, where appropriate. The warrant must be directed to a designated department employee to execute it. The warrant must state the grounds for issuance and the name of the person or persons whose affidavit has been taken in support of the warrant. The warrant must command the person to whom it is directed to investigate the area, premises, building, or conveyance identified for the purpose specified and, where appropriate, authorize removal of samples of objects for laboratory analysis. The warrant must direct that it be served during reasonable hours and must designate the judge or magistrate to whom it must be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of the date of issuance.

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection with the warrant and shall cause these papers to be filed with the court which issued the warrant.

§§ 44-53-1410, 44-53-1420. Omitted by 2005 Act No. 142, § 1, eff June 7, 2005.

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§ 44-53-1430. Notice of identification of lead-based hazard; order that it be remediated; appeals.

(A) If a child resides in a dwelling or dwelling unit or is routinely present at a childcare facility in which a lead-based hazard has been identified, the department shall:

(1) post in or upon the dwelling, dwelling unit, or childcare facility, in a conspicuous place, notice of the existence of the hazard. The notice must not be removed until the department determines that the identified lead-based hazard has been remediated.

(2) give written notice of the existence of the lead-based hazard to the householder occupying the dwelling, dwelling unit, or childcare facility.

(3) give written notice of the existence of the lead-based hazard to the property owner and order that the hazard be remediated within a reasonable period of time.

(B) The property owner of a building subject to this article has the right to appeal the order of the department as a contested case.

§ 44-53-1440. Restriction on rental; existing occupants.

A person must not rent or offer for occupancy a dwelling or dwelling unit to be occupied by children which has been posted and ordered remediated of lead-based hazards until the identified hazards have been remediated. If the presence of the lead-based hazard becomes known when the dwelling or dwelling unit is already rented to a family with children, the family of the children must not be evicted for that reason.

§ 44-53-1450. Regulations.

The department may promulgate regulations as necessary to carry out the intent and provisions of this article.

§ 44-53-1460. Legal actions not affected.

Nothing in this article may be interpreted or applied in any manner to defeat or impair the right of a person, municipality, or other political entity to maintain an action or suit for damages sustained, or equitable relief of, for violation of an ordinance by reason of, or in connection with, a violation of this article.

§ 44-53-1470. Omitted by 2005 Act No. 142, § 1, eff June 7, 2005.

§ 44-53-1480. Penalties.

A person who knowingly violates a provision of this article or an order of the department issued pursuant to this article is guilty of a misdemeanor and, upon conviction, must be fined or imprisoned not more than the maximum allowed by the magistrates' courts in this State. Each day's violation constitutes a separate offense. Isolated lead-based hazard violations existing in dwellings, dwelling units, or childcare facilities must be considered separate violations.

§ 44-53-1485. Civil penalties.

A person who violates a provision of this article or a final determination or order of the department issued pursuant to this article is subject to a civil penalty not to exceed one thousand dollars a day.

§ 44-53-1490. Private causes of action; action by municipality.

(A) A violation of this article does not give rise to a private cause of action. However, this article does not prohibit a person from commencing an action for damages or injunctive relief pursuant to other law; and this article does not prohibit an action by a municipality or other governmental entity for damages or injunctive relief or an action authorized by other law or regulation.

(B) This section does not prohibit the introduction of evidence of failure to comply with the provisions of this article in establishing the appropriate standard of care in the other action.

§ 44-53-1495. Funding contingency.

The provisions of this article are contingent upon the appropriation of state general funds or the availability of financial support from other sources.

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