

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1438*

Short Title: Childhood Lead Exposure Amendments.

(Public)

Sponsors: Representatives Eddins; and Watson.

Referred to: Environment, if favorable, Finance.

May 25, 1998

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CURRENT LAW REGARDING THE CONTROL OF
CHILDHOOD LEAD EXPOSURE, AS RECOMMENDED BY THE
ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-131.5 is repealed.

Section 2. Part 4 of Article 5 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-131.6. Confidentiality of records.

(a) All medical information and records maintained by the Department that identify the name and address, including supplemental addresses, of a child with elevated blood lead levels are not public records pursuant to G.S. 132-1 and shall, subject to subsection (b) of this section, be confidential.

(b) All medical information and records maintained by the Department that identify the name and address, including supplemental addresses, of a child with elevated blood lead levels may be released when the release is made under any of the following circumstances:

(1) Release is made of medical or epidemiological information for statistical purposes in a way that no child can be identified.

- 1 (2) Release is made of all or part of the medical record with the written
2 consent of the parents or guardian of the child.
- 3 (3) Release is made to medical or public health personnel providing
4 medical care or public health services.
- 5 (4) Release is made to a federal, State, or local agency providing housing or
6 housing assistance.
- 7 (5) Release is made to an owner or managing agent of a residential housing
8 unit or child-occupied facility to ensure appropriate environmental
9 intervention.
- 10 (6) Release is made pursuant to a subpoena or court order.
- 11 (7) Release is made by the Department to a court for the purpose of
12 enforcing this Article or any rules adopted pursuant to this Article.
- 13 (8) Release is made by the Department to another federal, State, or local
14 public health, environmental protection, or human services agency to
15 ensure appropriate medical, environmental, or social service follow-up
16 for a child with an elevated blood lead level."

17 Section 3. G.S. 130A-131.7(1) reads as rewritten:

- 18 "(1) 'Abatement' ~~means identifying lead-based paint, identifying or assessing a~~
19 ~~lead-based paint hazard, or undertaking any of the following measures to~~
20 ~~eliminate a lead-based paint hazard:~~
- 21 a. Removing lead-based paint from a surface and repainting the
22 surface.
- 23 b. Removing a component, such as a windowsill, painted with lead-
24 based paint and replacing the component.
- 25 c. Enclosing a surface painted with lead-based paint with paneling,
26 vinyl siding, or another approved material.
- 27 d. Encapsulating a surface painted with lead-based paint with a
28 sealant.
- 29 e. Any other measure approved by the ~~Commission.~~ Department.
30 The term includes an inspection and a risk assessment."

31 Section 4. G.S. 130A-131.7(7) reads as rewritten:

- 32 "(7) 'Lead poisoning hazard' means the presence of readily accessible or
33 mouthable lead-bearing substances, including lead-based paint,
34 measuring 1.0 milligram per square centimeter or greater by X-ray
35 fluorescence or five-tenths of one percent (0.5%) or greater by chemical
36 analysis; or 15 parts per billion or greater in drinking water; or ~~100-50~~
37 ~~micrograms per square foot or greater for dust on floors; or 500-250~~
38 ~~micrograms per square foot or greater for dust on windowsills; or 800~~
39 ~~micrograms per square foot or greater for dust in window troughs, or soil~~
40 ~~lead concentrations in an amount greater than or equal to 400 parts per~~
41 ~~million that is determined by the Department to present a hazard in light~~
42 ~~of (i) the condition and use of the land and (ii) other relevant factors."~~

43 Section 5. G.S. 130A-131.9C reads as rewritten:

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

9 (b) When abatement of lead-based paint hazards or remediation of other lead
10 poisoning hazards is required under subsection (a) of this section, the owner or managing
11 agent shall submit a written remediation plan to the Department within 14 days of receipt
12 of the lead poisoning hazard notification and shall obtain written approval of the plan
13 prior to initiating abatement of lead-based paint hazards or remediation of other lead
14 poisoning hazards. The remediation plan shall comply with subsections (g), (h), and (i) of
15 this section.

16 (c) If the remediation plan submitted fails to meet the requirements of this section,
17 the Department shall issue an order requiring submission of a modified plan. The order
18 shall indicate the modifications which shall be made to the remediation plan and the date
19 by which the plan as modified shall be submitted to the Department.

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

23 (e) The owner or managing agent shall notify the Department and the occupants of
24 the dates of remediation activities at least three days prior to the commencement of the
25 activities.

26 (f) Abatement of lead-based paint hazards and remediation of other lead poisoning
27 hazards shall be completed within 60 days of the Department's approval of the
28 remediation plan. If these activities are not completed within 60 days as required, the
29 Department shall issue an order requiring completion of the activities. An owner or
30 managing agent may apply to the Department for an extension of the deadline. The
31 Department may issue an order extending the deadline for 30 days upon proper written
32 application by the owner or managing agent.

33 (g) The following methods of abatement of lead-based paint hazards are
34 prohibited:

- 35 (1) Stripping paint on-site with methylene chloride-based solutions;
- 36 (2) Torch or flame burning;
- 37 (3) Heating paint with a heat gun above 1,100 degrees Fahrenheit;
- 38 (4) Covering with new paint or wallpaper unless all readily accessible lead-
39 based paint has been removed;
- 40 (5) Uncontrolled abrasive blasting; or
- 41 (6) Uncontrolled waterblasting.

42 (h) All lead-containing waste and residue shall be removed and disposed of in
43 accordance with applicable federal, State, and local laws and rules.

1 (i) All remediation plans shall require that the lead poisoning hazards be reduced
2 to below the following levels:

3 (1) Floor lead dust levels ~~are less than 100~~ of 50 micrograms per square foot;

4 (2) Windowsill lead dust levels ~~are less than 500~~ of 250 micrograms per
5 square foot;

6 (3) ~~Window trough lead dust levels are less than 800 micrograms per square~~
7 ~~foot;~~

8 (4) Soil lead levels ~~are less than 400 parts per million or such other level higher~~
9 ~~than 400 parts per million as determined by the Department to prevent a~~
10 ~~hazard in light of the condition and use of the land and in light of other~~
11 ~~relevant factors; and~~

12 (5) Drinking water lead levels ~~less than~~ of 15 parts per billion.

13 (j) The Department shall verify by visual inspection that the approved remediation
14 plan has been completed. The Department may also verify plan completion by residual
15 lead dust monitoring and soil or drinking water lead level measurement.

16 (j1) ~~Compliance with the maintenance standard shall be deemed equivalent to meeting~~
17 ~~satisfies~~ the remediation plan requirements as long as exterior surfaces are also
18 addressed. For owner-occupied residential housing units, compliance with the
19 maintenance standard satisfies the remediation plan requirements for confirmed lead
20 poisoning cases identified on or after January 1, 1997, as long as exterior surfaces are
21 also addressed.

22 (k) Removal of children from the residential housing unit or child-occupied
23 facility shall not constitute abatement or remediation if the property continues to be used
24 for a residential housing unit or child-occupied facility."

25 Section 6. G.S. 130A-131.9D reads as rewritten:

26 "**§ 130A-131.9D. Effect of compliance with maintenance standard.**

27 Any owner of a residential housing unit constructed prior to 1978 who is sued by a
28 current or former occupant seeking damages for injuries allegedly arising from exposure
29 to lead-based paint or lead-contaminated dust, shall not be deemed liable (i) for any
30 injuries sustained by that occupant after the owner first complied with the maintenance
31 standard defined under G.S. ~~130A-131.7(10)~~ 130A-131.7 provided the owner has repeated
32 the steps provided for in the maintenance standard annually for units in which children
33 younger than 6 years of age have resided in or regularly visited within the past year and
34 obtained a certificate of compliance under G.S. 130A-131.9E annually during such
35 occupancy; or (ii) if the owner is able to show by other documentation that compliance
36 with the maintenance standard has been maintained during the period when the injuries
37 were sustained; or (iii) if the owner is able to show that the unit was lead-safe housing
38 containing no lead-based paint hazards during the period when the injuries were
39 sustained."

40 Section 7. G.S. 130A-131.9F reads as rewritten:

41 "**§ 130A-131.9F. Discrimination in ~~financing~~-financing and insurance coverage.**

42 (a) No bank or financial institution in the business of lending money for the
43 purchase, sale, construction, rehabilitation, improvement, or refinancing of real property

1 of the lending of money secured by an interest in real property may refuse to make such
2 loans merely because of the presence of lead-based paint on the residential real property
3 or in the residential housing unit provided that the owner is in compliance with the
4 maintenance standard and has obtained a certificate of compliance under G.S. 130A-
5 131.9E annually.

6 (b) Nothing in this section shall (i) require a financial institution to extend a loan
7 or otherwise provide financial assistance if it is clearly evident that health-related issues,
8 other than those related to lead-based paint, made occupancy of the housing
9 accommodation an imminent threat to the health or safety of the occupant, or (ii) be
10 construed to preclude a financial institution from considering the fair market value of the
11 property which will secure the proposed loan.

12 (c) Failure to meet the maintenance standard shall not be deemed a default under
13 existing mortgages.

14 (d) Liability insurers shall provide liability insurance that includes coverage for
15 injuries allegedly arising from exposure to lead-based paint or lead-contaminated dust.
16 Liability insurers shall provide liability insurance at a reduced rate for an owner or
17 managing agent of a residential housing unit when both of the following conditions are
18 satisfied:

19 (1) Lead-based paint hazards in the unit have been substantially diminished
20 in accordance with the maintenance standard defined in G.S. 130A-
21 131.7.

22 (2) The prospective insured is in possession of a valid certificate of
23 compliance in accordance with G.S. 130A-131.9E."

24 Section 8. Part 4 of Article 5 of Chapter 130A of the General Statutes is
25 amended by adding a new section to read:

26 "**§ 130A-131.9H. Application fees for certificates of compliance.**

27 The Department shall establish and collect application fees for certificates of
28 compliance. These fees shall be used to support the program that is developed to
29 implement this Part. These fees also may be used to provide for relocation and medical
30 expenses incurred by children with confirmed lead poisoning. The application fees shall
31 not exceed ten dollars (\$10.00) for each residential housing unit."

32 Section 9. This act becomes effective October 1, 1998.