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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1116 Session of  
2003

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INTRODUCED BY DeLUCA, BELFANTI, BEBKO-JONES, FABRIZIO, HARHAI,  
LAUGHLIN, LEDERER, RUFFING, THOMAS, WALKO, WASHINGTON AND  
YOUNGBLOOD, APRIL 9, 2003

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REFERRED TO COMMITTEE ON LABOR RELATIONS, APRIL 9, 2003

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AN ACT

1 Providing for the certification of persons conducting hazardous  
2 painting; and providing for a penalty.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Hazardous  
7 Painting Certification Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall  
10 have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12 "Department." The Department of Labor and Industry of the  
13 Commonwealth.

14 "Employee." A person who works for an employer but not in a  
15 place used primarily as a personal residence.

16 "Employer." A person, including the Commonwealth or a  
17 political subdivision of the Commonwealth, who has one or more

1 employees working in a place not used primarily as a personal  
2 residence.

3 "Hazardous painting." The application of a substance  
4 containing or combined with a toxic or hazardous substance in  
5 vaporized, liquid or particulate form to create a coating that  
6 will adhere to a surface to protect or preserve the surface. The  
7 term does not include the application of water-based paint that  
8 does not contain emulsion epoxies or isocyanates.

9 "Health hazard." A substance or physical agent capable of  
10 causing acute or chronic adverse effects on health.

11 "Individual." Any of the following:

12 (1) A painting contractor, an employee of a painting  
13 contractor or a person engaged in the business of painting,  
14 but not including a casual laborer, a commercial artist or a  
15 person who creates artworks.

16 (2) A glazing contractor, an employee of a glazing  
17 contractor or a person engaged in the business of glazing.

18 (3) A drywall finishing contractor, an employee of a  
19 drywall finishing contractor or a person engaged in the  
20 business of drywall finishing.

21 (4) A wallcovering or paperhanging contractor, an  
22 employee of a wallcovering or paperhanging contractor or a  
23 person engaged in the business of wallcovering or  
24 paperhanging.

25 "Toxic or hazardous substance."

26 (1) Any of the following:

27 (i) A chemical listed in 29 CFR Pt. 1910 Subpt. Z  
28 (relating to toxic and hazardous substances).

29 (ii) A chemical listed in "Threshold Limit Values  
30 for Chemical Substances and Physical Agents in the Work

Environment," American Conference of Governmental  
Industrial Hygienists (Latest Edition).

(iii) A substance for which an Occupational Safety  
and Health Administration form 20 or equivalent  
information is required under Occupational Safety and  
Health Administration regulations.

(iv) A substance determined by the Department of  
Labor and Industry to be a health hazard to a person who  
is exposed to the substance, including, but not limited  
to, a carcinogen, reproductive toxin, irritant,  
corrosive, sensitizer, hepatotoxin, nephrotoxin,  
neurotoxin, an agent that acts on the hematopoietic  
system, an agent that damages the lungs, a cutaneous  
hazard or an eye hazard.

(2) The term does not include substances that because of  
their physical state, volume or concentration do not pose a  
health hazard upon exposure or substances that are goods,  
food, drugs, cosmetics or tobacco products intended for  
personal consumption or substances in transit or lead.

"Transit." Conveyed in a sealed or unopened container by a  
mode of transportation.

### Section 3. Hazardous painting certificate required.

(a) Certificate required.--A person may not employ or  
contract with an individual to perform hazardous painting for  
compensation unless the individual holds a current valid  
hazardous painting certificate issued by the department. As a  
condition of employment, an employer may require an individual  
to provide a copy of the certificate. It is a defense to a  
violation by an employer of this subsection if the employer  
produces a copy of the individual's certificate and the employer

1 reasonably believed the certificate was not falsified.

2 (b) Falsified certificate.--An individual may not provide a  
3 falsified hazardous painting certificate to an employer or make  
4 a false statement to an employer regarding the individual's  
5 certification.

#### 6 Section 4. Issuance of certificate.

7 (a) Application.--An application for issuance of a hazardous  
8 painting certificate shall be on a form prescribed by the  
9 department. An application for initial issuance of a certificate  
10 must include proof that the applicant completed an approved  
11 basic hazardous painting certificate program not more than 30  
12 days before the application was received by the department. An  
13 application for certificate renewal must include proof that the  
14 applicant completed an approved supplemental hazardous painting  
15 certificate program not more than 30 days before the date the  
16 application was received by the department.

17 (b) Issuance.--The department shall issue a hazardous  
18 painting certificate to an applicant who has completed an  
19 application and submitted a certificate fee. A certificate shall  
20 be valid for three years.

#### 21 Section 5. Fee.

22 The department shall establish the triennial fee for a  
23 hazardous painting certificate by regulation. The fee must  
24 reflect the department's approximate costs or projected costs  
25 for the hazardous painting certification program.

#### 26 Section 6. Certificate programs.

27 (a) Duties.--The department shall:

28 (1) Establish requirements for basic supplemental  
29 hazardous painting certificate programs.

30 (2) Review and approve or disapprove programs proposed

by contractors, labor organizations, public and private schools, vocational education institutions or other persons.

(3) Assist persons who propose programs to meet requirements for approval.

(b) Instruction and testing.--A basic hazardous painting certificate program shall include instruction and written and practical testing in methods of ventilation, respirator selection, chemical reaction to body tissue, proper use of painting tools, knowledge of relevant health and safety laws and regulations. A basic hazardous painting certificate program may not exceed 16 hours of instruction and testing. A supplemental hazardous painting certificate program shall include instruction and written and practical testing necessary to ensure that a person who completes the program is knowledgeable about new developments and changes related to hazardous painting that have occurred since the person completed a basic hazardous painting certificate program.

(c) Safety instruction.--A hazardous painting certificate program conducted by an employer of a person enrolled in the program may include safety instruction.

## Section 7. Inspections and citations.

The department shall:

(1) Inspect job sites to assure that individuals performing hazardous painting are certified as required under this act and are performing the work safely.

(2) Issue citations to persons who employ or contract with an individual in violation of this act.

(3) Issue citations to individuals who violate this act.

## Section 8. Regulations.

The department shall adopt regulations to carry out the

1 provisions of this act.

2 Section 9. Penalty.

3 The department may impose a civil fine of not more than \$200  
4 for a first violation and not more than \$1,000 for a subsequent  
5 violation of this act or a regulation adopted pursuant to this  
6 act.

7 Section 14. Effective date.

8 This act shall take effect in 60 days.