
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 674 Session of
2005

INTRODUCED BY DeLUCA, BELFANTI, CURRY, DALEY, EACHUS, FABRIZIO,
W. KELLER, LEDERER, MELIO, SOLOBAY, THOMAS AND YOUNGBLOOD,
MARCH 1, 2005

REFERRED TO COMMITTEE ON LABOR RELATIONS, MARCH 1, 2005

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 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 residence.

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

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

10 "Individual." A painting contractor, an employee of a
11 painting contractor or a person engaged in the business of
12 painting, but not including a casual laborer, a commercial
13 artist or a person who creates artworks.

14 "Toxic or hazardous substance."

15 (1) Any of the following:

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

18 (ii) A chemical listed in "Threshold Limit Values
19 for Chemical Substances and Physical Agents in the Work
20 Environment," American Conference of Governmental
21 Industrial Hygienists (Latest Edition).

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

26 (iv) A substance determined by the Department of
27 Labor and Industry to be a health hazard to a person who
28 is exposed to the substance, including, but not limited
29 to, a carcinogen, reproductive toxin, irritant,
30 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 reasonably believed the certificate was not falsified.

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

Section 4. Issuance of certificate.

(a) Application.--An application for issuance of a hazardous painting certificate shall be on a form prescribed by the department. An application for initial issuance of a certificate must include proof that the applicant completed an approved basic hazardous painting certificate program not more than 30

1 days before the application was received by the department. An
2 application for certificate renewal must include proof that the
3 applicant completed an approved supplemental hazardous painting
4 certificate program not more than 30 days before the date the
5 application was received by the department.

6 (b) Issuance.--The department shall issue a hazardous
7 painting certificate to an applicant who has completed an
8 application and submitted a certificate fee. A certificate shall
9 be valid for three years.

10 Section 5. Fee.

11 The department shall establish a triennial fee for a
12 hazardous painting certificate by regulation. The fee must
13 reflect the department's approximate costs or projected costs
14 for the hazardous painting certification program.

15 Section 6. Certificate programs.

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

17 (1) Establish requirements for basic and supplemental
18 hazardous painting certificate programs.

19 (2) Review and approve or disapprove programs proposed
20 by contractors, labor organizations, public and private
21 schools, vocational education institutions, construction
22 associations or other persons.

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

25 (b) Instruction and testing.--

26 (1) A basic hazardous painting certificate program shall
27 include instruction and written and practical testing in
28 methods of ventilation, respirator selection, chemical
29 reaction to body tissue, proper use of painting tools,
30 knowledge of relevant health and safety laws and regulations.

1 A basic hazardous painting certificate program may not exceed
2 16 hours of instruction and testing.

3 (2) A supplemental hazardous painting certificate
4 program shall include instruction and written and practical
5 testing necessary to ensure that a person who completes the
6 program is knowledgeable about new developments and changes
7 related to hazardous painting that have occurred since the
8 person completed a basic hazardous painting certificate
9 program.

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

13 Section 7. Inspections and citations.

14 The department shall:

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

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

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

21 Section 8. Regulations.

22 The department shall adopt regulations to carry out the
23 provisions of this act.

24 Section 9. Penalty.

25 The department may impose a civil fine of not more than \$200
26 for a first violation and not more than \$1,000 for a subsequent
27 violation of this act or a regulation adopted pursuant to this
28 act.

29 Section 10. Applicability.

30 Notwithstanding any other provisions herein, this act shall

1 not apply to activities in any building or portion of a building
2 used primarily for residential purposes.

3 Section 14. Effective date.

4 This act shall take effect as follows:

5 (1) Section 3 of this act shall take effect in 180 days.

6 (2) The remainder of this act shall take effect
7 immediately.