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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2144 Session of  
1993

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INTRODUCED BY ARMSTRONG, McNALLY, MARKOSEK, SANTONI, MELIO,  
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FARMER, ARGALL, BROWN, NAILOR, VANCE, CHADWICK, CIVERA,  
GLADECK AND ZUG, OCTOBER 6, 1993

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REFERRED TO COMMITTEE ON LABOR RELATIONS, OCTOBER 6, 1993

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AN ACT

1 Providing for the accreditation of persons engaged in  
2 occupations relating to lead, for certification standards and  
3 procedures and for additional duties of the Department of  
4 Labor and Industry; establishing the Lead Control Advisory  
5 Committee and providing for its powers and duties; and  
6 providing for enforcement and penalties.

7 The General Assembly finds and declares that improperly  
8 performed lead removal and other lead reduction measures create  
9 unnecessary and undesirable public health hazards. Exposure to  
10 lead, even in small amounts, can affect every system in the  
11 body. It is particularly harmful to the developing brain and  
12 nervous systems of fetuses and young children. Efforts to  
13 prevent exposure to lead by improper removal or other improper  
14 remedial measures can result in increased exposure for building  
15 occupants and the general public if the work is not done in  
16 accordance with procedures designed to prevent human and  
17 environmental contamination. It is, therefore, the intent of  
18 this act to protect the public by preventing increased exposure

1 to lead in buildings by establishing a program to accredit lead  
2 occupations to insure that persons who design or conduct  
3 abatement activities at certain facilities have the necessary  
4 skill, training, experience and competence to perform these  
5 activities.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Lead  
10 Occupations Accreditation and Certification Act.

11 Section 2. Definitions.

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

15 "Accreditation." A certificate issued by the Department of  
16 Labor and Industry permitting a person to conduct lead  
17 occupation training courses.

18 "Advisory committee." The Lead Control Advisory Committee  
19 created under section 10.

20 "Building." All or part of any public or private building or  
21 structure.

22 "Certification." A certificate issued by the Department of  
23 Labor and Industry permitting a person to work in a lead  
24 occupation and which contains a recent photograph of that  
25 person.

26 "Department." The Department of Labor and Industry of the  
27 Commonwealth.

28 "EPA." The Environmental Protection Agency.

29 "Lead-containing material." Any material that contains more  
30 than 0.5% lead by weight.

1 "Lead-hazard reduction." Any demolition, renovation, repair,  
2 construction or maintenance activity of any public or private  
3 facility that involves the repair, enclosure, encapsulation,  
4 removal, salvage, handling or disposal of any lead-containing  
5 material.

6 "Lead occupation." An inspector, a management planner, a  
7 project designer, a contractor, a supervisor or a worker at a  
8 lead-hazard reduction project.

9 "Person." An individual, a public or private corporation, a  
10 nonprofit corporation, an association, a firm, a partnership, a  
11 joint venture, a business trust, a joint stock company, a  
12 municipal corporation, the Federal Government and any of its  
13 agencies, the Commonwealth and any of its agencies or political  
14 subdivisions or any other entity, public or private, however  
15 organized.

16 "Secretary." The Secretary of Labor and Industry of the  
17 Commonwealth.

18 Section 3. Certification requirement.

19 It shall be unlawful for any person to engage in any lead  
20 occupation in any building without proper certification for that  
21 occupation from the department.

22 Section 4. Accreditation standards and procedures.

23 (a) Regulations of department.--The department shall by  
24 regulation establish standards and procedures for the  
25 accreditation of lead occupation training courses. The standards  
26 and procedures shall include, but not be limited to:

27 (1) The characteristics and uses of lead and the  
28 potential health effects of exposure to lead.

29 (2) Federal, State and local standards relating to lead-  
30 hazard reduction work practices.

1           (3) Methods to protect personal and public health from  
2 lead hazards.

3           (4) Safe and proper lead-hazard reduction techniques.

4           (5) Proper disposal of waste containing lead.

5       (b) Training courses.--

6           (1) In accordance with the criteria and qualifications  
7 established by the department under subsection (a), the  
8 department shall annually accredit training courses that  
9 satisfy initial and renewal training requirements for  
10 certification for lead occupations.

11          (2) In addition to the other requirements of this  
12 section, any person providing a training course for which  
13 accreditation is sought shall demonstrate to the department's  
14 satisfaction his ability and proficiency to conduct the  
15 training.

16          (3) Any person providing accredited lead occupation  
17 training shall make available to the department, at no cost  
18 to the department and at such times as the department may  
19 deem necessary, all course materials and records and access  
20 to actual training sessions.

21          (4) The department may allow the use of training courses  
22 offered in other states or jurisdictions to satisfy the  
23 training requirements of this Commonwealth if the department  
24 finds that the training received in the other states or  
25 jurisdictions meets the requirements for training courses  
26 under this act and the regulations promulgated under this  
27 act.

28          (5) All training courses approved by the EPA on the  
29 effective date of this act shall be deemed to be accredited  
30 under this section. However, nothing in this section shall

1 prohibit the department from requiring any training provider  
2 to comply with its renewal requirements in order to have its  
3 accreditation renewed.

4 Section 5. Certification standards and procedures.

5 (a) Regulation of department.--The department shall  
6 establish by regulation standards and procedures for the  
7 certification of persons involved in lead occupations. The  
8 standards and procedures shall include, but not be limited to,  
9 the following requirements:

10 (1) Successful completion of a training course on State  
11 laws and regulations regarding lead.

12 (2) Passing a written examination administered or  
13 approved by the department which tests the person's knowledge  
14 of Federal and State laws as they apply to that person's lead  
15 occupation.

16 (b) Lead occupations.--Any person meeting the requirements  
17 established under subsection (a) may be certified by the  
18 department to perform lead occupations.

19 (c) Certification in another jurisdiction.--

20 (1) The department may certify for a lead occupation any  
21 person who has been certified by another state or territory  
22 of the United States or any other jurisdiction which has  
23 requirements at least as stringent as those promulgated under  
24 subsection (a).

25 (2) The department shall, within 120 days after the  
26 effective date of this act, publish in the Pennsylvania  
27 Bulletin a list of those jurisdictions which meet the  
28 requirements of paragraph (1) and with which reciprocity will  
29 be granted. As the department adds and deletes jurisdictions,  
30 it shall publish revised lists.

1           (3) Except as provided in paragraph (4), any person  
2 receiving reciprocal certification under this subsection  
3 shall be required to pay the appropriate fee established  
4 under section 7 and shall obtain a State certificate.

5           (4) Any person accredited by a city of the first class  
6 or a county of the second class shall be deemed to be  
7 certified under this section. In addition, any person  
8 certified by a city of the first class or a county of the  
9 second class shall not be required to obtain a State  
10 certification, provided that the person has been issued a  
11 certificate which contains a recent photograph. If the  
12 certificate issued by a city of the first class or a county  
13 of the second class does not contain a photograph, the person  
14 shall reimburse the department for the cost of the issuance  
15 of a State accreditation certificate.

16 Section 6. Suspension, revocation, etc.

17       (a) Grounds.--The department may reprimand, suspend, deny or  
18 revoke any accreditation or certification issued under this act  
19 to any person who:

20           (1) Fraudulently or deceptively obtains or attempts to  
21 obtain accreditation or certification.

22           (2) Fails at any time to meet the qualification  
23 requirements of this act or any regulations adopted  
24 thereunder.

25           (3) Fails to meet any applicable Federal or State  
26 standard relating to lead abatement.

27           (4) Fails to pay the required accreditation or  
28 certification fee.

29           (5) Fails to notify the department as required under  
30 section 8.

(b) Enforcement proceedings.--Action under this section shall not preclude the department from proceeding under section 9.

#### Section 7. Fees.

(a) Schedules.--The department shall establish a schedule of fees for:

(1) Certification of inspectors, management planners, project designers, contractors, supervisors and workers at lead-hazard reduction projects.

(2) Accreditation of training courses.

(b) Costs.--The fees established under this section shall be based upon the costs incurred by the department in carrying out the lead occupation certification and training course accreditation programs established under this act.

(c) Deposit offer.--All fees collected under this act shall be deposited in a separate restricted account in the State Treasury. All moneys in this account are hereby appropriated to the department on a continuing basis to carry out the purposes of this act.

(d) Waivers.--In adopting the schedule of fees under this section, the department may include provisions and procedures for granting a waiver of a fee.

#### Section 8. Contractor notification of lead-hazard reduction projects.

All contractors performing a lead-hazard reduction project shall report to the department the start of any lead-hazard reduction project on a form prescribed by the department. This form shall include at least the following information:

(1) The name, address and certification verification of the contractor.

1           (2) The name, address and political subdivision of the  
2 location of the lead project.

3           (3) The name and mailing address of the building owner,  
4 if different from the location.

5           (4) The estimated amount of lead involved in the lead-  
6 hazard reduction project.

7           (5) The estimated completion date.

8           (6) The name and address of the landfill where the lead  
9 will be sent for disposal.

10 Nothing in this section shall prohibit the department from  
11 requiring additional information that is deemed necessary to  
12 develop and maintain information on lead-hazard reduction  
13 activities within this Commonwealth.

#### 14 Section 9. Enforcement and penalties.

##### 15 (a) General rule.--

16           (1) The provisions of this act shall apply to all lead-  
17 hazard reduction projects in this Commonwealth and shall be  
18 enforced by the department, the district attorney of any  
19 county or the proper enforcement officer of any municipality  
20 in which a lead-hazard reduction project is occurring.

21           (2) A municipality may require proof of certification  
22 from any person engaged in lead occupations within its  
23 jurisdiction. For the purposes of this paragraph, the  
24 certificate issued by the department or its equivalent shall  
25 constitute the required proof of certification.

26           (b) Cities of the first class and counties of the second  
27 class.--Nothing in this act shall be construed as affecting  
28 ordinances regulating lead-hazard reduction projects in cities  
29 of the first class or counties of the second class or the  
30 licensing and accreditation of lead occupations in cities of the



1 first class or counties of the second class inasmuch as the  
2 ordinances are at least as stringent as this act. The duly  
3 appointed officers of cities of the first class or counties of  
4 the second class shall be equally responsible with the secretary  
5 for the enforcement of this act and the regulations of the  
6 department pertaining to the certification of lead occupations  
7 and the accreditation of lead occupation training courses.

8 (c) Powers of enforcement officers.--For the purposes of  
9 enforcing the provisions of this act, all the officers charged  
10 with its enforcement shall have the power to enter any buildings  
11 or structures not properly certified, and no person shall  
12 hinder, delay or interfere with any of the officers in the  
13 performance of their duty nor refuse information necessary to  
14 determine compliance with the provisions of this act and the  
15 rules and regulations promulgated under this act.

16 (d) Penalties.--

17 (1) Any person, as defined in section 2, except a  
18 department, a board, a bureau or an agency of the  
19 Commonwealth, engaging in unlawful conduct as set forth in  
20 this act shall, for each offense, upon conviction in a  
21 summary proceeding, be sentenced to pay a fine of not less  
22 than \$100 nor more than \$1,000, plus the cost of prosecution,  
23 and, in default thereof, to imprisonment for not less than  
24 ten days nor more than 30 days.

25 (2) Any person who willfully violates this act,  
26 including, but not limited to, falsifying documents or  
27 records required and submitted under this act, commits a  
28 misdemeanor of the third degree for the first two violations  
29 and shall, upon conviction, be sentenced to pay a fine of not  
30 more than \$1,000, plus the costs of prosecution, or to

1 imprisonment for not more than 90 days, or both. For each  
2 subsequent violation, a person commits a misdemeanor of the  
3 first degree and shall, upon conviction, be sentenced to pay  
4 a fine of not more than \$2,500, plus the costs of  
5 prosecution, or to imprisonment for not more than one year,  
6 or both.

7 (e) Civil penalty.--In addition to any other civil remedy or  
8 criminal penalty provided for in this act, the department may  
9 levy a civil penalty of not more than \$1,000 a day for an  
10 initial violation and a civil penalty of not more than \$5,000 a  
11 day for each subsequent violation committed within a three-year  
12 period and arising from willful violation of this act.

13 Section 10. Lead Control Advisory Committee.

14 (a) Advisory committee created.--The Lead Control Advisory  
15 Committee is hereby created to advise the secretary with respect  
16 to the rules and regulations of the department promulgated  
17 pursuant to this act and other procedures, standards, criteria,  
18 guidelines or related matters assigned to it by the secretary.

19 (b) Advisory committee membership.--The advisory committee  
20 shall be composed of 11 members, to be appointed by the  
21 secretary as follows:

22 (1) The secretary or his designee, who shall act as  
23 chairperson.

24 (2) The Secretary of Environmental Resources or his  
25 designee.

26 (3) The Secretary of Health or his designee.

27 (4) Two members who shall represent construction  
28 contractors and shall each have a minimum of two years'  
29 experience in lead-hazard reduction.

30 (5) Two members who shall represent construction unions

1       whose members are engaged in lead-hazard reduction.

2           (6) Two members who shall represent the public interest  
3       and shall be members of environmental organizations with  
4       expertise on lead issues.

5           (7) One member who shall represent building owners.

6           (8) One member who shall be an environmental consultant  
7       and shall have a minimum of three years' experience in  
8       consulting on lead-hazard reduction.

9       (c) Lead-hazard reduction.--The advisory committee shall  
10   also study the need for the creation of a lead-hazard reduction  
11   project permitting program and a lead-hazard reduction project  
12   contractor licensure program and shall make recommendations to  
13   the secretary based on its findings.

14   Section 11. Effective date.

15       This act shall take effect in 60 days.