

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 215 Session of 2019

INTRODUCED BY CRUZ, SCHLOSSBERG, KINSEY, McNEILL, OTTEN,
FREEMAN, HILL-EVANS AND NEILSON, JANUARY 28, 2019

REFERRED TO COMMITTEE ON HEALTH, JANUARY 28, 2019

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," in departmental powers and
4 duties as to supervision, providing for lead testing; and, in
5 departmental powers and duties as to licensing, providing for
6 lead testing.

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

9 Section 1. The act of June 13, 1967 (P.L.31, No.21), known
10 as the Human Services Code, is amended by adding sections to
11 read:

12 Section 912. Lead Testing.--(a) A person seeking to
13 operate, or to continue to operate, a children's institution
14 shall submit:

15 (1) a lead certification from an individual or laboratory
16 accredited by the Department of Environmental Protection that
17 includes lead levels in water; and

18 (2) for a building built prior to 1978, a lead inspection
19 completed by a certified contractor, an inspector-risk assessor
20 or an inspector-technician in accordance with the act of July 6,

1 1995 (P.L.291, No.44), known as the Lead Certification Act, that
2 includes testing for lead levels in paint, dust and soil and
3 hazardous conditions. A children's institution built prior to
4 1978 shall not be required to test for lead levels in paint if a
5 full remediation or abatement of all lead paint has been
6 completed and a certification or inspection report of such is
7 produced.

8 (b) The department shall not permit initial operation of a
9 children's institution if the lead certification and lead
10 inspection required under subsection (a) have either of the
11 following:

12 (1) Lead levels in water that are:

13 (i) in excess of the level set by the Environmental
14 Protection Agency in the national primary drinking water
15 regulations; or

16 (ii) in excess of the lead levels set by the Department of
17 Environmental Protection in accordance with the act of May 1,
18 1984 (P.L.206, No.43), known as the Pennsylvania Safe Drinking
19 Water Act.

20 (2) For a building built prior to 1978, lead levels in
21 paint, dust and soil that are:

22 (i) in excess of the levels set by the Environmental
23 Protection Agency through its hazard standards for lead in
24 paint, dust and soil under section 403 of the Toxic Substances
25 Control Act (Public Law 94-469, 15 U.S.C. § 2683);

26 (ii) in excess of the levels set by the United States
27 Department of Housing and Urban Development through its
28 Guidelines for the Evaluation and Control of Lead-Based Paint
29 Hazards in Housing;

30 (iii) in excess of the levels recommended by the Centers for

1 Disease Control and Prevention, Advisory Committee on Childhood
2 Lead Poisoning Prevention; or
3 (iv) in excess of the lead levels set by State law or
4 regulation.

5 (c) The department shall require corrective action for
6 continued operation of a children's institution if the lead
7 certification and lead inspection required under subsection (a)
8 have either of the levels under subsection (b).

9 (d) This section shall not affect the department's authority
10 to refuse to permit the operation of a children's institution or
11 take any other action under any applicable statute or
12 regulation.

13 (e) Every parent or legal guardian who has a child enrolled
14 in a children's institution shall be provided notification of
15 the results of the lead certification and lead inspection under
16 this section. In addition, the results of the lead certification
17 and lead inspection shall be posted on the department's publicly
18 accessible Internet website and, if available, the publicly
19 accessible Internet website of the children's institution
20 holding a license from the department.

21 (f) As used in this section, the following words and phrases
22 shall have the meanings given to them in this subsection unless
23 the context clearly indicates otherwise:

24 "Certified contractor" means a person approved by the
25 Department of Labor and Industry to perform lead-based paint
26 activities in this Commonwealth under the act of July 6, 1995
27 (P.L.291, No.44), known as the Lead Certification Act.

28 "Hazardous condition" means any condition that causes
29 exposure to lead from lead-contaminated dust, lead-contaminated
30 soil or a lead-contaminated paint that is deteriorated or

1 present in accessible surfaces, friction surfaces or impact
2 surfaces that would result in adverse human health effects as
3 established by the administrator of the Environmental Protection
4 Agency under section 403 of the Toxic Substances Control Act.

5 "Inspector-risk assessor" means a person trained and
6 certified in accordance with the requirements of the Lead
7 Certification Act, to perform all activities of the inspector-
8 technician, as well as to identify the presence of lead-based
9 paint and to collect additional information designed to assess
10 the level of risk to residents of residential dwellings.

11 "Inspector-technician" means a person trained and certified
12 in accordance with the requirements of the Lead Certification
13 Act, to perform inspections solely for the purpose of
14 determining the presence of lead-based paint through the use of
15 onsite testing, such as XRF analysis, and the collection of
16 samples for laboratory analysis.

17 Section 1004. Lead Testing.--(a) A person desiring to
18 obtain or renew a license for maintaining, operating and
19 conducting a child care center or family child care home shall
20 submit:

21 (1) a lead certification from an individual or laboratory
22 accredited by the Department of Environmental Protection that
23 includes lead levels in water; and

24 (2) for a building built prior to 1978, a lead inspection
25 completed by a certified contractor, an inspector-risk assessor
26 or an inspector-technician in accordance with the act of July 6,
27 1995 (P.L.291, No.44), known as the Lead Certification Act, that
28 includes testing for lead levels in paint, dust and soil and
29 hazardous conditions. A child care center or family child care
30 home built prior to 1978 shall not be required to test for lead

1 paint if a full remediation or abatement of all lead paint has
2 been completed and a certification or inspection report of such
3 is produced.

4 (b) The department shall not issue an initial license for
5 maintaining, operating and conducting a child care center or
6 family child care home if the lead certification and lead
7 inspection required under subsection (a) have either of the
8 following:

9 (1) Lead levels in water that are:

10 (i) in excess of the level set by the Environmental
11 Protection Agency in the national primary drinking water
12 regulations; or

13 (ii) in excess of the lead levels set by the Department of
14 Environmental Protection in accordance with the act of May 1,
15 1984 (P.L.206, No.43), known as the Pennsylvania Safe Drinking
16 Water Act.

17 (2) For a building built prior to 1978, lead levels in
18 paint, dust and soil that are:

19 (i) in excess of the levels set by the Environmental
20 Protection Agency through its hazard standards for lead in
21 paint, dust and soil under section 403 of the Toxic Substances
22 Control Act (Public Law 94-469, 15 U.S.C. § 2683);

23 (ii) in excess of the levels set by the United States
24 Department of Housing and Urban Development through its
25 Guidelines for the Evaluation and Control of Lead-Based Paint
26 Hazards in Housing;

27 (iii) in excess of the levels recommended by the Centers for
28 Disease Control and Prevention, Advisory Committee on Childhood
29 Lead Poisoning Prevention; or

30 (iv) in excess of the lead levels set by State law or

1 regulation.

2 (c) The department shall issue a provisional license in
3 accordance with section 1008 to a person desiring to secure an
4 annual renewal of a license for maintaining, operating and
5 conducting a child care center or family child care home if the
6 lead certification and lead inspection required under subsection
7 (a) has either of the levels under subsection (b).

8 (d) The department shall require corrective action for
9 continued operation of a child care center or family child care
10 home if the lead certification required under subsection (a) has
11 either of the levels under subsection (b).

12 (e) This section shall not affect the department's authority
13 to refuse to issue or revoke a license in accordance with
14 section 1026 or take any other action under applicable statute
15 or regulation.

16 (f) Every parent or legal guardian who has a child enrolled
17 in a child care center or family child care home shall be
18 provided notification of the results of the lead certification
19 and lead inspection under this section. In addition, the results
20 of the lead certification and lead inspection shall be posted on
21 the department's publicly accessible Internet website and, if
22 available, the publicly accessible Internet website of the child
23 care center or family child care home holding a license from the
24 department.

25 (g) As used in this section, the following words and phrases
26 shall have the meanings given to them in this subsection unless
27 the context clearly indicates otherwise:

28 "Certified contractor" means a person approved by the
29 Department of Labor and Industry to perform lead-based paint
30 activities in this Commonwealth under the act of July 6, 1995

1 (P.L.291, No.44), known as the Lead Certification Act.

2 "Hazardous condition" means any condition that causes
3 exposure to lead from lead-contaminated dust, lead-contaminated
4 soil or a lead-contaminated paint that is deteriorated or
5 present in accessible surfaces, friction surfaces or impact
6 surfaces that would result in adverse human health effects as
7 established by the administrator of the Environmental Protection
8 Agency under section 403 of the Toxic Substances Control Act
9 (Public Law 94-469, 15 U.S.C. § 2683).

10 "Inspector-risk assessor" means a person trained and
11 certified in accordance with the requirements of the Lead
12 Certification Act, to perform all activities of the inspector-
13 technician, as well as to identify the presence of lead-based
14 paint and to collect additional information designed to assess
15 the level of risk to residents of residential dwellings.

16 "Inspector-technician" means a person trained and certified
17 in accordance with the requirements of the Lead Certification
18 Act, to perform inspections solely for the purpose of
19 determining the presence of lead-based paint through the use of
20 onsite testing, such as XRF analysis, and the collection of
21 samples for laboratory analysis.

22 Section 2. This act shall take effect in 180 days.