

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 39 Session of 2019

INTRODUCED BY SCHWANK, FARNESE, FONTANA, STREET, ARGALL,  
SANTARSIERO, COSTA AND HUGHES, JANUARY 11, 2019

REFERRED TO HEALTH AND HUMAN SERVICES, JANUARY 11, 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 in  
5 children's institutions; and, in departmental powers and  
6 duties as to licensing, providing for lead testing in child  
7 day care centers and family child care homes.

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

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

13 Section 912. Lead Testing in Children's Institutions.--(a)  
14 A person seeking to operate, or to continue to operate, a  
15 children's institution shall submit a lead certification from an  
16 individual or laboratory accredited by the Department of  
17 Environmental Protection that includes the following:

- 18 (1) lead levels in water; and  
19 (2) for a facility built prior to 1978, lead levels in  
20 paint, dust and soil. A facility built prior to 1978 shall not

1 be required to test for lead levels in paint if the facility has  
2 completed a full remediation or abatement of all lead paint and  
3 has a certification of such from the Department of Environmental  
4 Protection or an individual or laboratory accredited by the  
5 Department of Environmental Protection.

6 (b) The department shall not permit initial operation of a  
7 children's institution if the lead certification required under  
8 subsection (a) has either of the 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 found in the Safe Drinking  
14 Water Program under the Department of Environmental Protection.

15 (2) For a facility built prior to 1978, lead levels in  
16 paint, dust and soil that are in excess of the level set by the  
17 Environmental Protection Agency through its hazard standards for  
18 lead in paint, dust and soil.

19 (c) The department shall require corrective action for  
20 continued operation of a children's institution if the lead  
21 certification required under subsection (a) has either of the  
22 levels under subsection (b).

23 (d) This section shall not affect the department's authority  
24 to refuse to permit the operation of a children's institution or  
25 take any other action under any applicable statute or  
26 regulation.

27 (e) The facility shall provide every parent or legal  
28 guardian who has a child enrolled in a children's institution  
29 notification of the results of the lead certification under this  
30 section. In addition, the results of the lead certification

1 shall be posted on the department's publicly accessible Internet  
2 website and, if available, the publicly accessible Internet  
3 website of the children's institution holding a license from the  
4 department.

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

8 "Children's institution" means an institution or facility  
9 that provides care in lieu of parental care given for part of  
10 the twenty-four hour day to children under sixteen years of age,  
11 away from their own homes. The term does not include child day  
12 care furnished in places of worship during religious services.

13 Section 1004. Lead Testing in Child Day Care Centers and  
14 Family Child Care Homes.--(a) A person desiring to obtain or  
15 renew a license for maintaining, operating and conducting a  
16 child day care center or family child care home shall submit a  
17 lead certification from an individual or laboratory accredited  
18 by the Department of Environmental Protection that includes the  
19 following:

20 (1) lead levels in water; and

21 (2) for a facility built prior to 1978, lead levels in  
22 paint, dust and soil. A facility built prior to 1978 shall not  
23 be required to test for lead paint if the facility has completed  
24 a full remediation or abatement of all lead paint and has a  
25 certification of such from the Department of Environmental  
26 Protection or an individual or laboratory accredited by the  
27 Department of Environmental Protection.

28 (b) The department shall not issue an initial license for  
29 maintaining, operating and conducting a child day care center or  
30 family child care home if the lead certification required under

1 subsection (a) has either of the following:

2 (1) Lead levels in water that are:

3 (i) in excess of the level set by the Environmental  
4 Protection Agency in the national primary drinking water  
5 regulations; and

6 (ii) in excess of the lead levels found by the Safe Drinking  
7 Water Program under the Department of Environmental Protection.

8 (2) For a facility built before 1978, lead levels in paint,  
9 dust and soil that are in excess of the level set by the  
10 Environmental Protection Agency through its hazard standards for  
11 lead in paint, dust and soil.

12 (c) The department shall issue a provisional license in  
13 accordance with section 1008 to a person desiring to secure an  
14 annual renewal of a license for maintaining, operating and  
15 conducting a child day care center or family child care home if  
16 the lead certification required under subsection (a) has either  
17 of the levels under subsection (b).

18 (d) The department shall require corrective action for  
19 continued operation of a child day care center or family child  
20 care home if the lead certification required under subsection  
21 (a) has either of the levels under subsection (b).

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

26 (f) The facility shall provide every parent or legal  
27 guardian who has a child enrolled in a child day care center or  
28 family child care home notification of the results of the lead  
29 certification under this section. In addition, the results of  
30 the lead certification shall be posted on the department's

1 publicly accessible Internet website and, if available, the  
2 publicly accessible Internet website of the child day care  
3 center or family child care home holding a license from the  
4 department.

5 Section 2. Within 30 days of the effective date of an act  
6 establishing a Lead Superfund within the State Treasury, the  
7 Department of Environmental Protection shall transmit notice to  
8 the Legislative Reference Bureau for publication in the  
9 Pennsylvania Bulletin.

10 Section 3. This act shall take effect as follows:

11 (1) This section shall take effect immediately.

12 (2) The addition of sections 912(b) and (c) and 1004(b),  
13 (c) and (d) of the act shall take effect upon publication of  
14 the notice provided under section 2 of this act.

15 (3) The remainder of this act shall take effect in 90  
16 days.