

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1188 Session of 2021

INTRODUCED BY CRUZ, McCLINTON, HILL-EVANS, BOBACK, BRADFORD, SCHLOSSBERG, JAMES, SANCHEZ, MERSKI, CIRESI, HOHENSTEIN, ROZZI, WEBSTER, DALEY, A. DAVIS, PISCIOTTANO AND SIMS, APRIL 15, 2021

REFERRED TO COMMITTEE ON HEALTH, APRIL 15, 2021

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

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

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

13 (1) Lead levels in water that are:

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

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

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

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

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

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

4 (iv) in excess of the lead levels set by State law or
5 regulation.

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

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

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

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

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

29 "Hazardous condition" means any condition that causes
30 exposure to lead from lead-contaminated dust, lead-contaminated

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

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

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

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

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

25 (2) for a building built prior to 1978, a lead inspection
26 completed by a certified contractor, an inspector-risk assessor
27 or an inspector-technician in accordance with the act of July 6,
28 1995 (P.L.291, No.44), known as the Lead Certification Act, that
29 includes testing for lead levels in paint, dust and soil and
30 hazardous conditions. A child care center or family child care

1 home built prior to 1978 shall not be required to test for lead
2 paint if a full remediation or abatement of all lead paint has
3 been completed and a certification or inspection report of such
4 is produced.

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

10 (1) Lead levels in water that are:

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

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

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

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

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

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

1 (iv) in excess of the lead levels set by State law or
2 regulation.

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

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

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

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

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

29 "Certified contractor" means a person approved by the
30 Department of Labor and Industry to perform lead-based paint

1 activities in this Commonwealth under the act of July 6, 1995
2 (P.L.291, No.44), known as the Lead Certification Act.

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

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

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

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