

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 388 Session of 2021

INTRODUCED BY SCHWANK, MUTH, TARTAGLIONE, FONTANA, KEARNEY,
BAKER, BREWSTER, COSTA, ARGALL, KANE AND SAVAL,
MARCH 10, 2021

REFERRED TO HEALTH AND HUMAN SERVICES, MARCH 10, 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 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.