

2012 -- S 2636

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO HEALTH AND SAFETY - LEAD POISONING PREVENTION ACT

Introduced By: Senators Pichardo, Jabour, Pinga, Metts, and Crowley

Date Introduced: March 01, 2012

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-24.6-15, 23-24.6-20, 23-24.6-26 and 23-24.6-27 of the General
2 Laws in Chapter 23-24.6 entitled "Lead Poisoning Prevention Act" are hereby amended to read as
3 follows:

4 **23-24.6-15. Inspections of rental property.** -- (a) The director shall, in conjunction with
5 the housing resources commission, promulgate regulations permitting state inspectors to conduct
6 such lead inspections as may be appropriate in response to any complaint to the department or the
7 housing resources commission, by an occupant or the parent or guardian of any child under the
8 age of six (6) years who is an occupant renting or leasing a dwelling, dwelling unit, or premises
9 of the existence of a lead exposure hazard for a child under the age of six (6) years in that
10 dwelling, dwelling unit, or premises. These regulations will allow for response to the complaints
11 to be prioritized based upon the age of the structure and the nature and degree of hazard present.

12 (b) Whenever a comprehensive environmental lead inspection has been performed either
13 pursuant to a complaint or otherwise, the owner and/or any real estate agent or property manager
14 involved in renting or leasing the dwelling, dwelling unit, or premises shall provide the results of
15 the inspection to occupants pursuant to regulations promulgated by the department, as follows:

16 (1) Those persons occupying the dwelling, dwelling unit, or premises at the time the
17 inspection is performed shall be notified of the results within five (5) business days after the
18 owner receives the results;

19 (2) All persons who are prospective occupants shall be notified of the inspection results

1 if a significant lead hazard exists, before any lease is signed or before occupancy begins in cases
2 where no lease is signed;

3 (3) This notice provision terminates with the performance of the necessary lead
4 reduction actions required to reach at least the "lead safe" level. The department shall provide the
5 owner with a certification of lead reduction for the dwelling.

6 (c) Failure to provide inspection results and/or educational materials pursuant to this
7 chapter shall subject the lessor or his or her agent to ~~a civil penalty of not less than one hundred~~
8 ~~dollars (\$100) nor more than five hundred dollars (\$500) for each violation~~ an administrative fine
9 pursuant to section 23-24.6-27.

10 ~~**23-24.6-20. Licensure or certification of environmental lead inspectors and lead**~~
11 ~~**contractors, supervisors, and workers. --**~~ **Licensure of environmental lead inspectors and**
12 **lead contractors, supervisors, and workers.** -- (a) The department shall provide for the
13 certification of training programs for environmental lead inspectors and for lead contractors,
14 supervisors, workers, and other persons engaged in environmental lead hazard reduction pursuant
15 to the provisions of this chapter. The department shall establish standards and specifications for
16 training courses including, at a minimum, the required length of different training programs,
17 mandatory topics of instruction, and required qualifications for training programs and instructors.
18 Hands on instruction shall be a component of the required training.

19 (b) The department shall establish procedures and issue regulations requiring the
20 ~~certification~~ licensure of environmental lead inspectors, ~~and the licensure or certification, as~~
21 ~~appropriate, of all~~ lead contractors, supervisors, workers, and other persons engaged in
22 environmental lead inspection and/or lead hazard reduction pursuant to the provisions of this
23 chapter. These regulations:

24 (1) Shall prescribe the requirements for licensure ~~and certification~~ and the conditions and
25 restrictions governing the renewal, revocation, and suspension of licenses ~~and certificates~~;
26 requirements for licensure and for renewal of licensure shall include, but not be limited to, the
27 following:

28 (i) Compliance with the lead hazard reduction regulations in section 23-24.6-17; and

29 (ii) Required training of environmental lead inspectors and of lead contractors,
30 supervisors, workers, and other persons engaged in environmental lead hazard reduction in
31 subjects including but not limited to safe work practices, instruction in health risks, precautionary
32 measures, protective equipment, and other practices including practices to prevent contamination
33 of the residential premises, ambient discharges and ground contamination, respiratory protection,
34 new lead hazard reduction techniques and technologies, applicable federal and state regulation,

1 and hands on instruction for equipment and techniques to be used; a minimum of twenty (20)
2 hours of training shall be required as a condition of licensure for workers; additional hours of
3 training shall be required for supervisors and contractors; ~~annual~~ a refresher training course shall
4 also be required;

5 (2) May provide for Rhode Island to reciprocally ~~certify and/or~~ license persons certified
6 and/or licensed by other states with comparable requirements.

7 (c) No person shall enter into, engage in, or conduct comprehensive environmental lead
8 inspections or environmental lead hazard reduction activities covered by department regulations
9 ~~once those regulations have been promulgated as specified in section 23-24.6-12~~ without having
10 successfully completed a certified training program and without having been ~~certified or~~ licensed;
11 ~~as appropriate~~; by the department. Each trained and ~~certified or~~ licensed person shall be issued a
12 photo identity card.

13 (d) The department shall, in conjunction with the housing resources commission,
14 develop and periodically update lists of all licensed ~~and certified~~ inspectors, contractors,
15 supervisors, workers' and other persons who perform environmental lead hazard reduction in
16 Rhode Island and make those lists available to interested parties and the public.

17 (e) (1) The department shall enforce the provisions of this section as appropriate and
18 shall have all necessary powers for enforcement.

19 (2) The department may revoke, suspend, cancel, or deny ~~any certification or~~ any
20 license, at any time, in accordance with chapter 35 of title 42 if it believes that the terms or
21 conditions of these are being violated or that the holder of, or applicant for, the ~~certification or~~
22 license has violated any regulation of the department or any other state law or regulation. Any
23 person aggrieved by a determination by the department to issue, deny, revoke or suspend any
24 ~~certification or~~ license may request an adjudicatory hearing.

25 (3) When any person violates the terms or conditions of any ~~certification or~~ license
26 issued under this section or any state law or regulation, the director shall have the power by
27 written notice to order the violator to cease and desist immediately. The department may file a
28 written complaint with the district court in the jurisdiction in which the violation occurred.
29 Punishment by an administrative fine ~~not to exceed one thousand dollars (\$1,000) under this~~
30 ~~section pursuant to section 23-24.6-27~~ may be in addition to the suspension of any license ~~or~~
31 ~~certification~~.

32 (4) Any state inspector may issue an immediate cease work order to any person who
33 violates the terms or conditions of any license ~~or certification~~ issued under this section or any
34 provision of this chapter or any regulation or order issued under this chapter if the violation will

1 endanger or materially impair the health or well being of any occupant, any environmental lead
2 inspector, or any contractor, supervisor, worker, or other person engaged in environmental lead
3 hazard reduction.

4 (f) Nothing in this section shall be construed to limit the authority of the department of
5 health, the department of labor and training, or the department of environmental management
6 under the provisions of any other law.

7 **23-24.6-26. Rules and regulations.** -- The director is authorized to adopt, modify, or
8 repeal and promulgate rules and regulations as are in accord with the purposes of sections 23-
9 24.6-1 -- 23-24.6-27, and shall be subject to the Administrative Procedures Act, chapter 35 of title
10 42. All rules and regulations promulgated by the director shall provide for the use of "lead safe"
11 reduction as the preferred method where possible to meet the requirements of this chapter. The
12 rules shall provide for notification, pursuant to the provisions of section 23-24.6-12, to occupants
13 of a premise, of lead hazards following a comprehensive environmental lead inspection at the
14 premises when there is a reasonable likelihood that given the age, type, and condition of the
15 premises that significant lead hazards are present in other dwelling units. The rules shall also
16 specify the required frequency for all refresher training courses, not to exceed every three (3)
17 years.

18 **23-24.6-27. Administrative fines.** -- (a) In addition to any other enforcement authority
19 granted under this chapter, whenever on the basis of any information, the department determines
20 that a person has violated or is in violation of section 23-24.6-12, 23-24.6-13, 23-24.6-14 or 23-
21 24.6-15 regarding inspections, section 23-24.6-17 regarding lead hazard reduction, or section 23-
22 24.6-20 regarding licensure ~~or certification~~, any rule or regulation promulgated pursuant to any of
23 these sections, or any orders issued under any of these sections, rules or regulations, the director
24 may issue an order ~~civily~~ fining the person ~~one hundred dollars (\$100)~~ an amount not to exceed
25 five thousand dollars (\$5,000) per day for ~~any~~ each current or past violation, requiring
26 compliance immediately or within a specified time period, or both. Each day of continued
27 violation may be considered a separate violation. Each violation in any premises may be
28 considered a separate violation.

29 (b) Within thirty (30) days after any order issued pursuant to this section is served, the
30 order shall become final unless the person or persons named in the order request a hearing. Upon
31 that request, the director shall conduct a hearing as soon as reasonably possible.

32 (c) In connection with any proceeding under this section the director may issue
33 subpoenas for attendance and testimony of witnesses and the production of papers, books,
34 documents, and other materials.

1 (d) If any person liable to pay any civil fine neglects or refuses to pay after demand, the
2 amount together with interest and any other costs that may accrue shall be a lien in favor of the
3 state upon only the real property of the person which is subject to the order only after the lien has
4 been entered and recorded in the city/town in which the property is situated.

5 (e) In determining the amount of any civil fine pursuant to this section, the director shall
6 consider the willfulness of the violation, the circumstances and severity of the violation, the
7 ability of the violator to comply, damage or injury to public health and welfare, including
8 elevated blood levels of impacted children, environmental damage to the premises and
9 neighborhood, possible economic benefits realized by the violator, the costs incurred by the state,
10 and any other relevant factors.

11 (f) The director shall issue regulations to implement this section. At a minimum, the
12 regulations shall set forth how long after receiving any order from the director or any other notice
13 of a violation a person has to comply with the law before civil fines will be assessed, the
14 circumstances in which no grace period will apply, the circumstances in which any grace period
15 may be extended, and the procedure and times frames to request an extension. The regulations
16 shall also include a penalty matrix to be used as a guide in the calculation of a fine levied
17 pursuant to this section.

18 (g) Any fines levied pursuant to this section shall be done in lieu of any civil penalties
19 issued pursuant to section 45-24.3-18(a), and no housing authority shall issue any civil penalty for
20 the same violation.

21 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY - LEAD POISONING PREVENTION ACT

1 This act would amend “The Lead Poisoning Prevent Act” (RIGL 23-24.6) to provide for
2 a longer licensing period to make the licensing process less labor intensive by eliminating the
3 requirement for annual refresher courses, to clarify language used to distinguish licensure and
4 certification, and to bring the fining authority in line with EPA requirements for the program to
5 receive delegation of authority.

6 This act would take effect upon passage.

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