

2014 -- S 2562 SUBSTITUTE A

LC004267/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO HEALTH AND SAFETY -- LEAD POISONING PREVENTION ACT

Introduced By: Senator Maryellen Goodwin

Date Introduced: February 27, 2014

Referred To: Senate Health & Human Services

(Health)

It is enacted by the General Assembly as follows:

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

3 ~~23-24.6-20. Licensure or certification of environmental lead inspectors and lead~~
4 ~~contractors, supervisors, and workers~~ **Licensure of environmental lead inspectors and lead**
5 **contractors, supervisors, and workers.** -- (a) The department shall provide for the certification
6 of training programs for environmental lead inspectors and for lead contractors, supervisors,
7 workers, and other persons engaged in environmental lead hazard reduction pursuant to the
8 provisions of this chapter. The department shall establish standards and specifications for training
9 courses including, at a minimum, the required length of different training programs, mandatory
10 topics of instruction, and required qualifications for training programs and instructors. Hands on
11 instruction shall be a component of the required training.

12 (b) The department shall establish procedures and issue regulations requiring the
13 ~~certification~~ **licensure** of environmental lead inspectors ~~and the licensure or certification, as~~
14 ~~appropriate, of all~~ lead contractors, supervisors, workers, and other persons engaged in
15 environmental lead **inspection and/or** hazard reduction pursuant to the provisions of this chapter.

16 These regulations:

17 (1) Shall prescribe the requirements for licensure ~~and certification~~ and the conditions and
18 restrictions governing the renewal, revocation, and suspension of licenses ~~and certificates;~~
19 ~~¶~~**R**Requirements for licensure and for renewal of licensure shall include, but not be limited to, the

1 following:

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

3 (ii) Required training of environmental lead inspectors and of lead contractors,
4 supervisors, workers, and other persons engaged in environmental lead hazard reduction in
5 subjects including, but not limited to, safe work practices, instruction in health risks,
6 precautionary measures, protective equipment, and other practices, including practices to prevent
7 contamination of the residential premises, ambient discharges and ground contamination,
8 respiratory protection, new lead hazard reduction techniques and technologies, applicable federal
9 and state regulation, and hands on instruction for equipment and techniques to be used; a
10 minimum of twenty (20) hours of training shall be required as a condition of licensure for
11 workers; additional hours of training shall be required for supervisors and contractors; ~~annual~~ a
12 refresher training course shall also be required;

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

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

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

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

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

33 (3) When any person violates the terms or conditions of any ~~certification or~~ license
34 issued under this section or any state law or regulation, the director shall have the power by

1 written notice to order the violator to cease and desist immediately. The department may file a
2 written complaint with the district court in the jurisdiction in which the violation occurred.
3 Punishment by an administrative fine ~~not to exceed one thousand dollars (\$1,000) under this~~
4 ~~section~~ pursuant to § 23-24.6-27 may be in addition to the suspension of any license ~~or~~
5 ~~certification~~.

6 (4) Any state inspector may issue an immediate cease work order to any person who
7 violates the terms or conditions of any license ~~or certification~~ issued under this section or any
8 provision of this chapter, or any regulation or order issued under this chapter, if the violation will
9 endanger or materially impair the health or well-being of any occupant, any environmental lead
10 inspector, or any contractor, supervisor, worker, or other person engaged in environmental lead
11 hazard reduction.

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

15 **23-24.6-26. Rules and regulations.** -- The director is authorized to adopt, modify, or
16 repeal and promulgate rules and regulations as are in accord with the purposes of ~~sections~~ §§23-
17 24.6-1 -- 23-24.6-27, and shall be subject to the Administrative Procedures Act, chapter 35 of title
18 42. All rules and regulations promulgated by the director shall provide for the use of "lead safe"
19 reduction as the preferred method where possible to meet the requirements of this chapter. The
20 rules shall provide for notification, pursuant to the provisions of ~~section~~ §23-24.6-12, to
21 occupants of a premise, of lead hazards following a comprehensive environmental lead inspection
22 at the premises when there is a reasonable likelihood that given the age, type, and condition of the
23 premises that significant lead hazards are present in other dwelling units. The rules shall also
24 specify the required frequency for all refresher training courses.

25 **23-24.6-27. Administrative fines.** -- (a) In addition to any other enforcement authority
26 granted under this chapter, whenever on the basis of any information, the department determines
27 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-
28 24.6-15 regarding inspections, ~~section~~ §23-24.6-17 regarding lead hazard reduction, or ~~section~~
29 §23-24.6-20 regarding licensure ~~or certification~~, any rule or regulation promulgated pursuant to
30 any of these sections, or any orders issued under any of these sections, rules, or regulations, the
31 director may issue an order ~~civilly~~ fining the person ~~one hundred dollars (\$100)~~ an amount not to
32 exceed five thousand dollars (\$5,000) per day for ~~any~~ each current or past violation, requiring
33 compliance immediately or within a specified time period, or both. Each day of continued
34 violation may be considered a separate violation. Each violation in any premises may be

1 considered a separate violation.

2 (b) In addition to any other enforcement authority granted under this chapter, whenever
3 on the basis of any information, the department determines that a person has violated, or is in
4 violation of, § 23-24.6-15 regarding inspections, any rule or regulation promulgated pursuant to
5 that section, or any orders issued under that section's rules or regulations, the director may issue
6 an order civilly fining the person one hundred dollars (\$100) per day for any current or past
7 violation, requiring compliance immediately or within a specified time period, or both. Each day
8 of continued violation may be considered a separate violation. Each violation in any premises
9 may be considered a separate violation.

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

13 ~~(c)~~(d) In connection with any proceeding under this section, the director may issue
14 subpoenas for attendance and testimony of witnesses and the production of papers, books,
15 documents, and other materials.

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

20 ~~(e)~~(f) In determining the amount of any civil fine pursuant to this section, the director
21 shall consider the willfulness of the violation; the circumstances and severity of the violation; the
22 ability of the violator to comply; damage or injury to public health and welfare including
23 elevated blood levels of impacted children, environmental damage to the premises and
24 neighborhood, possible economic benefits realized by the violator; the costs incurred by the
25 state; and any other relevant factors.

26 ~~(e)~~(g) The director shall issue regulations to implement this section. At a minimum, the
27 regulations shall set forth how long after receiving any order from the director or any other notice
28 of a violation a person has to comply with the law before civil fines will be assessed, the
29 circumstances in which no grace period will apply, the circumstances in which any grace period
30 may be extended, and the procedure and times frames to request an extension. The regulations
31 shall also include a penalty matrix to be used as a guide in the calculation of a fine levied
32 pursuant to this section.

33 ~~(g)~~(h) Any fines levied pursuant to this section shall be done in lieu of any civil penalties
34 issued pursuant to ~~section~~ §45-24.3-18(a), and no housing authority shall issue any civil penalty

1 for the same violation.

2 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 Prevention Act to provide for a longer
2 licensing period, making the licensing process less labor intensive by eliminating the requirement
3 for annual refresher courses. The act would clarify language used to distinguish licensure and
4 certification. The act would also establish a penalty or fining authority in line with E.P.A.
5 requirements for the program to acquire delegation of authority. This act would provide for
6 administrative penalties of up to five thousand dollars (\$5,000) per day for violations.

7 This act would take effect upon passage.

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