

House Bill 1300

By: Representatives Manning of the 32nd, Smith of the 70th, Ashe of the 56th, Willard of the 49th, Wilkinson of the 52nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 41 of Title 31 of the Official Code of Georgia Annotated, relating to lead
2 poisoning prevention, so as to extensively revise the provisions of Article 1 of said chapter
3 relating to identification and abatement of lead hazards; to define terms; to change provisions
4 relating to activities which are regulated; to change provisions relating to licensure and
5 regulation of persons carrying out abatement activities; to provide for administrative
6 sanctions and penalties; to provide for related matters; to repeal conflicting laws; and for
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

10 Chapter 41 of Title 31 of the Official Code of Georgia Annotated, relating to lead poisoning
11 prevention, is amended by revising Article 1, relating to general provisions, as follows:

12 style="text-align:center">"ARTICLE 1

13 31-41-1.

14 This chapter shall be known and may be cited as the 'Georgia Lead Poisoning Prevention
15 Act of 1994.'

16 31-41-2.

17 (a) The General Assembly finds that childhood lead poisoning is a devastating
18 environmental health hazard to the children of this state. Exposure to even low levels of
19 lead increases a child's risks of developing permanent reading and learning disabilities,
20 intelligence quotient deficiencies, impaired hearing, reduced attention span, hyperactivity,
21 behavior problems, and other neurological problems. It is estimated that thousands of
22 children below the age of six are affected by lead poisoning in Georgia. Childhood lead
23 poisoning is dangerous to the public health, safety, and general welfare.

24 (b) Childhood lead poisoning is the result of environmental exposure to lead. The most
 25 significant source of environmental lead is lead-based paint, particularly in housing built
 26 prior to 1978, which becomes accessible to children as paint chips, house dust, and soil
 27 contaminated by lead-based paint. The danger posed by lead-based paint hazards can be
 28 controlled by abatement, renovation, or interim controls of lead-based paint or by measures
 29 to limit exposure to lead-based paint hazards.

30 (c) It is crucial that the identification of lead hazards and subsequent implementation of
 31 interim control, renovation, or abatement procedures be accomplished in a manner that
 32 does not result in additional harm to the public or the environment. Improper lead
 33 abatement or renovation constitutes a serious threat to persons residing in or otherwise
 34 using an affected structure or site, to those performing such work, to the environment, and
 35 to the general public.

36 (d) The General Assembly finds that it is in the public interest to establish minimum
 37 standards for the training and certification or licensure of all persons performing lead
 38 hazard reduction activities, including and for inspections, risk assessments, and planning
 39 and performance of interim controls, renovation, or abatement measures for such activities.

40 31-41-3.

41 As used in this chapter, the term:

42 (1) 'Abatement' means any set of measures designed to eliminate lead-based paint
 43 hazards, in accordance with standards developed by the board, including:

44 (A) Removal of lead-based paint and lead contaminated dust, the permanent
 45 containment or encapsulation of lead-based paint, the replacement of lead-painted
 46 surfaces or fixtures, and the removal or covering of lead contaminated soil; and

47 (B) All preparation, cleanup, disposal, and postabatement clearance testing activities
 48 associated with such measures.

49 (2) 'Accessible surface' means an interior or exterior surface painted with lead-based
 50 paint that is accessible for a young child to mouth or chew.

51 (2.1) 'Board' means the Board of Natural Resources of the State of Georgia.

52 (2.2) 'Child-occupied facility' means a building or portion of a building constructed prior
 53 to 1978, visited by the same child, six years of age or under, on at least two different days
 54 within the same week (Sunday through Saturday period), provided that each day's visit
 55 lasts at least three hours and the combined weekly visit lasts at least six hours.
 56 Child-occupied facilities include, but are not limited to, day-care centers, preschools, and
 57 kindergarten facilities.

58 (3) 'Department' means the Department of Natural Resources.

- 59 (4) 'Friction surface' means an interior or exterior surface that is subject to abrasion or
60 friction, including certain window, floor, and stair surfaces.
- 61 (5) 'Impact surface' means an interior or exterior surface or fixture that is subject to
62 damage by repeated impacts, for example, certain parts of door frames.
- 63 (6) 'Inspection' means a surface by surface investigation to determine the presence of
64 lead-based paint and the provision of a report explaining the results of the investigation.
- 65 (7) 'Interim controls' means a measure or set of measures as specified by the board taken
66 by the owner of a structure that are designed to control temporarily human exposure or
67 likely exposure to lead-based paint hazards.
- 68 (8) 'Lead-based paint' means paint or other surface coatings that contain lead in excess
69 of limits established by board regulation.
- 70 (9) 'Lead-based paint activities' means the inspection and assessment of lead hazards and
71 the planning, implementation, and inspection of interim controls, renovation, and
72 abatement activities at target housing and child-occupied facilities ~~as determined by the~~
73 ~~department~~.
- 74 (10) 'Lead-based paint hazard' means any condition that causes exposure to lead from
75 lead contaminated dust, lead contaminated soil, or lead contaminated paint that is
76 deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that
77 would result in adverse human health effects as established pursuant to Section 403 of the
78 Toxic Substances Control Act.
- 79 (11) 'Lead contaminated dust' means surface dust in residential dwellings or in other
80 facilities occupied or regularly used by children that contains an area or mass
81 concentration of lead in excess of levels determined pursuant to Section 403 of the Toxic
82 Substances Control Act.
- 83 (12) 'Lead contaminated soil' means bare soil on residential real property or on other sites
84 frequented by children that contains lead at or in excess of levels determined to be
85 hazardous to human health pursuant to Section 403 of the Toxic Substances Control Act.
- 86 (13) 'Lead contaminated waste' means any discarded material resulting from an
87 abatement activity that fails the toxicity characteristics determined by the department.
- 88 (14) 'Lead firm' means a company, partnership, corporation, sole proprietorship,
89 association, or other business entity that employs or contracts with persons to perform
90 lead-based paint activities.
- 91 (14.1) 'Lead dust sampling technician' means an individual employed to perform lead
92 dust clearance sampling for renovation as determined by the department.
- 93 (15) 'Lead inspector' means a person who conducts inspections to determine the presence
94 of lead-based paint or lead-based paint hazards.

- 95 (16) 'Lead project designer' means a person who plans or designs abatement activities
96 and interim controls.
- 97 (17) 'Lead risk assessor' means a person who conducts on-site risk assessments of lead
98 hazards.
- 99 (18) 'Lead supervisor' means a person who supervises and conducts abatement of
100 lead-based paint hazards.
- 101 (19) 'Lead worker' means any person performing lead hazard reduction activities.
- 102 (19.1) 'Minor repair and maintenance activities' means activities that disrupt six square
103 feet or less of painted surface per room for interior activities or 20 square feet or less of
104 painted surface for exterior activities where none of the work practices prohibited or
105 restricted as determined by the department are used or where the work does not involve
106 window replacement or demolition of painted surface areas. Jobs performed in the same
107 room within 30 days are considered the same job for purposes of this definition.
- 108 (19.2) 'Renovation' means the modification of any target housing or child-occupied
109 facility structure or portion thereof, that results in the disturbance of painted surfaces
110 unless that activity is performed as part of an abatement activity. Renovation includes
111 but is not limited to the removal, modification, re-coating, or repair of painted surfaces
112 or painted components; the removal of building components; weatherization projects; and
113 interim controls that disturb painted surfaces. A renovation performed for the purpose
114 of converting a building, or part of a building into target housing or a child-occupied
115 facility is a renovation. Such term shall not include minor repair and maintenance
116 activities.
- 117 (19.3) 'Renovation firm' means a company, partnership, corporation, sole proprietorship
118 or individual doing business, association, or other business entity that employs or
119 contracts with persons to perform lead-based paint renovations as determined by the
120 Department.
- 121 (19.4) 'Renovator' means an individual who either performs or directs workers who
122 perform renovations.
- 123 (20) 'Risk assessment' means an on-site investigation to determine and report the
124 existence, nature, severity, and location of lead-based paint hazards in or on any structure
125 or site, including:
- 126 (A) Information gathering regarding the age and history of the structure and the
127 occupancy or other use by young children;
- 128 (B) Visual inspection;
- 129 (C) Limited wipe sampling or other environmental sampling techniques;
- 130 (D) Other activity as may be appropriate; and
- 131 (E) Provision of a report explaining the results of the investigation.

132 (21) 'Target housing' means any housing constructed prior to 1978, except housing for
 133 the elderly or persons with disabilities (unless any child or children age six years or under
 134 resides or is expected to reside in such housing for the elderly or persons with disabilities)
 135 or any zero-bedroom dwelling.

136 31-41-4.

137 (a) There is established the Georgia Lead-Based Paint Hazard Reduction Program. The
 138 Department of Natural Resources is designated as the state agency responsible for
 139 implementation, administration, and enforcement of such program. The commissioner may
 140 delegate such duties to the Environmental Protection Division.

141 (b) The Board of Natural Resources not later than one year after the effective date of
 142 regulations promulgated by the federal Environmental Protection Agency relating to lead
 143 paint abatement and renovation certification programs shall issue regulations requiring the
 144 development and approval of training programs for the licensing or certification of persons
 145 performing lead-based paint hazard detection or lead-based paint activities, which may
 146 include, but shall not be limited to, lead inspectors, lead risk assessors, lead project
 147 designers, lead firms, lead supervisors, ~~and~~ lead workers, lead dust sampling technicians,
 148 and renovators of such persons. The regulations for the approval of training programs shall
 149 include minimum requirements for approval of training providers, curriculum
 150 requirements, training hour requirements, hands-on training requirements, examinations
 151 of competency and proficiency, and training program quality control. The approval
 152 program shall provide for reciprocal approval of training programs with comparable
 153 requirements approved by other states or the United States. The approval program may be
 154 designed to meet the minimum requirements for federal approval under Section 404 of the
 155 federal Toxic Substances Control Act and the department may apply for such approval.
 156 The department shall establish fees for approval of such training programs.

157 (c)(1) The Board of Natural Resources not later than one year after the effective date of
 158 regulations promulgated by the federal Environmental Protection Agency relating to lead
 159 paint abatement and renovation certification programs shall establish training and
 160 licensure requirements for lead inspectors, lead risk assessors, lead project designers, lead
 161 firms, lead supervisors, ~~and~~ lead workers, renovators, renovation firms, and lead dust
 162 sampling technicians. No person shall be licensed under this chapter unless such person
 163 has successfully completed the appropriate training program, passed an examination
 164 approved by the department for the appropriate category of license, and completed any
 165 additional requirements imposed by the board by regulation. The department is
 166 authorized to accept any lead-based paint hazard training completed after January 1,
 167 1990, in full or partial satisfaction of the training requirements. The board may establish

168 requirements for periodic refresher training for all licensees as a condition of license
 169 renewal. The board shall establish examination fees, license fees, and renewal fees for all
 170 licenses issued under this chapter, provided that such fees shall reflect the cost of issuing
 171 and renewing such licenses, regulating licensed activities, and administering the program.

172 (2) On and after the effective date of regulations promulgated by the board as provided
 173 in subsection (b) of this Code section, no person shall perform or represent that such
 174 person is qualified to perform any lead-based paint activities unless such person possesses
 175 the appropriate licensure or certification as determined by the board or unless such person
 176 is:

177 (A) An owner performing abatement or renovation upon that person's own residential
 178 property, unless the residential property is occupied or to be occupied by a person or
 179 persons other than the owner or the owner's immediate family while these activities are
 180 being performed, or a child residing in the building has been identified as having an
 181 elevated blood lead level;

182 (B) An employee of a property management company doing ~~routine cleaning and~~
 183 ~~repainting~~ minor repairs and maintenance activities upon property managed by that
 184 company where there is insignificant damage, wear, or corrosion of existing
 185 lead-containing paint or coating substances; or

186 (C) An owner routinely ~~cleaning or repainting~~ doing minor repairs and maintenance
 187 activities upon his or her property where there is insignificant damage to, wear of, or
 188 corrosion of existing lead-containing paint or coating substances.

189 (3) A person who is employed by a state or county health department or state or federal
 190 agency to conduct lead investigations to determine the sources of lead poisonings, as
 191 determined by the department, shall be subject to licensing pursuant to paragraph (2) of
 192 this subsection as a lead risk assessor but shall not be required to pay any fees as
 193 otherwise required under this chapter or under rules and regulations promulgated by the
 194 board under this chapter.

195 (d) The board shall promulgate regulations establishing standards of acceptable
 196 professional conduct and work practices for the performance of lead-based paint activities,
 197 as well as specific acts and omissions that constitute grounds for the reprimand of any
 198 licensee, the suspension, modification, or revocation of a license, or the denial of issuance
 199 or renewal of a license.

200 (e) Written information on the renovation must be provided by the renovation firm or
 201 renovator to residents before beginning any renovation activities (except that the written
 202 information may be provided after the renovation begins for emergency renovations), in
 203 accordance with regulations promulgated by the board.

204 (f) The lead firm, renovation firm, and renovator must meet record-keeping and reporting
 205 requirements established by regulations promulgated by the board.

206 (g) Any duly appointed agent of the department may enter private or public property at
 207 reasonable times to inspect any premises where lead-based paint activities are taking place
 208 for the purposes of ascertaining compliance with requirements contained in regulations
 209 promulgated by the board. The department shall also have the right to request and obtain
 210 records of a lead firm, renovation firm, or persons performing lead-based paint activities,
 211 which are required by regulations promulgated by the board.

212 31-41-5.

213 The Board of Natural Resources shall be authorized to promulgate all necessary regulations
 214 for the implementation and enforcement of this chapter. In addition to any action which
 215 may be taken to reprimand a licensee or to revoke or suspend a license, any person who
 216 violates any provision of this chapter or any regulation promulgated pursuant to this
 217 chapter or any term or condition of licensure may be subject to a civil penalty of not more
 218 than \$10,000.00 per violation, to be imposed by the department through a civil penalty
 219 action brought under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'
 220 If any violation is a continuing one, each day of such violation shall constitute a separate
 221 violation for the purpose of computing the applicable civil penalty.

222 31-41-6.

223 (a) The department shall make available to all persons licensed or certified under this
 224 chapter current federal regulations affecting such licensees or certified persons.

225 (b) The department is authorized to charge an application fee, a license fee, a license
 226 renewal fee, or a similar fee and the amount of such fees shall be established by the Board
 227 of Natural Resources. Each fee so established shall be reasonable and shall be determined
 228 in such a manner that the total of the fees charged shall approximate the total of the direct
 229 and the indirect costs to the state of the operation of the licensing program. Fees may be
 230 refunded for good cause as determined by the department.

231 (c) The department is authorized to issue a corrective order to any person in violation of
 232 this chapter or any regulation promulgated pursuant thereto. The order shall specify the
 233 provisions of this chapter or any regulation alleged to have been violated and shall order
 234 necessary corrective action be taken within a reasonable time to be prescribed in such
 235 order.

236 (d) The department is authorized to deny, revoke or suspend any license, certification,
 237 approval, or accreditation required or issued hereunder under this article, and for any such
 238 adverse action the applicant or holder of such license, certification, approval, or

239 accreditation shall be given notice and opportunity for a hearing under Chapter 13 of Title
240 50, the 'Georgia Administrative Procedure Act,' all in accordance with regulations
241 promulgated pursuant to this chapter.

242 (e) It shall be unlawful for any person to engage in training or lead-based paint activities
243 regulated under this chapter except in such a manner as to conform to and comply with this
244 chapter and all applicable regulations and orders established under this chapter.

245 (f) Any person violating any of the provisions of this chapter shall be guilty of a
246 misdemeanor."

247 **SECTION 2.**

248 All laws and parts of laws in conflict with this Act are repealed.