

CHAPTER 151

LEAD POISONING PREVENTION

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151.01 Definitions. In this chapter, unless the context requires otherwise:

(1) "Department" means the department of health and social services. The department may designate local public health officials to carry out its functions under this chapter.

(2) "Dwelling" means any structure, all or part of which is designed or used for human habitation.

(3) "Lead-bearing paint" means any paint or other surface coating material containing more than 0.06% lead by weight, calculated as lead metal, in the total nonvolatile content of liquid paint or more than one milligram of lead per square centimeter in the dried film of applied paint.

(4) "Lead poisoning" means a level of lead in the blood beyond 25 micrograms per 100 milliliters of blood, or the corresponding erythrocyte protoporphyrin level as determined by the department by rule.

(5) "Owner" means any person who:

(a) Has legal title to any dwelling or unit, with or without accompanying actual occupancy; or

(b) Has charge, care or control of the dwelling or unit as owner or agent of the owner, or as executor, administrator, trustee or guardian of the estate of the owner.

History: 1979 c. 221; 1987 a. 399.

151.03 Prohibited acts. (1) No person may apply lead-bearing paints:

(a) To any exposed surface on the inside of a dwelling;

(b) To the exposed surface of a structure used for the care of children; or

(c) To any fixture or other object placed in or upon any exposed surface of a dwelling and ordinarily accessible to children.

(2) No person may sell or transfer any fixture or other object intended to be placed upon any surface on the inside of a dwelling, containing a lead-bearing paint and ordinarily accessible to children.

History: 1979 c. 221.

151.05 Reports of lead poisoning. Every physician who diagnoses lead poisoning, or any nurse, hospital administrator, director of a clinical laboratory or public health officer who has verified information of the existence of any person found or suspected to have lead poisoning, shall report to the department or to the local health officer of the region in which the person resides within 48 hours after verifying this information. The local health officer shall report to the department the name, address, laboratory results, date of birth and any other information about the person the department deems essential. Any physician, nurse, hospital administrator, director of a clinical laboratory, public health officer or allied health professional making such a report in good faith shall be immune from any civil or criminal liability that otherwise might be incurred from making the report.

History: 1979 c. 221.

151.07 Departmental response to reports of lead poisoning. (1) The department may, after being notified that an occupant of a dwelling has blood lead poisoning, present official credentials to the owner or occupant, or to a representative of the owner or occupant, and request admission to inspect the dwelling at a reasonable time. The departmental representative may ascertain whether all surfaces accessible to children are intact and in good repair, and may inspect for the presence of lead-bearing paints. The departmental representative may temporarily remove samples or objects necessary for laboratory analysis to determine the presence of lead-bearing paints in the dwelling. If the owner or occupant refuses admission, the representative may seek a warrant to inspect the dwelling, based on the specific neutral criteria that an occupant of the dwelling suffers from lead poisoning. The warrant shall advise the owner or occupant of the scope of the inspection.

(2) If the department determines that lead-bearing paints are present in or upon any dwelling, the department may:

(a) Cause to be posted in a conspicuous place upon the dwelling a notice of the presence of lead-bearing paints;

(b) Inform the local health officer of the results of the department tests and provide recommendations to eliminate the problem areas;

(c) Notify the occupant or that person's representative that lead-bearing paints are present on the surfaces of the dwelling and may constitute a health hazard; and

(d) Notify the owner of the dwelling of the presence of lead-bearing paints. The department may issue instructions to remove, replace or cover securely and permanently these paints within 30 days, in a manner the department prescribes. The failure to remove lead-bearing paints within the time prescribed shall be prima facie evidence of negligence in any action brought to recover damages for injuries incurred after the time period expires.

(3) The lead-bearing paints shall be removed from the dwelling in a manner that will not endanger the health or well-being of the occupants. Flakes, chips, debris and other potentially harmful materials shall be safely removed from the dwelling and destroyed.

(4) The department shall give priority to eliminating lead poisoning hazards from residential dwellings in which children with diagnosed lead-bearing paint poisoning reside.

History: 1979 c. 221.

151.09 Departmental duties. The department shall:

(1) Provide for or support the monitoring and validation of all medical laboratories and private and public hospitals that perform lead and corresponding erythrocyte protoporphyrin determination tests on human blood or other tissues, under the provisions of s. 143.15.

(2) Provide laboratory testing of biological and environmental lead specimens for lead content to any physician, hospital, clinic, municipality or private organization that cannot secure or provide testing through other sources. The

department may not assume responsibility for blood lead analysis required in programs in operation on April 30, 1980.

(3) Develop or encourage the development of appropriate programs and studies to identify sources of lead poisoning, and assist other entities in the identification of lead in children's blood and of the sources of the lead poisoning.

(4) Provide technical assistance and consultation to local, county or regional governmental or private agencies to promote and develop lead poisoning prevention programs that afford opportunities for employing residents of communities and neighborhoods affected by lead-bearing paint poisoning, and that provide appropriate training, education and information to inform these residents of the opportunities for employment.

(5) Provide recommendations for the identification and treatment of lead poisoning.

(6) Develop educational programs to communicate to parents, educators and officials of local boards of health the health danger of lead-bearing paint poisoning among children.

(7) Notwithstanding s. 151.01 (4), whenever the center for disease control of the federal department of health and human services specifies a standard for the determination of lead poisoning that differs from that specified in s. 151.01 (4), promulgate rules defining "lead poisoning" to correspond to the specification of the center for disease control. Rules promulgated under this subsection shall supersede s. 151.01 (4) with respect to the requirements of this chapter.

History: 1979 c. 221; 1987 a. 399.

151.11 Local authority. This chapter does not prohibit any city, village, town or other political subdivision from enacting and enforcing ordinances establishing a system of lead poisoning control that provides the same or higher standards than those set forth in this chapter. Nothing in this chapter shall be interpreted or applied in any manner to impair the right of any person, entity, municipality or other political subdivision to sue for damages, equitable relief or to restrain a violation of such an ordinance.

History: 1979 c. 221.

151.13 Enforcement; penalty. (1) ENFORCEMENT. The department shall report any violation of this chapter to the district attorney of the county in which the dwelling is located. The district attorney shall enforce this chapter. A circuit court may order the occupants of the affected dwelling to withhold rent in escrow until the lead-bearing paints are removed, replaced or securely and permanently covered.

(2) PENALTY. Any person who violates this chapter may be required to forfeit not more than \$1,000. Each day of continued violation constitutes a separate offense.

History: 1979 c. 221; 1987 a. 332.

NOTE: Sub. (2) is shown as amended by 1987 Wis. Act 332, eff. 7-1-89. Prior to that date, sub. (2) reads:

"(2) Penalty. Any person who violates this chapter may be fined not more than \$300 or imprisoned not more than 3 months or both. Each day of continued violation constitutes a separate offense."