

CHAPTER 151

PREVENTION OF LEAD POISONING AND LEAD EXPOSURE

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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.

(2m) "Hematofluorometer" means an instrument used in identification of minute amounts of a substance in human blood by detection and measurement of the characteristic wavelength of the light emitted by the substance during fluorescence.

(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 or lead exposure" 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; 1989 a. 31.

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 or lead exposure. Every physician who diagnoses lead poisoning or lead exposure, 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 or lead exposure, 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 essen-

tial. 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; 1989 a. 31.

151.07 Departmental response to reports of lead poisoning or lead exposure. (1) The department may, after being notified that an occupant of a dwelling has blood lead poisoning or lead exposure, 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 or lead exposure. 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 or lead exposure hazards from residential dwellings in which children with diagnosed lead poisoning or lead exposure from lead-bearing paint reside.

History: 1979 c. 221; 1989 a. 31.

151.09 PREVENTION OF LEAD POISONING

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 or lead exposure, and assist other entities in the identification of lead in children's blood and of the sources of the lead poisoning or lead exposure.

(4) Provide technical assistance and consultation to local, county or regional governmental or private agencies to promote and develop lead poisoning or lead exposure prevention programs that afford opportunities for employing residents of communities and neighborhoods affected by lead poisoning or lead exposure from lead-bearing paint, 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 or lead exposure.

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

(7) From the appropriation under s. 20.435 (1) (ef):

(a) Provide \$49,500 for the purchase of 11 hematofluorometers in state fiscal year 1989-90, for the purpose of detecting lead poisoning or lead exposure, for use at the locations for provision of supplemental food, nutrition education and other services under s. 146.185 in the 8 cities in this state in which reside the highest numbers of children aged 6 years or less who live in housing constructed before 1950.

(b) Provide \$74,700 for the purchase of 9 X-ray fluorescence instruments in state fiscal year 1989-90, for the detec-

tion of lead on painted surfaces, to county or city-county health departments or city boards of health under ch. 140 or 141 in the 8 cities in this state in which reside the highest numbers of children aged 6 years or less who live in housing constructed before 1950.

History: 1979 c. 221; 1987 a. 399; 1989 a. 31.

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 or lead exposure 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; 1989 a. 31.

151.12 Rule making. The department shall promulgate all of the following rules:

(1) 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), defining "lead poisoning or lead exposure" 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: 1989 a. 31 ss. 2412r, 2412x.

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.