

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Procurement Code is amended by  
5 adding Section 50-14.5 as follows:

6 (30 ILCS 500/50-14.5 new)

7 Sec. 50-14.5. Lead Poisoning Prevention Act violations.  
8 Owners of residential buildings who have committed a willful or  
9 knowing violation of the Lead Poisoning Prevention Act are  
10 prohibited from doing business with the State of Illinois or  
11 any State agency until the violation is mitigated.

12 Section 10. The Lead Poisoning Prevention Act is amended by  
13 changing Sections 2, 3, 4, 5, 6, 7.1, 8, and 12 and by adding  
14 Sections 6.01, 6.3, 9.2, 9.3, 9.4, and 12.1 as follows:

15 (410 ILCS 45/2) (from Ch. 111 1/2, par. 1302)

16 Sec. 2. Definitions. As used in this Act:

17 "Abatement" means the removal or encapsulation of all  
18 leadbearing substances in a residential building or dwelling  
19 unit.

20 "Child care facility" means any structure used by a child  
21 care provider licensed by the Department of Children and Family  
22 Services or public school structure frequented by children  
23 through 6 years of age.

24 "Delegate agency" means a unit of local government or  
25 health department approved by the Department to carry out the  
26 provisions of this Act.

27 "Department" means the Department of Public Health of the  
28 State of Illinois.

29 "Dwelling" means any structure all or part of which is  
30 designed or used for human habitation.

1 "High risk area" means an area in the State determined by  
2 the Department to be high risk for lead exposure for children  
3 through 6 years of age. The Department shall consider, but not  
4 be limited to, the following factors to determine a high risk  
5 area: age and condition (using Department of Housing and Urban  
6 Development definitions of "slum" and "blighted") of housing,  
7 proximity to highway traffic or heavy local traffic or both,  
8 percentage of housing determined as rental or vacant, proximity  
9 to industry using lead, established incidence of elevated blood  
10 lead levels in children, percentage of population living below  
11 200% of federal poverty guidelines, and number of children  
12 residing in the area who are 6 years of age or younger.

13 "Exposed surface" means any interior or exterior surface of  
14 a dwelling or residential building.

15 "Lead abatement contractor" means any person or entity  
16 licensed by the Department to perform lead abatement and  
17 mitigation.

18 "Lead abatement worker" means any person employed by a lead  
19 abatement contractor and licensed by the Department to perform  
20 lead abatement and mitigation.

21 "Lead bearing substance" means any item containing or  
22 coated with lead such that the lead content is more than  
23 six-hundredths of one percent (0.06%) lead by total weight; or  
24 any dust on surfaces or in furniture or other nonpermanent  
25 elements of the dwelling; or ~~and~~ any paint or other surface  
26 coating material containing more than five-tenths of one  
27 percent (0.5%) lead by total weight (calculated as lead metal)  
28 in the total non-volatile content of liquid paint; ~~or~~ or lead  
29 bearing substances containing greater than one milligram per  
30 square centimeter or any lower standard for lead content in  
31 residential paint as may be established by federal law or  
32 regulation; or more than 1 milligram per square centimeter in  
33 the dried film of paint or previously applied substance; or  
34 item or dust on item ~~object~~ containing lead in excess of the  
35 amount specified in the rules and regulations authorized by  
36 this Act or a lower standard for lead content as may be

1 established by federal law or regulation. "Lead bearing  
2 substance" does not include firearm ammunition or components as  
3 defined by the Firearm Owners Identification Card Act.

4 "Lead hazard" means a lead bearing substance that poses an  
5 immediate health hazard to humans.

6 "Lead poisoning" means the condition of having blood lead  
7 levels in excess of those considered safe under State and  
8 federal rules and regulations.

9 "Low risk area" means an area in the State determined by  
10 the Department to be low risk for lead exposure for children  
11 through 6 years of age. The Department shall consider the  
12 factors named in "high risk area" to determine low risk areas.

13 "Mitigation" means the remediation, in a manner described  
14 in Section 9, of a lead hazard so that the lead bearing  
15 substance does not pose an immediate health hazard to humans.

16 "Owner" means any person, who alone, jointly, or severally  
17 with others:

18 (a) Has legal title to any dwelling or residential  
19 building, with or without accompanying actual possession  
20 of the dwelling or residential building, or

21 (b) Has charge, care or control of the dwelling or  
22 residential building as owner or agent of the owner, or as  
23 executor, administrator, trustee, or guardian of the  
24 estate of the owner.

25 "Person" means any one or more natural persons, legal  
26 entities, governmental bodies, or any combination.

27 "Residential building" means any room, group of rooms, or  
28 other interior areas of a structure designed or used for human  
29 habitation; common areas accessible by inhabitants; and the  
30 surrounding property or structures.

31 "Risk assessment" means a questionnaire to be developed by  
32 the Department for use by physicians and other health care  
33 providers to determine risk factors for children through 6  
34 years of age residing in areas designated as low risk for lead  
35 exposure.

36 (Source: P.A. 89-381, eff. 8-18-95.)

1 (410 ILCS 45/3) (from Ch. 111 1/2, par. 1303)

2 Sec. 3. Lead bearing substance use. No person shall use or  
3 apply lead bearing substances:

4 (a) In or upon any exposed surface of a dwelling or  
5 dwelling unit;

6 (b) In or around the exposed surfaces of a child care  
7 facility or other structure frequented by children;

8 (c) In or upon any fixtures or other objects used,  
9 installed, or located in or upon any exposed surface of a  
10 dwelling or residential building, or child care facility, or  
11 intended to be so used, installed, or located and that, in the  
12 ordinary course of use, are accessible to or ~~and~~ chewable by  
13 children;

14 (d) In or upon any items, including, but not limited to,  
15 clothing, accessories, jewelry, decorative objects, edible  
16 items, candy, food, dietary supplements, toys, furniture, or  
17 other articles used by or intended to be ~~and~~ chewable by  
18 children;

19 (e) Within or upon a residential building or dwelling,  
20 child care facility, school, playground, park, or recreational  
21 area, or other areas regularly frequented by children.

22 (Source: P.A. 87-175.)

23 (410 ILCS 45/4) (from Ch. 111 1/2, par. 1304)

24 Sec. 4. Sale of items ~~toys or furniture~~ containing lead  
25 bearing substance. No person shall sell, have, offer for sale,  
26 or transfer toys, ~~or~~ furniture, clothing, accessories,  
27 jewelry, decorative objects, edible items, candy, food,  
28 dietary supplements, or other articles used by or intended to  
29 be chewable by children that contains a lead bearing substance.

30 (Source: P.A. 87-175.)

31 (410 ILCS 45/5) (from Ch. 111 1/2, par. 1305)

32 Sec. 5. Sale of objects containing lead bearing substance.  
33 No person shall sell or transfer or offer for sale or transfer

1 any fixtures or other objects intended to be used, installed,  
2 or located in or upon any surface of a dwelling or residential  
3 building, or child care facility, that contains a lead bearing  
4 substance and that, in the ordinary course of use, are  
5 accessible to or ~~and~~ chewable by children.

6 (Source: P.A. 87-175.)

7 (410 ILCS 45/6) (from Ch. 111 1/2, par. 1306)

8 Sec. 6. Warning statement. No person, firm, or corporation  
9 shall have, offer for sale, sell, or give away any lead bearing  
10 substance that may be used by the general public unless it  
11 bears the warning statement as prescribed by federal  
12 regulation. If no regulation is prescribed the warning  
13 statement shall be as follows when the lead bearing substance  
14 is a lead-based paint or surface coating: "WARNING--CONTAINS  
15 LEAD. DRIED FILM OF THIS SUBSTANCE MAY BE HARMFUL IF EATEN OR  
16 CHEWED. See Other Cautions on (Side or Back) Panel. Do not  
17 apply on toys, or other children's articles, furniture, or  
18 interior, or exterior exposed surfaces of any residential  
19 building or facility that may be occupied or used by children.  
20 KEEP OUT OF THE REACH OF CHILDREN.". If no regulation is  
21 prescribed the warning statement shall be as follows when the  
22 lead bearing substance contains lead-based paint or a form of  
23 lead other than lead-based paint: "WARNING CONTAINS LEAD. MAY  
24 BE HARMFUL IF EATEN OR CHEWED. MAY GENERATE DUST CONTAINING  
25 LEAD. KEEP OUT OF THE REACH OF CHILDREN.".

26 (a) The generic term of a product, such as "paint" may be  
27 substituted for the word "substance" in the above labeling.

28 (b) The placement, conspicuousness, and contrast of the  
29 above labeling shall be in accordance with 16 C.F.R. 1500.121  
30 ~~Section 191.101 of the regulations promulgated under the~~  
31 ~~provisions of the Federal Hazardous Substances Act.~~

32 (Source: P.A. 87-175.)

33 (410 ILCS 45/6.01 new)

34 Sec. 6.01. Warning statement where supplies sold.

1       (a) Any retailer, store, or commercial establishment that  
2 offers paint or other supplies intended for the removal of  
3 paint shall display, in a prominent and easily visible  
4 location, a poster containing, at a minimum, the following:

5           (1) a statement that dry sanding and dry scraping of  
6 paint in dwellings built before 1978 is dangerous;

7           (2) a statement that the improper removal of old paint  
8 is a significant source of lead dust and the primary cause  
9 of lead poisoning; and

10          (3) contact information where consumers can obtain  
11 more information.

12       (b) The Department shall provide sample posters and  
13 brochures that commercial establishments may use. The  
14 Department shall make these posters and brochures available in  
15 hard copy and via download from the Department's Internet  
16 website.

17       (c) A commercial establishment shall be deemed to be in  
18 compliance with this Section if the commercial establishment  
19 displays lead poisoning prevention posters or provides  
20 brochures to its customers that meet the minimum requirements  
21 of this Section but come from a source other than the  
22 Department.

23       (410 ILCS 45/6.3 new)

24       Sec. 6.3. Information provided by the Department of  
25 Healthcare and Family Services.

26       (a) The Director of Healthcare and Family Services shall  
27 provide, upon request of the Director of Public Health, an  
28 electronic record of all children less than 7 years of age who  
29 receive Medicaid, Kidcare, or other health care benefits from  
30 the Department of Healthcare and Family Services. The records  
31 shall include a history of claims filed for each child and the  
32 health care provider who rendered the services. On at least an  
33 annual basis, the Director of Public Health shall match the  
34 records provided by the Department of Healthcare and Family  
35 Services with the records of children receiving lead tests, as

1 reported to the Department under Section 7 of this Act.

2 (b) The Director shall prepare a report documenting the  
3 frequency of lead testing and elevated blood and lead levels  
4 among children receiving benefits from the Department of  
5 Healthcare and Family Services. On at least an annual basis,  
6 the Director shall prepare and deliver a report to each health  
7 care provider who has rendered services to children receiving  
8 benefits from the Department of Healthcare and Family Services.  
9 The report shall contain the aggregate number of children  
10 receiving benefits from the Department of Healthcare and Family  
11 Services to whom the provider has provided services, the number  
12 and percentage of children tested for lead poisoning, and the  
13 number and percentage of children having an elevated lead  
14 level. The Department of Public Health may exclude health care  
15 providers who provide specialized or emergency medical care and  
16 who are unlikely to be the primary medical care provider for a  
17 child. Upon the request of a provider, the Department of Public  
18 Health may generate a list of individual patients treated by  
19 that provider according to the claims records and the patients'  
20 lead test results.

21 (410 ILCS 45/7.1) (from Ch. 111 1/2, par. 1307.1)

22 Sec. 7.1. Child care facilities must require lead blood  
23 level screening for admission. By January 1, 1993, each day  
24 care center, day care home, preschool, nursery school,  
25 kindergarten, or other child care facility, licensed or  
26 approved by the State, including such programs operated by a  
27 public school district, shall include a requirement that each  
28 parent or legal guardian of a child between the ages of 6  
29 months through 6 years provide a statement from a physician or  
30 health care provider that the child has been risk assessed, as  
31 provided in Section 6.2, if the child resides in an area  
32 defined as low risk by the Department, or screened for lead  
33 poisoning as provided for in Section 6.2, if the child resides  
34 in an area defined as high risk. This statement shall be  
35 provided prior to admission and subsequently in conjunction

1 with required physical examinations.

2 Nothing in this Section shall be construed to require any  
3 child to undergo a lead blood level screening or test whose  
4 parent or guardian objects on the grounds that the screening or  
5 test conflicts with his or her religious beliefs.

6 Child care facilities that participate in the Illinois  
7 Child Care Assistance Program (CCAP) shall annually send or  
8 deliver to the parents or guardians of children enrolled in the  
9 facility's care an informational pamphlet regarding awareness  
10 of lead paint poisoning. Pamphlets shall be produced and made  
11 available by the Department and shall be downloadable from the  
12 Department's Internet website. The Department of Human  
13 Services and the Department of Public Health shall assist in  
14 the distribution of the pamphlet.

15 (Source: P.A. 89-381, eff. 8-18-95.)

16 (410 ILCS 45/8) (from Ch. 111 1/2, par. 1308)

17 Sec. 8. Inspection of buildings occupied by a person  
18 screening positive. A representative of the Department, or  
19 delegate agency, may, after notification that an occupant of  
20 the dwelling unit in question is found to have a blood lead  
21 value of the value set forth in Section 7, upon presentation of  
22 the appropriate credentials to the owner, occupant, or his  
23 representative, inspect dwelling or dwelling units, at  
24 reasonable times, for the purposes of ascertaining that all  
25 surfaces accessible to children are intact and in good repair,  
26 and for purposes of ascertaining the existence of lead bearing  
27 substances. Such representative of the Department, or delegate  
28 agency, may remove samples or objects necessary for laboratory  
29 analysis, in the determination of the presence of lead-bearing  
30 substances in the designated dwelling or dwelling unit.

31 If a building is occupied by a child of less than 3 years  
32 of age screening positive, the Department, in addition to all  
33 other requirements of this Section, must inspect the dwelling  
34 unit and common place area of the child screening positive.

35 Following the inspection, the Department or its delegate



1 agency shall:

2 (1) Prepare an inspection report which shall:

3 (A) State the address of the dwelling unit.

4 (B) Describe the scope of the inspection, the  
5 inspection procedures used, and the method of ascertaining  
6 the existence of a lead bearing substance in the dwelling  
7 unit.

8 (C) State whether any lead bearing substances were  
9 found in the dwelling unit.

10 (D) Describe the nature, extent, and location of any  
11 lead bearing substance that is found.

12 (E) State either that a lead hazard does exist or that  
13 a lead hazard does not exist. If a lead hazard does exist,  
14 the report shall describe the source, nature and location  
15 of the lead hazard. The existence of intact lead paint does  
16 not alone constitute a lead hazard for the purposes of this  
17 Section.

18 (F) Give the name of the person who conducted the  
19 inspection and the person to contact for further  
20 information regarding the inspection and the requirements  
21 of this Act.

22 (2) Mail or otherwise provide a copy of the inspection  
23 report to the property owner and to the occupants of the  
24 dwelling unit. If a lead bearing substance is found, at the  
25 time of providing a copy of the inspection report, the  
26 Department or its delegate agency shall attach an informational  
27 brochure.

28 (Source: P.A. 87-175; 87-1144.)

29 (410 ILCS 45/9.2 new)

30 Sec. 9.2. Multiple mitigation notices. When mitigation  
31 notices are issued for 2 or more dwelling units in a building  
32 within a 5-year time period, the Department may inspect common  
33 areas in the building and shall inspect units where (i)  
34 children under the age of 6 reside, at the request of a parent  
35 or guardian of the child or (ii) a pregnant woman resides, at

1 the pregnant woman's request. All lead hazards must be  
2 mitigated in a reasonable time frame, as determined by rules  
3 adopted by the Department. In determining the time frame for  
4 completion of mitigation of hazards identified under this  
5 Section, the Department shall consider, in addition to the  
6 considerations in subsection (6) of Section 9 of this Act, the  
7 owner's financial ability to complete the mitigation.

8 (410 ILCS 45/9.3 new)

9 Sec. 9.3. Financial assistance for mitigation. Whenever a  
10 mitigation notice is issued pursuant to Section 9 or Section  
11 9.2 of this Act, the Department shall make the owner aware of  
12 any financial assistance programs that may be available for  
13 lead mitigation through the federal, State, or local government  
14 or a not-for-profit organization.

15 (410 ILCS 45/9.4 new)

16 Sec. 9.4. Owner's obligation to post notice. The owner of a  
17 dwelling unit or residential building who has received a  
18 mitigation notice under Section 9 of this Act shall post  
19 notices in common areas of the building specifying the  
20 identified lead hazards. The posted notices, drafted by the  
21 Department and sent to the property owner with the notification  
22 of lead hazards, shall indicate the following:

23 (1) that a unit or units in the building have been  
24 found to have lead hazards;

25 (2) that other units in the building may have lead  
26 hazards;

27 (3) that the Department recommends that children 6  
28 years of age or younger receive a blood lead screening;

29 (4) where to seek further information; and

30 (5) whether mitigation notices have been issued for 2  
31 or more dwelling units within a 5-year period of time.

32 Once the owner has complied with a mitigation notice or  
33 mitigation order issued by the Department, the owner may remove  
34 the notices posted pursuant to this Section.

1 (410 ILCS 45/12) (from Ch. 111 1/2, par. 1312)

2 Sec. 12. Violations of Act.

3 (a) Violation of any Section of this Act other than Section  
4 6.01 or Section 7 shall be punishable as a Class A misdemeanor.  
5 A violation of Section 6.01 shall cause the Department to issue  
6 a written warning for a first offense and shall be a petty  
7 offense for a second or subsequent offense if the violation  
8 occurs at the same location within 12 months after the first  
9 offense.

10 (b) In cases where a person is found to have mislabeled,  
11 possessed, offered for sale or transfer, sold or transferred,  
12 or given away lead-bearing substances, a representative of the  
13 Department shall confiscate the lead-bearing substances and  
14 retain the substances until they are shown to be in compliance  
15 with this Act.

16 (c) In addition to any other penalty provided under this  
17 Act, the court in an action brought under subsection (e) may  
18 impose upon any person who violates or does not comply with a  
19 notice of deficiency and a mitigation order issued under  
20 subsection (7) of Section 9 of this Act or who fails to comply  
21 with subsection (3) or subsection (5) of Section 9 of this Act  
22 a civil penalty not exceeding \$2,500 for each violation, plus  
23 \$250 for each day that the violation continues.

24 Any civil penalties collected in a court proceeding shall  
25 be deposited into a delegated county lead poisoning screening,  
26 prevention, and abatement fund or, if no delegated county or  
27 lead poisoning screening, prevention, and abatement fund  
28 exists, into the Lead Poisoning Screening, Prevention, and  
29 Abatement Fund established under Section 7.2.

30 (d) Whenever the Department finds that an emergency exists  
31 that requires immediate action to protect the health of  
32 children under this Act, it may, without administrative  
33 procedure or notice, cause an action to be brought by the  
34 Attorney General or the State's Attorney of the county in which  
35 a violation has occurred for a temporary restraining order or a

1 preliminary injunction to require such action as is required to  
2 meet the emergency and protect the health of children.

3 (e) The State's Attorney of the county in which a violation  
4 occurs or the Attorney General may bring an action for the  
5 enforcement of this Act and the rules adopted and orders issued  
6 under this Act, in the name of the People of the State of  
7 Illinois, and may, in addition to other remedies provided in  
8 this Act, bring an action for a temporary restraining order or  
9 preliminary injunction as described in subsection (d) or an  
10 injunction to restrain any actual or threatened violation or to  
11 impose or collect a civil penalty for any violation.

12 (Source: P.A. 92-447, eff. 8-21-01.)

13 (410 ILCS 45/12.1 new)

14 Sec. 12.1. Attorney General and State's Attorney report to  
15 General Assembly. The Attorney General and State's Attorney  
16 offices shall report to the General Assembly annually the  
17 number of lead poisoning cases that have been referred by the  
18 Department for enforcement due to violations of this Act or for  
19 failure to comply with a notice of deficiency and mitigation  
20 order issued pursuant to subsection (7) of Section 9 of this  
21 Act.

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law.