



## **LEAD ABATEMENT CERTIFICATION STANDARDS**

### **House Bill 6343 as passed by the House First Analysis (12-13-02)**

**Sponsor: Rep. Judith Scranton  
Committee: Regulatory Reform**

#### ***THE APPARENT PROBLEM:***

The Department of Community Health administers the Lead Hazard Remediation Program, whose purpose is to reduce lead-based paint poisoning in Michigan. Part of this program includes the administration of training and certification requirements for lead abatement workers. The state program is operated under Public Acts 219 and 220 of 1998, which created the Lead Abatement Act as a part of the Public Health Code. Under the act, the DCH sets standards for and accredits training programs that offer courses in lead-based paint abatement activities, and certifies individuals to conduct lead-based paint activities. Currently, individuals can be certified as an inspector, risk assessor, abatement worker, or supervisor, with varying levels of required training and experience required for each certification.

In addition, the Michigan State Housing Development Authority (MSHDA) receives funds from the U.S. Department of Housing and Urban Development to address childhood exposure to lead-based paint. Some of this money is used to perform minor repairs and remodeling projects in rental units enrolled in the "Section 8" subsidized housing program.

Shortly after Michigan's Lead Abatement Act was enacted into law, the U.S. Department of Housing and Urban Development released its final rule implementing the 1992 federal legislation regarding the reduction of lead-based paint hazards. Consequently, Michigan's statute needs to be updated to reflect changes in definitions and other administrative matters. As part of the federal rules that have now been finalized, HUD authorized an additional category of lead reduction workers that is not authorized in Michigan law. This category of worker, called a "clearance technician", is described as a lower category of lead worker than those currently certified by the DCH. As such, these professionals could be utilized to "clear" work that has been done to control lead exposure where the

conditions do not require full-scale abatement. For example, a clearance technician could conduct clearance testing following such activities are specialized cleaning, repairs, maintenance, painting, temporary containment of lead hazards, and so forth. With the new category of technician, which would require a lower level of training, costs could be reduced and work could be facilitated in areas where there is a shortage of other certified lead professionals.

Legislation is necessary to bring the state statute into conformity with federal laws and regulations, and to allow MSHDA to utilize a new category of lead worker in its federally-funded projects.

#### ***THE CONTENT OF THE BILL:***

The bill would amend the lead abatement provisions of the Public Health Code to add a new category of certification of individuals who work with lead-based paint hazards in buildings, and to update definitions and make other administrative changes in the lead abatement program.

"Certified clearance technician". The bill would add a new category of certification, the "certified clearance technician", defined as a person who has completed an approved training course and been certified by the Department of Community Health to conduct clearance testing following interim controls. ("Interim controls" are defined under current law to mean a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including such things as specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.)

A person could seek accreditation for a training program to offer courses in lead-based paint activities

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for individuals seeking certification as a clearance technician. The bill specifies that a clearance technician course would have to last a minimum of eight training hours, with a minimum of two hours devoted to hands-on training activities. The department would be required to promulgate rules to determine the minimum curriculum requirements for the clearance technician course. Until rules were promulgated, a clearance technician course would use the curriculum for the lead sampling technician course approved by the federal Environmental Protection Agency.

The department would certify an individual as a clearance technician after submission of an application demonstrating that the person met the requirements of the act and its administrative rules. The bill would require that a person successfully complete an approved course for the discipline of clearance technician and receive a course completion certificate, pass the third party exam for the discipline of clearance technician, and pay a fee of \$50 in order to become a certified clearance technician.

Lead abatement program changes. The bill would revise certain terms used in the act and modify some definitions, as follows:

- The definition of “lead-based paint hazard” would be modified and expanded. New terms, “dust lead hazard” and “soil lead hazard”, would replace “lead contaminated dust” and “lead contaminated soil”.
- The definitions of “inspection” and “risk assessment” would each be modified to clarify that they applied only to “target housing” (generally housing constructed before 1978) or to a “child occupied facility” (a building constructed before 1978 that is regularly visited by children age six and under, such as a preschool, day-care center, kindergarten, and the like).
- The definition of “residential dwelling” would be expanded to also include ancillary buildings and structures, such as garages, fences, and nonagricultural or noncommercial outbuildings.
- The definition of “target housing” would be amended to exclude an unoccupied dwelling unit that remains unoccupied until demolition.
- The bill would require that a person who does not pass the “third party exam” (administered by an entity not associated with the provider of the training course) for certification in one of the lead abatement disciplines (inspector, risk assessor, supervisor,

project designer, abatement worker, or clearance technician) after three attempts to repeat the appropriate training course to be eligible to retake the exam.

- The bill would allow the department to waive accreditation fees for a training course offered by an entity that has demonstrated that no part of its net earnings benefits any private shareholder or individual.

- Currently, the act requires that a person notify the department at least seven calendar days before beginning a “lead-based paint activity” (inspection, risk assessment, and abatement in target housing and child occupied facilities). The bill would amend this provision to require, instead, that a person notify the department at least *three business days* before beginning lead-based paint *abatement*. In addition, the bill would allow such notification to be made through electronic means.

- The bill would specify that certain information required to be submitted under these provisions of the Public Health Code would be exempt from disclosure under the Freedom of Information Act. Exempt information would include personal information of owners, agents, and tenants of residential dwellings where lead-based paint investigations have been conducted, and information that could be used to identify children with elevated blood lead levels.

- In addition to existing provisions concerning violations or complaints against people accredited or certified under the lead abatement provisions, the bill would allow the department to investigate and take actions against a person allegedly engaged in lead-based paint activity. And, it would allow the department to impose administrative fines for violations of rules promulgated under the statute, as well as for violations of the statute. Further, the bill would specify that current provisions making it a misdemeanor to violate these provisions would apply to a person who “willfully or repeatedly” violates the law.

MCL 333.5453 et al.

### **FISCAL IMPLICATIONS:**

Fiscal information is not available.

**ARGUMENTS:**

***For:***

The MSHDA points out that clearance technicians (if certified by the DCH) could perform clearance on minor repairs done on five to six thousand rental units in the Section 8 voucher program, and on as many as 2,000 units annually for community development grantees, which are units that receive \$25,000 or less in federal funds. This work is not designed to abate lead hazards, but often involves lead hazard reduction. Without the new category of worker, the federal regulation requires that these kinds of jobs be cleared by licensed lead risk assessors, who are more highly trained and who charge fees of as much as \$300 to \$400 to perform clearances in some areas of the state. This level of expertise is not needed to provide clearance for many of these minor repair jobs. Passage of the bill could result in cost savings and would expedite necessary minor cleanup and repair work in several types of subsidized housing units.

**POSITIONS:**

Representatives of the Department of Community Health and the Michigan State Housing Development Authority (MSHDA) testified in support of the bill. (12-4-02)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.