

HOUSE BILL No. 5560

February 10, 1998, Introduced by Reps. Schermesser, Martinez, Parks, Bogardus, Hanley, Scott, Hale, Gire, Varga, Leland, Tesanovich, Kelly, Goschka and LaForge and referred to the Committee on Health Policy.

A bill to amend 1974 PA 154, entitled "Michigan occupational safety and health act," (MCL 408.1001 to 408.1094) by adding sections 77, 78, 78a, 78b, 78c, 78d, 78e, 79, 79a, 79b, 79c, 79d, 79e, 80, 80a, 80b, 80c, 80d, and 80e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 77. AS USED IN SECTIONS 78 THROUGH 80E:

2 (A) "DEPARTMENT" MEANS THE DIVISION OF THE DEPARTMENT OF
3 COMMUNITY HEALTH RESPONSIBLE FOR OCCUPATIONAL HEALTH UNDER SEC-
4 TION 13.

5 (B) "LEAD ABATEMENT CONTRACTOR", "LEAD ABATEMENT", AND
6 "REMOVAL" MEAN THOSE TERMS AS DEFINED IN THE LEAD ABATEMENT CON-
7 TRACTORS LICENSING ACT.

8 (C) "LEAD ABATEMENT PROJECT SITE" MEANS THE AREA INVOLVED IN
9 THE REMOVAL OR SEALING OF SURFACES CONTAINING LEAD.

1 SEC. 78. AN EMPLOYEE OR AGENT OF A LEAD ABATEMENT
2 CONTRACTOR WHO IS RESPONSIBLE FOR OR ACTUALLY INVOLVED IN LEAD
3 ABATEMENT SHALL OBTAIN SUCH TRAINING AND ACCREDITATION AS
4 REQUIRED UNDER STATE OR FEDERAL LAW PERTAINING TO THE HEALTH AND
5 SAFETY ASPECTS OF THE REMOVAL OR SEALING OF SURFACES CONTAINING
6 LEAD.

7 SEC. 78A. (1) A PERSON CONDUCTING A COURSE FOR AN EMPLOYEE
8 OR AGENT OF A LEAD ABATEMENT CONTRACTOR ON THE HEALTH AND SAFETY
9 ASPECTS OF LEAD ABATEMENT FOR PURPOSES OF THIS SECTION AND
10 SECTION 78 SHALL SUBMIT A WRITTEN APPLICATION TO THE DEPARTMENT
11 ON FORMS PROVIDED BY THE DEPARTMENT AND OBTAIN APPROVAL FROM THE
12 DEPARTMENT PURSUANT TO THIS SECTION.

13 (2) IN ORDER TO OBTAIN OR RETAIN DEPARTMENT APPROVAL FOR A
14 COURSE FOR AN EMPLOYEE OR AGENT OF A LEAD ABATEMENT CONTRACTOR, A
15 PERSON SHALL SATISFY THE FOLLOWING CRITERIA:

16 (A) PROVIDE NOT LESS THAN A TOTAL OF 16 HOURS OF INSTRUCTION
17 ON ALL OF THE FOLLOWING TOPICS:

18 (i) RECOGNITION OF LEAD, INCLUDING ITS PHYSICAL CHARACTERIS-
19 TICS AND USES.

20 (ii) HEALTH HAZARDS ASSOCIATED WITH LEAD EXPOSURE.

21 (iii) HEALTH PROTECTION MEASURES TO BE TAKEN TO MINIMIZE THE
22 EMISSION OF LEAD IN THE AIR, INCLUDING SAFETY EQUIPMENT, AIR MON-
23 ITORING, AND PROTECTIVE CLOTHING AND PERSONAL HYGIENE.

24 (iv) APPROPRIATE PROTECTIVE PRACTICES, INCLUDING AREA PREPA-
25 RATION, DECONTAMINATION, AND WASTE DISPOSAL.

1 (v) A DETAILED DESCRIPTION OF RESPIRATORS AND THEIR USE AND
2 CARE, INCLUDING THE DEGREE OF PROTECTION AFFORDED, FITTING AND
3 TESTING PROCEDURES, AND MAINTENANCE AND CLEANING.

4 (vi) REQUIREMENTS, PROCEDURES, AND STANDARDS ESTABLISHED BY
5 THE DEPARTMENT PURSUANT TO THIS ACT.

6 (B) PROVIDE EACH STUDENT WITH NOT LESS THAN 15 MINUTES OF
7 INDIVIDUAL INSTRUCTION CONSISTING OF INDIVIDUAL RESPIRATOR FIT
8 TESTS AND AN OPPORTUNITY TO USE RESPIRATORS.

9 (C) PROVIDE THAT INSTRUCTION IS GIVEN OR SUPERVISED BY AN
10 INDIVIDUAL DETERMINED QUALIFIED BY THE DEPARTMENT.

11 (D) MAINTAIN NAMES OF STUDENTS TRAINED, THEIR ADDRESSES AND
12 SOCIAL SECURITY NUMBERS, AND THE DATES ON WHICH TRAINING
13 OCCURRED, AND MAKE THIS INFORMATION AVAILABLE TO THE DEPARTMENT
14 UPON REQUEST.

15 (E) PROVIDE AN OPPORTUNITY FOR STUDENTS TO COMPLETE WRITTEN
16 COURSE EVALUATIONS.

17 (F) ISSUE TO EACH STUDENT WHO COMPLETES THE COURSE AND SAT-
18 ISFACTORILY PASSES AN EXAMINATION ON COURSE CONTENT A CERTIFICA-
19 TION OF ATTENDANCE CONTAINING INFORMATION REQUIRED BY THE
20 DEPARTMENT.

21 SEC. 78B. IN ORDER TO OBTAIN OR RETAIN DEPARTMENTAL APPROV-
22 AL, A PERSON CONDUCTING A REVIEW COURSE FOR AN EMPLOYEE OR AGENT
23 OF A LEAD ABATEMENT CONTRACTOR SHALL PROVIDE INSTRUCTION ADDRESS-
24 ING THE TOPICS AND MEETING THE CRITERIA PRESCRIBED BY SECTION
25 78A(2), AS DETERMINED BY THE DEPARTMENT.

1 SEC. 78C. THE PENALTY PROVISIONS OF THIS ACT DO NOT APPLY
2 TO VIOLATIONS UNDER SECTIONS 78, 78A, AND 78B FOR 3 MONTHS AFTER
3 THE EFFECTIVE DATE OF THIS SECTION.

4 SEC. 78D. (1) THE DEPARTMENT SHALL ACKNOWLEDGE IN WRITING
5 THE RECEIPT OF AN APPLICATION FOR APPROVAL OF A TRAINING COURSE
6 FOR AN EMPLOYEE OR AGENT OF A LEAD ABATEMENT CONTRACTOR WITHIN 10
7 WORKING DAYS AFTER RECEIVING THE APPLICATION.

8 (2) THE DEPARTMENT SHALL ACT ON AN APPLICATION WITHIN 60
9 DAYS AFTER THE APPLICATION IS DETERMINED TO BE COMPLETE BY THE
10 DEPARTMENT.

11 (3) THE DEPARTMENT SHALL APPROVE A TRAINING COURSE FOR AN
12 EMPLOYEE OR AGENT OF A LEAD ABATEMENT CONTRACTOR IF THE DEPART-
13 MENT DETERMINES THAT THE COURSE SUBSTANTIALLY SATISFIES THE CRI-
14 TERIA PRESCRIBED BY SECTION 78A(2) OR 78B.

15 (4) THE DEPARTMENT SHALL DENY OR REVOKE APPROVAL OF A TRAIN-
16 ING COURSE FOR AN EMPLOYEE OR AGENT OF A LEAD ABATEMENT CONTRAC-
17 TOR IF THE DEPARTMENT DETERMINES THAT THE COURSE DOES NOT SUB-
18 STANTIALLY SATISFY THE CRITERIA PRESCRIBED BY SECTION 78A(2) OR
19 78B.

20 SEC. 78E. (1) EACH LEAD ABATEMENT CONTRACTOR SHALL MAINTAIN
21 RECORDS OF ALL LEAD ABATEMENT PROJECTS THAT CONTRACTOR PERFORMS
22 AND SHALL MAKE THESE RECORDS AVAILABLE TO THE DEPARTMENT UPON
23 REQUEST.

24 (2) FOR EACH LEAD ABATEMENT PROJECT, A LEAD ABATEMENT CON-
25 TRACTOR SHALL RECORD ALL OF THE FOLLOWING INFORMATION:

1 (A) THE LOCATION AND DESCRIPTION OF THE PROJECT AND THE
2 ESTIMATED AMOUNT OF LEAD SURFACES REMOVED OR SEALED AT EACH
3 PROJECT.

4 (B) THE NAME OF EVERY PERSON WHO COMES ONTO A LEAD ABATEMENT
5 PROJECT SITE.

6 (C) THE STARTING DATE AND THE COMPLETION DATE OF THE LEAD
7 ABATEMENT PROJECT.

8 (D) A SUMMARY OF THE PROCEDURES USED TO COMPLY WITH APPLICA-
9 BLE REQUIREMENTS REGARDING LEAD ABATEMENT AS IMPOSED BY THE LEAD
10 ABATEMENT CONTRACTORS ACT.

11 (E) THE NAME AND ADDRESS OF THE WASTE DISPOSAL SITE WHERE
12 REMOVED LEAD SURFACES WERE DEPOSITED.

13 SEC. 79. AN EMPLOYER SHALL PROVIDE ANY EMPLOYEE WHO IS
14 RESPONSIBLE FOR OR ACTUALLY INVOLVED IN LEAD ABATEMENT INVOLVING
15 25 OR MORE LINEAR FEET OR 50 OR MORE SQUARE FEET OF SURFACES CON-
16 TAINING LEAD WITH ALL OF THE FOLLOWING TRAINING:

17 (A) AN INITIAL COURSE ON THE HEALTH AND SAFETY ASPECTS OF
18 LEAD REMOVAL OR SEALING, DEPENDING ON THE ABATEMENT METHOD USED,
19 TO BE COMPLETED BEFORE ENGAGING IN LEAD ABATEMENT. THIS SUBDIVI-
20 SION DOES NOT APPLY IF THE EMPLOYEE HAS COMPLETED A COURSE PRIOR
21 TO THE EFFECTIVE DATE OF THIS SECTION SUBSTANTIALLY ADDRESSING
22 THE TOPICS AND MEETING THE CRITERIA PRESCRIBED BY SECTION 79A(2)
23 AS DETERMINED BY THE DEPARTMENT.

24 (B) AN ANNUAL REVIEW COURSE OF INSTRUCTION ON CHANGES IN THE
25 HEALTH AND SAFETY ASPECTS OF LEAD REMOVAL OR SEALING PRACTICES,
26 RULES, OR GOVERNMENTAL REGULATIONS. UPON REQUEST, THE DEPARTMENT

1 MAY WAIVE THE REQUIREMENT OF AN ANNUAL REVIEW COURSE AND REQUIRE
2 INSTEAD A BIENNIAL REVIEW COURSE.

3 (C) ANY OTHER TRAINING REQUIRED UNDER OTHER STATE OR FEDERAL
4 LAW PERTAINING TO THE HEALTH AND SAFETY ASPECTS OF THE REMOVAL OR
5 SEALING OF SURFACES CONTAINING LEAD.

6 SEC. 79A. (1) A COURSE ON THE HEALTH AND SAFETY ASPECTS OF
7 LEAD REMOVAL OR SEALING CONDUCTED PURSUANT TO SECTION 79 SHALL
8 PROVIDE INSTRUCTION ON ALL OF THE FOLLOWING TOPICS:

9 (A) HEALTH HAZARDS ASSOCIATED WITH LEAD EXPOSURE.

10 (B) HEALTH PROTECTION MEASURES TO BE TAKEN TO MINIMIZE EXPO-
11 SURE TO LEAD.

12 (C) THE NATURE OF OPERATIONS THAT COULD RESULT IN EXPOSURE
13 TO LEAD.

14 (D) APPROPRIATE PROTECTIVE PRACTICES.

15 (E) A DESCRIPTION OF RESPIRATORS AND THEIR PURPOSE, USE, AND
16 CARE.

17 (2) UNLESS THE DEPARTMENT HAS GIVEN PRIOR APPROVAL TO THE
18 COURSE, AN INITIAL COURSE ON THE HEALTH AND SAFETY ASPECTS OF
19 LEAD REMOVAL OR SEALING CONDUCTED PURSUANT TO SECTION 79 SHALL
20 PROVIDE NOT LESS THAN A TOTAL OF 5 HOURS' INSTRUCTION ON THE
21 TOPICS LISTED IN SUBSECTION (1). THE DEPARTMENT SHALL ACT ON A
22 REQUEST FOR PRIOR APPROVAL TO A COURSE UNDER THIS SUBSECTION
23 WITHIN 60 DAYS AFTER THE APPLICATION FOR REQUEST FOR APPROVAL OF
24 THE COURSE IS DETERMINED TO BE COMPLETE BY THE DEPARTMENT.

25 (3) INSTRUCTION GIVEN PURSUANT TO THIS SECTION SHALL BE
26 GIVEN OR SUPERVISED BY AN INDIVIDUAL APPROVED BY THE DEPARTMENT.

1 SEC. 79B. THE PENALTY PROVISIONS OF THIS ACT DO NOT APPLY
2 TO VIOLATIONS UNDER SECTIONS 79 AND 79A FOR 6 MONTHS AFTER THE
3 EFFECTIVE DATE OF THIS SECTION.

4 SEC. 79C. (1) UPON REQUEST, AN EMPLOYER WHO IS SUBJECT TO
5 SECTION 79 SHALL PROVIDE TO THE DEPARTMENT ALL WRITTEN MATERIALS
6 RELATING TO THE EMPLOYEE TRAINING PROGRAM CONDUCTED PURSUANT TO
7 SECTION 79.

8 (2) UPON REQUEST, THE DEPARTMENT SHALL PROVIDE TO AFFECTED
9 EMPLOYEES AND AGENTS OF AN EMPLOYER DESCRIBED IN SUBSECTION (1)
10 ALL WRITTEN MATERIALS RELATING TO THAT EMPLOYEE'S TRAINING
11 PROGRAM.

12 SEC. 79D. AN EMPLOYER WHO IS SUBJECT TO SECTION 79 SHALL
13 PROVIDE THE NAMES OF EMPLOYEES TRAINED, THEIR ADDRESSES AND
14 SOCIAL SECURITY NUMBERS, AND THE DATES ON WHICH TRAINING OCCURRED
15 AND MAKE THIS INFORMATION AVAILABLE TO THE DEPARTMENT UPON
16 REQUEST.

17 SEC. 79E. EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 78, 79,
18 AND 79A, EACH EMPLOYEE WHO IS INVOLVED IN JANITORIAL, MAINTENANCE,
19 OR REPAIR OF EQUIPMENT OR BUILDINGS AND WHO IS LIKELY TO
20 BE INVOLVED WITH REMOVING, ALTERING, OR OTHERWISE DISTURBING LEAD
21 SHALL RECEIVE 2 HOURS OF AWARENESS TRAINING ON THE HEALTH AND
22 SAFETY ASPECTS OF LEAD BY MEANS OF A COURSE DETERMINED APPROPRIATE
23 BY THE DEPARTMENT.

24 SEC. 80. EMPLOYERS ENGAGED IN LEAD ABATEMENT INVOLVING 25
25 OR MORE LINEAR FEET OR 50 OR MORE SQUARE FEET OF SURFACE AND LEAD
26 ABATEMENT CONTRACTORS SHALL DO ALL OF THE FOLLOWING AT THE
27 EMPLOYER'S OR CONTRACTOR'S COST:

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1 (A) PROVIDE EACH INDIVIDUAL ON A LEAD ABATEMENT PROJECT SITE
2 WITH APPROPRIATE PROTECTIONS, INCLUDING BUT NOT LIMITED TO THE
3 FOLLOWING:

4 (i) APPROPRIATE PERSONAL PROTECTIVE CLOTHING AND EQUIPMENT
5 AND TEMPORARY FACILITIES TO CONTAIN LEAD WITHIN THE BOUNDARIES OF
6 THE LEAD ABATEMENT PROJECT SITE.

7 (ii) RESPIRATORS THAT ARE CAPABLE OF BEING QUALITATIVELY FIT
8 TESTED BY A METHOD THAT MEETS NATIONAL INSTITUTE OF OCCUPATIONAL
9 SAFETY AND HEALTH APPROVAL.

10 (B) VACUUM WITH A VACUUM CLEANER EQUIPPED WITH A HIGH EFFI-
11 CIENCY PARTICULATE ABSOLUTE FILTER OR WET SWEEP ALL SURFACES
12 WITHIN THE LEAD ABATEMENT PROJECT SITE THAT ARE EXPOSED TO AIR-
13 BORNE MATERIALS THAT MAY CONTAIN LEAD.

14 (C) PROHIBIT DRY SWEEPING AS A POST-ABATEMENT CLEANUP
15 METHOD.

16 (D) DISPOSE OF LEAD IN SEALED IMPERMEABLE CONTAINERS.

17 (E) PROVIDE ANY OTHER DEVICES, CLOTHING, EQUIPMENT, AND
18 PRACTICES REQUIRED BY OTHER STATE OR FEDERAL LAW PERTAINING TO
19 THE HEALTH AND SAFETY ASPECTS OF LEAD DEMOLITION, RENOVATION, AND
20 ENCAPSULATION.

21 SEC. 80A. A PERSON SHALL NOT SMOKE, EAT, OR DRINK IN A LEAD
22 ABATEMENT PROJECT WORK AREA.

23 SEC. 80B. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A
24 LEAD ABATEMENT CONTRACTOR SHALL CAUSE TO HAVE TAKEN BY A NEUTRAL
25 THIRD PARTY A POST-ABATEMENT AIR MONITORING CHECK ON THE LEAD
26 ABATEMENT PROJECT SITE. IF THE LEAD ABATEMENT CONTRACTOR AND HIS

1 OR HER CUSTOMER AGREE, THE CUSTOMER MAY CAUSE TO HAVE TAKEN THE
2 POST-ABATEMENT AIR MONITORING CHECK REQUIRED BY THIS SECTION.

3 SEC. 80C. (1) AN EMPLOYER WHO ENGAGES IN LEAD ABATEMENT
4 INVOLVING 25 OR MORE LINEAR FEET OR 50 OR MORE SQUARE FEET OF
5 SURFACE SHALL CAUSE TO HAVE TAKEN A POST-ABATEMENT AIR MONITORING
6 CHECK ON THE LEAD ABATEMENT PROJECT SITE USING AN AIR SAMPLE FROM
7 THAT SITE.

8 (2) AN EMPLOYEE OR A MEMBER OF THE PUBLIC, IF A PUBLIC
9 FACILITY IS INVOLVED, MAY CONDUCT AT HIS OR HER EXPENSE AN INDE-
10 PENDENT POST-ABATEMENT AIR MONITORING ANALYSIS ON THE SAME AIR
11 SAMPLE TAKEN PURSUANT TO SUBSECTION (1) OR ON AN AIR SAMPLE TAKEN
12 CONCURRENTLY AT THE SAME SITE. AN INDEPENDENT POST-ABATEMENT AIR
13 MONITORING ANALYSIS MAY BE CONDUCTED ONLY AFTER THE EMPLOYER
14 RECEIVES WRITTEN NOTIFICATION ON A FORM PROVIDED BY THE EMPLOYER
15 THAT SPECIFIES A PERSON'S DESIRE TO CONDUCT AN INDEPENDENT
16 POST-ABATEMENT AIR MONITORING ANALYSIS. AN INDEPENDENT
17 POST-ABATEMENT AIR MONITORING CHECK CONDUCTED PURSUANT TO THIS
18 SUBSECTION SHALL BE ANALYZED BY A LABORATORY, FACILITY, OR PERSON
19 APPROVED BY THE DEPARTMENT.

20 SEC. 80D. UPON REQUEST BY THE DEPARTMENT, A POST-ABATEMENT
21 AIR MONITORING CHECK TAKEN PURSUANT TO SECTION 80B OR 80C SHALL
22 BE REPORTED TO THE DEPARTMENT AND, AFTER COMPLETION OF THE LEAD
23 ABATEMENT PROJECT, THE LEVEL OF LEAD PER CUBIC CENTIMETER OF SUR-
24 FACE AREA AT THE LEAD ABATEMENT PROJECT SITE SHALL NOT EXCEED AN
25 AMOUNT APPROVED BY THE DEPARTMENT.

26 SEC. 80E. THE DEPARTMENT OF PUBLIC HEALTH MAY PROMULGATE
27 RULES TO IMPLEMENT SECTIONS 77 TO 80D PURSUANT TO THE

1 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
2 24.328.

3 Enacting section 1. This amendatory act does not take
4 effect unless Senate Bill No. _____ or House Bill No. _____
5 (request no. 01019'97 a) of the 89th Legislature is enacted into
6 law.