

SECOND REGULAR SESSION

SENATE BILL NO. 751

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR COLEMAN.

Pre-filed December 1, 2003, and ordered printed.

TERRY L. SPIELER, Secretary.

2586S.01I

AN ACT

To repeal sections 701.304, 701.309, 701.312, 701.314, and 701.320, RSMo, and to enact in lieu thereof six new sections relating to lead poisoning, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 701.304, 701.309, 701.312, 701.314, and 701.320, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 701.304, 701.309, 701.312, 701.313, 701.314, and 701.320, to read as follows:

701.304. 1. A representative of the department, or a representative of a unit of local government or health department licensed by the department for this purpose, may conduct an inspection or a risk assessment at a dwelling or a child-occupied facility for the purpose of ascertaining the existence of a lead hazard under the following conditions:

(1) The department, owner of the dwelling, and an adult occupant of a dwelling which is rented or leased have been notified that an occupant of the dwelling or a child six or fewer years of age who regularly visits the child-occupied facility has been identified as having an elevated blood lead level as defined by rule; and

(2) The inspection or risk assessment occurs at a reasonable time; and

(3) The representative of the department or local government presents appropriate credentials to the owner or occupant; and

(4) Either the dwelling's owner or adult occupant or the child-occupied facility's owner or agent grants consent to enter the premises to conduct an inspection or risk assessment; or

(5) If consent to enter is not granted, the representative of the department, local government, or local health department may petition the circuit court for an order to enter

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

the premises and conduct an inspection or risk assessment after notifying the dwelling's owner or adult occupant in writing of the time and purpose of the inspection or risk assessment at least forty-eight hours in advance. The court shall grant the order upon a showing that an occupant of the dwelling or a child six or fewer years of age who regularly visits the child-occupied facility has been identified as having an elevated blood lead level as defined by rule.

2. In conducting such an inspection or risk assessment, a representative of the department, or representative of a unit of local government or health department licensed by the department for this purpose, may remove samples necessary for laboratory analysis in the determination of the presence of a lead-bearing substance or lead hazard in the designated dwelling or child-occupied facility.

3. The director shall assess fees for licenses and accreditation **and levy fines** in accordance with rules promulgated pursuant to sections 701.300 to [701.330] **701.348**. All such fees **and fines** shall be deposited into the state treasury to the credit of the public health services fund established in section 192.900, RSMo.

701.309. 1. At least ten days prior to the onset of a lead abatement project, the lead abatement contractor conducting such an abatement project shall:

(1) Submit to the department a written notification as prescribed by the department; and

(2) Pay a notification fee of twenty-five dollars.

2. **In addition to the specified penalties in section 701.320, failure to notify the department prior to the onset of a lead abatement project shall result in a fine of one thousand dollars imposed against the lead abatement contractor for the first identified offense, two thousand dollars for the second identified offense, and thereafter, fines shall be doubled for each identified offense.**

3. **Written notification as prescribed by the department shall include disclosure by the lead abatement contractor of any potential lead hazards to the owners and tenants of a dwelling.**

4. If the lead abatement contractor is unable to comply with the requirements of subsection 1 of this section because of an emergency situation as defined by rule, the contractor shall:

(1) Notify the department by other means of communication within twenty-four hours of the onset of the project; and

(2) Submit the written notification and notification fee prescribed in subsection 1 of this section to the department no more than five days after the onset of the project.

5. **Upon completion of the abatement, the lead abatement contractor shall submit to the department written notification and the final clearance inspection report.**

701.312. 1. The director of the department of health and senior services shall develop a program to license lead inspectors, risk assessors, lead abatement supervisors, lead abatement workers, project designers and lead abatement contractors. The director shall promulgate rules and regulations including, but not limited to:

- (1) The power to issue, restrict, suspend, revoke, deny and reissue licenses;
- (2) The ability to enter into reciprocity agreements with other states that have similar licensing provisions;
- (3) Fees for any such licenses;
- (4) Training, education and experience requirements; and
- (5) The implementation of work practice standards, reporting requirements and licensing standards.

2. The director shall issue temporary risk assessor licenses to persons who, as of August 28, 1998, are licensed by the department as lead inspectors. The temporary risk assessor licenses issued pursuant to this subsection shall expire upon the same date as the expiration date of such person's lead inspector license. The director shall set forth standards and conditions under which temporary risk assessor licenses shall be issued.

3. The director shall require, as a condition of licensure, the posting of a bond for lead abatement contractors. The director shall require a licensee or an applicant for licensure to provide evidence of their ability to indemnify any person that may suffer damage from lead-based paint activities of which the licensee or applicant may be liable. The licensee or applicant may provide proof of liability insurance or a surety bond in an amount to be determined by the director which shall not be less than three hundred thousand dollars.

701.313. 1. Any local community organization, government agency, or quasi-government agency issuing grants or loans for lead abatement projects or interim controls must provide written notification to the department no later than ten days prior to the onset of a lead abatement project. The written notification shall include, but not be limited to, the name of the lead abatement contractor and the address of the property on which the lead abatement project shall be conducted.

2. If the community organization or government agency fails to provide written notification for each property pursuant to subsection 1 of this section, a fine of two hundred fifty dollars shall be levied.

3. If the community organization or the government agency is unable to comply with the requirements in subsection 1 of this section due to an emergency situation, as defined by the department, the community organization or government agency shall:

- (1) Notify the department by other means of communication within twenty-four hours of the onset of the lead abatement project; and

(2) Provide written notification to the department no later than five days after the onset of the lead abatement project.

701.314. The director of the department of health and senior services shall develop a program to accredit training providers to train lead inspectors, risk assessors, lead abatement supervisors, lead abatement workers and project designers. The director shall promulgate rules and regulations including, but not limited to:

- (1) The power to grant, restrict, suspend, revoke, deny or renew accreditation;
- (2) The ability to enter into reciprocity agreements with other states that have similar accreditation provisions;
- (3) Fees for any such accreditation;
- (4) The curriculum for training;
- (5) The development of standards for accreditation; [and]
- (6) Procedures for monitoring, training, record keeping and reporting requirements for training providers; **and**

(7) The development of educational materials that licensed lead abatement contractors shall provide to property owners prior to the onset of a lead abatement project. The educational materials shall explain the rights and responsibilities of the property owner and the lead abatement contractor.

701.320. 1. Except as otherwise provided, violation of the provisions of sections 701.308, 701.309, 701.310, 701.311 and 701.316 is a class A misdemeanor.

2. Any subsequent violation of the provisions of sections 701.308, 701.309, 701.310, 701.311, and 701.316 is a class D felony.