

## House Bill 1355

By: Representatives Dempsey of the 13<sup>th</sup>, Cooper of the 43<sup>rd</sup>, Drenner of the 85<sup>th</sup>, Gambill of the 15<sup>th</sup>, Newton of the 123<sup>rd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 41 of Title 31 of the Official Code of Georgia Annotated, relating to lead  
2 poisoning prevention, so as to update provisions to comport with nationally recognized  
3 guidelines; to revise definitions; to revise provisions relating to abatement of lead poisoning  
4 hazards; to expand written advisement requirements; to expand applicability of provisions;  
5 to provide for related matters; to provide for a funding contingency; to repeal conflicting  
6 laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 41 of Title 31 of the Official Code of Georgia Annotated, relating to lead poisoning  
10 prevention, is amended in Code Section 31-41-4, relating to the establishment of lead-based  
11 paint hazard reduction program, training programs, licensure and certification requirements,  
12 written information on renovation, and record keeping requirements, by revising  
13 paragraph (3) of subsection (c) as follows:

14 "(3) A person who is employed by a state or county health department or state or federal  
15 agency to conduct lead investigations to determine the sources of lead poisonings, as  
16 determined by the department, shall be subject to licensing pursuant to paragraph (2) of

17 this subsection as a lead inspector or lead risk assessor but shall not be required to pay  
 18 any fees as otherwise required under this chapter or under rules and regulations  
 19 promulgated by the board under this chapter."

20 **SECTION 2.**

21 Said chapter is further amended in Code Section 31-41-11, relating to legislative findings  
 22 regarding the "Childhood Lead Exposure Control Act," by revising subsection (a) as follows:

23 "(a) The General Assembly finds that childhood lead poisoning prevention activities are  
 24 currently carried out within the Environmental Health ~~and Injury Prevention~~, Epidemiology  
 25 ~~and Prevention~~, and Laboratory ~~Branches~~ sections of the Department of Public Health.  
 26 These activities include lead poisoning case identification, laboratory support,  
 27 identification of exposure sources, environmental management, and lead hazard reduction.  
 28 Childhood lead poisoning cases are identified through screening tests conducted by public  
 29 health clinics and private health care providers and by laboratory reporting of test results.  
 30 In 1994, lead poisoning was established as a notifiable condition and made part of the  
 31 Notifiable Disease reporting system."

32 **SECTION 3.**

33 Said chapter is further amended by revising Code Section 31-41-12, relating to definitions  
 34 regarding the "Childhood Lead Exposure Control Act," as follows:

35 "31-41-12.

36 As used in this article, the term:

37 (1) 'Confirmed lead poisoning' means a confirmed concentration of lead ~~in whole blood~~  
 38 equal to or greater than ~~20~~ 3.5 micrograms of lead per deciliter ~~for using a single venous~~  
 39 blood test or between 15 and 19 micrograms of lead per deciliter in two capillary blood  
 40 tests taken at least three months apart within 12 weeks of each other.

41 (2) 'Day-care facility' means a structure or structures used as a school, nursery, child care  
42 center, clinic, treatment center, or other facility serving the needs of children under six  
43 years of age including the grounds, any outbuildings, or other structures appurtenant to  
44 the facility.

45 (3) 'Department' means the Department of Public Health.

46 (4) 'Dwelling,' 'dwelling unit,' or 'residential housing unit' means the interior or exterior  
47 of a structure, all or part of which is designed or used for human habitation.

48 (5) 'Elevated blood lead level' means a blood lead concentration of ~~ten~~ 3.5 micrograms  
49 per deciliter or greater ~~as determined by the lower of two consecutive blood tests within~~  
50 ~~a six-month period~~ in any test.

51 (5.1) 'Lead hazard abatement' means ~~the removal and correction, in a manner no more~~  
52 ~~strict than what is determined to be absolutely necessary, of a specifically identified~~  
53 ~~hazard which causes a confirmed lead poisoning~~ any set of measures designed to  
54 eliminate lead-based paint hazards in accordance with rules and regulations established  
55 by the department, including:

56 (A) Removal of lead-based paint and lead contaminated dust, permanent containment  
57 or encapsulation of lead-based paint, replacement of lead-painted surfaces or fixtures,  
58 and removal or covering of lead contaminated soil; and

59 (B) All preparation, cleanup, disposal, and postabatement clearance testing activities  
60 associated with such measures.

61 (6) 'Lead poisoning hazard' means the presence of readily accessible or mouthable  
62 lead-bearing substances measuring 1.0 milligram per square centimeter or greater by  
63 X-ray fluorescence or 0.5 percent or greater by chemical analysis; ~~100~~ 10 micrograms per  
64 square foot or greater for dust on floors; ~~500~~ 100 micrograms per square foot or greater  
65 for dust on window sills; or 400 parts per million in bare soil in outdoor areas of a  
66 dwelling, dwelling unit, school, or day-care facility used by children as play areas or an

67 average of 1,200 parts per million in bare soil in other outdoor areas of the dwelling,  
68 dwelling unit, school, or day-care facility not used for children's play.

69 (7) 'Lead safe housing' is housing that was built since 1978 or that has been tested by a  
70 person who has been licensed or certified by the Board of Natural Resources to perform  
71 such testing and either found to have no lead-based paint hazards within the meaning of  
72 Title X of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 14 U.S.C.  
73 Code Section 185(b)(15) or housing that has been found to meet the requirements of the  
74 maintenance standard.

75 (8) 'Maintenance standard' means the following:

76 (A) Repairing and repainting areas of deteriorated paint inside a residential housing  
77 unit;

78 (B) Cleaning the interior of the unit to a standard of cleaning which is at least  
79 customary in the local area at lease origination or as part of the abatement plan,  
80 whichever is first, to remove dust that constitutes a lead poisoning hazard;

81 (C) Adjusting doors and windows to minimize friction or impact on surfaces;

82 (D) Subject to the occupant's approval, appropriately cleaning any carpets at lease  
83 origination or as part of the abatement plan, whichever is first;

84 (E) Taking such steps as are necessary to ensure that all interior surfaces on which dust  
85 might collect are readily cleanable; and

86 (F) Providing the occupant or occupants all information required to be provided under  
87 the Residential Lead-Based Paint Hazard Reduction Act of 1992 and amendments  
88 thereto.

89 (9) 'Managing agent' means any person who has charge, care, or control of a building or  
90 part thereof in which dwelling units or rooming units are leased.

91 (10) 'Mouthable lead-bearing substance' means any substance on surfaces or fixtures five  
92 feet or less from the floor or ground that form a protruding corner or similar edge,  
93 protrude one-half inch or more from a flat wall surface, or are freestanding and contain

94 lead contaminated dust at a level that constitutes a lead poisoning hazard. Mouthable  
95 surfaces or fixtures include vinyl miniblinds, doors, door jambs, stairs, stair rails,  
96 windows, window sills, and baseboards.

97 ~~(11) 'Persistent elevated blood lead level' means a blood lead concentration of 15 to 19~~  
98 ~~micrograms per deciliter as determined by the lowest of three consecutive blood tests.~~  
99 ~~The first two blood tests shall be performed within a six-month period, and the third~~  
100 ~~blood test shall be performed at least 12 weeks and not more than six months after the~~  
101 ~~second blood test.~~

102 ~~(12)~~(11) 'Readily accessible lead-bearing substance' means any substance containing lead  
103 at a level that constitutes a lead poisoning hazard which can be ingested or inhaled by a  
104 child under six years of age. Readily accessible substances include deteriorated paint that  
105 is peeling, chipping, cracking, flaking, or blistering to the extent that the paint has  
106 separated from the substrate. Readily accessible substances also include paint that is  
107 chalking.

108 ~~(13)~~(12) 'Regularly visits' means presence at a dwelling, dwelling unit, school, or  
109 day-care facility for at least two days a week for more than three hours per day.

110 ~~(14)~~(13) 'Supplemental address' means a dwelling, dwelling unit, school, or day-care  
111 facility where a child with a ~~persistent~~ an elevated blood lead level or a confirmed lead  
112 poisoning regularly visits or attends. Supplemental address also means a dwelling,  
113 school, or day-care facility where a child resided, regularly visited, or attended within the  
114 six months immediately preceding the determination of a ~~persistent~~ an elevated blood  
115 lead level or a confirmed lead poisoning."

116 **SECTION 4.**

117 Said chapter is further amended by revising Code Section 31-41-14, relating to abatement  
118 of lead poisoning hazard, as follows:

119 "31-41-14.

120 (a) Upon determination that a child less than six years of age has a confirmed lead  
121 poisoning and that the child resides in, attends, or regularly visits a dwelling, dwelling unit,  
122 school, or day-care facility containing lead poisoning hazards, the department shall require  
123 a lead hazard abatement. The department shall also require a lead hazard abatement at the  
124 supplemental addresses of a child less than six years of age with a confirmed lead  
125 poisoning. Upon confirming that all other potential sources of the confirmed lead  
126 poisoning have tested negative and making every reasonable effort to obtain consent from  
127 such dwelling's owner or managing agent to comply with this Code section, the department  
128 shall solicit a court order from the superior court with jurisdiction over such dwelling to  
129 order the dwelling's owner to perform a lead hazard abatement.

130 (b) When abatement is required under subsection (a) of this Code section, the owner or  
131 managing agent shall submit a written lead poisoning hazard abatement plan to the  
132 department within ~~14~~ 30 days of receipt of the lead poisoning hazard notification and shall  
133 obtain written approval of the plan prior to initiating abatement. The lead poisoning hazard  
134 abatement plan shall comply with subsection (g) of this Code section. The written plan  
135 shall be deemed approved if the department does not respond within ~~14~~ 30 days of receipt.

136 (c) If the abatement plan submitted fails to meet the requirements of this Code section, the  
137 department shall issue an abatement order requiring submission of a modified abatement  
138 plan. The order shall indicate the modifications which shall be made to the abatement plan  
139 and the date by which the plan as modified shall be submitted to the department.

140 (d) If the owner or managing agent does not submit an abatement plan within ~~14~~ 30 days,  
141 the department shall issue an abatement order requiring submission of an abatement plan  
142 within five days of receipt of the order.

143 (e) The owner or managing agent shall notify the department and the occupants of the  
144 dates of abatement activities at least three days prior to the commencement of abatement  
145 activities.

146 (f) Abatement shall be completed within 60 days of the department's approval of the  
 147 abatement plan. If the abatement activities are not completed within 60 days as required,  
 148 the department shall issue an order requiring completion of abatement activities. An owner  
 149 or managing agent may apply to the department for an extension of the deadline for  
 150 abatement. The department may issue an order extending the deadline for 30 days upon  
 151 proper written application by the owner or managing agent.

152 (g) All lead-containing waste and residue of the abatement of lead shall be removed and  
 153 disposed of by the person performing the abatement in accordance with applicable federal,  
 154 state, and local laws and rules.

155 (h) The department shall verify by ~~visual~~ clearance inspection that the approved abatement  
 156 plan has been completed. The department may also ~~verify plan completion by require~~  
 157 residual lead dust monitoring. ~~Compliance with the maintenance standard shall be deemed~~  
 158 ~~equivalent to meeting the abatement plan requirements.~~

159 (i) Removal or exclusion of children from the dwelling, school, or day-care facility shall  
 160 not constitute abatement if the property continues to be used for as a dwelling, school, or  
 161 day-care facility. If the property will not be used as a dwelling, school, or day-care facility,  
 162 the property owner shall submit a notarized document to the department certifying that the  
 163 structure or structures will no longer be used as a dwelling, school, or day-care facility."

## 164 SECTION 5.

165 Said chapter is further amended by revising Code Section 31-41-17, relating to advice  
 166 regarding cleaning activities in homes occupied by children with elevated blood lead levels,  
 167 as follows:

168 "31-41-17.

169 In any residential housing unit, day-care facility, or school occupied by a child less than  
 170 six years old who has an elevated blood lead level of ~~ten~~ 3.5 micrograms per deciliter or  
 171 greater, the department shall advise, in writing, the owner or managing agent and the child's

172 parents or legal guardian as to the importance of carrying out routine cleaning activities in  
173 the units they occupy, own, or manage. Such cleaning activities shall include:

- 174 (1) Wiping clean all window sills with a damp cloth or sponge at least weekly;  
175 (2) Regularly washing all surfaces accessible to the child;  
176 (3) In the case of a leased residential housing unit, identifying any deteriorated paint in  
177 the unit and notifying the owner or managing agent of such conditions within 72 hours  
178 of discovery; and  
179 (4) Identifying and understanding potential lead poisoning hazards in the environment  
180 of each child under the age of six in the housing unit, including vinyl miniblinds,  
181 playground equipment, soil, and painted surfaces, and taking steps to prevent the child  
182 from ingesting lead, such as encouraging the child to wash his or her face and hands  
183 frequently and especially after playing outdoors."

184 **SECTION 6.**

185 Said chapter is further amended by revising Code Section 31-41-18, relating to the  
186 application of the "Childhood Lead Exposure Control Act," as follows:

187 "31-41-18.

188 This article shall only apply to:

- 189 (1) Owners of residential rental property that accept compensation for the use of  
190 residential property by another; and  
191 (2) Landlords that accept compensation for the use of residential property by another;  
192 (3) Day-care facilities; and  
193 (4) Schools."



194

**SECTION 7.**

195 This Act shall become effective only upon the effective date of a specific appropriation of  
196 funds for purposes of this Act, as expressed in a line item making specific reference to this  
197 Act in a General Appropriations Act enacted by the General Assembly.

198

**SECTION 8.**

199 All laws and parts of laws in conflict with this Act are repealed.