

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

H. B. No. 299

Representative Merrin

A BILL

To amend section 3742.04 of the Revised Code to 1
enact the Lead Safety and Uniformity Act to 2
provide that the state, acting through the 3
Department of Health, has the sole and exclusive 4
authority to compel, prohibit, license, or 5
regulate lead abatement activities in Ohio. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3742.04 of the Revised Code be 7
amended to read as follows: 8

Sec. 3742.04. (A) The director of health shall do all of 9
the following: 10

(1) Administer and enforce the requirements of sections 11
3742.01 to 3742.19 and 3742.99 of the Revised Code and the rules 12
adopted pursuant to those sections; 13

(2) Examine records and reports submitted by lead 14
inspectors, lead abatement contractors, lead risk assessors, 15
lead abatement project designers, lead abatement workers, and 16
clearance technicians in accordance with section 3742.05 of the 17
Revised Code to determine whether the requirements of this 18
chapter are being met; 19

(3) Examine records and reports submitted by physicians,	20
clinical laboratories, and environmental lead analytical	21
laboratories under section 3701.25 or 3742.09 of the Revised	22
Code;	23
(4) Issue approval to manufacturers of encapsulants that	24
have done all of the following:	25
(a) Submitted an application for approval to the director	26
on a form prescribed by the director;	27
(b) Paid the application fee established by the director;	28
(c) Submitted results from an independent laboratory	29
indicating that the manufacturer's encapsulants satisfy the	30
requirements established in rules adopted under division (H) of	31
section 3742.03 of the Revised Code;	32
(d) Complied with rules adopted by the director regarding	33
durability and safety to workers and residents.	34
(5) Establish liaisons and cooperate with the directors or	35
agencies in states having lead abatement, licensing,	36
accreditation, certification, and approval programs to promote	37
consistency between the requirements of this chapter and those	38
of other states in order to facilitate reciprocity of the	39
programs among states;	40
(6) Establish a program to monitor and audit the quality	41
of work of lead inspectors, lead risk assessors, lead abatement	42
project designers, lead abatement contractors, lead abatement	43
workers, and clearance technicians. The director may refer	44
improper work discovered through the program to the attorney	45
general for appropriate action.	46
(B) In addition to any other authority granted by this	47

chapter, the director of health may do any of the following: 48

(1) Employ persons who have received training from a 49
program the director has determined provides the necessary 50
background. The appropriate training may be obtained in a state 51
that has an ongoing lead abatement program under which it 52
conducts educational programs. 53

(2) Cooperate with the United States environmental 54
protection agency in any joint oversight procedures the agency 55
may propose for laboratories that offer lead analysis services 56
and are accredited under the agency's laboratory accreditation 57
program; 58

(3) Advise, consult, cooperate with, or enter into 59
contracts or cooperative agreements with any person, government 60
entity, interstate agency, or the federal government as the 61
director considers necessary to fulfill the requirements of this 62
chapter and the rules adopted under it. 63

(C) In accordance with Section 34 of Article II, Ohio 64
Constitution, the purpose of this chapter and rules adopted 65
under it is to protect the comfort, safety, and general welfare 66
of employees and others who may encounter lead and lead-based 67
paint. Therefore, it is the intent of the general assembly that 68
the Revised Code and rules adopted under it be the sole and 69
exclusive means by which lead abatement activities may be 70
compelled, prohibited, licensed, or regulated. Any law or rule 71
governing the abatement of lead, lead-based paint, or the 72
employment or licensing of lead abatement professionals who 73
abate lead and lead-based paint enacted or adopted by a 74
political subdivision before or after the effective date of this 75
section is void. 76

(1) The department of health has the sole and exclusive authority to compel, prohibit, license, or regulate lead abatement activities within the state, including the licensing of lead abatement professionals, and excepting only those activities for which oversight has been delegated by the Revised Code to boards of health. The regulation of lead abatement activities is a matter of general statewide interest that requires uniform statewide regulation, and this chapter and rules adopted under it constitute a comprehensive plan with respect to all aspects of lead abatement within this state. In order to assist the department in the furtherance of its sole and exclusive authority as established in this section, the director may enter into cooperative agreements with other state agencies for advice and consultation. Such cooperative agreements do not confer on other state agencies any authority to administer or enforce this chapter and rules adopted under it. In addition, such cooperative agreements shall not be construed to dilute or diminish the department's sole and exclusive authority as established in this section. 77
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(2) The director of health has the sole and exclusive authority to adopt rules pertaining to lead and lead abatement, the purposes of which are, in part, to protect the health, safety, and welfare of persons owning or living in homes containing lead and persons working to abate lead. Any such rules shall be adopted in accordance with Chapter 119. of the Revised Code and shall include procedures and requirements governing all of the following: 96
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(a) The dissemination of information for purposes of educating persons who own, dwell, or work in homes containing lead or lead-based paint through affirmations, warnings, and guidelines; 104
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<u>(b) The dissemination of information for purposes of the</u>	108
<u>training of lead abatement employees in order to address the</u>	109
<u>hazardous duties and inherent risks associated with lead</u>	110
<u>abatement and testing;</u>	111
<u>(c) The gathering of data for purposes of improving the</u>	112
<u>implementation of this chapter.</u>	113
<u>(D) Nothing in this section shall be construed to</u>	114
<u>eliminate any authority statutorily granted to the department of</u>	115
<u>health prior to the effective date of this section.</u>	116
Section 2. That existing section 3742.04 of the Revised	117
Code is hereby repealed.	118
Section 3. This act shall be known as the Lead Safety and	119
Uniformity Act.	120
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