

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 18 Session of 2015

INTRODUCED BY KITCHEN, COSTA, HAYWOOD, FONTANA, YUDICHAK, HUGHES, SABATINA, ARGALL, TEPLITZ, WOZNIAK, GREENLEAF, FARNESE, WILEY, WARD, BLAKE, SCHWANK AND BREWSTER, JUNE 22, 2016

SENATOR VANCE, PUBLIC HEALTH AND WELFARE, AS AMENDED, JUNE 27, 2016

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," in departmental powers and
4 duties as to supervision, providing for lead testing; and, in
5 departmental powers and duties as to licensing, providing for
6 lead testing.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The act of June 13, 1967 (P.L.31, No.21), known
10 as the Human Services Code, is amended by adding sections to
11 read:

12 Section 912. Lead Testing.--(a) A person seeking to
13 operate, or to continue to operate, a children's institution
14 where care is provided to children in a setting other than a <--
15 private residence shall submit a lead certification from an
16 individual or laboratory accredited by the Department of
17 Environmental Protection that includes the following:

18 (1) lead levels in water; and

1 (2) for a facility built prior to 1978, lead levels in  
2 paint, dust and soil. A facility built prior to 1978 shall not  
3 be required to test for lead levels in paint if the facility has  
4 completed a full remediation or abatement of all lead paint and  
5 has a certification of such from the Department of Environmental  
6 Protection or an individual or laboratory accredited by the  
7 Department of Environmental Protection.

8 (b) The department shall not permit initial operation of a  
9 children's institution if the lead certification required under  
10 subsection (a) has either of the following:

11 (1) Lead levels in water that are:

12 (i) in excess of the level set by the Environmental  
13 Protection Agency in the national primary drinking water  
14 regulations; or

15 (ii) in excess of the lead levels found in the Safe Drinking  
16 Water Program under the Department of Environmental Protection.

17 (2) For a facility built prior to 1978, lead levels in  
18 paint, dust and soil that are in excess of the level set by the  
19 Environmental Protection Agency through its hazard standards for  
20 lead in paint, dust and soil.

21 (c) The department shall require corrective action for  
22 continued operation of a children's institution if the lead  
23 certification required under subsection (a) has either of the  
24 levels under subsection (b).

25 (d) This section shall not affect the department's authority  
26 to refuse to permit the operation of a children's institution or  
27 take any other action under any applicable statute or  
28 regulation.

29 (E) THE FACILITY SHALL PROVIDE EVERY PARENT OR LEGAL  
30 GUARDIAN WHO HAS A CHILD ENROLLED IN A CHILDREN'S INSTITUTION

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1 NOTIFICATION OF THE RESULTS OF THE LEAD CERTIFICATION UNDER THIS  
2 SECTION. IN ADDITION, THE RESULTS OF THE LEAD CERTIFICATION  
3 SHALL BE POSTED ON THE DEPARTMENT'S PUBLICLY ACCESSIBLE INTERNET  
4 WEBSITE AND, IF AVAILABLE, THE PUBLICLY ACCESSIBLE INTERNET  
5 WEBSITE OF THE CHILDREN'S INSTITUTION HOLDING A LICENSE FROM THE  
6 DEPARTMENT.

7 (F) AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES  
8 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION UNLESS  
9 THE CONTEXT CLEARLY INDICATES OTHERWISE:

10 "CHILDREN'S INSTITUTION" MEANS AN INSTITUTION OR FACILITY  
11 THAT PROVIDES CARE IN LIEU OF PARENTAL CARE GIVEN FOR PART OF  
12 THE TWENTY-FOUR HOUR DAY TO CHILDREN UNDER SIXTEEN YEARS OF AGE,  
13 AWAY FROM THEIR OWN HOMES. THE TERM DOES NOT INCLUDE CHILD DAY  
14 CARE FURNISHED IN PLACES OF WORSHIP DURING RELIGIOUS SERVICES.

15 Section 1004. Lead Testing.--(a) A person desiring to  
16 obtain or renew a license for maintaining, operating and  
17 conducting a boarding home for children, ~~child day care,~~ child <--  
18 day care center or family child care home shall submit a lead  
19 certification from an individual or laboratory accredited by the  
20 Department of Environmental Protection that includes the  
21 following:

22 (1) lead levels in water; and  
23 (2) for a facility built prior to 1978, lead levels in  
24 paint, dust and soil. A facility built prior to 1978 shall not  
25 be required to test for lead paint if the facility has completed  
26 a full remediation or abatement of all lead paint and has a  
27 certification of such from the Department of Environmental  
28 Protection or an individual or laboratory accredited by the  
29 Department of Environmental Protection.

30 (b) The department shall not issue an initial license for

1 maintaining, operating and conducting a boarding home for <--  
2 children, child day care, child day care center or family child  
3 care home if the lead certification required under subsection  
4 (a) has either of the following:

5 (1) Lead levels in drinking water that are:

6 (i) in excess of the level set by the Environmental  
7 Protection Agency in the national primary drinking water  
8 regulations; and

9 (ii) in excess of the lead levels found by the Safe Drinking  
10 Water Program under the Department of Environmental Protection.

11 (2) For a facility built before 1978, lead levels in paint,  
12 dust and soil that are in excess of the level set by the  
13 Environmental Protection Agency through its hazard standards for  
14 lead in paint, dust and soil.

15 (c) The department shall issue a provisional license in  
16 accordance with section 1008 to a person desiring to secure an  
17 annual renewal of a license for maintaining, operating and  
18 conducting a boarding home for children, child day care, child <--  
19 day care center or family child care home if the lead  
20 certification required under subsection (a) has either of the  
21 levels under subsection (b).

22 (D) THE DEPARTMENT SHALL REQUIRE CORRECTIVE ACTION FOR <--  
23 CONTINUED OPERATION OF A CHILD DAY CARE CENTER OR FAMILY CHILD  
24 CARE HOME IF THE LEAD CERTIFICATION REQUIRED UNDER SUBSECTION  
25 (A) HAS EITHER OF THE LEVELS UNDER SUBSECTION (B).

26 ~~(d)~~ (E) This section shall not affect the department's <--  
27 authority to refuse to issue or revoke a license in accordance  
28 with section 1026 or take any other action under applicable  
29 statute or regulation.

30 ~~(e)~~ (F) The department FACILITY shall provide every parent <--

1 or legal guardian who has a child enrolled in a ~~boarding home~~ <--  
2 ~~for children, child day care,~~ child day care center or family  
3 child care home notification of the results of the lead  
4 certification under this section. In addition, the results of  
5 the lead certification shall be posted on the department's  
6 publicly accessible Internet website and, if available, the  
7 publicly accessible Internet website of the ~~boarding home for~~ <--  
8 ~~children, child day care,~~ child day care center or family child  
9 care home holding a license from the department.

10 Section 2. Upon enactment by the General Assembly of  
11 legislation establishing a Lead Superfund, within 30 days the  
12 Department of Environmental Protection shall transmit notice to  
13 the Legislative Reference Bureau for publication in the  
14 Pennsylvania Bulletin.

15 Section 3. This act shall take effect as follows:

16 (1) The addition of sections 912(b) and (c) and 1004(b)  
17 and (c) of the act shall take effect upon publication of the  
18 notice provided under section 2 of this act.

19 (2) The remainder of this act shall take effect in 90  
20 days.