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HEALTH AND SAFETY CODE - HSC

DIVISION 103. DISEASE PREVENTION AND HEALTH PROMOTION [104100 - 106036] (Division 103 added by Stats. 1995, Ch. 415, Sec. 5.)

PART 5. ENVIRONMENTAL AND OCCUPATIONAL EPIDEMIOLOGY [105150 - 105459] (Part 5 added by Stats. 1995, Ch. 415, Sec. 5.)

CHAPTER 2. Occupational Health and Disease Prevention [105175 - 105197] (Chapter 2 added by Stats. 1995, Ch. 415, Sec. 5.)

ARTICLE 2. Occupational Lead Poisoning Prevention [105185 - 105197] (Article 2 added by Stats. 1995, Ch. 415, Sec. 5.)

105185. (a) The department shall establish and maintain an occupational lead poisoning prevention program, including, but not limited to, the following:

- (1) Developing a system for monitoring laboratory reports of cases of adult lead toxicity, to create an occupational lead poisoning registry.
- (2) Following up reported cases of occupational lead poisoning to ascertain the source of lead exposure.
- (3) Conducting investigations in cases where take-home exposure may be occurring, where there is a likelihood of identifying additional cases, or where a previously unidentified risk factor may be present.
- (4) Conducting training of employers, employees, and health professionals regarding prevention of occupational lead poisoning.
- (5) Making recommendations for the prevention of lead poisoning.

(b) In any situation where the activities specified in subdivision (a) may duplicate or overlap the activities of any other state department or agency, including the Department of Industrial Relations, the department shall coordinate with the other departments or agency and take actions to avoid program and service duplication.

(c) As part of the department's Occupational Lead Poisoning Prevention Program, the department shall consider a report from a laboratory of an employee's blood lead level at or above 20 micrograms per deciliter to be injurious to the health of the employee and shall report that case within five business days of receiving the report to the Division of Occupational Safety and Health.

(d) The department may adopt regulations to implement this section and Sections 105190 and 105195. Any regulations adopted shall be considered and adopted as emergency regulations in accordance with Section 11346.1 of the Government Code.

(e) The employee blood lead level established by this section is not intended to supersede any lower blood lead level that may be actionable under the Division of Occupational Safety and Health's lead standards in its general industry safety order (Section 5198 of Title 8 of the California Code of Regulations) or construction safety order (Section 1532.1 of Title 8 of the California Code of Regulations). For purposes of this subdivision, an actionable employee blood lead level means a level that triggers an employer obligation to reduce lead exposure in the workplace or an investigation by the division.

(Amended by Stats. 2019, Ch. 710, Sec. 1. (AB 35) Effective January 1, 2020.)

105190. (a) A fee shall be paid annually to the State Board of Equalization by employers in industries identified by the four-digit Standard Industrial Classification (S.I.C., 1987 Edition) established by the United States Department of Commerce and for which the State Board of Equalization has received information from the department of documented evidence of potential occupational lead poisoning.

(b) The department shall provide to the State Board of Equalization on or before the first day of November of each year, all information for the prior three-year period obtained by the California Blood Lead Registry, regarding evidence of potential occupational lead poisoning by the Standard Industrial Classification. Based on this information, the State Board of Equalization

shall determine whether an employer is within Category A of the Standard Industrial Classification or within Category B of the Standard Industrial Classification and shall implement the fee schedule set forth in subdivision (c). For the purpose of this subdivision and subdivision (c), a Category A Standard Industrial Classification code is a Standard Industrial Classification code listed in Section 105195 for which there have been fewer than 20 persons with elevated blood lead levels reported to the California Blood Lead Registry in the prior three-year period. A Category B Standard Industrial Classification code is a Standard Industrial Classification code listed in Section 105195 for which there have been 20 or more persons with elevated blood lead levels reported to the California Blood Lead Registry in the prior three-year period. An elevated blood lead level is a level greater than or equal to 25 micrograms of lead per deciliter of blood.

(c) For employers with 10 or more employees, but less than 100 employees, in a Category A Standard Industrial Classification code, the annual fee shall be one hundred ninety-five dollars (\$195). For employers with 100 or more employees, but fewer than 500 employees, in a Category A Standard Industrial Classification code, the annual fee shall be three hundred ninety dollars (\$390). For employers with 500 or more employees in a Category A Standard Industrial Classification code, the annual fee shall be nine hundred seventy-five dollars (\$975). For employers with 10 or more employees, but fewer than 100 employees, in a Category B Standard Industrial Classification code, the annual fee shall be two hundred seventy-nine dollars (\$279). For employers with 100 or more employees, but fewer than 500 employees, in a Category B Standard Industrial Classification code, the annual fee shall be seven hundred eighty-one dollars (\$781). For employers with 500 or more employees in a Category B Standard Industrial Classification code, the annual fee shall be two thousand two hundred thirty-two dollars (\$2,232). For the purpose of this subdivision, an employer is any person defined in Section 25118 of the Health and Safety Code. Employers with fewer than 10 employees are not subject to any fees pursuant to this section.

(d) The fees imposed in subdivision (c) are the rates for calendar year 1995 and shall be adjusted annually by the State Board of Equalization to reflect increases or decreases in the cost of living during the prior fiscal year as measured by the Consumer Price Index issued by the Department of Industrial Relations, or a successor agency. This adjustment of fees shall not be subject to the requirements of Chapter 2.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) In no event shall the annual fee exceed the cost of the program described in Section 105185. The department may exempt from payment of fees those employers who demonstrate that lead is not present in their places of employment. The cost of the program described in Section 105185 shall not exceed the amount of revenue collected from the annual fee.

(f) The fee imposed pursuant to subdivision (b) shall be paid by each employer which is identified in the schedule in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code and shall be deposited in the Occupational Lead Poisoning Prevention Account of the General Fund, which is hereby created, to be expended for the purposes of the Occupational Lead Poisoning Prevention Program, including the cost of administering the fees by the State Board of Equalization, upon appropriation by the Legislature.

(Added by renumbering Section 429.14 (as amended by Stats. 1995, Ch. 630) by Stats. 1996, Ch. 720, Sec. 1. Effective January 1, 1997.)

105191. (a) The Legislature finds and declares all of the following:

- (1) There are some employers who use or disturb very small amounts of lead in ways that pose a very minimal potential for lead poisoning of employees.
- (2) These users of de minimis amounts of lead are not currently eligible for a waiver of the Occupational Lead Poisoning Fee.

(b) The State Department of Health Services shall adopt regulations that define a de minimis amount of lead use or disturbance. Any employer who is within the requirements of this definition shall be exempt from payment of the Occupational Lead Poisoning Fee.

(Added by Stats. 1996, Ch. 720, Sec. 2. Effective January 1, 1997.)

105195. (a) Sections 105185 and 105190 shall apply to the following industries:

- (1) 1622 Bridges, tunnels, and elevated highways.
- (2) 1721 Painting, paper hanging, and decorating.
- (3) 1791 Structural steel erection.
- (4) 1795 Wrecking and demolition work.
- (5) 2759 Commercial printing.
- (6) 2816 Inorganic pigments manufacture.

- (7) 2819 Industrial inorganic chemicals.
- (8) 2821 Plastics materials and resins.
- (9) 2892 Explosives manufacture.
- (10) 2899 Chemical preparations.
- (11) 3069 Fabricated rubber products.
- (12) 3087 Custom compounding of purchased plastics resins.
- (13) 3089 Plastic products.
- (14) 3229 Pressed and blown glass.
- (15) 3231 Products of purchased glass.
- (16) 3253 Ceramic walls and floor tiles.
- (17) 3262 Vitreous china food utensils.
- (18) 3269 Pottery products.
- (19) 3313 Electrometallurgical products.
- (20) 3331 Primary copper.
- (21) 3339 Primary nonferrous metals, except copper and aluminum.
- (22) 3341 Secondary nonferrous metals.
- (23) 3356 Nonferrous rolling, drawing, extruding.
- (24) 3363 Aluminum die castings.
- (25) 3364 Nonferrous die castings.
- (26) 3365 Aluminum foundries.
- (27) 3366 Copper foundries.
- (28) 3369 Nonferrous foundries.
- (29) 3399 Primary metal products.
- (30) 3411 Metal cans manufacture.
- (31) 3431 Metal sanitary ware.
- (32) 3432 Plumbing fittings and brass goods.
- (33) 3441 Fabricated structural metal.
- (34) 3484 Small arms.
- (35) 3491 Industrial valves.
- (36) 3492 Fluid power valves and hose fittings.
- (37) 3494 Valves and pipe fittings.
- (38) 3496 Miscellaneous fabricated wire products.
- (39) 3497 Metal foil and leaf.
- (40) 3585 Refrigeration and heating equipment.
- (41) 3599 Machinery, except electrical.
- (42) 3624 Carbon and graphite products.

- (43) 3661 Telephone and telegraph apparatus.
- (44) 3662 Radio and television communication equipment.
- (45) 3663 Radio and television equipment.
- (46) 3669 Communications equipment.
- (47) 3674 Semiconductors and related devices.
- (48) 3691 Storage batteries.
- (49) 3692 Primary batteries, dry and wet.
- (50) 3699 Electrical equipment and supplies.
- (51) 3711 Motor vehicles and car bodies.
- (52) 3714 Motor vehicle parts and accessories.
- (53) 3721 Aircraft.
- (54) 3953 Marking devices.
- (55) 3812 Search and navigation equipment.
- (56) 3829 Measuring and controlling devices.
- (57) 5064 Electrical appliances, television, and radios.
- (58) 5093 Scrap and waste materials.
- (59) 7538 General automotive repair shops.
- (60) 7539 Automotive repair shops.
- (61) 7997 Membership sports and recreation clubs.
- (62) 7999 Amusement and recreation.

(b) (1) If the department determines that the potential for occupational lead poisoning exists in industries not covered by this section, based on new evidence, the department shall have the authority to add Standard Industrial Classification codes by regulation. Multiple case reports of occupational lead toxicity shall be a criterion for adding Standard Industrial Classification codes covered by this section for the purpose of fee assessment.

(2) If the department determines that lead use and lead exposure no longer exist in an industry covered by this section, based on new evidence, the department shall delete the Standard Industrial Classification code or individual industries within a Standard Industrial Classification code by regulation. If the department otherwise determines that the potential for occupational lead poisoning no longer exists in an industry covered by this section, based on new evidence, the department shall have the authority to delete Standard Industrial Classification codes or individual industries with a Standard Industrial Classification code by regulation. If the department determines that lead use and lead exposure no longer exist in the operations of an employer in an industry covered by this section, based on evidence submitted by the employer, the department may waive the fee of that employer.

(Amended by Stats. 2006, Ch. 538, Sec. 416. Effective January 1, 2007.)

105197. (a) A program is hereby established within the department to meet the requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. Sec. 4851 and following) and Title X of the Housing and Community Development Act of 1992 (P.L. 102-550).

(b) The department shall implement and administer the program. The department shall have powers and authority consistent with the intent of, and shall promulgate regulations to establish the program as an authorized state program pursuant to, Title IV, Section 402 to 404, inclusive, of the Toxic Substances Control Act (15 U.S.C. Sec. 2601 and following).

(c) Regulations regarding accreditation of training providers that are promulgated pursuant to subdivision (b) shall include, but not be limited to, provisions governing accreditation of providers of health and safety training to employees who engage in or supervise lead-related construction work as defined in Section 6716 of the Labor Code, and certification of employees who have successfully completed that training. Regulations regarding accreditation of training providers shall, as a condition of accreditation, require

providers to offer training that meets the requirements of Section 6717 of the Labor Code. The department shall, not later than August 1, 1994, adopt regulations establishing fees for the accreditation of training providers, the certification of individuals, and the licensing of entities engaged in lead-related occupations. The fees imposed under this subdivision shall be established at levels not exceeding an amount sufficient to cover the costs of administering and enforcing the standards and regulations promulgated under this section. The fees established pursuant to this subdivision shall not be imposed on any state or local government or nonprofit training program.

(d) All regulations affecting the training of employees shall be adopted in consultation with the Division of Occupational Safety and Health. The regulations shall include provisions for allocating to the division an appropriate portion of funds to be expended for the program for the division's cost of enforcing compliance with training and certification requirements. The department shall adopt regulations to establish the program on or before August 1, 1994.

(e) The department shall review and amend its training, certification, and accreditation regulations promulgated under this section as is necessary to ensure continued eligibility for federal and state funding of lead-hazard reduction activities in the state.

(Added by Stats. 1995, Ch. 415, Sec. 5. Effective January 1, 1996.)