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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 4. Residential Lead-Based Paint Hazard Reduction [105250 - 105257] (*Chapter 4 added by Stats. 1995, Ch. 415, Sec. 5.*)

105250. (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 adopt regulations to establish the program as an authorized state program pursuant to, Title IV, Sections 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 adopted 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 adopted 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 adopted under this section as is necessary to ensure continued eligibility for federal and state funding of lead-hazard reduction activities in the state.

(f) Effective July 1, 2010, all fees collected pursuant to subdivision (c) shall be deposited in the Lead-Related Construction Fund, which is hereby created in the State Treasury. Moneys in the fund shall be expended by the department upon appropriation by the Legislature for the purposes of this chapter. Moneys in the fund are available for cashflow borrowing pursuant to Sections 16310 and 16381 of the Government Code.

(g) Of the amount appropriated in Item 4265-001-0070 of Section 2.00 of the Budget Act of 2009, five hundred thousand dollars (\$500,000) from the Occupational Lead Poisoning Prevention Account shall be used to administer the program in the 2009–10 fiscal year. These funds shall be repaid to the Occupational Lead Poisoning Prevention Account upon a determination by the Department of Finance that sufficient moneys are available in the Lead-Related Construction Fund. No interest shall be paid by the Lead-Related Construction Fund at the time of repayment.

(Amended by Stats. 2009, 4th Ex. Sess., Ch. 5, Sec. 12. Effective July 28, 2009.)

105250.1. (a) Notwithstanding Section 105250, and beginning on July 1, 2018, the Lead-Related Construction Program fee for an application submitted for lead certification shall be eighty-seven dollars (\$87), but shall not exceed the department's reasonable administrative costs in connection with the application. The application fees provided in this section, and any application fee increase

pursuant to subdivision (b) or Section 105250, shall be sufficient to ensure that processing times for completed applications do not exceed an average of 60 days.

(b) Notwithstanding subdivision (a) and Section 105250, in any year the department raises or establishes new or additional fees, the department shall, by February 1 of the year the increase or establishment takes effect, prepare a report that describes the need for a fee increase or establishment of a fee, and shall make the report and the list of fees available to the budget committees of the Legislature, and shall post the report and list of fees on the department's internet website. The proposed increased fee shall take effect on July 1 of the year for which it is proposed. The adjustment of fees and the publication of the final fee list shall not be subject to the rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Modification of the fees shall be exempt from the administrative regulation and rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and shall be implemented without being adopted as a regulation, except that the revised list of fees shall be filed with the Secretary of State and printed in the California Code of Regulations.

(Amended by Stats. 2020, Ch. 12, Sec. 5. (AB 80) Effective June 29, 2020.)

105250.5. (a) The department shall review and amend its regulations governing lead-related construction work, including training and certification for workers and accreditation for trainers in lead-safe work practices, to comply with regulations adopted pursuant to Sections 105250 and 124160 and the United States Environmental Protection Agency's Lead Renovation, Repair and Painting Rule (40 C.F.R. 745).

(b) The amended regulations adopted pursuant to subdivision (a) shall include, but not be limited to, requiring a copy of the worker and firm certification to be provided before the start of the job to the prime contractor or other employers on the site and to be posted on the job site beside the Division of Occupational Safety and Health Lead-Work Pre-Job Notification required by subdivision (p) of Section 1532.1 of Title 8 of the California Code of Regulations.

(c) Consistent with Section 105250, the department shall also adopt regulations establishing fees for the certifications or accreditations established pursuant to this section. The fees imposed under this section shall be established at levels not exceeding an amount sufficient to cover the costs of developing, administering, and enforcing the standards and regulations adopted under this section. The fees established pursuant to this section shall be deposited into the Lead-Related Construction Fund, established pursuant to Section 105250.

(d) (1) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer this section through all-county letters or similar instructions from the department until regulations are adopted. The department shall adopt emergency regulations implementing these provisions. The department may readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, an emergency regulation previously adopted under this section.

(2) The initial adoption of emergency regulations pursuant to this section and two readoptions of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the two readoptions of emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The initial emergency regulations and the two readoptions of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

(Amended by Stats. 2023, Ch. 131, Sec. 127. (AB 1754) Effective January 1, 2024.)

105251. For purposes of this chapter, the following definitions shall apply:

(a) The following terms shall have the same meaning as contained in Chapter 8 (commencing with Section 35001) of Division 1 of Title 17 of the California Code of Regulations adopted by the State Department of Health Services pursuant to Sections 105250 and 124160: "abatement," "accredited training provider," "certificate," "course completion form," "DHS-approved course," "lead hazard," "lead hazard evaluation," "lead related construction work," "public building," and "residential building."

(b) "Department" means the State Department of Health Services.

(c) "Local enforcement agency" means the health department, environmental agency, housing department, or building department of any city, county, or city and county.

(Added by Stats. 2002, Ch. 931, Sec. 4. Effective January 1, 2003.)

105252. (a) It is unlawful for any person to offer lead-related construction courses to meet department certificate requirements unless that person is an accredited training provider as specified in Chapter 8 (commencing with Section 35001) of Division 1 of Title 17 of the California Code of Regulations, as adopted pursuant to Sections 105250 and 124160.

(b) It is unlawful for any person to issue, or offer to issue, a lead-related construction course completion form to any person except upon successful completion by that person of a DHS-approved course.

(c) The department or any local enforcement agency may, consistent with Section 17972, enter, inspect, and photograph any premises or facilities, and inspect and copy any business record, where any accredited training provider, or any person who offers lead-related construction courses or issues lead-related construction course completion forms, conducts business to determine whether the person is complying with this section.

(d) It is unlawful for any person who is an accredited training provider or who offers lead-related construction courses or issues lead-related construction completion forms, to refuse entry or inspection, the taking of photographs or other evidence, or access to copying of any record as authorized by this section, or to conceal or withhold evidence.

(e) A violation of this section shall be punishable by imprisonment for not more than six months in the county jail, a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine.

(Added by Stats. 2002, Ch. 931, Sec. 5. Effective January 1, 2003.)

105253. (a) Any person issued a certificate by the department to conduct lead-related construction work, abatement, or lead hazard evaluation, shall comply with regulations as specified in Chapter 8 (commencing with Section 35001) of Division 1 of Title 17 of the California Code of Regulations, as adopted pursuant to Sections 105250 and 124160.

(b) It is unlawful for any person to do either of the following:

(1) Falsely represent himself or herself as possessing a certificate issued by the department to conduct lead-related construction work, abatement, or lead hazard evaluation.

(2) Submit false information or documentation to the department in order to obtain or renew a certificate to conduct lead-related construction work, abatement, or lead hazard evaluation.

(c) The department or any local enforcement agency may, consistent with Section 17972, enter, inspect, and photograph any premises or facilities, and inspect and copy any business record, where any person issued a certificate by the department to perform lead-related construction work conducts business to determine whether the person is complying with this section.

(d) A violation of this section shall be punishable by imprisonment for not more than six months in the county jail, a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine.

(Added by Stats. 2002, Ch. 931, Sec. 6. Effective January 1, 2003.)

105254. (a) The following persons engaged in the following types of lead construction work shall have a certificate:

(1) Persons who receive pay for doing lead hazard evaluations, including, but not limited to, lead inspections, lead risk assessments, or lead clearance inspections, in residential or public buildings.

(2) Persons preparing or designing plans for the abatement of lead-based paint or lead hazards from residential or public buildings.

(3) Persons doing work designed to reduce or eliminate lead hazards on a permanent basis (to last 20 years or more) from residential or public buildings.

(4) Persons inspecting for lead or doing lead abatement activities in a public elementary school, preschool, or day care center.

(5) Persons doing lead-related construction work in a residential or public building that will expose a person to airborne lead at or above the eight-hour permissible exposure limit of 50 micrograms per cubic meter.

(b) On and after July 1, 2027, the following shall also have a certificate: a firm, as defined by Section 745.83 of Title 40 of the Code of Federal Regulations, and at least one person onsite and employed by a firm, doing renovation, repair, or painting work for compensation in a residential or public building that will disturb lead-based paint, as defined in Section 35033 of Title 17 of the California Code of Regulations, or presumed lead-based paint, as defined in Section 35043 of Title 17 of the California Code of Regulations, which regulations were adopted by the State Department of Public Health pursuant to Sections 105250 and 124160.

(c) Persons performing routine maintenance and repairs in housing are not required to have a certificate if they are not performing any of the activities listed under subdivisions (a) and (b).

(d) The department may adopt regulations to modify certification requirements for persons engaged in lead construction work based on changes to state or federal law, or programmatic need.

(e) The department or any local enforcement agency may, consistent with Section 17972, enter, inspect, and photograph any premises where abatement, a lead hazard evaluation, or lead-related construction work is being conducted or has been ordered, enter the place of business of any person who conducts abatement, lead hazard evaluations, or lead-related construction work, and inspect and copy any business record of any person who conducts abatement, lead hazard evaluations, or lead-related construction work, to determine whether the person is complying with this section.

(f) (1) A violation of subdivision (a) shall be punishable by a civil penalty of no less than five thousand dollars (\$5,000) per violation per day.

(2) A violation of subdivision (b) shall be punishable by a civil penalty of no less than ten thousand dollars (\$10,000) per violation per day.

(3) Each subsequent violation of this section may be subject to imposition of a civil penalty of no more than thirty-seven thousand five hundred dollars (\$37,500) per violation per day or punishable by imprisonment for no more than six months in the county jail, a fine of no more than one thousand dollars (\$1,000), or by both that imprisonment and fine. In assessing the amount of the criminal or civil penalty, any one or more of the relevant circumstances shall be considered: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the misconduct, and the violator's assets, liabilities, net worth, and other relevant factors.

(g) (1) The State Department of Public Health shall develop and implement an education and outreach program for every person and firm that is required to have a certificate pursuant to subdivisions (a) and (b). The program shall include information on who is required to have a certificate and the requirements and process to obtain a certificate. The program shall be implemented on or before July 1, 2026.

(2) The department shall provide educational and outreach materials to the Contractors State License Board for the board to make the materials available to contractors and consumers on its internet website.

(Amended by Stats. 2023, Ch. 191, Sec. 6. (SB 137) Effective September 13, 2023.)

105255. (a) No person shall perform lead-related construction work on any residential or public building in a manner that creates a lead hazard.

(b) The department and any local enforcement agency may, consistent with Section 17972, enter, inspect, and photograph any premises where lead-related construction work is being performed, enter the place of business of any person who performs lead-related construction work, and inspect and copy any business record of any person who performs lead-related construction work to determine whether the person is complying with this section and any regulations specified in Chapter 8 (commencing with Section 35001) of Division 1 of Title 17 of the California Code of Regulations adopted by the State Department of Health Services pursuant to Sections 105250 and 124160.

(c) Notwithstanding any other provision of law, whenever the department or a local enforcement agency determines that a condition at a location or premises, or the activity of any person at the location or premises, is creating or has created a lead hazard at the location or premises, the department or the local enforcement agency may order the owner of the location or premises to abate or otherwise correct, at the option of the owner, the lead hazard, and may order the person whose activity is creating or has created the lead hazard, to cease and desist and shall give that owner or person a reasonable opportunity to correct.

(d) It is unlawful for any person to refuse or disobey any order issued pursuant to subdivision (c).

(e) A violation of subdivision (d) shall be punishable by a fine not to exceed one thousand dollars (\$1,000). Any penalties under this section shall be in addition to any other penalty or remedy provided by law.

(Added by Stats. 2002, Ch. 931, Sec. 8. Effective January 1, 2003.)

105256. (a) Notwithstanding any other provision of law, whenever the department or a local enforcement agency determines that a condition at a location or premises, or the activity of any person at the location or premises, is creating or has created a lead hazard at the location or premises, the department or the local enforcement agency may order the owner of the location or premises to abate the lead hazard, and may order the person whose activity is creating or has created the lead hazard, to cease and desist.

(b) It is unlawful for any person to refuse to obey any order issued pursuant to this section.

(c) A violation of subdivision (b) shall be an infraction punishable by a fine not to exceed one thousand dollars (\$1,000).

(d) A second or subsequent violation of subdivision (b) shall be a misdemeanor punishable by a fine not to exceed five thousand dollars (\$5,000) or by imprisonment for not more than six months in the county jail or by both that fine and imprisonment.

(e) Any penalties under this section shall be in addition to any other penalty or remedy provided by law.

(Amended by Stats. 2006, Ch. 477, Sec. 1. Effective January 1, 2007.)

[105257.](#) Notwithstanding subdivision (f) of Section 1464 of the Penal Code, any state penalties paid for the violation of this chapter shall be deposited into the General Fund.

(Added by Stats. 2002, Ch. 931, Sec. 10. Effective January 1, 2003.)