



February 21, 2001

SENATE BILL No. 320

DIGEST OF SB 320 (Updated February 19, 2001 12:04 PM - DI 52)

Citations Affected: IC 13-11; IC 13-17; noncode.

Synopsis: Lead poisoning prevention. Amends restrictions on lead-based paint activities. Sets the times for expiration and renewal of lead-based paint activities licenses, adjusts training requirements for licensure, provides for the issuance of licenses for clearance examiners, provides for training for clearance examiners, prohibits the use of certain methods to remove lead-based paint, and requires that removed paint be discarded. Establishes an exception under certain circumstances to paint removal and removed paint discarding restrictions for work on a home by the homeowner. Establishes the position of lead-safe interagency coordinator.

Effective: July 1, 2001.

Gard, Broden

January 16, 2001, read first time and referred to Committee on Environmental Affairs.
February 20, 2001, amended, reported favorably — Do Pass.

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SB 320—LS 6702/DI 52+



February 21, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

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SENATE BILL No. 320

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-11-2-36.5 IS ADDED AS A **NEW SECTION**
2 TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 36.5.**
3 **"Component", for purposes of IC 13-17-14, has the meaning set**
4 **forth in 24 CFR 35.110, as in effect on July 1, 2001.**

5 SECTION 2. IC 13-17-14-3 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) A person that
7 engages in lead-based paint activities must obtain a license under this
8 chapter and under rules adopted by the board under section 5 of this
9 chapter. **Lead-based paint activities licenses expire as follows:**

10 **(1) On June 30, 2003, if issued before July 1, 2001.**
11 **(2) Two (2) years after the date of issuance, if issued after**
12 **June 30, 2001.**

13 (b) A person may receive a lead-based paint activities license under
14 this chapter for the following disciplines:

15 (1) Inspector.
16 (2) Risk assessor.
17 (3) Project designer.

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- 1 (4) Supervisor.
 2 (5) Abatement worker.
 3 (6) Contractor.

4 (c) **A person may receive a clearance examiner license under**
 5 **this chapter. A person that engages in the clearance of non**
 6 **abatement activities under 24 CFR 35.1340(b)(1)(iv), as in effect on**
 7 **July 1, 2001, must obtain a clearance examiner license under this**
 8 **chapter and under rules adopted by the board under section 5 of**
 9 **this chapter. A clearance examiner license expires two (2) years**
 10 **after the date of issuance.**

11 (d) A person that enters into a contract requiring the person to
 12 execute for compensation lead-based paint activities shall hold a
 13 lead-based paint activities contractor's license.

14 ~~(d)~~ (e) A person ~~shall~~ **must**:

- 15 (1) take required training and pass an examination provided in a
 16 lead-based paint training course **or clearance examiner training**
 17 **course, as appropriate**, approved by the department;
 18 (2) **for a license in the discipline of:**

- 19 (A) **inspector;**
 20 (B) **risk assessor**
 21 (C) **project designer; or**
 22 (D) **supervisor;**

23 pass an examination provided by the department or a third party
 24 as required by rules adopted by the board under section 5 of this
 25 chapter; and

- 26 (3) meet any requirements established by rules adopted by the
 27 board under section 5 of this chapter;

28 before a person may receive a lead-based paint activities license **or**
 29 **clearance examiner license.**

30 ~~(e)~~ (f) The department may issue a license for a position listed under
 31 subsection (b) **or (c)** if the applicant submits proof to the department
 32 that the applicant satisfies the training, examination, and other
 33 requirements for the license under this chapter.

34 ~~(f)~~ (g) **A lead-based paint activities license or a clearance**
 35 **examiner license may be renewed for a period of two (2) years. To**
 36 **renew a license**, a person who holds a license for a position listed in
 37 subsection (b) **or (c)** ~~must: complete periodic refresher training and~~
 38 ~~pass any re-examination required by rules adopted under section 5 of~~
 39 ~~this chapter.~~

- 40 (1) **take required refresher training;**
 41 (2) **pass an examination administered in an appropriate**
 42 **training course approved by the department; and**

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1 **(3) meet any requirements established by rules adopted by the**
 2 **board under section 5 of this chapter.**

3 ~~(g)~~ **(h)** A lead-based paint activities contractor licensed under this
 4 chapter may not allow an agent or employee of the contractor to:

- 5 (1) exercise control over a lead-based paint activities project;
 6 (2) come into contact with lead-based paint; or
 7 (3) engage in lead-based paint activities;

8 unless the agent or employee is licensed under this chapter.

9 ~~(h)~~ **(i)** A person engaging in lead-based paint activities shall comply
 10 with the work practice standards established in rules adopted by the
 11 board under section 5 of this chapter **and the applicable work**
 12 **practice standards established in section 12 of this chapter** for
 13 performing the appropriate lead-based paint activities.

14 SECTION 3. IC 13-17-14-4.5 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2001]: **Sec. 4.5. (a) A clearance examiner**
 17 **training program must meet requirements specified in rules**
 18 **adopted by the board under section 5 of this chapter before**
 19 **providing initial or refresher training to a person seeking a license**
 20 **under section 3(c) of this chapter.**

21 **(b) The department may approve a clearance examiner training**
 22 **course offered by a person that satisfies the requirements of**
 23 **subsection (a).**

24 **(c) A clearance examiner training course must be conducted by**
 25 **an instructor approved by the department as provided in the rules**
 26 **adopted by the board under section 5 of this chapter.**

27 SECTION 4. IC 13-17-14-5, AS AMENDED BY P.L.111-1999,
 28 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2001]: Sec. 5. (a) The board shall adopt rules under IC 4-22-2
 30 and IC 13-14-9 to implement this chapter. The rules must contain at
 31 least the elements required to receive program authorization under ~~40~~
 32 ~~CFR 76, Subpart L, 40 CFR 745, Subpart L, as in effect on July 1,~~
 33 **2001**, and must do the following:

34 (1) Establish minimum requirements for the issuance of a license
 35 for:

36 **(A)** lead-based paint activities inspectors, risk assessors,
 37 project designers, supervisors, abatement workers, and
 38 contractors; **and**

39 **(B) clearance examiners.**

40 (2) Establish minimum requirements for approval of the providers
 41 of:

42 **(A)** lead-based paint activities training courses; **and**



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- 1 **(B) clearance examiner training courses.**
 2 (3) Establish minimum qualifications for:
 3 **(A) lead-based paint activities training course instructors; and**
 4 **(B) clearance examiner training course instructors.**
 5 (4) Extend the applicability of the licensing requirements to other
 6 facilities as determined necessary by the board.
 7 (5) Establish work practice standards.
 8 (6) Establish a department or third-party examination process.
 9 (7) Identify activities, if any, that are exempted from licensing
 10 requirements.
 11 (8) Establish a fee of not more than one hundred fifty dollars
 12 (\$150) per person, per license, per year for a person seeking a
 13 license under section 3 of this chapter. However, the following
 14 may not be required to pay a fee established under this
 15 subdivision:
 16 (A) A state.
 17 (B) A municipal corporation (as defined in IC 36-1-2-10).
 18 (C) A unit (as defined in IC 36-1-2-23).
 19 (9) Establish a fee of not more than one thousand dollars (\$1,000)
 20 per course, per year, for a lead-based paint training program
 21 seeking approval of a lead-based paint training course under
 22 section 4 of this chapter. However, the following may not be
 23 required to pay a fee established under this subdivision:
 24 (A) A state.
 25 (B) A municipal corporation (as defined in IC 36-1-2-10).
 26 (C) A unit (as defined in IC 36-1-2-23).
 27 (D) An organization exempt from income taxation under 26
 28 U.S.C. 501(a).
 29 **(10) Establish a fee of not more than one thousand dollars**
 30 **(\$1,000) per course, per year, for a clearance examiner**
 31 **training program seeking approval of a clearance examiner**
 32 **training course under section 4.5 of this chapter. However, the**
 33 **following may not be required to pay a fee established under**
 34 **this subdivision:**
 35 **(A) A state.**
 36 **(B) A municipal corporation (as defined in IC 36-1-2-10).**
 37 **(C) A unit (as defined in IC 36-1-2-23).**
 38 (b) The amount of the fees under subsection (a) may not be more
 39 than is necessary to recover the cost of administering this chapter.
 40 (c) The proceeds of the fees under subsection (a) must be deposited
 41 in the lead trust fund established by section 6 of this chapter.
 42 **(d) The minimum requirements established under subsection**



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1 **(a)(1) must be sufficient to allow the clearance examiner to**
 2 **perform clearance examinations without the approval of a certified**
 3 **risk assessor or inspector as provided in 24 CFR 35.1340(b)(1)(iv),**
 4 **as in effect on July 1, 2001.**

5 SECTION 5. IC 13-17-14-11 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) The
 7 commissioner may under IC 4-21.5 reprimand, suspend, or revoke the
 8 license of a **clearance examiner or a** lead-based paint activities
 9 inspector, risk assessor, project designer, supervisor, worker, or
 10 contractor for any of the following reasons:

11 (1) Violating any requirements of this chapter or rules adopted
 12 under this chapter.

13 (2) Fraudulently or deceptively obtaining or attempting to obtain
 14 a license under this chapter.

15 (3) Failing to meet the qualifications for a license or failing to
 16 comply with the requirements of air pollution control laws or
 17 rules adopted by the board.

18 (4) Failing to meet an applicable federal or state standard for
 19 lead-based paint activities.

20 (b) The commissioner may under IC 4-21.5 reprimand a lead-based
 21 paint activities contractor or suspend or revoke the license of a
 22 lead-based paint activities contractor that employs a person who is not
 23 licensed under this chapter for a purpose that requires the person to
 24 hold a license issued under this chapter.

25 (c) The commissioner may under IC 4-21.5 revoke the approval of
 26 a **clearance examiner or a** lead-based paint activities training course
 27 for any of the following reasons:

28 (1) Violating any requirement of this chapter.

29 (2) Falsifying information on an application for approval.

30 (3) Misrepresenting the extent of a training course's approval.

31 (4) Failing to submit required information or notifications in a
 32 timely manner.

33 (5) Failing to maintain required records.

34 (6) Falsifying approval records, instructor qualifications, or other
 35 approval information.

36 SECTION 6. IC 13-17-14-12 IS ADDED AS A **NEW SECTION**
 37 **TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a)**
 38 **This section applies to:**

39 **(1) remodeling, renovation, and maintenance activities at**
 40 **target housing and child occupied facilities built before 1960;**
 41 **and**

42 **(2) lead-based paint activities.**

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1 **(b) This section does not apply to an individual who performs**
 2 **remodeling, renovation, or maintenance activities within a**
 3 **residential dwelling that the individual owns, unless the residential**
 4 **dwelling is occupied:**

5 **(1) while the activities are being performed, by an individual**
 6 **other than the owner or a member of the owner's immediate**
 7 **family; or**

8 **(2) by a child who:**

9 **(A) is more than six (6) years of age or an age specified in**
 10 **rules adopted by the board under section 5 of this chapter;**
 11 **and**

12 **(B) resides in the building and has been identified as**
 13 **having an elevated blood lead level.**

14 **(c) A person that performs an activity under subsection (a) that**
 15 **disturbs:**

16 **(1) exterior painted surfaces of more than twenty (20) square**
 17 **feet;**

18 **(2) interior painted surfaces of more than two (2) square feet**
 19 **in any one (1) room or space; or**

20 **(3) more than ten percent (10%) of the combined interior and**
 21 **exterior painted surface area of components of the building;**

22 **shall meet the requirements of subsections (e), (f), and (g).**

23 **(d) For purposes of this section, paint is considered to be**
 24 **lead-based paint unless the absence of lead in the paint has been**
 25 **determined by a lead-based paint inspection conducted under this**
 26 **chapter.**

27 **(e) A person may not use any of the following methods to**
 28 **remove lead-based paint:**

29 **(1) Open flame burning or torching.**

30 **(2) Machine sanding or grinding without high efficiency**
 31 **particulate air local exhaust control.**

32 **(3) Abrasive blasting or sandblasting without high efficiency**
 33 **particulate air local exhaust control.**

34 **(4) A heat gun that:**

35 **(A) operates above one thousand one hundred (1,100)**
 36 **degrees Fahrenheit; or**

37 **(B) chars the paint.**

38 **(5) Dry scraping, except:**

39 **(A) in conjunction with a heat gun; or**

40 **(B) within one (1) foot of an electrical outlet.**

41 **(6) Dry sanding, except within one (1) foot of an electrical**
 42 **outlet.**

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1 (f) In a space that is not ventilated by the circulation of outside
2 air, a person may not strip lead-based paint using a volatile
3 stripper that is a hazardous chemical under 29 CFR 1910.1200, as
4 in effect on July 1, 2001.

5 (g) A person conducting activities under subsection (a) on
6 painted exterior surfaces may not allow visible paint chips or
7 painted debris that contains lead-based paint to remain on the soil,
8 pavement, or other exterior horizontal surface for more than
9 forty-eight (48) hours after the surface activities are complete.

10 SECTION 7. [EFFECTIVE JULY 1, 2001] (a) The position of
11 lead-safe interagency coordinator is created.

12 (b) The lead-safe interagency coordinator shall seek to ensure
13 that:

14 (1) children are afforded full opportunities with respect to
15 lead-safe programs offered by:

16 (A) the federal government;

17 (B) the department of environmental management;

18 (C) the state department of health;

19 (D) the Indiana housing finance authority; and

20 (E) the family and social services administration;

21 (2) progress toward reaching the goal of eliminating lead
22 poisoning by 2010 is achieved and accurately tracked.

23 (c) This SECTION expires June 30, 2004.

24 SECTION 8. [EFFECTIVE JULY 1, 2001] (a) Before July 1, 2003,
25 the air pollution control board shall amend 326 IAC 23 to reflect
26 this act.

27 (b) This SECTION expires July 1, 2003.

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SENATE MOTION

Mr. President: I move that Senator Broden be added as coauthor of Senate Bill 320.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 320, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 5 through 12.

Page 2, delete line 12.

Page 2, line 13, after "(c)" insert **"A person may receive a clearance examiner license under this chapter. A person that engages in the clearance of non abatement activities under 24 CFR 35.1340(b)(1)(iv), as in effect on July 1, 2001, must obtain a clearance examiner license under this chapter and under rules adopted by the board under section 5 of this chapter. A clearance examiner license expires two (2) years after the date of issuance.**

(d)".

Page 2, line 16, strike "(d)" and insert "(e)".

Page 2, line 18, after "course" insert **"or clearance examiner training course, as appropriate,"**.

Page 2, line 29, delete "." and insert **"or clearance examiner license."**

Page 2, line 30, strike "(e)" and insert **"(f)"**.

Page 2, line 30, reset in roman "position".

Page 2, line 30, delete "discipline".

Page 2, line 31, after "(b)" insert **"or (c)"**.

Page 2, line 34, strike "(f)" and insert **"(g)"**.

Page 2, line 34, after "license" insert **"or a clearance examiner license"**.

Page 2, line 36, reset in roman "position".

Page 2, line 36, delete "discipline".

Page 2, line 36, after "(b)" insert **"or (c)"**.

Page 2, line 40, delete "a lead-based paint" and insert **"an appropriate"**.

Page 3, line 2, strike "(g)" and insert **"(h)"**.

Page 3, line 8, strike "(h)" and insert **"(i)"**.

Page 3, line 10, after "chapter" insert **"and the applicable work practice standards established in section 12 of this chapter"**.

Page 3, between lines 11 and 12 begin a new paragraph and insert:
"SECTION 4. IC 13-17-14-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4.5. (a) A clearance examiner training program must meet requirements specified in rules



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adopted by the board under section 5 of this chapter before providing initial or refresher training to a person seeking a license under section 3(c) of this chapter.

(b) The department may approve a clearance examiner training course offered by a person that satisfies the requirements of subsection (a).

(c) A clearance examiner training course must be conducted by an instructor approved by the department as provided in the rules adopted by the board under section 5 of this chapter."

Page 3, line 16, strike "40".

Page 3, line 17, strike "CFR 76, Subpart L," and insert "**40 CFR 745, Subpart L, as in effect on July 1, 2001,**".

Page 3, line 19, after "for" insert ":

(A)".

Page 3, line 20, delete "clearance examiners,".

Page 3, line 21, delete "." and insert "; and

(B) clearance examiners."

Page 3, line 23, after "of" insert ":

(A)".

Page 3, line 23, delete "." and insert "; and

(B) clearance examiner training courses."

Page 3, line 24, after "for" insert ":

(A)".

Page 3, line 25, delete "." and insert "; and

(B) clearance examiner training course instructors."

Page 4, between lines 7 and 8, begin a new line block indented and insert:

"(10) Establish a fee of not more than one thousand dollars (\$1,000) per course, per year, for a clearance examiner training program seeking approval of a clearance examiner training course under section 4.5 of this chapter. However, the following may not be required to pay a fee established under this subdivision:

(A) A state.

(B) A municipal corporation (as defined in IC 36-1-2-10).

(C) A unit (as defined in IC 36-1-2-23)."

Page 4, between lines 16 and 17, begin a new paragraph and insert:
"SECTION 6. IC 13-17-14-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) The commissioner may under IC 4-21.5 reprimand, suspend, or revoke the license of a **clearance examiner or a lead-based paint activities inspector, risk assessor, project designer, supervisor, worker, or**



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contractor for any of the following reasons:

- (1) Violating any requirements of this chapter or rules adopted under this chapter.
- (2) Fraudulently or deceptively obtaining or attempting to obtain a license under this chapter.
- (3) Failing to meet the qualifications for a license or failing to comply with the requirements of air pollution control laws or rules adopted by the board.
- (4) Failing to meet an applicable federal or state standard for lead-based paint activities.

(b) The commissioner may under IC 4-21.5 reprimand a lead-based paint activities contractor or suspend or revoke the license of a lead-based paint activities contractor that employs a person who is not licensed under this chapter for a purpose that requires the person to hold a license issued under this chapter.

(c) The commissioner may under IC 4-21.5 revoke the approval of a **clearance examiner or a** lead-based paint activities training course for any of the following reasons:

- (1) Violating any requirement of this chapter.
- (2) Falsifying information on an application for approval.
- (3) Misrepresenting the extent of a training course's approval.
- (4) Failing to submit required information or notifications in a timely manner.
- (5) Failing to maintain required records.
- (6) Falsifying approval records, instructor qualifications, or other approval information."

Page 4, line 18, after "(a)" insert "**This section applies to:**

- (1) remodeling, renovation, and maintenance activities at target housing and child occupied facilities built before 1960; and**
- (2) lead-based paint activities.**

(b) This section does not apply to an individual who performs remodeling, renovation, or maintenance activities within a residential dwelling that the individual owns, unless the residential dwelling is occupied:

- (1) while the activities are being performed, by an individual other than the owner or a member of the owner's immediate family; or**
- (2) by a child who:**
 - (A) is more than six (6) years of age or an age specified in rules adopted by the board under section 5 of this chapter; and**

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(B) resides in the building and has been identified as having an elevated blood lead level.

(c) A person that performs an activity under subsection (a) that disturbs:"

Page 4, delete line 19.

Page 4, line 25, delete "." and insert ";".

Page 4, between lines 25 and 26, begin a new line blocked left and insert "**shall meet the requirements of subsections (e), (f), and (g).**".

Page 4, line 26, delete "(b)" and insert "**(d)**".

Page 4, line 30, delete "(c)" and insert "**(e)**".

Page 5, line 4, delete "(d)" and insert "**(f)**".

Page 5, line 8, delete "(e)" and insert "**(g)**".

Page 5, line 8, delete "maintenance, renovation, or remodeling".

Page 5, line 9, after "activities" insert "**under subsection (a)**".

Page 5, line 14, delete "ombudsman" and insert "**interagency coordinator**".

Page 5, delete lines 15 through 16.

Page 5, line 17, delete "(c)" and insert "**(b)**".

Page 5, line 17, delete "lead-safe ombudsman and the".

Page 5, delete lines 28 through 33.

Page 5, line 34, delete "(e)" and insert "**(c)**".

Page 5, after line 34, begin a new paragraph and insert:

"SECTION 9. [EFFECTIVE JULY 1, 2001] (a) Before July 1, 2003, the air pollution control board shall amend 326 IAC 23 to reflect this act.

(b) This SECTION expires July 1, 2003."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 320 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 6, Nays 1.

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