



January 25, 2008

SENATE BILL No. 143

DIGEST OF SB 143 (Updated January 23, 2008 3:54 pm - DI 104)

Citations Affected: IC 12-7; IC 12-17.2; IC 16-18; IC 16-41; IC 32-21; IC 34-30; noncode.

Synopsis: Childhood lead poisoning prevention. Specifies certain requirements for child care providers, laboratories, the state department of health, local health departments, residential rental property owners, and retail establishments related to childhood lead poisoning prevention. Provides for certain actions by the state department of health for noncompliance with certain provisions. Establishes the childhood lead poisoning prevention fund for outreach and prevention activities. Establishes a lead-safe housing advisory council to make recommendations related to lead poisoning prevention. Makes conforming amendments. (The introduced version of this bill was prepared by the health finance commission.)

Effective: Upon passage; July 1, 2008.

Gard, Rogers

January 10, 2008, read first time and referred to Committee on Health and Provider Services.
January 24, 2008, amended, reported favorably — Do Pass.

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January 25, 2008

Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

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SENATE BILL No. 143

A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

1 SECTION 1. IC 12-7-2-0.8 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]: **Sec. 0.8. "Abatement" has the meaning set forth in**
4 **IC 13-11-2-0.5.**

5 SECTION 2. IC 12-7-2-34.1 IS ADDED TO THE INDIANA CODE
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2008]: **Sec. 34.1. "Clearance examination" means an activity**
8 **conducted by a clearance examiner who is licensed under**
9 **IC 13-17-14 to establish proper completion of interim controls (as**
10 **defined in 24 CFR 35.110).**

11 SECTION 3. IC 12-7-2-122.4 IS ADDED TO THE INDIANA
12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2008]: **Sec. 122.4. "Lead-based paint" has**
14 **the meaning set forth in IC 13-11-2-118.3.**

15 SECTION 4. IC 12-7-2-169.8 IS ADDED TO THE INDIANA
16 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2008]: **Sec. 169.8. "Risk assessment" means:**

SB 143—LS 6131/DI 97+



- 1 (1) an on-site investigation to determine the existence, nature,
- 2 severity, and location of lead-based paint hazards; and
- 3 (2) the provision of a report by the individual or the firm
- 4 conducting the investigation explaining the results of the
- 5 investigation and options for reducing lead-based paint
- 6 hazards.

7 SECTION 5. IC 12-17.2-3.5-11.4 IS ADDED TO THE INDIANA
 8 CODE AS A NEW SECTION TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2008]: **Sec. 11.4. (a) Before enrollment of a**
 10 **child who is at least nine (9) months of age in a child care program,**
 11 **a provider shall obtain from the parent or guardian of the child**
 12 **documentation of a blood lead level test of the child.**

13 (b) If a child is enrolled in a child care program before the child
 14 is nine (9) months of age, the provider shall obtain from the parent
 15 or guardian of the child documentation of a blood lead level test of
 16 the child performed during the period beginning on the date the
 17 child becomes nine (9) months of age and ending on the date the
 18 child becomes fourteen (14) months of age.

19 SECTION 6. IC 12-17.2-3.5-11.5 IS ADDED TO THE INDIANA
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2008]: **Sec. 11.5. (a) This section applies after**
 22 **July 1, 2011.**

23 (b) Except as provided in subsection (c), a provider that
 24 operates a child care program in a building that was built before
 25 1978 shall:

- 26 (1) ensure that the part of the building that is occupied by
- 27 children is evaluated by means of:
 - 28 (A) an initial risk assessment not later than December 31,
 - 29 2011; and
 - 30 (B) a clearance examination at least biennially after
 - 31 December 31, 2011;
- 32 by a person who is licensed under IC 13-17-14; and
- 33 (2) if a lead hazard is found, keep children out of the area with
- 34 the lead hazard until the lead hazard is remediated and the
- 35 area is demonstrated to be lead hazard free through a
- 36 clearance examination.

37 (c) A provider described in subsection (b) is not required to
 38 comply with subsection (b) if:

- 39 (1) the provider has a lead-based paint inspection conducted
- 40 under IC 13-17-14 with respect to the part of the building that
- 41 is occupied by children; and
- 42 (2) one (1) of the following applies:

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(A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.

(B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.

(d) A provider shall ensure that at least one (1) individual who is employed at the facility where the provider operates a child care program attends training concerning lead hazards, including a lead-based paint rules awareness course approved by the department of environmental management, and does the following:

- (1) Provides current lead hazard education to parents, guardians, caregivers, and employees at the facility where the provider operates a child care program.
- (2) Maintains current knowledge concerning product recalls related to lead hazards.
- (3) Performs regular child care program facility assessments to identify lead hazards.
- (4) Acts to remove or remediate any lead hazards from the child care program facility.

(e) An employee at the facility where the operator operates a child care program who performs the employee's duties under subsection (d) in good faith and the provider that employs the employee are immune from civil liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct.

SECTION 7. IC 12-17.2-4-18.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.2. (a) Before enrollment of a child who is at least nine (9) months of age at a child care center, the child care center shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child.**

(b) If a child is enrolled at a child care center before the child is nine (9) months of age, the child care center shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child performed during the period beginning on the date the child becomes nine (9) months of age and ending on the date the child becomes fourteen (14) months of age.

SECTION 8. IC 12-17.2-4-18.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.3. (a) This section applies after**

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- July 1, 2011.**
- (b) Except as provided in subsection (c), a child care center that is located in a building that was built before 1978 shall:**
 - (1) ensure that the part of the building that is occupied by children is evaluated by means of:**
 - (A) an initial risk assessment not later than December 31, 2011; and**
 - (B) a clearance examination at least biennially after December 31, 2011;**
 - by a person who is licensed under IC 13-17-14; and**
 - (2) if a lead hazard is found, keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination.**
- (c) A child care center is not required to comply with subsection (b) if:**
 - (1) the child care center has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and**
 - (2) one (1) of the following applies:**
 - (A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.**
 - (B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.**
- (d) A child care center shall ensure that at least one (1) employee of the child care center:**
 - (1) attends training concerning lead hazards, including a lead-based paint rules awareness course approved by the department of environmental management; and**
 - (2) does the following:**
 - (A) Provides current lead hazard education to parents, guardians, caregivers, and child care center employees.**
 - (B) Maintains current knowledge concerning product recalls related to lead hazards.**
 - (C) Performs regular child care center facility assessments to identify lead hazards.**
 - (D) Acts to remove or remediate any lead hazards from the child care center facility.**
- (e) An employee of a child care center who performs the employee's duties under subsection (d) in good faith and the child**

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1 care center that employs the employee are immune from civil
2 liability related to the performance of the duties. This subsection
3 does not apply to an act or omission that amounts to gross
4 negligence or willful or wanton misconduct.

5 SECTION 9. IC 12-17.2-5-18.3 IS ADDED TO THE INDIANA
6 CODE AS A NEW SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2008]: **Sec. 18.3. (a) Before enrollment of a
8 child who is at least nine (9) months of age in a child care home, the
9 child care home shall obtain from the parent or guardian of the
10 child documentation of a blood lead level test of the child.**

11 **(b) If a child is enrolled at a child care home before the child is
12 nine (9) months of age, the child care home shall obtain from the
13 parent or guardian of the child documentation of a blood lead level
14 test of the child performed during the period beginning on the date
15 the child becomes nine (9) months of age and ending on the date the
16 child becomes fourteen (14) months of age.**

17 SECTION 10. IC 12-17.2-5-18.4 IS ADDED TO THE INDIANA
18 CODE AS A NEW SECTION TO READ AS FOLLOWS
19 [EFFECTIVE JULY 1, 2008]: **Sec. 18.4. (a) This section applies after
20 July 1, 2011.**

21 **(b) Except as provided in subsection (c), a child care home that
22 is located in a building that was built before 1978 shall:**

23 **(1) ensure that the part of the building that is occupied by
24 children is evaluated by means of:**

25 **(A) an initial risk assessment not later than December 31,
26 2011; and**

27 **(B) a clearance examination at least biennially after
28 December 31, 2011;**

29 **by a person who is licensed under IC 13-17-14; and**

30 **(2) if a lead hazard is found, keep children out of the area with
31 the lead hazard until the lead hazard is remediated and the
32 area is demonstrated to be lead hazard free through a
33 clearance examination.**

34 **(c) A child care home is not required to comply with subsection
35 (b) if:**

36 **(1) the child care home has a lead-based paint inspection
37 conducted under IC 13-17-14 with respect to the part of the
38 building that is occupied by children; and**

39 **(2) one (1) of the following applies:**

40 **(A) The lead-based paint inspection results indicate that no
41 lead-based paint exists in the part of the building that is
42 occupied by children.**

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- 1 **(B) Abatement of any lead-based paint hazard that existed**
- 2 **in the part of the building that is occupied by children has**
- 3 **occurred.**
- 4 **(d) A child care home shall ensure that at least one (1) employee**
- 5 **of the child care home:**
- 6 **(1) attends training concerning lead hazards, including a**
- 7 **lead-based paint rules awareness course approved by the**
- 8 **department of environmental management; and**
- 9 **(2) does the following:**
- 10 **(A) Provides current lead hazard education to parents,**
- 11 **guardians, caregivers, and child care home employees.**
- 12 **(B) Maintains current knowledge concerning product**
- 13 **recalls related to lead hazards.**
- 14 **(C) Performs regular child care home facility assessments**
- 15 **to identify lead hazards.**
- 16 **(D) Acts to remove or remediate any lead hazards from the**
- 17 **child care home facility.**
- 18 **(e) An employee of a child care home who performs the**
- 19 **employee's duties under subsection (d) in good faith and the child**
- 20 **care home that employs the employee are immune from civil**
- 21 **liability related to the performance of the duties. This subsection**
- 22 **does not apply to an act or omission that amounts to gross**
- 23 **negligence or willful or wanton misconduct.**
- 24 SECTION 11. IC 12-17.2-6-16 IS ADDED TO THE INDIANA
- 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 26 [EFFECTIVE JULY 1, 2008]: **Sec. 16. (a) Before enrollment of a**
- 27 **child who is at least nine (9) months of age in a child care ministry,**
- 28 **the child care ministry shall obtain from the parent or guardian of**
- 29 **the child documentation of a blood lead level test of the child.**
- 30 **(b) If a child is enrolled at a child care ministry before the child is**
- 31 **nine (9) months of age, the child care ministry shall obtain from the**
- 32 **parent or guardian of the child documentation of a blood lead level**
- 33 **test of the child performed during the period beginning on the date**
- 34 **the child becomes nine (9) months of age and ending on the date the**
- 35 **child becomes fourteen (14) months of age.**
- 36 SECTION 12. IC 12-17.2-6-17 IS ADDED TO THE INDIANA
- 37 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 38 [EFFECTIVE JULY 1, 2008]: **Sec. 17. (a) This section applies after**
- 39 **July 1, 2011.**
- 40 **(b) Except as provided in subsection (c), a child care ministry**
- 41 **that is located in a building that was built before 1978 shall:**
- 42 **(1) ensure that the part of the building that is occupied by**

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1 children is evaluated by means of:

2 (A) an initial risk assessment not later than December 31,
3 2011; and

4 (B) a clearance examination at least biennially after
5 December 31, 2011;

6 by a person who is licensed under IC 13-17-14; and

7 (2) if a lead hazard is found, keep children out of the area with
8 the lead hazard until the lead hazard is remediated and the
9 area is demonstrated to be lead hazard free through a
10 clearance examination.

11 (c) A child care ministry is not required to comply with
12 subsection (b) if:

13 (1) the child care ministry has a lead-based paint inspection
14 conducted under IC 13-17-14 with respect to the part of the
15 building that is occupied by children; and

16 (2) one (1) of the following applies:

17 (A) The lead-based paint inspection results indicate that no
18 lead-based paint exists in the part of the building that is
19 occupied by children.

20 (B) Abatement of any lead-based paint hazard that existed
21 in the part of the building that is occupied by children has
22 occurred.

23 (d) A child care ministry shall ensure that at least one (1)
24 employee of the child care ministry:

25 (1) attends training concerning lead hazards, including a
26 lead-based paint rules awareness course approved by the
27 department of environmental management; and

28 (2) does the following:

29 (A) Provides current lead hazard education to parents,
30 guardians, caregivers, and child care ministry employees.

31 (B) Maintains current knowledge concerning product
32 recalls related to lead hazards.

33 (C) Performs regular child care ministry facility
34 assessments to identify lead hazards.

35 (D) Acts to remove or remediate any lead hazards from the
36 child care ministry facility.

37 (e) An employee of a child care ministry who performs the
38 employee's duties under subsection (d) in good faith and the child
39 care ministry that employs the employee are immune from civil
40 liability related to the performance of the duties. This subsection
41 does not apply to an act or omission that amounts to gross
42 negligence or willful or wanton misconduct.

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1 SECTION 13. IC 16-18-2-9.3 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE UPON PASSAGE]: **Sec. 9.3. "Advisory council", for**
 4 **purposes of IC 16-41-39.4, refers to the lead-safe housing advisory**
 5 **council established by IC 16-41-39.4-6.**

6 SECTION 14. IC 16-18-2-56.2 IS ADDED TO THE INDIANA
 7 CODE AS A NEW SECTION TO READ AS FOLLOWS
 8 [EFFECTIVE UPON PASSAGE]: **Sec. 56.2. "Clearance**
 9 **examination", for purposes of IC 16-41-39.4, means an activity**
 10 **conducted by a clearance examiner who is licensed under**
 11 **IC 13-17-14 to establish proper completion of interim controls (as**
 12 **defined in 24 CFR 35.110).**

13 SECTION 15. IC 16-18-2-69.2 IS ADDED TO THE INDIANA
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE UPON PASSAGE]: **Sec. 69.2. "Consumer product",**
 16 **for purposes of IC 16-41-39.4, means an item or a component of an**
 17 **item that is produced or distributed for:**

- 18 (1) sale to a consumer for use; or
- 19 (2) the personal use, consumption, or enjoyment of a
- 20 consumer.

21 SECTION 16. IC 16-18-2-116.2 IS ADDED TO THE INDIANA
 22 CODE AS A NEW SECTION TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2008]: **Sec. 116.2. "Environmental**
 24 **investigation" means an identification and evaluation of lead**
 25 **hazards from nonstructural sources in a child's environment. The**
 26 **term includes the following:**

- 27 (1) Presentation of results of the identification and evaluation,
- 28 including recommendations for reducing or eliminating
- 29 exposure.
- 30 (2) Education of the child's family concerning:
 - 31 (A) lead hazards found; and
 - 32 (B) temporary and permanent measures to protect the
 - 33 child from further exposure.

34 SECTION 17. IC 16-18-2-143, AS AMENDED BY P.L.234-2007,
 35 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 UPON PASSAGE]: **Sec. 143. (a) "Fund", for purposes of IC 16-26-2,**
 37 **has the meaning set forth in IC 16-26-2-2.**

38 (b) "Fund", for purposes of IC 16-31-8.5, has the meaning set forth
 39 in IC 16-31-8.5-2.

40 (c) "Fund", for purposes of IC 16-41-39.4, refers to the
 41 childhood lead poisoning prevention fund established by
 42 IC 16-41-39.4-3.1.

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1 (c) (d) "Fund", for purposes of IC 16-46-5, has the meaning set forth
2 in IC 16-46-5-3.

3 (d) (e) "Fund", for purposes of IC 16-46-12, has the meaning set
4 forth in IC 16-46-12-1.

5 (e) (f) "Fund", for purposes of IC 16-41-42, has the meaning set
6 forth in IC 16-41-42-2.

7 SECTION 18. IC 16-18-2-198.5 IS ADDED TO THE INDIANA
8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
9 [EFFECTIVE UPON PASSAGE]: **Sec. 198.5. "Lead-based paint**
10 **activities", for purposes of IC 16-41-39.4, has the meaning set forth**
11 **in IC 13-11-2-118.5.**

12 SECTION 19. IC 16-18-2-214.7 IS ADDED TO THE INDIANA
13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
14 [EFFECTIVE UPON PASSAGE]: **Sec. 214.7. "Low income", for**
15 **purposes of IC 16-41-39.4, means having not more than eighty**
16 **percent (80%) of the median income level of households in a**
17 **particular county as determined annually by the federal**
18 **Department of Housing and Urban Development.**

19 SECTION 20. IC 16-18-2-292.7 IS ADDED TO THE INDIANA
20 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
21 [EFFECTIVE UPON PASSAGE]: **Sec. 292.7. "Primary prevention",**
22 **for purposes of IC 16-41-39.4, means the removal or remediation,**
23 **including the use of interim controls, of lead hazards before lead**
24 **poisoning of an individual occurs.**

25 SECTION 21. IC 16-18-2-315.8 IS ADDED TO THE INDIANA
26 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2008]: **Sec. 315.8. "Remediation" means**
28 **actions that constitute:**

- 29 (1) **abatement (as defined in IC 13-11-2-0.5); or**
30 (2) **interim control (as defined in 24 CFR 35.110);**
31 **of a lead hazard.**

32 SECTION 22. IC 16-18-2-316.4 IS ADDED TO THE INDIANA
33 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
34 [EFFECTIVE UPON PASSAGE]: **Sec. 316.4. "Rental unit" has the**
35 **meaning set forth in IC 32-31-3-8.**

36 SECTION 23. IC 16-18-2-349.5 IS ADDED TO THE INDIANA
37 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
38 [EFFECTIVE UPON PASSAGE]: **Sec. 349.5. "Tenant" has the**
39 **meaning set forth in IC 32-31-3-10.**

40 SECTION 24. IC 16-41-39.4-3, AS AMENDED BY P.L.135-2005,
41 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 UPON PASSAGE]: **Sec. 3. (a) A person that examines the blood of an**

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1 individual described in section 2 of this chapter for the presence of lead
 2 must report to the state department the results of the examination not
 3 later than one (1) week after completing the examination. The report
 4 must include at least the following:

- 5 (1) With respect to the individual whose blood is examined:
 6 (A) the **full** name;
 7 (B) the date of birth;
 8 (C) the gender;
 9 (D) the race **and ethnicity**; ~~and~~
 10 **(E) the full address, including street address, city, and ZIP**
 11 **code;**
 12 **(F) the county of residence;**
 13 **(G) the parent's or guardian's name and telephone**
 14 **number, where applicable; and**
 15 ~~(E)~~ **(H) any other information that is required to be included**
 16 **to qualify to receive federal funding.**
 17 (2) With respect to the examination:
 18 (A) the date;
 19 (B) the type of blood test performed;
 20 (C) the person's normal limits for the test;
 21 (D) the results of the test; and
 22 (E) the person's interpretation of the results of the test.
 23 (3) The names, addresses, and telephone numbers of:
 24 (A) the person **examining the blood**; and
 25 (B) the attending physician, hospital, clinic, or other specimen
 26 submitter.

27 (b) If a person required to report under subsection (a) has submitted
 28 more than fifty (50) results in the previous calendar year, the person
 29 must submit subsequent reports in an electronic format determined by
 30 the state department.

31 **(c) Except as provided in subsection (d), if a person required to**
 32 **report under subsection (a) fails to provide complete information**
 33 **within ten (10) days after notification by the state department, the**
 34 **state department may, in accordance with IC 4-21.5, assess a civil**
 35 **penalty against the person in an amount equal to two thousand five**
 36 **hundred dollars (\$2,500) for each incomplete report that is**
 37 **submitted after receipt of the notification. Money received by the**
 38 **state department under this subsection shall be deposited in the**
 39 **fund.**

40 **(d) Subsection (c) does not apply to a person who acts in good**
 41 **faith to provide a complete report required under subsection (a),**
 42 **but who:**



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1 (1) is unable to collect all of the information required for a
2 complete report; or
3 (2) provides incorrect information on a completed report.
4 (e) The state department shall inform an elementary school or
5 a secondary school attended by an individual about whom the state
6 department receives a report under this section of the contents of
7 the report. The school receiving the information:
8 (1) shall first enter into a written agreement with the state
9 department to maintain the confidentiality of the information
10 received; and
11 (2) shall not disclose the information to any person without
12 the written consent of the individual or the parent or guardian
13 of the individual.
14 SECTION 25. IC 16-41-39.4-3.1 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE UPON PASSAGE]: **Sec. 3.1. (a) The childhood lead
17 poisoning prevention fund is established for the purpose of funding
18 childhood lead poisoning outreach and prevention activities. The
19 fund shall be administered by the state department.**
20 (b) The expenses of administering the fund shall be paid from
21 money in the fund.
22 (c) The fund consists of:
23 (1) civil penalties assessed under section 3 of this chapter;
24 (2) gifts; and
25 (3) appropriations from the general assembly.
26 (d) The treasurer of state shall invest the money in the fund not
27 currently needed to meet the obligations of the fund in the same
28 manner as other public money may be invested. Interest that
29 accrues from these investments shall be deposited in the fund.
30 (e) Money in the fund at the end of a state fiscal year does not
31 revert to the state general fund.
32 SECTION 26. IC 16-41-39.4-6 IS ADDED TO THE INDIANA
33 CODE AS A NEW SECTION TO READ AS FOLLOWS
34 [EFFECTIVE UPON PASSAGE]: **Sec. 6. (a) The lead-safe housing
35 advisory council is established to advise the state department
36 concerning housing related lead poisoning prevention activities.**
37 (b) The advisory council consists of the following members:
38 (1) The state health commissioner, or the state health
39 commissioner's designee, who shall serve as the chairperson
40 of the advisory council.
41 (2) The director of the Indiana housing and community
42 development authority or the director's designee.

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(3) The local health officer of each of three (3) local health departments, appointed by the state health commissioner to represent a diverse geographic and population mix, or the local health officer's designee.

(4) The following individuals, appointed by the governor:

- (A) A representative of realtors in Indiana.**
- (B) A representative of home builders or remodelers in Indiana.**
- (C) A pediatrician or other physician with knowledge of lead poisoning.**
- (D) A representative of the private lead-based paint abatement industry who is licensed under IC 13-17-14 to perform or supervise lead-based paint activities.**
- (E) A representative of a community based organization located in a community with a significant concentration of high risk lead-contaminated properties, as determined by a high prevalence in the community of:**
 - (i) low income families having children with lead poisoning; and**
 - (ii) housing units that were built before 1978.**
- (F) A parent of a child with lead poisoning.**
- (G) A representative from a child or health advocacy organization.**
- (H) A residential tenant.**
- (I) A representative of the paint and coatings industry.**
- (J) A representative of public housing administrators.**
- (K) A representative of residential rental property owners.**
- (L) A representative of licensed lead-based paint activities training providers.**
- (M) A representative of community action program agencies.**
- (N) A representative of the banking industry.**
- (O) An individual who is licensed as a lead-based paint activities inspector under IC 13-17-14.**

(c) The advisory council shall meet at least quarterly. The first meeting of the advisory council must occur not later than July 1, 2008.

(d) Not later than April 1, 2009, the advisory council shall submit to the governor, the attorney general, and, in an electronic format under IC 5-14-6, the legislative council a report containing recommendations of the advisory council concerning the following:

- (1) Development of a primary prevention program to address**

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- housing related lead poisoning.
 - (2) Development of a sufficient number of licensed lead inspectors, risk assessors, clearance examiners, individuals who are trained in lead safe work practices, abatement workers, and contractors.
 - (3) Ensuring lead-safe work practices in remodeling, rehabilitation, and weatherization work.
 - (4) Funding mechanisms to assist residential property owners with the cost of lead abatement, remediation, and mitigation, including interim controls.
 - (5) A procedure for distribution of funds from the Indiana lead trust fund established by IC 13-17-14-6 to pay the cost of implementation of 40 CFR 745 for lead-based paint activities in target housing and child occupied facilities.
 - (6) A program to ensure that the resale of recycled building products does not pose significant risk of lead poisoning to children.
 - (7) Necessary statutory or administrative rule changes to improve the effectiveness of state and local lead abatement, remediation, including interim controls, and other lead poisoning prevention and control activities.
 - (e) The state department shall staff and provide administrative and logistical support to the advisory council, including conference telephone capability for meetings of the advisory council.
 - (f) Each member of the advisory council who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.
 - (g) A consensus of the majority of the members appointed to the advisory council is required for the advisory council to take action on any measure, including final reports.
- SECTION 27. IC 16-41-39.4-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A retail establishment that sells paint or painting products shall do all of the following:
- (1) Offer for sale a lead test kit that is capable of determining the presence of a lead-based paint hazard.
 - (2) Provide to customers the federal Environmental Protection Agency pamphlet "Protect Your Family from Lead in Your Home" or a similar source of information approved

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by the state department.

(3) Ensure that employees who provide advice to customers concerning paint and paint products attend training programs concerning lead hazards.

(b) A person that sells, offers for sale, or distributes a consumer product shall not remove, erase, or obscure the visibility of a statement that:

- (1) the manufacturer or wholesaler of the consumer product has placed on the consumer product or the container or wrapper in which the consumer product is contained; and
- (2) specifies that the consumer product contains or may contain lead.

(c) A person shall not sell or offer for sale at wholesale or retail or distribute a consumer product, surface coating material, a food product, or food packaging that:

- (1) is a banned hazardous substance under the federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)); or
- (2) has been determined by the state department to:
 - (A) have a lead content that is greater than the lesser of the lead content specifications for lead paint in 16 CFR 1303.2 or state law; or
 - (B) pose a danger of childhood lead poisoning because the product, material, or packaging is reasonably expected to be accessible to, chewed by, or ingested by a child who is less than seven (7) years of age.
- (d) If the state department, based on:
 - (1) test results performed by a certified laboratory at the state department's request;
 - (2) information received from a federal agency; or
 - (3) other reliable information;
 has reason to believe that a person has violated this section, the state department may, with or without a prior hearing, issue to the person a cease and desist order if the commissioner determines a cease and desist order is in the public interest. In addition to all other remedies, the commissioner may bring an action in the name and on behalf of the state against the person to enjoin the person from violating this section.
- (e) The state department or a local health department may at any time during regular business hours inspect any premises where consumer products are sold, offered for sale, or distributed to establish compliance with this section.
- (f) The state department may seize an item that is sold, offered

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1 for sale, or distributed in violation of this section.

2 (g) The state department shall, not later than May 1, 2009,
3 adopt rules under IC 4-22-2 to implement this section. The rules
4 adopted under this subsection:

5 (1) may:

6 (A) establish exceptions under which items described in
7 subsection (c) may be sold, offered for sale, or distributed
8 upon the state department's determination that the risk
9 posed to children by the items is minimal; or

10 (B) require labeling of an item or signage to reflect that the
11 item contains lead; and

12 (2) must be consistent with federal law.

13 SECTION 28. IC 16-41-39.4-9 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE UPON PASSAGE]: **Sec. 9. (a) The state department**
16 **shall, not later than July 1, 2009, adopt rules under IC 4-22-2 to**
17 **establish a lead-safe work practices training program for**
18 **contractors, renovators, and remodelers who:**

19 (1) perform work on housing units that were built before
20 1978; and

21 (2) disturb lead-based paint in the housing units.

22 (b) The rules adopted under subsection (a) must:

23 (1) be consistent with the federal Department of Housing and
24 Urban Development Lead Safe Housing Rule requirements
25 for lead safe work practices training (24 CFR 53.1330(a)(4));
26 and

27 (2) provide for training courses taught in English and
28 Spanish.

29 SECTION 29. IC 16-41-39.4-10 IS ADDED TO THE INDIANA
30 CODE AS A NEW SECTION TO READ AS FOLLOWS
31 [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) If the state department**
32 **or a local health department determines, based on an**
33 **environmental investigation, that lead hazards in a housing unit**
34 **have caused or contributed to elevated blood lead levels in an**
35 **individual, the owner of the housing unit shall submit a**
36 **remediation plan to the state department or local health**
37 **department for approval.**

38 (b) The remediation plan required under subsection (a) must
39 include a plan for:

40 (1) a clearance examination after remediation activities are
41 complete; and

42 (2) subsequent annual clearance examinations.

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1 (c) Regardless of whether the plan states that the housing unit
2 will not be occupied by families with children, the state department
3 or local health department may not approve a remediation plan
4 that does not provide for remediation of the lead hazards.

5 (d) Not later than ninety (90) days after approval of a
6 remediation plan submitted under this section, the owner of a
7 housing unit shall complete the remediation. However, the state
8 department or local health department may grant the property
9 owner an extension of time if the property owner demonstrates
10 that the work cannot reasonably be completed within ninety (90)
11 days and will be completed as expeditiously as possible.

12 (e) The owner of a rental unit for which a remediation plan is
13 required shall do the following:

14 (1) Relocate tenants of the rental unit to a lead-safe dwelling
15 at the owner's expense until the lead hazards in the rental unit
16 have been remediated. However, a tenant may remain in the
17 rental unit if:

18 (A) the remediation plan uses lead-safe work practices;
19 and

20 (B) the owner documents to the state department or local
21 health department that the workers designated to make the
22 necessary repairs have been licensed under IC 13-17-14 to
23 use lead-safe work practices.

24 (2) Offer to relocate a tenant if the tenant is expected to be
25 without the use of a bathroom or kitchen in the rental unit for
26 more than eight (8) hours, and relocate a tenant who accepts
27 the offer.

28 An owner's obligation to relocate a tenant under this subsection
29 ends on the earlier of the date that remediation of the lead hazard
30 is completed or the date that the rental agreement expires.

31 (f) The owner of a rental unit may not evict a tenant or change
32 the terms of a tenant's lease in retaliation for the tenant's report to
33 a governmental agency related to the presence of lead hazards on
34 the property. An owner is taking retaliatory action if the owner,
35 during the term of the rental agreement and without cause:

36 (1) initiates eviction proceedings;

37 (2) increases the rent; or

38 (3) makes other changes to the rental agreement.

39 SECTION 29. IC 16-41-39.4-11 IS ADDED TO THE INDIANA
40 CODE AS A NEW SECTION TO READ AS FOLLOWS
41 [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) This section does not
42 apply with respect to a rental unit that was built before 1978 and

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1 on which a lead-based paint inspection was performed before July
2 1, 2008 by a lead-based paint inspector or risk assessor licensed
3 under IC 13-17-14.

4 (b) Beginning July 1, 2012, the owner of a rental unit that was
5 built before 1978 shall have one (1) lead-based paint inspection
6 performed by a lead-based paint inspector licensed under
7 IC 13-17-14 before the earliest of the following:

- 8 (1) The sale of the property.
- 9 (2) The renting of the rental unit to a new tenant.
- 10 (3) The submission by the owner of an application for a local
11 or state building permit for renovation, remodeling,
12 rehabilitation, or other construction activity.
- 13 (4) The date specified in the following schedule:
 - 14 (A) For a rental unit built before 1940, January 1, 2013.
 - 15 (B) For a rental unit built after 1939 and before 1950,
16 January 1, 2015.
 - 17 (C) For a rental unit built after 1949 and before 1960,
18 January 1, 2017.
 - 19 (D) For a rental unit built between 1960 and 1978, January
20 1, 2019.

21 (c) The owner of a rental unit shall report to a prospective buyer
22 the presence of lead-based paint on the disclosure form required by
23 IC 32-21-5-10.

24 SECTION 30. IC 32-21-5-7 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. The Indiana real
26 estate commission established by IC 25-34.1-2-1 shall adopt a specific
27 disclosure form that contains the following:

- 28 (1) Disclosure by the owner of the known condition of the
29 following:
 - 30 (A) The foundation.
 - 31 (B) The mechanical systems.
 - 32 (C) The roof.
 - 33 (D) The structure.
 - 34 (E) The water and sewer systems.
 - 35 (F) Additions that may require improvements to the sewage
36 disposal system.
 - 37 (G) The presence of lead-based paint (as defined in
38 IC 13-11-2-118.3).
 - 39 ~~(H)~~ (H) Other areas that the Indiana real estate commission
40 determines are appropriate.
- 41 (2) A notice to the prospective buyer that contains substantially
42 the following language:

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1 "The prospective buyer and the owner may wish to obtain
2 professional advice or inspections of the property and provide for
3 appropriate provisions in a contract between them concerning any
4 advice, inspections, defects, or warranties obtained on the
5 property."

6 (3) A notice to the prospective buyer that contains substantially
7 the following language:

8 "The representations in this form are the representations of the
9 owner and are not the representations of the agent, if any. This
10 information is for disclosure only and is not intended to be a part
11 of any contract between the buyer and owner."

12 (4) A disclosure by the owner that an airport is located within a
13 geographical distance from the property as determined by the
14 Indiana real estate commission. The commission may consider the
15 differences between an airport serving commercial airlines and an
16 airport that does not serve commercial airlines in determining the
17 distance to be disclosed.

18 SECTION 31. IC 34-30-2-44.2 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2008]: **Sec. 44.2. The following:**

- 21 (1) IC 12-17.2-3.5-11.5 (Concerning lead hazard activities).
- 22 (2) IC 12-17.2-4-18.3 (Concerning lead hazard activities).
- 23 (3) IC 12-17.2-5-18.4 (Concerning lead hazard activities).
- 24 (4) IC 12-17.2-6-17 (Concerning lead hazard activities).

25 SECTION 32. [EFFECTIVE JULY 1, 2008] **The division of family
26 resources established by IC 12-13-1-1 shall, not later than April 1,
27 2009, adopt rules under IC 4-22-2 to implement
28 IC 12-17.2-3.5-11.5, IC 12-17.2-4-18.3, IC 12-17.2-5-18.4, and
29 IC 12-17.2-6-17, all as added by this act.**

30 SECTION 33. **An emergency is declared for this act.**

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SENATE MOTION

Madam President: I move that Senator Rogers be added as coauthor of Senate Bill 143.

GARD

 COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 143, 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 1 through 15, begin a new paragraph and insert:

"SECTION 1. IC 12-7-2-0.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2008]: **Sec. 0.8. "Abatement" has the meaning set forth in IC 13-11-2-0.5.**

SECTION 2. IC 12-7-2-34.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2008]: **Sec. 34.1. "Clearance examination" means an activity conducted by a clearance examiner who is licensed under IC 13-17-14 to establish proper completion of interim controls (as defined in 24 CFR 35.110).**

SECTION 3. IC 12-7-2-122.4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2008]: **Sec. 122.4. "Lead-based paint" has the meaning set forth in IC 13-11-2-118.3.**

SECTION 4. IC 12-7-2-169.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2008]: **Sec. 169.8. "Risk assessment" means:**

- (1) **an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and**
- (2) **the provision of a report by the individual or the firm conducting the investigation explaining the results of the investigation and options for reducing lead-based paint hazards.**

SECTION 5. IC 12-17.2-3.5-11.4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2008]: **Sec. 11.4. (a) Before enrollment of a child who is at least nine (9) months of age in a child care program,**

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a provider shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child.

(b) If a child is enrolled in a child care program before the child is nine (9) months of age, the provider shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child performed during the period beginning on the date the child becomes nine (9) months of age and ending on the date the child becomes fourteen (14) months of age.

SECTION 6. IC 12-17.2-3.5-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 11.5. (a) This section applies after July 1, 2011.**

(b) Except as provided in subsection (c), a provider that operates a child care program in a building that was built before 1978 shall:

(1) ensure that the part of the building that is occupied by children is evaluated by means of:

(A) an initial risk assessment not later than December 31, 2011; and

(B) a clearance examination at least biennially after December 31, 2011;

by a person who is licensed under IC 13-17-14; and

(2) if a lead hazard is found, keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination.

(c) A provider described in subsection (b) is not required to comply with subsection (b) if:

(1) the provider has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and

(2) one (1) of the following applies:

(A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.

(B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.

(d) A provider shall ensure that at least one (1) individual who is employed at the facility where the provider operates a child care program attends training concerning lead hazards, including a lead-based paint rules awareness course approved by the

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department of environmental management, and does the following:

- (1) Provides current lead hazard education to parents, guardians, caregivers, and employees at the facility where the provider operates a child care program.
- (2) Maintains current knowledge concerning product recalls related to lead hazards.
- (3) Performs regular child care program facility assessments to identify lead hazards.
- (4) Acts to remove or remediate any lead hazards from the child care program facility.

(e) An employee at the facility where the operator operates a child care program who performs the employee's duties under subsection (d) in good faith and the provider that employs the employee are immune from civil liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct.

SECTION 7. IC 12-17.2-4-18.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.2. (a) Before enrollment of a child who is at least nine (9) months of age at a child care center, the child care center shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child.**

(b) If a child is enrolled at a child care center before the child is nine (9) months of age, the child care center shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child performed during the period beginning on the date the child becomes nine (9) months of age and ending on the date the child becomes fourteen (14) months of age.

SECTION 8. IC 12-17.2-4-18.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.3. (a) This section applies after July 1, 2011.**

(b) Except as provided in subsection (c), a child care center that is located in a building that was built before 1978 shall:

- (1) ensure that the part of the building that is occupied by children is evaluated by means of:
 - (A) an initial risk assessment not later than December 31, 2011; and
 - (B) a clearance examination at least biennially after December 31, 2011;
- by a person who is licensed under IC 13-17-14; and

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(2) if a lead hazard is found, keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination.

(c) A child care center is not required to comply with subsection (b) if:

(1) the child care center has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and

(2) one (1) of the following applies:

(A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.

(B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.

(d) A child care center shall ensure that at least one (1) employee of the child care center:

(1) attends training concerning lead hazards, including a lead-based paint rules awareness course approved by the department of environmental management; and

(2) does the following:

(A) Provides current lead hazard education to parents, guardians, caregivers, and child care center employees.

(B) Maintains current knowledge concerning product recalls related to lead hazards.

(C) Performs regular child care center facility assessments to identify lead hazards.

(D) Acts to remove or remediate any lead hazards from the child care center facility.

(e) An employee of a child care center who performs the employee's duties under subsection (d) in good faith and the child care center that employs the employee are immune from civil liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct.

SECTION 9. IC 12-17.2-5-18.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.3. (a) Before enrollment of a child who is at least nine (9) months of age in a child care home, the child care home shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child.**

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(b) If a child is enrolled at a child care home before the child is nine (9) months of age, the child care home shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child performed during the period beginning on the date the child becomes nine (9) months of age and ending on the date the child becomes fourteen (14) months of age.

SECTION 10. IC 12-17.2-5-18.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.4. (a) This section applies after July 1, 2011.**

(b) Except as provided in subsection (c), a child care home that is located in a building that was built before 1978 shall:

(1) ensure that the part of the building that is occupied by children is evaluated by means of:

(A) an initial risk assessment not later than December 31, 2011; and

(B) a clearance examination at least biennially after December 31, 2011;

by a person who is licensed under IC 13-17-14; and

(2) if a lead hazard is found, keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination.

(c) A child care home is not required to comply with subsection (b) if:

(1) the child care home has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and

(2) one (1) of the following applies:

(A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.

(B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.

(d) A child care home shall ensure that at least one (1) employee of the child care home:

(1) attends training concerning lead hazards, including a lead-based paint rules awareness course approved by the department of environmental management; and

(2) does the following:

(A) Provides current lead hazard education to parents,

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- guardians, caregivers, and child care home employees.
- (B) Maintains current knowledge concerning product recalls related to lead hazards.**
- (C) Performs regular child care home facility assessments to identify lead hazards.**
- (D) Acts to remove or remediate any lead hazards from the child care home facility.**

(e) An employee of a child care home who performs the employee's duties under subsection (d) in good faith and the child care home that employs the employee are immune from civil liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct.

SECTION 11. IC 12-17.2-6-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) Before enrollment of a child who is at least nine (9) months of age in a child care ministry, the child care ministry shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child.

(b) If a child is enrolled at a child care ministry before the child is nine (9) months of age, the child care ministry shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child performed during the period beginning on the date the child becomes nine (9) months of age and ending on the date the child becomes fourteen (14) months of age.

SECTION 12. IC 12-17.2-6-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) This section applies after July 1, 2011.

(b) Except as provided in subsection (c), a child care ministry that is located in a building that was built before 1978 shall:

- (1) ensure that the part of the building that is occupied by children is evaluated by means of:**
 - (A) an initial risk assessment not later than December 31, 2011; and**
 - (B) a clearance examination at least biennially after December 31, 2011;**

by a person who is licensed under IC 13-17-14; and
(2) if a lead hazard is found, keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination.

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(c) A child care ministry is not required to comply with subsection (b) if:

(1) the child care ministry has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and

(2) one (1) of the following applies:

(A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.

(B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.

(d) A child care ministry shall ensure that at least one (1) employee of the child care ministry:

(1) attends training concerning lead hazards, including a lead-based paint rules awareness course approved by the department of environmental management; and

(2) does the following:

(A) Provides current lead hazard education to parents, guardians, caregivers, and child care ministry employees.

(B) Maintains current knowledge concerning product recalls related to lead hazards.

(C) Performs regular child care ministry facility assessments to identify lead hazards.

(D) Acts to remove or remediate any lead hazards from the child care ministry facility.

(e) An employee of a child care ministry who performs the employee's duties under subsection (d) in good faith and the child care ministry that employs the employee are immune from civil liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct."

Page 2, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 16. IC 16-18-2-116.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 116.2. "Environmental investigation" means an identification and evaluation of lead hazards from nonstructural sources in a child's environment. The term includes the following:

(1) Presentation of results of the identification and evaluation, including recommendations for reducing or eliminating exposure.

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- (2) Education of the child's family concerning:**
 - (A) lead hazards found; and**
 - (B) temporary and permanent measures to protect the child from further exposure."**

Page 2, line 25, delete "has the meaning set" and insert **"refers to the childhood lead poisoning prevention fund established by IC 16-41-39.4-3.1."**

Page 2, delete line 26.

Page 3, line 6, after "removal" insert **"or remediation, including the use of interim controls,"**.

Page 3, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 21. IC 16-18-2-315.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 315.8. "Remediation" means actions that constitute:

- (1) abatement (as defined in IC 13-11-2-0.5); or**
- (2) interim control (as defined in 24 CFR 35.110);**

of a lead hazard.

SECTION 22. IC 16-18-2-316.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 316.4. "Rental unit" has the meaning set forth in IC 32-31-3-8.

SECTION 23. IC 16-18-2-349.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 349.5. "Tenant" has the meaning set forth in IC 32-31-3-10."

Page 3, line 41, delete "If" and insert **"Except as provided in subsection (d), if"**.

Page 3, line 42, after "information" insert **"within ten (10) days"**.

Page 4, between lines 6 and 7, begin a new paragraph and insert:

"(d) Subsection (c) does not apply to a person who acts in good faith to provide a complete report required under subsection (a), but who:

- (1) is unable to collect all of the information required for a complete report; or**
- (2) provides incorrect information on a completed report."**

Page 4, line 7, delete "(d)" and insert **"(e)"**.

Page 4, line 19, delete "(a) As used in this section,".

Page 4, delete lines 20 through 21.

Page 4, line 22, delete "(b)" and insert **"(a)"**.

Page 4, run in lines 19 through 22.

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

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Page 4, line 28, delete "(d)" and insert "(c)".

Page 4, line 32, delete "(e)" and insert "(d)".

Page 4, line 36, delete "(f)" and insert "(e)".

Page 5, line 13, after "builders" insert "**or remodelers**".

Page 6, line 8, after "inspectors," insert "**risk assessors, clearance examiners, individuals who are trained in lead safe work practices,**".

Page 6, line 12, after "abatement" insert "**, remediation,**".

Page 6, line 12, delete "." and insert "**, including interim controls.**".

Page 6, line 21, after "abatement" insert "**, remediation, including interim controls,**".

Page 6, line 23, after "staff" insert "**and provide administrative and logistical support to**".

Page 6, line 23, delete "." and insert "**, including conference telephone capability for meetings of the advisory council.**".

Page 6, delete lines 24 through 33.

Page 6, line 34, delete "(h)" and insert "(f)".

Page 6, line 40, delete "(i)" and insert "(g)".

Page 7, delete lines 5 through 6.

Page 7, line 7, delete "(2)" and insert "(1)".

Page 7, line 9, delete "(3)" and insert "(2)".

Page 7, line 13, delete "(4)" and insert "(3)".

Page 7, line 26, delete "is:" and insert ":".

Page 7, line 27, delete "intended primarily for use by a child;" and insert "**is a banned hazardous substance under the federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)); or**

(2) has been determined by the state department to:

(A) have a lead content that is greater than the lesser of the lead content specifications for lead paint in 16 CFR 1303.2 or state law; or

(B) pose a danger of childhood lead poisoning because the product, material, or packaging is reasonably expected to be accessible to, chewed by, or ingested by a child who is less than seven (7) years of age."

Page 7, delete lines 28 through 42.

Page 8, delete lines 1 through 19.

Page 8, line 20, delete "(e)" and insert "(d)".

Page 8, delete lines 25 through 38, begin a new line blocked left and insert:

"has reason to believe that a person has violated this section, the state department may, with or without a prior hearing, issue to the person a cease and desist order if the commissioner determines a

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cease and desist order is in the public interest. In addition to all other remedies, the commissioner may bring an action in the name and on behalf of the state against the person to enjoin the person from violating this section.

(e) The state department or a local health department may at any time during regular business hours inspect any premises where consumer products are sold, offered for sale, or distributed to establish compliance with this section."

Page 8, line 39, delete "(g)" and insert "(f)".

Page 8, delete lines 41 through 42.

Page 9, line 1, delete "(i)" and insert "(g)".

Page 9, line 7, delete "without the requirement to satisfy subsection (d)".

Page 9, line 9, after ";" insert "or".

Page 9, line 10, after "item" insert "or signage".

Page 9, line 11, delete "or" and insert "and".

Page 9, delete lines 12 through 14.

Page 9, delete lines 16 through 42.

Page 10, delete lines 1 through 13.

Page 10, line 23, delete "comply with the" and insert ":

(1) be consistent with the federal Department of Housing and Urban Development Lead Safe Housing Rule requirements for lead safe work practices training (24 CFR 53.1330(a)(4)); and

(2) provide for training courses taught in English and Spanish."

Page 10, delete lines 24 through 25.

Page 10, line 29, after "determines" insert ", based on an environmental investigation,".

Page 10, line 40, delete "rented to" and insert "occupied by".

Page 11, line 8, delete "housing" and insert "rental".

Page 11, line 10, delete "housing" and insert "rental".

Page 11, line 11, delete "housing" and insert "rental".

Page 11, line 13, delete "housing" and insert "rental".

Page 11, line 21, delete "housing" and insert "rental".

Page 11, between lines 23 and 24, begin a new line blocked left and insert:

"An owner's obligation to relocate a tenant under this subsection ends on the earlier of the date that remediation of the lead hazard is completed or the date that the rental agreement expires."

Page 11, line 24, delete "housing" and insert "rental".

Page 11, line 27, delete "There is a rebuttable presumption that an"

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and insert "An".

Page 11, line 28, delete ":" and insert ", **during the term of the rental agreement and without cause:**".

Page 11, line 31, delete ";" and insert ".".

Page 11, delete lines 32 through 33.

Page 11, line 34, delete "(g) The" and insert "SECTION 29. IC 16-41-39.4-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. (a) This section does not apply with respect to a rental unit that was built before 1978 and on which a lead-based paint inspection was performed before July 1, 2008 by a lead-based paint inspector or risk assessor licensed under IC 13-17-14.**

(b) Beginning July 1, 2012, the"

Page 11, line 34, delete "housing".

Page 11, line 39, delete "housing" and insert "**rental**".

Page 12, line 2, delete "housing" and insert "**rental**".

Page 12, line 2, delete "2009." and insert "**2013.**".

Page 12, line 3, delete "housing" and insert "**rental**".

Page 12, line 4, delete "2011." and insert "**2015.**".

Page 12, line 5, delete "housing" and insert "**rental**".

Page 12, line 6, delete "2013." and insert "**2017.**".

Page 12, line 7, delete "housing" and insert "**rental**".

Page 12, line 8, delete "2015." and insert "**2019.**".

(c) The owner of a rental unit shall report to a prospective buyer the presence of lead-based paint on the disclosure form required by IC 32-21-5-10."

Page 12, delete lines 9 through 15, begin a new paragraph and insert:

"SECTION 30. IC 32-21-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. The Indiana real estate commission established by IC 25-34.1-2-1 shall adopt a specific disclosure form that contains the following:

(1) Disclosure by the owner of the known condition of the following:

(A) The foundation.

(B) The mechanical systems.

(C) The roof.

(D) The structure.

(E) The water and sewer systems.

(F) Additions that may require improvements to the sewage disposal system.

(G) The presence of lead-based paint (as defined in

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IC 13-11-2-118.3).

~~(G)~~ **(H)** Other areas that the Indiana real estate commission determines are appropriate.

(2) A notice to the prospective buyer that contains substantially the following language:

"The prospective buyer and the owner may wish to obtain professional advice or inspections of the property and provide for appropriate provisions in a contract between them concerning any advice, inspections, defects, or warranties obtained on the property."

(3) A notice to the prospective buyer that contains substantially the following language:

"The representations in this form are the representations of the owner and are not the representations of the agent, if any. This information is for disclosure only and is not intended to be a part of any contract between the buyer and owner."

(4) A disclosure by the owner that an airport is located within a geographical distance from the property as determined by the Indiana real estate commission. The commission may consider the differences between an airport serving commercial airlines and an airport that does not serve commercial airlines in determining the distance to be disclosed.

SECTION 31. IC 34-30-2-44.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 44.2. The following:**

- (1) IC 12-17.2-3.5-11.5 (Concerning lead hazard activities).**
- (2) IC 12-17.2-4-18.3 (Concerning lead hazard activities).**
- (3) IC 12-17.2-5-18.4 (Concerning lead hazard activities).**
- (4) IC 12-17.2-6-17 (Concerning lead hazard activities).**

SECTION 32. [EFFECTIVE JULY 1, 2008] **The division of family resources established by IC 12-13-1-1 shall, not later than April 1, 2009, adopt rules under IC 4-22-2 to implement IC 12-17.2-3.5-11.5, IC 12-17.2-4-18.3, IC 12-17.2-5-18.4, and IC 12-17.2-6-17, all as added by this act."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 143 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 11, Nays 0.

SB 143—LS 6131/DI 97+



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