

3. Detroit Lead Ordinance still pending

LEG BULL 9 3-9-73

By Notice dated February 23, 1973, all Class A members were advised of the provisions of a new "lead-based paint" ordinance which had been adopted by the Detroit Common Council. This Notice was promulgated immediately after the action of the Common Council because of certain labeling required "thirty days after the ordinance became effective."

Although the ordinance was to have become effective upon approval by the Mayor, an unexpected veto of this and a related ordinance by Mayor Gribbs has given the industry additional time to prepare for implementation. It should be noted, however, that the Mayor's veto was not because of any provisions of the ordinance relating to the sale or use of modern paints, but -- because of the recognition of the major problems of enforcement of those provisions relating to the removal of lead-based paint from older homes and the restriction on sale of such properties. An editorial in the Detroit News termed the enforcement an "administrative headache" and stated that, while the Mayor was certain to be criticized for his action, "he correctly did not see the proposed laws as the best way to deal with the problem."

It is understood that the ordinances are being revised to correct the objectionable provisions, and that they will be returned to the Common Council "within a few days." We should not expect any significant changes to the provisions affecting the sale and use of modern paints, which were outlined in the aforementioned Notice to Class A members. (The ordinance previously had been changed, after presentation of an NFCA brief to the Detroit Common Council, to provide for a permissible lead level of 0.5 percent.) Further developments will be reported as soon as occurring.

3. Local

LEG. BULL. 12 6-12-73

Detroit Lead Paint Ordinances Approved by Mayor

Lead paint ordinances for the City of Detroit now have been approved by the mayor, and become effective on May 31, 1973. (See "L&L" Bulletin 5, 9, and 11 for earlier reports on this matter.) Thirty days following these enacted ordinances' effective date, or in other words, by July 1, 1973, manufacturers, wholesalers, and retailers marketing in Detroit must be in compliance with the provisions of the city's ordinances dealing with labeling, prohibition on sales, etc., of lead-based paint.

On February 23, 1973, an NFCA "Immediate Action" notice spelling out the requirements of earlier Detroit ordinances that were vetoed by the mayor, was sent out to all members. Since the newly-enacted ordinances have no changes affecting our industry (the only changes subsequent to the mayor's veto of the original versions pertain to correction of hazards in existing buildings), the "Immediate Action" notice of February 23 is still pertinent. If needed, extra copies may be obtained from NFCA's Office of Legal and Government Relations.

Remember, while the Detroit ordinances are fairly reasonable since they provide for uniform labeling proposed at the national level and set a 0.5% lead level, as opposed to .06%, the ordinances do require compliance by July 1, 1973. Therefore, special consideration should be given this matter, right now!

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Detroit Approves Lead Law; YPCA Delays Adoption of 2 Others 3-12-73

Detroit's Common Council recently approved 3 ordinances to the Mayor for approval, concerning lead poisoning prevention programs and lead limits in paint products. The Mayor has signed one into law, however he vetoed the other two and sent them back to the Common Council for further revision.

The ordinance adopted requires physicians to report lead poisoning cases. The second ordinance, which was not approved, was a proposed amendment to the Housing Code to eliminate existing lead-based paint hazards in Detroit dwellings. The Mayor vetoed the ordinance as it now stands apparently due to unacceptable provisions concerning homeowners removal of old lead-based paints.

The third ordinance, which proposed lead-based paints to be defined as those exceeding a 5% lead content by total weight of the contained solids or dry paint film, was also vetoed.

However, Detroit officials informed YPCA representatives that the ordinance's provisions relating to the sale and use of modern paints were not questioned. Also they indicated once the unacceptable portions of the ordinance were revised the measure would be signed by the Mayor. Therefore coatings manufacturers in and serving the Detroit area should be prepared to meet the ordinance's proposed measures but now have more time since enactment has been delayed.

Proposed Restrictions for Product Sales

Thirty days after the ordinance is signed into law the sale of paints exceeding the 5% lead limit will be banned if their labels indicate or recommend that they are for use on the following:

- 1) interior or exterior surfaces of residential dwellings and child care (See Detroit Lead Ordinance p. 20)

(Detroit Lead Ordinances...Continued)

includes: 1) e. nurseries, day care centers, etc.)

2) toys, furniture, cooking, eating or drinking utensils and other household items i.e. items and fixtures exposed to and chewable by children. This modified definition will allow the continued factory application of lead-based paints on items such as major appliances or construction items, etc.)

The sale of lead based paint as a general or all purpose paint will also be prohibited in the city.

Proposed Labels Required for Compliance

Three product categories will require special labeling within 30 days after the ordinance is signed into law.

The first category is lead-based paints for sale to Detroit's general public. This includes products currently being manufactured, those in existing inventories, and those already on dealers shelves to be marketed in the city of Detroit.

As a temporary measure the ordinance would permit a stick-on label to be placed anywhere on lead-based paint containers. The ordinance's specific language is as follows:

The second category is lead-based paints, also for sale to the general public but manufactured more than 30 days after the ordinance is enacted. These products must bear labeling identical to the first category but the following portion of the labeling statement must appear on the principal display panel:

WARNING
CONTAINS LEAD
DRY FILM OF THIS PAINT MAY
BE HARMFUL IF EATEN OR
CHEWED
See other containers on
Sale or Back panel

The remainder of the hazard statement need not appear on the front panel, and can be on the side or back of the container.

A temporary measure to meet the labeling requirement for this category and manufacturers can obtain new regular conforming labels, would be to use similar labels.

The third category which would require a lead warning label is industrial coatings.

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