

REGULAR SESSION, 1912

HOUSE BILL NO. 907

BY MESSRS. J. JACKSON AND HARRIS AND MRS. TAYLOR

HCT 371

AN ACT

To amend Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1908, by adding thereto a new part to be designated Part VII thereof and consisting of Sections 1300 through 1300.7, inclusive, to provide a comprehensive program of lead paint poisoning prevention and control in municipalities with a population in excess of 50,000; to create an advisory committee; to provide for mandatory reporting of lead poisoning cases, voluntary and compulsory inspections and examinations; to provide for a lead poisoning control director, his powers and duties; to restrict the sale and use of lead paint; to provide for penalties for violations and enforcement of rules and regulations; to provide for liability of owners of residential property:

=====ORIGINATED=====

=====IN THE=====

House of Representatives

David R. Parson
Clark of the House of Representatives

Rec'd by Governor
July 6, 1912 at 11:40 AM
D. Andrew

Received by Secretary of State
this 15th day of July, 1912
W. H. O. Winston
Secretary of State

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HCT 371

REGULAR SESSION, 1972

HOUSE BILL NO. 107

BY MESSRS. J. JACKSON AND MARCHAND AND MRS. TAYLOR

AN ACT

To amend Chapter 3 of Title 40 of the Louisiana Revised Statutes of 1950, by adding thereto a new part to be designated Part XVI thereof and consisting of Sections 1300 through 1300.9, inclusive, to provide a comprehensive program of lead paint poisoning prevention and control in municipalities with a population in excess of 450,000; to create an advisory committee; to provide for mandatory reporting of lead poisoning cases, voluntary and compulsory inspections and examinations; to provide for a lead poisoning control director, his powers and duties; to restrict the sale and use of lead paint; to provide for penalties for violations and enforcement of rules and regulations; to provide for liability of owners of residential property; and to generally provide in connection therewith.

Be it enacted by the Legislature of Louisiana:

Section 1. Part XVI of Chapter 3 of Title 40 of the Louisiana Revised Statutes of 1950, consisting of Sections 1300 through 1300.9, inclusive, is hereby enacted to read as follows:

PART XVI. LEAD PAINT POISONING

PREVENTION AND CONTROL ACT

§ 1300. Establishment of lead poisoning prevention program; advisory committee created

The State Board of Health shall establish a program in municipalities with a population in excess of 450,000 for the prevention, screening, diagnosis and treatment of lead poisoning, including elimination of the sources of such poisoning, through such research, educational, epidemiological and clinical activities as may be necessary.

The state health officer shall appoint as lead poisoning control director the director of the Department of Health of the municipality. The director shall be responsible, subject to the authority of the state health officer, for carrying out and administering all programs created

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pursuant to the provisions of this part. As used in this part, "director" shall refer to the lead poisoning control director.

The director may contract with any agencies, individuals or groups for the provision of necessary services, subject to appropriation; and shall issue and from time to time, amend, such rules and regulations as may be necessary.

The state health officer shall appoint an advisory committee for the lead poisoning prevention program, which shall consist of nine members, at least two of whom shall be physicians or persons active in the field of public health. Each of the members shall serve at the pleasure of the state health officer. At least two members of said advisory committee shall be parents of children under six years of age or parents of mentally retarded persons who reside in lower-income urban areas. The committee shall advise the director on matters of policy; shall be consulted by the director prior to the issuance of rules and regulations; and shall perform such other duties as the director may request. The members of the advisory committee shall not be paid for their services, but they shall be reimbursed for travel and other expenses necessary for the performance of their duties. As used in this part, "advisory committee" shall refer to said committee.

§ 1300.1 Mandatory reporting of lead poisoning cases required; comprehensive records

Any examining physician, hospital, public health nurse or other diagnosing person or agency shall report to the director the existence and circumstances of each case of lead poisoning known to them and not previously reported. Such reports shall be made on forms prescribed by the director, and shall be submitted not later than three days after said person or agency first diagnoses or is informed of such cases. The director shall by regulation with the advice of the advisory committee and in accordance with sound medical practice define the terms "lead poisoning" and "previously reported."

When a case of lead point poisoning is reported to the director, he

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shall inform such local boards of health, public health agencies and other persons and organizations as he deems necessary; provided, however, that the name of any individual contracting lead poisoning shall not be included unless the director determines that such inclusion is necessary to protect the health and wellbeing of the affected individual.

The director shall maintain comprehensive records of all reports submitted pursuant to this section. Such records shall be geographically indexed in order to determine the location of areas of relatively high incidence of lead poisoning. Such records shall be public records, subject to the provision of the preceding paragraph relating to the names of individuals.

§ 1300.2 Informative educational program to be established by director

The director shall institute an educational and publicity program, in order to inform the general public, and particularly parents of children residing in areas of significant exposure to sources of lead poisoning; teachers, social workers and other human service personnel; owners of residential property, particularly property constructed previous to the year nineteen hundred and forty-five; and health services personnel, and particularly interns, residents and other intake personnel at major hospitals, of the dangers, frequency, and sources of lead poisoning, and the methods of preventing such poisoning.

§ 1300.3 Director to establish program for early diagnosis; priority given to more affected areas; examinations

The director shall establish a program for early diagnosis of cases of lead poisoning. Such program shall, to the extent permitted by appropriations, systematically examine all children under six years of age and mentally retarded persons residing within the municipality for the presence of lead poisoning; provided, however, that the program shall not apply to those persons having religious objections to the examination. Such examinations shall be made by such means and at such intervals as the director shall by regulation determine may be medically

necessary and proper. Such program shall employ, to the extent possible, residents of the areas in which screening and examinations are conducted.

Such program of diagnosis shall, to the extent that all children and mentally retarded persons residing in the state are not systematically examined, give priority in examinations to those children and mentally retarded persons residing, or who have recently resided, in areas where significant numbers of lead poisoning cases have recently been reported or where other reliable evidence indicates that significant numbers of lead poisoning cases may be found.

When the director is informed of a case of lead poisoning pursuant to R.S. 40:1300.1, or otherwise, he shall cause to have examined all other children under six years of age and all other mentally retarded persons, and such other children or mentally retarded persons as he may find advisable to examine, residing or recently residing in the household of the victim, unless the parents of such child or persons object to said examination because it conflicts with their religious beliefs and practices. The results of such examinations shall be reported to the director, to the person or agency reporting the original case pursuant to R.S. 40:1300.1, and to such other persons or agencies as the director deems advisable.

The director shall maintain comprehensive records of all examinations conducted pursuant to this section. Such records shall be geographically indexed in order to determine the location of areas of relatively high incidence of lead poisoning. Such records shall be public records, subject to the provision of R.S. 40:1300.1 relating to the names of examined individuals. A summary of the results of all examinations conducted pursuant to this section shall be released quarterly, or more frequently if the director so determines, to all interested parties.

All cases or probable cases of lead poisoning, as defined by regulation by the director, found in the course of examination conducted pursuant to this section shall be reported immediately to the affected individual, to his parent or legal guardian if he is a minor, and to the

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director. The director shall inform such persons or agencies as he deems advisable of the existence of such case or probable case, subject to the provision of R.S. 40:1300.1 relating to the names of individuals.

§ 1300.4 Director to establish a program for detection of sources of lead poisoning; voluntary and compulsory inspections; posting dangerous areas; mandatory physical examinations

The director shall establish a comprehensive program for detection of sources of lead poisoning. Such program shall attempt, to the extent permitted by appropriations, to locate all dwellings in which the paint, plaster or other accessible substance contains dangerous amounts of lead. The means of detection, and the amount of lead that produces the danger of lead poisoning, shall be determined by regulation by the director in accordance with sound medical practice and current technical knowledge.

Such program of detection shall, to the extent that all appropriate dwellings are not inspected, give priority in inspections to those dwellings located in areas where significant numbers of lead poisoning cases have recently been reported, and in which children under six years of age or mentally retarded persons reside. Such programs shall employ, to the extent possible, residents of the areas in which inspections are conducted.

Upon the request of any occupant, the director shall cause to have the occupant's premises inspected within a reasonable time, not to exceed ten days, unless systematic inspection of the area in which the person requesting the inspection resides is scheduled within thirty days, in which case said inspection may be deferred up to twenty additional days.

When the director is informed of a case of lead poisoning pursuant to R.S. 40:1300.1 or R.S. 40:1300.3, or otherwise, he shall cause to have inspected the dwelling in which the victim resides, or has recently resided, if the occupants of said dwelling consent, after reasonable notice, to such inspection. If the occupant refuses submit to, an agent of the director or of any local board of health or code enforcement agency may apply for a search warrant to permit entry. A court may issue a

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warrant upon a showing that a victim of lead poisoning resides, or has recently resided in said dwelling. The findings of such inspection shall be reported to the director and to the appropriate enforcement authorities set out in R.S. 40:1300.8.

A dangerous level of lead found in a dwelling inspected pursuant to this section, or otherwise, shall be reported immediately to the owner of the building or to his duly appointed representative, all affected tenants, the appropriate enforcement authorities set out in R.S. 40:1300.8, and the director. The director shall inform such other persons or agencies as he deems advisable, and shall cause to have prominently posted on all entrances to said dwelling a notice that the dwelling contains dangerous amounts of lead paint or other materials which children and mentally retarded persons should not be allowed to eat or chew. Such notice may not be removed until all premises have been found to comply with R.S. 40:1300.7.

When a dangerous level of lead is found in a dwelling inspected pursuant to this section, or otherwise, the director shall cause to have examined all children under six years of age, all mentally retarded persons, and such other children and retarded persons as he may find advisable to examine, residing or who have recently resided in said dwelling. The results of such examinations shall be reported to the director, the affected individual and his parent or legal guardian. The director shall inform such other persons or agencies as he deems advisable, subject to the provision of R.S. 40:1300 and R.S. 40:1300.1 relating to the names of affected individuals.

The director shall maintain comprehensive records of all inspections conducted pursuant to this section. Such records shall be geographically indexed in order to determine the location of areas of relatively high incidence of dangerous lead levels. Such records shall be public records. A summary of the results of all inspections conducted pursuant to this section shall be released quarterly, or more frequently if the director so determines, to all interested parties.

§ 1300.5 Creation of state laboratory for lead and lead poisoning detection

The commissioner may establish a state laboratory for lead and lead poisoning detection. Said laboratory shall analyze specimens received from children and mentally retarded persons for the presence of lead poisoning, and samples of paint and other materials for dangerous levels of lead.

Said laboratory shall analyze tests and samples submitted by persons and agencies not within the department as its facilities permit, and may charge for such services a fee not greater than the cost to it of such services.

✓ § 1300.6 Sale and use of lead paint restricted; penalties

No person shall sell a container of lead based paint unless there visibly appears in a prominent position on said container the following statements: (1) "The volume of lead contained herein is _____" and (2) "The lead content herein could be harmful to your health."

No person shall knowingly apply or cause to be applied any lead based paint, glass or other substance to any toy, furniture, cooking, drinking, or eating utensil, or interior or exterior surface or fixture of any dwelling; and no person shall knowingly sell, expose for sale, deliver, give away or possess with intent to sell, deliver or give away any toy, furniture, cooking, drinking or eating utensil to which any lead based paint, glass or other substance has been applied.

// Any paint, glass or other substance shall be deemed to be lead based when it contains more than one-half of .06 per centum lead and/or one milligram per centimeter squared lead by weight (calculated as lead metal) in the total nonvolatile content of liquid paints or in the dried film of paint or glass already applied, or when it contains a substantially equivalent amount of lead measured by such alternative reliable method of measurement as the director shall by regulation establish.

Any person who violates the provision of this section shall be

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punished by a fine of not less than one hundred dollars nor more than five hundred dollars for each violation. Each article, surface or fixture to which a lead based substance is applied shall constitute a separate violation. Any person who willfully violates the provisions of this section shall be punished by imprisonment for not more than three months for each violation.

Any article of personal property in violation of this section may be embargoed by the director.

§ 1300.7 Safety precautions; procedures for removal and repainting

Whenever a child or children under six years of age or mentally retarded person resides in any residential premises in which any paint, plaster or other accessible materials contain dangerous levels of lead as defined pursuant to R.S. 40:1300.4, after notification by the director or his representative, the owner shall remove or cover said paint, plaster or other material so as to make it inaccessible to children under six years of age or mentally retarded persons. Whenever any such residential premises containing said dangerous levels of lead undergoes a change of ownership and as a result thereof, a child or children under six years of age or mentally retarded persons will become a resident therein, the new owner shall remove or cover said paint, plaster, or other material so as to make it inaccessible to such children or mentally retarded persons.

Repainting with nonlead based paint, without removal of the offending paint, plaster or other material shall not constitute compliance with this section. Such removal or covering shall be performed as follows:

- (a) All peeling paint, plaster or other material, on both interior and exterior surfaces and fixtures, shall be removed or adequately covered.
- (b) Paint, plaster or other material that is not peeling shall be removed or covered on window sills; door frames; windows, including mullions; stair rail spindles; stair treads; doors; stair rails; porch

ceilings, and all other exterior and interior surfaces or fixtures that may be readily chewed by children or mentally retarded persons.

This duty shall apply to every owner of residential premises whenever a child or children under six years of age or mentally retarded persons reside therein or whenever such premises undergoes a change of ownership and as a result thereof a child or children under six years of age or mentally retarded persons shall reside therein, whether or not his premises have been inspected pursuant to R.S. 40:1300.4 or otherwise. This section shall be strictly construed and enforced so as to best protect the safety of residents of such dwellings.

Every owner of residential premises who violates the provisions of this section shall commence correction of the condition constituting the violation within fifteen days after notification of the violation, which project shall be completed within thirty days.

§ 1300.6 Violations; enforcement

Any violation of R.S. 40:1300.6 and R.S. 40:1300.7 may be treated by any party as a violation of the state, municipal or parochial health codes and all procedures and remedies applicable to such violations of said codes shall be available to correct, deter or punish violations of said provisions. The district and appellate courts shall have jurisdiction to enforce the said provisions to the same extent that said courts have jurisdiction to enforce said codes.

All local boards of health or other code enforcement agencies shall enforce R.S. 40:1300.6 and R.S. 40:1300.7 in the same manner and with the same authority as they may enforce the health code.

The director shall have concurrent responsibility and authority to enforce R.S. 40:1300.6 and R.S. 40:1300.7 and in so doing shall have available to him all powers and authority which shall be available to local boards of health.

Violations of R.S. 40:1300.6 and R.S. 40:1300.7 shall be treated as emergency matters, and shall be given preference by enforcing

agencies and speedy hearings by district and appellate courts.

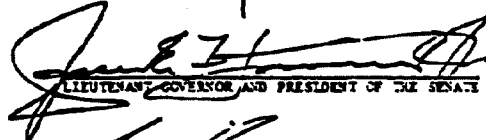
§ 1300.9 Liability of owners of residential property; damages

The owner of any residential property shall be liable for all damages caused by his failure to perform the duties required of him pursuant to R.S. 40:1300.6 or R.S. 40:1300.7.

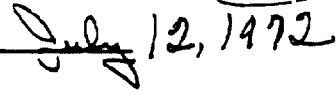
Section 2. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not effect other provisions, items or applications of this Act which can be given effect without the invalid provisions, items or applications, and to this end the provisions of this Act are hereby declared severable.

Section 3. All laws or parts of laws in conflict herewith are hereby repealed.


SPEAKER OF THE HOUSE OF REPRESENTATIVES


LIEUTENANT GOVERNOR AND PRESIDENT OF THE SENATE


GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: 

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