

Assembly Bill No. 2861

CHAPTER 477

An act to amend Section 105256 of the Health and Safety Code, relating to lead abatement.

[Approved by Governor September 26, 2006. Filed with
Secretary of State September 26, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2861, Ridley-Thomas. Lead abatement.

Existing law requires the State Department of Health Services to implement and administer a program that meets federal requirements regarding lead-based paint hazards, and requires the adoption of regulations regarding, among other things, the accreditation of providers of health and safety training to employees who engage in or supervise lead-related construction work.

Existing law authorizes the department or a local enforcement agency, whenever it determines that a condition at a location or premises, or the activity of any person at the location or premises, is creating or has created a lead hazard at the location or premises, to order the owner of the location or premises to abate the lead hazard or to order the person whose activity is creating or has created the hazard, to cease and desist. A violation of these provisions is an infraction punishable by a fine of not more than \$1,000.

This bill would clarify that the violation relates to a violation of an order issued under these provisions. It would make the 2nd or subsequent violation a misdemeanor punishable by a fine not to exceed \$5,000, or by imprisonment for not more than 6 months in the county jail, or by both that fine and imprisonment. By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 105256 of the Health and Safety Code is amended to read:

105256. (a) Notwithstanding any other provision of law, whenever the department or a local enforcement agency determines that a condition

at a location or premises, or the activity of any person at the location or premises, is creating or has created a lead hazard at the location or premises, the department or the local enforcement agency may order the owner of the location or premises to abate the lead hazard, and may order the person whose activity is creating or has created the lead hazard, to cease and desist.

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

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

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

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

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.