

AMENDED IN SENATE MAY 31, 2016
AMENDED IN SENATE APRIL 26, 2016
AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1073

Introduced by Senator Monning

February 16, 2016

An act to amend ~~Sections 105250, 105251, and 131051 of, and to add Sections 105249, 105251.1, 105251.2, and 105251.3~~ *Section 105254 of, and to add Section 105250.5* to, the Health and Safety Code, relating to ~~public health~~ *health, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1073, as amended, Monning. ~~Residential housing: lead-based~~ *Lead-based paint.*

Existing law requires the State Department of Public Health to implement and administer a residential lead-based paint hazard reduction program, as specified, including adopting regulations regarding accreditation of providers of health and safety training to employees who engage in or supervise lead-related construction work, as defined, and certification of employees who have successfully completed that ~~training and to training~~. *Existing law requires the department to adopt regulations to establish and impose fees for those accreditations and certifications and for licensing entities engaged in lead-related occupations, as specified. Existing law requires those fees to be deposited into the Lead-Related Construction Fund, as specified. Existing law creates in the State Treasury the Childhood Lead Poisoning Prevention Fund and makes the revenue in the fund available for*

expenditure, upon appropriation, for particular purposes relating to childhood lead poisoning prevention.

~~This bill would require the department to, in consultation with the Contractors' State License Board, update those regulations and other regulations governing lead-related construction work to, where appropriate, conform to the federal Environmental Protection Agency's Lead Renovation, Repair, and Painting Rule or to be more stringent. The bill would also require the department to, in coordination with the Contractors' State License Board, develop and implement an education and outreach effort to provide the regulated community clear information on the regulations. The bill would require the department to request authorization from the agency to enforce provisions of that rule and, upon receiving that authorization, to adopt regulations establishing procedures pursuant to which a local law enforcement agency, as defined, may elect to assume and carry out responsibility for those enforcement activities in its jurisdiction. The bill would require a local enforcement agency that elects to carry out those enforcement activities to submit an annual report to the department regarding those activities, as specified.~~

~~This bill would require the department to review and revise its fee schedule a minimum of once in any 8-year period and, if necessary, adopt regulations establishing new fee amounts that account for changes in the cost of living, not to exceed the department's reasonable costs to administer those provisions. The bill would also require the department to submit a report, on or before February 28 of each year, to the federal Environmental Protection Agency that contains a registry of programs, individuals, and entities certified by the department as of December 31 of the preceding calendar year and information, if any, received by the department from local law enforcement agencies regarding their enforcement activities. The bill would prohibit a certified lead inspector or assessor, certified lead project monitor, or certified lead sampling technician from performing lead-related construction on a structure on which that person conducted lead hazard evaluation and would require the department to revoke the certification of a person who violates that prohibition. The bill would also make related findings and declarations and a conforming change.~~

This bill would require the department to update its regulations governing lead-related construction work, including training and certification for workers and accreditation for trainers in lead-safe work practices, to comply with existing state regulations and the United

States Environmental Protection Agency’s Lead Renovation, Repair, and Painting Rule, as specified. The bill would require the adoption of those regulations to include fee provisions for those certifications and accreditations. The bill would appropriate \$500,000 from the Childhood Lead Poisoning Prevention Fund to the department for the purposes of implementation until fees can be collected under these provisions, to be repaid upon determination by the Department of Finance that sufficient moneys are available in the Lead-Related Construction Fund to repay that amount. The bill would require the regulations adopted pursuant to these provisions to be adopted as emergency regulations, as specified.

Existing law requires certain persons engaged in lead construction work to have a certificate under these provisions. A violation of that provision is a crime.

This bill would further require a person engaged in renovation, repair, or painting work that will disturb lead-based paint to have a certificate. By expanding the scope of an existing crime, the 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.

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: ~~no~~-yes.

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

- 1 SECTION 1. Section 105250.5 is added to the Health and
- 2 Safety Code, to read:
- 3 105250.5. (a) By July 1, 2018, the department shall review
- 4 and amend its regulations governing lead-related construction
- 5 work, including training and certification for workers and
- 6 accreditation for trainers in lead-safe work practices to comply
- 7 with Chapter 8 (commencing with Section 35001) of Division 1 of
- 8 Title 17 of the California Code of Regulations adopted by the
- 9 department pursuant to Sections 105250 and 124160 and the
- 10 United States Environmental Protection Agency’s Lead Renovation,
- 11 Repair, and Painting Rule (40 C.F.R. 745).

1 **(b)** *The amended regulations adopted pursuant to subdivision*
2 *(a) shall include, but not be limited to, the following:*
3 **(1)** *A regulation requiring employers to maintain and provide*
4 *access to written files for each separate job or phase of work,*
5 *where the work process used is different or the work is performed*
6 *at noncontiguous locations, noting all of the following:*
7 **(A)** *The address of the job.*
8 **(B)** *The exact physical location of the job at that address.*
9 **(C)** *The start and projected completion date.*
10 **(D)** *The name of a certified supervisor with sufficient experience*
11 *and authority who is responsible for the lead-related work at that*
12 *job.*
13 **(E)** *The name of a qualified person, who is responsible for*
14 *scheduling any clearance testing, evaluation of sampling results,*
15 *and conducting respirator fit testing and evaluating the results of*
16 *those tests.*
17 **(F)** *The type of work to be performed, the work practices that*
18 *will be utilized, and the potential for exposure.*
19 **(G)** *Records of prerenovation education for occupants.*
20 **(2)** *A regulation requiring a copy of the worker and firm*
21 *certification to be provided before the start of the job to the prime*
22 *contractor or other employers on the site and to be posted on the*
23 *jobsite beside the Cal-OSHA poster.*
24 **(c)** *Consistent with Section 105250, the department shall also*
25 *adopt regulations establishing fees for the certifications or*
26 *accreditations established pursuant to this section. The fees*
27 *imposed under this section shall be established at levels not*
28 *exceeding an amount sufficient to cover the costs of administering*
29 *and enforcing the standards and regulations adopted under this*
30 *section. The fees established pursuant to this section shall be*
31 *deposited into the Lead-Related Construction Fund pursuant to*
32 *Section 105250.*
33 **(d)** *Five hundred thousand dollars (\$500,000) is hereby*
34 *appropriated from the Childhood Lead Poisoning Prevention Fund*
35 *to the department, to be used to develop, initiate, and administer*
36 *this section until adequate fees can be collected for the ongoing*
37 *administration of this section. These funds shall be repaid to the*
38 *Childhood Lead Poisoning Prevention Fund upon determination*
39 *by the Department of Finance that sufficient moneys are available*
40 *in the Lead-Related Construction Fund to repay that amount. No*

1 *interest shall be paid by the Lead-Related Construction Fund at*
2 *the time of repayment.*

3 *(e) (1) Notwithstanding the rulemaking provisions of the*
4 *Administrative Procedure Act (Chapter 3.5 (commencing with*
5 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
6 *Code), the department may implement and administer this section*
7 *through all-county letters or similar instructions from the*
8 *department until regulations are adopted. The department shall*
9 *adopt emergency regulations implementing these provisions no*
10 *later than July 1, 2017. The department may readopt any*
11 *emergency regulation authorized by this section that is the same*
12 *as or substantially equivalent to an emergency regulation*
13 *previously adopted under this section.*

14 *(2) The initial adoption of emergency regulations pursuant to*
15 *this section and one readoption of emergency regulations shall be*
16 *deemed an emergency and necessary for the immediate*
17 *preservation of the public peace, health, safety, or general welfare.*
18 *Initial emergency regulations and the one readoption of emergency*
19 *regulations authorized by this section shall be exempt from review*
20 *by the Office of Administrative Law. The initial emergency*
21 *regulations and the one readoption of emergency regulations*
22 *authorized by this section shall be submitted to the Office of*
23 *Administrative Law for filing with the Secretary of State, and each*
24 *shall remain in effect for no more than 180 days, by which time*
25 *final regulations may be adopted.*

26 *SEC. 2. Section 105254 of the Health and Safety Code is*
27 *amended to read:*

28 105254. (a) The following persons engaged in the following
29 types of lead construction work shall have a certificate:

30 (1) Persons who receive pay for doing lead hazard evaluations,
31 including, but not limited to, lead inspections, lead risk
32 assessments, or lead clearance inspections, in residential or public
33 buildings.

34 (2) Persons preparing or designing plans for the abatement of
35 lead-based paint or lead hazards from residential or public
36 buildings.

37 (3) Persons doing any work designed to reduce or eliminate
38 lead hazards on a permanent basis (to last 20 years or more) from
39 residential or public buildings.

1 (4) Persons inspecting for lead or doing lead abatement
2 activities in a public elementary school, preschool, or day care
3 center.

4 (5) Persons doing lead-related construction work in a residential
5 or public building that will expose a person to airborne lead at or
6 above the eight-hour permissible exposure limit of 50 micrograms
7 per cubic meter.

8 *(6) Persons doing renovation, repair, or painting work in a*
9 *residential or public building that will disturb lead-based paint.*

10 (b) Persons performing routine maintenance and repairs in
11 housing are not required to have a certificate if they are not
12 performing any of the activities listed under subdivision (a).

13 (c) The department may adopt regulations to modify
14 certification requirements for persons engaged in lead construction
15 work based on changes to state or federal law, or programmatic
16 need.

17 (d) The department or any local enforcement agency may,
18 consistent with Section 17972, enter, inspect, and photograph any
19 premises where abatement or a lead hazard evaluation is being
20 conducted or has been ordered, enter the place of business of any
21 person who conducts abatement or lead hazard evaluations, and
22 inspect and copy any business record of any person who conducts
23 abatement or lead hazard evaluations to determine whether the
24 person is complying with this section.

25 (e) A violation of this section shall be punishable by
26 imprisonment for not more than six months in the county jail, a
27 fine of not more than one thousand dollars (\$1,000), or by both
28 that imprisonment and fine.

29 *SEC. 3. No reimbursement is required by this act pursuant to*
30 *Section 6 of Article XIII B of the California Constitution because*
31 *the only costs that may be incurred by a local agency or school*
32 *district will be incurred because this act creates a new crime or*
33 *infraction, eliminates a crime or infraction, or changes the penalty*
34 *for a crime or infraction, within the meaning of Section 17556 of*
35 *the Government Code, or changes the definition of a crime within*
36 *the meaning of Section 6 of Article XIII B of the California*
37 *Constitution.*

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All matter omitted in this version of the bill appears in the bill as amended in the Senate, April 26, 2016. (JR11)

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