STATE OF RHODE ISLAND
IN GENERAL ASSEMBLY
JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO HEALTH AND SAFETY -- LEAD POISONING PREVENTION ACT

Introduced By: Representatives Morales, Kislak, Potter, Alzate, Hull, Bennett, Edwards, Williams, Carson, and Cortvriend
Date Introduced: April 14, 2022
Referred To: House Finance

It is enacted by the General Assembly as follows:

SECTION 1. Section 23-24.6-4 of the General Laws in Chapter 23-24.6 entitled "Lead Poisoning Prevention Act" is hereby amended to read as follows:


For the purposes of this chapter:

(1) "Apprenticeable" means any nationally-recognized occupation that has a pre-existing registered apprenticeship program approved pursuant to 29 C.F.R. Part 29 and Part 30.

(2) "Approved apprenticeship program" or "apprenticeship program" means an apprenticeship program that has been approved by the U.S. Department of Labor, or by a recognized state apprenticeship agency, pursuant to 29 C.F.R. Parts 29 and 30; however, such programs shall not include those that have obtained only provisional approval status. The required apprenticeship programs may either be programs that have specifically allocated funding and are subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq. ("ERISA"), or non-ERISA programs financed by general funds of employers.

(3) "Childhood lead poisoning" means a confirmed venous blood lead level, measured in micrograms of lead per deciliter of whole blood, established by rule by the Rhode Island department of health based on the best available information about the effects of elevated blood lead levels.

(4) "Comprehensive environmental lead inspection" means the inspection of any structure or premises for the presence of lead in various media and includes sampling as may be
necessary or expedient in order to determine compliance in the structure or premises with standards for being lead safe or lead free.

(5) "Department" means the state department of health.

(6) "Director" means the director of health.

(7) "Dwelling" means any enclosed space which is wholly or partly used or intended to be used for living or sleeping by human occupants.

(8) "Dwelling unit" means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.

(9) "Environment intervention blood lead level" means a confirmed concentration, in a person under six (6) years of age, of lead in whole blood of greater than or equal to twenty (20) micrograms per deciliter for a single test or for fifteen (15) to nineteen (19) micrograms per deciliter for two (2) tests taken at least three (3) months apart or as defined by the department consistent with regulations adopted by the U.S. Department of Housing and Urban Development.

(10) "Environmental lead hazard reduction" means activities undertaken by or on behalf of a property owner in order to achieve lead free or lead safe status pursuant to the requirements of this chapter.

(11) "Full lead service line replacement" means the replacement of a lead service line that results in the entire length of the service line, regardless of service line ownership, meeting the Safe Drinking Water Act (SDWA) §1417 definition of lead-free applicable at the time of the replacement. A full lead service line replacement, as defined at 40 C.F.R. § 141.2, includes a replacement where only one portion of the service line is lead, such as where a partial lead service line was previously conducted, as long as, upon completion of the replacement, the entire service line meets the SDWA § 1417 definition of lead-free applicable at the time of the replacement.

(12) "Inspection" means the inspection, other than a comprehensive environmental lead inspection, of any structure or premises undertaken to determine compliance with the requirements of this chapter or with orders issued pursuant to this chapter.

(13) "Insurer" means every medical service corporation, hospital service corporation, health maintenance organization, or other insurance company offering and/or insuring health services; the term includes any entity defined as an insurer under § 42-62-4.

(14) "Lead contractor" means any person or entity engaged in lead hazard reduction as a business and includes consultants who design, perform, oversee, or evaluate lead hazard reduction projects undertaken pursuant to the requirements of this chapter.

(15) "Lead exposure hazard" means a condition that presents a clear and significant
health risk to occupants of the dwelling, dwelling unit, or premises, particularly where there are
children under the age of six (6) years. (16) "Lead free" means that a dwelling, dwelling unit, or premises either contains no
lead or contains lead in amounts less than the maximum acceptable environmental lead levels
established by department of health regulations. (17) "Lead hazard reduction" means any action or actions designed to reduce exposure
to toxic levels of lead which impose an unacceptable risk of exposure in any dwelling or dwelling
unit, where a child under the age of six (6) years, with environmental intervention blood lead level
or greater resides, or on any premises and may include, but is not limited to: repair, enclosure,
encapsulation, or removal of lead based paint and/or lead contaminated dust, soil or drinking water;
relocation of occupants; and cleanup measures or ongoing maintenance measures, which may
include activities and/or measures that do not present an undue risk to children under age six (6)
and can be performed by, or on behalf of, the property owner, without the person performing such
activities being licensed or certified. (18) "Lead safe" means that a dwelling, dwelling unit, or premises has undergone
sufficient lead hazard reduction to ensure that no significant environmental lead hazard is present
and includes but is not limited to covering and encapsulation. (19) "Lead service lines" means any part of a water service line that is made of, lined with,
or contains, materials consisting of lead. A lead service line may be owned by the water system,
owned by the property owner, or both. Service lines with galvanized steel shall be considered lead
service lines. (20) "Occupant" means any person who legally resides in, or regularly uses, a dwelling,
dwelling unit, or structure; provided, however, that a guest of any age shall not be considered an
occupant for the purposes of this chapter. (21) "Owner" means any person who, alone or jointly or severally with others:
(i) Shall have legal title to any dwelling or dwelling unit with or without accompanying
actual possession of it, or
(ii) Shall have charge, care, or control of any dwelling or dwelling unit as owner or agent
of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner. Any
person representing the actual owner shall be bound to comply with the provisions of this chapter
and with rules and regulations adopted pursuant to this chapter to the same extent as if that person
were the owner. An agent of the owner excludes real estate and property management functions
where the agent is only responsible for the property management and does not have authority to
fund capital and/or major property rehabilitation on behalf of the owner.
(iii) For purposes of publicly owned property only, the owner shall be defined to be the chief executive officer of the municipal or state agency which owns, leases, or controls the use of the property.

(22) "Person" means any individual, firm, corporation, association, or partnership and includes municipal and state agencies.

(23) "Premises" means a platted lot or part thereof or unplatted lot or parcel of land, or plot of land, occupied by a dwelling or structure and includes any building, accessory structure, or other structure thereon which is or will be frequently used by children under the age of six (6) years.

(24) "Private service line" or "private side" means the portion of the service line including appurtenances and connections thereto that runs from the curb shutoff valve into the property or building.

(25) "Program" means the comprehensive environmental lead program established by this chapter.

(26) "Public service line" or "public side" means the portion of the service line including appurtenances and connections thereto that runs from the water main in the street to the curb shutoff valve.

(27) "State inspector" means the director, his or her designee, or any inspector employed by the department of health who is authorized by the director to conduct comprehensive environmental lead inspections and/or other inspections for the department.

SECTION 2. Chapter 23-24.6 of the General Laws entitled "Lead Poisoning Prevention Act" is hereby amended by adding thereto the following section:


(a) Water suppliers, as defined in § 39-15.1-2, that provide safe and potable drinking water to the public shall replace all lead service lines connected to residential and non-residential facilities that provide water for human consumption within ten (10) years of the effective date of this section.

(b) No person served by a lead service line shall be required to pay to replace the lead service line on their property, unless the cost of the lead service line replacement exceeds ten thousand dollars ($10,000) in which case they would only be required to pay for the portion of the replacement that exceeds ten thousand dollars ($10,000). A fiscal note estimate will be provided to owners of properties for which the cost of the lead service line replacement will exceed ten thousand dollars ($10,000).

(c) Water suppliers shall conduct full lead service line replacements according to the following procedures:

(1) Follow procedures at 40 Code of Federal Regulations Sections 141.84 and 141.85:
(2) Replace the entire lead service line with only one disruption to water service unless there is either an emergency or all persons served by the service line object to the replacement in writing:

(3) If there is an emergency that prevents replacement with only one disruption, the system shall fully replace the lead service line within forty-five (45) days unless weather makes it hazardous; and

(4) Ensure that the entire lead service line is replaced if any portion is physically disturbed.

(d) No later than twelve (12) months after the enactment of this section, water suppliers shall develop a service line inventory in order to determine the existence or absence of lead within each water connection in its service area. This inventory shall include information about the service line locations and composition of service lines at each location. The water supplier shall provide a list of all service lines, with a location identifier, and classify which have lead, which do not contain lead and which are of unknown composition. This information shall be posted on the department’s website and on the water supplier’s website.

(e) Water suppliers may utilize the following to develop a service line inventory:

(1) Visual inspection during planned maintenance, meter replacement, and main replacement projects;

(2) Solicitation and receipt of comments, complaints and other input from customers in the service area;

(3) Historical building records and other available data from the American Water Works Association or other industry research groups; and/or,

(4) Any other procedures and resources the water supplier deems appropriate for identifying lead service lines.

(f) Within five (5) days of identifying a lead service line, the water supplier shall provide written notice to the property owner, the tenants of the building and the director of the presence of lead service lines in a culturally sensitive manner communicated to residents in a language they understand to ensure the lines are fully and safely replaced. The notice shall include information describing the sources of lead in drinking water, description of the health effects of lead exposure and steps customers can take to reduce their exposure to lead in drinking water. This notice shall include information on the water supplier’s plans for lead service line replacement at said property.

(g) Water suppliers without an established lead service line replacement program shall coordinate with the department and the Rhode Island infrastructure bank to develop a replacement program. The department and the Rhode Island infrastructure bank shall partner with water suppliers to implement lead replacement programs including assisting with financial needs that
(h) The department and the Rhode Island infrastructure bank shall assist water suppliers with financing, grants, loans, drinking water funding opportunities or other monetary assistance to ensure that lead service lines are replaced in an expeditious manner.

(1) The department and the Rhode Island infrastructure bank shall require that in any project conducted by a water supplier that disturbs lead service lines, all specifications in any invitations to bid on any covered project valued at one million dollars ($1,000,000) or more shall include a requirement that all bidders responding to an invitation to bid shall have an approved apprenticeship program for all apprenticeable crafts or trades that will be employed on the project at the time of bid. All bidders responding to such invitation to bid shall also provide proof in the bid package of the existence of an approved apprenticeship program for all crafts or trades that will be employed on the project by all contractors and subcontractors needed for the project. All bidders shall strive to source seventy-five percent (75%) of employment from disadvantaged communities as defined by the department.

(i) Where all persons served by a lead service line, including, but not limited to, residents, tenants, customers, office workers, and property owners object to the replacement in writing, the system is not obligated to meet the deadline in subsection (a) of this section for that service line if it documents the written objection annually.

(j) In the event a person served by a lead service line refuses to allow the inspection or replacement of private side service lines, the water supplier shall file notice with the department of all attempts to inspect or replace the private side service lines and the property owner’s refusal to allow inspection or replacement services with the department. The notice shall state at a minimum: the date and time of each attempt; the name of the person who refused each attempt; and the name and signature of the person who made each attempt. The address where each refusal took place shall be published on the appropriate department website to ensure occupants of the building have notice of the potential lead in the service line.

(k) If a property with a lead service line is a rental property, the owner and the department shall inform the tenants of the presence of a lead service line in accordance with § 23-24.6-15(b), in a language the tenant understands. If the owner fails to provide tenants with notification of lead in service lines to the building, the owner shall be subject to a civil penalty in accordance with § 23-24.6-27.

(l) When a property owner transfers the ownership of property, they shall disclose the presence of lead service lines. Pursuant to § 5-20.8-11, every contract for the transfer or purchase and sale of real estate that is or may be served by a service line containing lead shall provide that
potential purchasers be permitted a ten (10) day period, unless the parties mutually agree upon a
different period of time, to conduct a risk assessment or an inspection of the property's water service
lines for the presence of lead hazards before becoming obligated under the contract to transfer or
purchase.

(m) Any private side service line found to have lead, which provides water to a building
subject to sale or transfer, shall be removed and replaced within twelve (12) months of the date of
sale or transfer.

(n) Water suppliers shall prioritize to the greatest extent practical lead service line
replacements in neighborhoods as defined by the director as disadvantaged communities pursuant
to the Safe Drinking Water Act § 1452. Communities where lead service lines comprise over thirty-
five percent (35%) of the public side service line connections will also be prioritized as high-
priority.

(o) Water suppliers subject to this section shall complete the replacement of all lead service
lines in its service area within ten (10) years of the effective date of this section.

(p) Each water supplier shall provide an annual report by January 31 of each year to the
governor, president of the senate, speaker of the house, director of the department of health, and
executive director of the Rhode Island infrastructure bank. The report shall contain information,
including, but not limited to, the number of public lead services lines per community served and
the number replaced, the number of private lead service lines per community served and the number
replaced, an estimated number of remaining lead service lines to be replaced, property type, number
of private lead service line inspections conducted, and annual expense to replace lead service lines.

(q) Each water supplier shall follow additional requirements and guidance including
community outreach and resident communications and engagement, as established by the
department as per subsection (r)(5) of this section.

(r) The department shall

(1) Establish a webpage that serves as a public dashboard to track progress towards the
deadline in subsection (o) of this section for each water supplier;

(2) Publish and maintain online a map of the location of each service line and identify
whether it is a lead service line or may be of unknown material and allow this map to serve as
compliance for participating water suppliers with requirements at 40 Code of Federal Regulations
§ 141.84(a)(8) that direct the systems to make the service line materials inventory publicly
accessible;

(3) Define disadvantaged communities consistent with federal guidance to include
communities of color and low-wealth communities;
(4) Establish a lead service line replacement advisory commission to help the director implement the responsibilities of the department to protect citizens from lead exposure due to lead service lines, comprised of twelve (12) representatives, appointed by the director unless indicated otherwise, including one staff member from the department's center for drinking water quality, one staff member from the department's center for healthy homes and the environment, one representative from the Providence water supply board, one representative from another water supplier, one representative from the Rhode Island infrastructure bank, one representative from the governor's office, the president of the Rhode Island Building and Construction Trades Council or designee, one representative of the Rhode Island AFL-CIO, the executive director of the Childhood Lead Action Project, or designee, two (2) representatives from community nonprofit organizations located in Rhode Island, serving disadvantaged communities as defined by the director pursuant to the Safe Drinking Water Act § 1452, and one representative with national expertise in lead service line replacement programs;

(5) Publish guidance developed in conjunction with the lead service line replacement advisory commission for water suppliers and contractors to adequately engage people served by lead service lines, including residents and tenants in a culturally sensitive manner communicated to residents in a language they understand to ensure the lead service lines are fully and safely replaced; and

(6) Conduct a statewide education campaign informing residents and property owners regarding lead service lines, interim safety measures, and lead service line replacement plans, with the support of the lead service line replacement advisory commission.

(s) The department shall promulgate rules and regulations for the implementation and enforcement of the provisions of this section.

SECTION 3. Section 5-20.8-11 of the General Laws in Chapter 5-20.8 entitled "Real Estate Sales Disclosures" is hereby amended to read as follows:

5-20.8-11. Lead inspection requirement.

(a) Every contract for the purchase and sale of residential real estate (1-4 family)-built prior to 1978 located in the state shall provide that potential purchasers be permitted a ten-day (10) period, unless the parties mutually agree upon a different period of time, to conduct a risk assessment or inspection for the presence of lead exposure hazards before becoming obligated under the contract to purchase.

(b) Failure to include the provision required in subsection (a) in the purchase and sale agreement for residential real estate does not create any defect in title; provided, that each violation
of this section by the seller or his or her agent is subject to a civil penalty of not less than one
hundred dollars ($100) nor more than five hundred dollars ($500).

(c) Failure to provide inspection results and/or educational materials pursuant to
department regulations required by § 23-24.6-16(a) does not create any defect in title; provided,
that each violation of this section by the seller or his or her agent is subject to a civil penalty of not
less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(d) Failure to include the purchase and sale agreement provision required in subsection (a);
failure to provide inspection results pursuant to § 23-24.6-16(a); or inspection results that show a
lead exposure hazard as defined at § 23-24.6-4(12) entitles the purchaser to void the purchase and
sale agreement by providing notice, in writing, to the seller prior to the transfer of the title at closing.

SECTION 4. This act shall take effect upon passage.
This act would establish a lead water supply replacement program for public and private service lines within the next ten (10) years and require the disclosure to tenants and buyers of real property of the presence of lead service lines.

This act would take effect upon passage.

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