

ENROLLMENT(S)

(5)



AN ACT
D.C. ACT 11-438

*Codification
District of
Columbia
Code
1997 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 20, 1996

To establish a program to reduce, eliminate, and abate lead-based paint hazards in the District of Columbia.

**New
Subchapter
IX,
Chapter 9,
Title 6**

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Lead-Based Paint Abatement and Control Act of 1996".

Sec. 2. Definitions.

For the purposes of this act, the term:

**New, Section
6-997.1**

(1) "Abatement" means any set of measures designed, in accordance with standards established by the Mayor, to eliminate or reduce lead-based paint hazards; but, such measures exclude routine, ordinary, and common maintenance and repairs; such measures may include:

(A) The removal of lead-based paint and lead contaminated dust, the encapsulation, containment, enclosure, or covering of lead-based paint, the replacement or demolition of lead-painted structures, surfaces or fixtures, and the removal or covering of lead contaminated soil;

(B) All preparation, cleanup, disposal, transportation, testing, and post-abatement clearance testing associated with the activities described in subparagraph (A) of this paragraph; and

(C) Renovation, remodeling, repair, and landscaping activities on or around any structure built prior to 1978.

(2) "Accessible surface" means an interior or exterior surface painted with lead-based paint that is accessible to a child under the age of 8 years.

(3) "Accredited training provider" means a training provider that has been approved by the Mayor to provide training for individuals who conduct lead-based paint activities.

(4) "Business entity" means a partnership, firm, company, association,

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corporation, sole proprietorship, government, quasi-government entity, non-profit organization, or other business concern that conducts lead-based paint activities.

(5) "Certified business entity or certified individual" means a business entity or individual who has met the requirements for conducting lead-based paint activities pursuant to this act.

(6) "Friction surface" means an interior or exterior surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces.

(7) "Impact surface" means an interior or exterior surface that is subject to peeling, chipping, chalking, cracking, or deterioration by repeated impacts.

(8) "Lead-based paint" means any paint or other surface coating containing lead or lead in its compounds in any quantity exceeding .5% of the total weight of the material or more than seven-tenths of a milligram per square centimeter (0.7 mg/cm²), or in any quantity sufficient to constitute a health or environmental hazard.

(9) "Lead-based paint activities" means the following:

(A) Identification, risk assessment, inspection, and abatement of lead-based paint, lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil; and

(B) Planning, project designing, and supervision of any of the activities listed in subparagraph (A) of this paragraph.

(C) The term "lead-based paint activities does not include routine, ordinary, and common maintenance and repairs.

(10) "Lead-based paint hazard" means any condition that causes or may cause exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that could result in adverse human health effects as determined by the Mayor.

(11) "Lead-contaminated soil" means bare soil on real property that contains lead at, or in excess of, the levels determined by the Mayor to be hazardous to human health.

Sec. 3. Establishment of lead-based paint abatement and control program.

**New, Section
6-997.2**

The Mayor shall establish a program for the reduction, elimination, and abatement of lead-based paint hazards in the District pursuant to the provisions of this act that will meet federal requirements, to include:

(1) Development of standards and procedures for conducting lead-based paint activities;

(2) Community outreach and education; and

(3) Other functions to implement this act as determined by the Mayor.

Sec. 4. Prohibition on lead-based paint activities.

**New, Section
6-997.3**

(a) A business entity or individual shall not do any of the following in violation of the provisions of this act or rules promulgated pursuant to this act:

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- (1) Conduct a lead-based paint activity;
- (2) Undertake a lead-based paint abatement project; or
- (3) Provide training to others who conduct lead-based paint activities.

(b) An individual shall not apply a lead-based paint or glaze to any surface including, but not limited to:

(1) The interior and exterior surfaces of:

(A) Any residential, public, or commercial building, bridge, or other structure or superstructure; or

(B) Any fixture, household appliance, cooking, drinking, or eating utensil, furniture, or toy or other article intended for use by children; or

(2) Any paved surface.

(c) A business entity or individual shall not sell, offer for sale, deliver, transfer, or possess with intent to sell, deliver, or transfer any fixture, household appliance, cooking, drinking, or eating utensil, furniture, or toy or other article intended for use by children to which a lead-based paint or glaze has been applied.

Sec. 5. Exemptions from the provisions of this act.

**New, Section
6-997.4**

The following are exempt from the provisions of this act:

(1) Individuals who perform lead-based paint activities at residences which they own, unless the residence is occupied by a person or persons other than the owner or the owner's immediate family; unless any child under the age of 8 years resides, is expected to reside in, or regularly visits such housing;

(2) Housing for the elderly or persons with disabilities; unless any child under the age of 8 years resides, is expected to reside in, or regularly visits such housing;

(3) Any 0-bedroom unit, such as an efficiency apartment; and

(4) Housing built after 1978.

Sec. 6. Certification requirements for individuals and business entities.

**New, Section
6-997.5**

(a) An individual shall be certified by the Mayor or possess certification provided by a training program that has been formally accredited either by EPA or by an EPA-approved state program prior to conducting a lead-based paint activity in the District. To obtain certification from the Mayor, an individual shall:

(1) Submit proof to the Mayor that he or she has successfully completed an accredited training course and any required accredited review course;

(2) Pass an examination required by the Mayor; and

(3) Meet or exceed any additional requirements set by the Mayor.

(b) A business entity shall be certified by the Mayor prior to conducting a lead-based paint activity or project in the District. To obtain certification, a business entity shall demonstrate to the satisfaction of the Mayor the following:

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- (1) That all its employees and subcontractors conducting lead-based paint activities are certified pursuant to this act;
- (2) That the business entity and its employees and subcontractors will conduct lead-based paint activities in accordance with all applicable federal and District environmental, occupational safety, and health laws, regulations, and rules;
- (3) That the business entity and its employees and subcontractors will comply with all applicable federal and District laws, regulations, and rules governing the disposal of all waste containing lead; and
- (4) Any additional requirements set by the Mayor necessary to implement this act.

(c) The Mayor shall establish criteria, procedures, and fees for reciprocity of certification.

(d) All certificates issued to business entities shall expire 12 months from the date of certification. All certificates issued to individuals shall expire 24 months from the date of certification.

(e) Individuals and business entities seeking certification and certification renewal in the District shall pay a reasonable fee set by the Mayor. The Mayor shall, by rulemaking, revise the certification and certification renewal fees as necessary to cover the administrative costs associated with the issuance of certificates.

Sec. 7. Accreditation of training providers.

**New, Section
6-997.6**

(a) A training provider shall be accredited separately for each training course or review course offered by that training provider. To receive accreditation, a training provider shall:

(1) Submit an application to the Mayor for approval, or provide proof of accreditation by EPA, or a state EPA-approved accredited training provider; the application shall contain the following information:

- (A) Qualifications of all training managers and instructors;
- (B) Copies of all instructor and student course materials for each course

offered;

(C) A description of the facilities and equipment available for lecture and hands-on training; and

(D) Any other information determined by the Mayor to be necessary for approval of an application for accreditation; and

(2) Pay a reasonable fee with each application, except that fees shall not be imposed on any District government or nonprofit training program; the Mayor may by rulemaking revise the application fees as necessary to cover the administrative costs associated with accreditation and accreditation renewal.

(b) Accreditation by the Mayor shall expire 12 months from the date of accreditation.

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Sec. 8. Permit requirements.

**New, Section
6-997.7**

(a) Prior to conducting a lead-based paint abatement as defined in section 2(1)(A), business entities and individuals, except governmental agencies, shall obtain a permit from the Mayor. To obtain a permit, an application shall be submitted to the Mayor for approval with the appropriate fee. The application shall contain the following information:

- (1) The location of the lead-based paint abatement project;
- (2) The starting and completion dates of the lead-based paint activity;
- (3) The approximate amount of lead-based paint or lead-based paint containing materials to be abated;
- (4) The method of abatement to be employed;
- (5) The provisions for medical surveillance and worker protection;
- (6) The manner in which the waste containing lead will be disposed and location of the disposal site;
- (7) A description of the areas immediately adjacent to the abatement site;
- (8) Proof of certification, pursuant to section 6, of the business entity and of all individuals who will be engaging in the lead-based paint abatement; and
- (9) Any other information required by the Mayor.

(b) A permit fee determined by the Mayor shall be assessed for each lead-based paint abatement project. The Mayor may by rulemaking revise permit fees as necessary to recover the costs of administering and enforcing this act. Permits shall be valid for a period not to exceed 1 year from the date of issuance. Each permit shall be limited to one site and shall not be transferable to another site.

Sec. 9. Record keeping requirements.

**New, Section
6-997.8**

- (a) Business entities and individuals conducting lead-based paint activities shall:
- (1) Keep a record of all lead-based paint activities performed; and
 - (2) Make that record available to the Mayor upon reasonable request.
- (b) The records required by this section shall be kept for a minimum of 3 years.
- (c) The records required by this section shall include:
- (1) The address or location of each lead-based paint activity;
 - (2) The name and address of the individual who supervised the lead-based paint activity;
 - (3) A description of the lead-based paint activity and the amount of lead-based paint, if any, that was abated;
 - (4) The starting and completion dates of the lead-based paint activity;
 - (5) A summary of the procedures that were used to comply with all applicable standards;
 - (6) The name and address of each disposal site where the waste containing lead is deposited; and

(7) Any other information that the Mayor requires.

Sec. 10. Inspections by the Mayor.

New, Section
6-997.9
Note, Section
9-302

(a) The Mayor shall have the right to randomly and periodically inspect any and all lead-based paint activities in the District, and all pertinent records, documents, or data compilations, for the purpose of ensuring compliance with this act. Inspections may take place at any reasonable time upon the presentation of appropriate credentials.

(b) If, upon inspection, the Mayor has reason to believe that (i) there has been a violation of this act or of the rules and regulations issued pursuant to this act, or (ii) a threat exists to human health, the public welfare, or the environment, the Mayor may:

(1) Give written notice of the alleged violation or threat to the party responsible and order the party to take such corrective measures as the Mayor determines reasonable and necessary;

(2) Issue a cease and desist order;

(3) Impose civil or criminal fines and penalties in accordance with sections 13 and 14; or

(4) Request the Corporation Counsel to commence appropriate civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief.

(c) If the Mayor is denied access to conduct an inspection in accordance with this section, the Mayor may apply to the Superior Court of the District of Columbia for a search warrant. Denial of access to conduct an inspection is an offense punishable pursuant to section 14.

Sec. 11. Denial, suspension, or revocation.

New, Section
6-997.10

The Mayor may, after notice and opportunity for hearing, suspend, revoke, modify, or refuse to issue, renew, or restore a certificate, permit, or accreditation issued under section 6, 7, or 8 to protect the public health, safety, or welfare, if the Mayor finds that the applicant or holder has:

(1) Failed to comply with any provision of this act or rule issued pursuant to this act;

(2) Misrepresented facts relating to a lead-based paint activity to a client or customer;

(3) Made a false statement or misrepresentation material to the issuance, modification, or renewal of a certificate, permit, or accreditation;

(4) Submitted a false or fraudulent record, invoice, or report;

(5) As a training provider, or as an instructor, provided inaccurate information or inadequate training;

(6) Had a history of repeated violations; or

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(7) Had a certificate, permit, or accreditation denied, revoked, or suspended in another state or jurisdiction.

Sec. 12. Hearings.

**New, Section
6-997.11**

Any party adversely affected by an action taken pursuant to the provisions of this act, or the rules or regulations promulgated pursuant to this act, is entitled to a hearing before the Mayor upon filing with the Mayor, within 15 days from the date of such action, a written request for a hearing. Such hearing shall be held in accordance with section 10 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1028; D.C. Code § 1-1509).

Sec. 13. Criminal penalties/fines.

**New, Section
6-997.12**

(a) Notwithstanding any other provision of this act, any violation of section 4, 6, 7, or 8, or the implementing rules and regulations shall be punishable by a fine not to exceed \$1000 for the first offense, or \$5,000 for any subsequent offense, imprisonment not to exceed 6 months, or both.

(b) Each day of each violation shall constitute a separate offense, and the penalties described shall be applicable to each of the separate offenses.

(c) All prosecutions under this section shall be in the Superior Court of the District of Columbia in the name of the District of Columbia and shall be instituted by the Corporation Counsel.

Sec. 14. Civil penalties/fines; civil infractions.

**New, Section
6-997.13**

(a) Any violation of this act is punishable by a fine not to exceed \$500 for each day of each violation.

(b) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this act or the rules issued under authority of this act pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Code § 6-2701 *et seq.*) ("Civil Infractions Act"). Adjudication of any infractions shall be pursuant to titles I-III of the Civil Infractions Act.

Sec. 15. Rulemaking.

**New, Section
6-997.14**

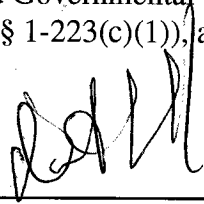
The Mayor shall issue rules and regulations to implement the provisions of this act, in accordance with title 1 of the District of Columbia Administrative Procedures Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code § 1-1501 *et seq.*).

Sec. 16. Effective date.

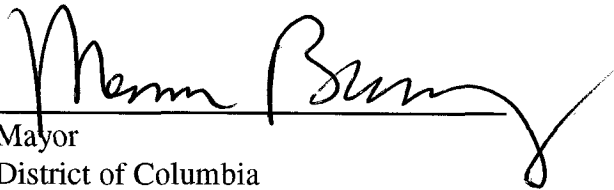
This act shall take effect after approval by the Mayor (or in the event of veto by the

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Mayor, action by the Council of the District of Columbia to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1985 (109 Stat. 116; D.C. Code § 47-392.3(a), and a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-223(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: November 20, 1996



COUNCIL OF THE DISTRICT OF COLUMBIA
 COUNCIL PERIOD ELEVEN
 RECORD OF OFFICIAL COUNCIL VOTE

Docket No. B11-640

ITEM ON CONSENT CALENDAR
 ACTION & DATE ADOPTED FIRST READING, 10-1-96
 VOICE VOTE APPROVED
 RECORDED VOTE ON REQUEST LIGHTFOOT

ABSENT _____
 ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote AB - Absent NV - Present not Voting

CERTIFICATION RECORD

[Signature]
 Secretary to the Council

November 12, 1996
 Date

ITEM ON CONSENT CALENDAR
 ACTION & DATE ADOPTED FINAL READING, 11-7-96
 VOICE VOTE APPROVED
 RECORDED VOTE ON REQUEST THOMAS

ABSENT _____
 ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - indicates no AB - Absent NV - Present not voting

CERTIFICATION RECORD

[Signature]
 Secretary to the Council

November 12, 1996
 Date

ITEM ON CONSENT CALENDAR
 ACTION & DATE _____
 VOICE VOTE _____
 RECORDED VOTE ON REQUEST _____

ABSENT _____
 ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote AB - Absent NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date