

SENATE BILL REPORT

ESSB 5586

As Passed Senate, March 11, 2003

Title: An act relating to granting authority to address concerns with lead-based paint activities.

Brief Description: Granting authority to address concerns with lead-based paint activities.

Sponsors: Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Hargrove, Hewitt, Carlson, Oke, Fraser, Regala, Keiser and Kline).

Brief History:

Committee Activity: Natural Resources, Energy & Water: 2/13/03, 2/21/03 [DPS].
Passed Senate: 3/11/03, 44-5.

SENATE COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER

Majority Report: That Substitute Senate Bill No. 5586 be substituted therefor, and the substitute bill do pass.

Signed by Senators Morton, Chair; Hewitt, Vice Chair; Doumit, Hargrove, Honeyford, Oke and Regala.

Staff: Richard Rodger (786-7461)

Background: Lead was commonly used in paint until it was banned for residential use in 1978. Ingesting or breathing dust from lead-based paint is the most common form of lead exposure. Dust is released by the deterioration of paint and during remodeling. Lead is highly toxic and is especially dangerous to young children because they are more likely to ingest lead dust.

In 1992, Congress passed the Residential Lead-Based Paint Hazard Reduction Act, also known as Title X. Under Title X, the Environmental Protection Agency (EPA) and other federal agencies developed a national program to prevent and reduce lead-based paint exposures and hazards.

Title X allows states to provide for the accreditation of lead-based paint activities programs, the certification of persons completing such training programs, and the licensing of lead-based paint activities contractors under standards developed by the EPA. States that undertake these activities are eligible for federal grants.

Census data show that 1,560,000 homes in Washington State were built prior to 1978 when the sale of residential lead-based paint was banned. Many of these homes are believed to contain some lead-based paint.

Summary of Bill: The Department of Community, Trade, and Economic Development (DCTED) must administer and enforce a state program for worker training and certification, and training program accreditation for lead-based paint activities. The department is

authorized to adopt rules that do not exceed the federal requirements necessary to implement a state program. The department must seek full funding for the administration of the program from the federal government. The department is designated as the official agency for purposes of implementing the state lead-based paint activities program under the jurisdiction of the United States Environmental Protection Agency.

No individual or firm can perform, offer, or claim to perform lead-based paint activities without certification from the department to conduct these activities. The department must collect a fee for providing the certification. Individuals and firms that have been certified are grandfathered and do not have to be recertified.

Lead-based activities includes inspection, testing, risk assessment, lead-based paint hazard reduction project design or planning, or abatement of lead-based paint hazards.

Abatement of lead-based paint includes: (1) projects with written contracts for the permanent removal of lead-based paint; (2) projects conducted by certified individuals or firms; (3) projects conducted by individuals or firms that claim to be qualified to remove lead-based paint; or (4) projects conducted under state or local abatement orders.

Abatement does not include renovation, remodeling, landscaping, or other activities, not designed to permanently eliminate lead-based paint hazards, even though the activities may result in reduction or elimination of the hazard. Additionally, abatement does not include interim controls, operations and maintenance activities, or other measures designed to temporarily reduce lead-based paint hazards.

The department may deny, suspend, or revoke an accreditation or certification, or seek criminal sanctions, for failure to comply with the lead-based paint requirements or any associated rule. The department is granted the right to inspect premises or facilities where those engaged in training for lead-based paint activities conduct business, including the review of business records and the taking of samples at the business. Twenty-four hours notice of the inspection is required, when feasible. If access is denied, DCTED may revoke an accreditation or certification.

The department is granted the right to inspect premises and facilities where federal funds were used to abate lead-based paint. Forty-eight hours notice is required prior to the inspection. Anyone applying for federal funds is advised of the inspections and will not be eligible to receive the funds if they are unwilling to consent to the inspections. The state, cities, towns, counties, housing authorities and community action agencies that own or operate a premise or facility, and seek or use federal funds, must give their consent to the inspection. This inspection authority expires 90 days after the project completion.

The program is terminated if sufficient funding is not provided by the federal government.

Appropriation: None.

Fiscal Note: Available on original bill.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Lead paint is a significant concern in our state. We have a sizable stock of pre-1978 houses that may be contaminated with lead paint. The lead painted houses and apartments pose a great risk for children who live in them. Federal funding is available to the state to take over this EPA program of certification. EPA will provide annual grants in the amount of \$400,000 to run the state program if this legislation passes. Once a state assumes the program, HUD will make federal grants available for the removal of lead paint. Thirty-eight states and the District of Columbia already have a state program and are eligible for federal monies. The children in the City of Yakima have elevated blood levels for lead and the city ranks as the nation's 33rd highest city for child lead exposure.

Testimony Against: None.

Testified: Seth Dawson, John Hill, Randy Calhoun, WA State Coalition for the Homeless, WA State Assn. for Community Action (pro); Cathy Atkins, NCSL (neutral); Montel Livingston, Barbara Ross, EPA (pro); Greg Sorlie, DOE (concerns); Maryann Guichard, Dept. of Health (concerns); Steve Cany, Labor and Industries (concerns); Carol Taylor Cann, WSPTA (pro).

House Amendment(s): The amendment states that the Department of Community, Trade, and Economic Development is not a regulatory agency. The department may transfer implementation components of the program and enforcement responsibilities to local governments or private entities, through delegation or by a memorandum of understanding.

The inspection provisions for premises or facilities are simplified. Inspections may be conducted, with the consent of the owner or owner's agent, where violations concerning lead-based paint activities may occur, at reasonable times and, when feasible, with at least 48 hours prior notification of the inspection.

Language authorizing certification and training program accreditation fees are moved from a separate section into the section authorizing a worker training and certification program.

The department's duties under the act are subject to authorization of the state program from the federal government within two years of the effective date of the act.