

26:2Q-1 to 26:2Q-12

**LEGISLATIVE HISTORY CHECKLIST**  
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(Lead evaluation & abatement)

**NJSA:** 26:2Q-1 to 26:2Q-12

**LAWS OF:** 1993 **CHAPTER:** 288

**BILL NO:** S1135

**SPONSOR(S)** Bassano

**DATE INTRODUCED:** September 10, 1992

**COMMITTEE:** **ASSEMBLY:** Energy & Hazardous Waste  
**SENATE:** Health and Human Services

**AMENDED DURING PASSAGE:** No Assembly substitute enacted

**DATE OF PASSAGE:** **ASSEMBLY:** December 2, 1993  
**SENATE:** October 19, 1992

**DATE OF APPROVAL:** December 16, 1993

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes  
**SENATE:** Yes

**FISCAL NOTE:** No

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

**DEPOSITION**  
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ASSEMBLY SUBSTITUTE FOR  
SENATE, No. 1135 and  
ASSEMBLY, Nos. 1732 and 1350 (ACS)

STATE OF NEW JERSEY

ADOPTED JUNE 10, 1993

Sponsored by Senator BASSANO, Assemblymen HARTMANN  
and CHARLES

1 AN ACT requiring the certification of persons and business firms  
2 performing lead evaluation and lead abatement, supplementing  
3 Titles 26 and 52 of the Revised Statutes and making an  
4 appropriation therefor.

5

6 BE IT ENACTED *by the Senate and General Assembly of the*  
7 *State of New Jersey:*

8 1. The Legislature finds and declares that:

9 Lead poisoning is the most prevalent environmental health  
10 problem facing children in New Jersey today; the Department of  
11 Health estimates that over 177,000 children under the age of five  
12 in New Jersey are at high risk of lead poisoning, and the effects  
13 of lead poisoning in children include learning disabilities, mental  
14 retardation, behavioral disorders, hyper-irritability, lack of  
15 coordination, loss of appetite, vomiting, abdominal pain,  
16 convulsions, permanent brain damage and death; even low levels  
17 of lead exposure can cause subtle neurological changes, reduced  
18 concentration and attentiveness, reduced I.Q. scores, behavioral  
19 problems, and learning disabilities; these problems persist and can  
20 adversely affect the child's chances for success in school and  
21 life; lead poisoning is caused by environmental exposure to lead  
22 and the most significant sources are lead-based paint in older  
23 housing and lead-laden dust and soil; and the Department of  
24 Health estimates that approximately 65% of New Jersey's  
25 housing stock may contain lead-based paint, representing a  
26 potential public health hazard of alarming magnitude.

27 The Legislature further finds and declares that:

28 Persons performing lead evaluation and lead abatement work  
29 must receive appropriate training and certification to ensure that  
30 lead evaluations and abatements are reliable, thorough, and safe;  
31 persons performing lead evaluation, without proper training, may  
32 fail to detect lead-contaminated surfaces; an abatement work  
33 plan that is based on an improper evaluation will be inadequate to  
34 rid a dwelling of a lead hazard; persons performing lead  
35 abatement, without proper training, may cause the contamination  
36 of an entire home with dangerous levels of lead; and a  
37 certification program for lead abatement is essential to ensure  
38 the safety of the occupants and the safety of the workers and is  
39 also necessary to protect consumers from fraud, abuse, and  
40 shoddy work practices.

41 2. As used in sections 1 through 13 of P.L. , c. (C. )(pending  
42 before the Legislature as this bill):

43 "Commissioner" means the Commissioner of Health.

44 "Department" means the Department of Health.

1 "Lead abatement" means a process designed either to mitigate  
2 or to eliminate permanently lead-based paint hazards on a  
3 premises and includes, but is not limited to: the removal of  
4 lead-based paint and lead-contaminated dust; the containment or  
5 encapsulation of lead-based paint; the replacement of  
6 lead-painted surfaces or fixtures; the removal or covering of  
7 lead-contaminated soil; and all preparation, cleanup, disposal and  
8 post-abatement clearance testing activities associated with such  
9 measures.

10 "Lead evaluation" means a surface-by-surface investigation to  
11 determine the presence of lead-based paint and the provision of a  
12 report explaining the results of the investigation.

13 "Lead-based paint" means paint or other surface coating  
14 material that contains lead in excess of 1.0 milligrams per  
15 centimeter squared or in excess of 0.5% by weight, or such other  
16 level as may be established by federal law.

17 "Lead-based paint hazard" means any condition that causes  
18 exposure to lead from lead-contaminated dust or soil or  
19 lead-contaminated paint that is deteriorated or present in  
20 surfaces, that would result in adverse human health effects.

21 "Surface" means an area such as an interior or exterior wall,  
22 ceiling, floor, door, door frame, window sill, window frame,  
23 porch, stair, handrail and spindle, or other abradable surface, soil,  
24 furniture, a carpet, a radiator or a water pipe.

25 3. a. A person shall not perform a lead evaluation or lead  
26 abatement work unless the person is certified by the department  
27 pursuant to this act.

28 b. The commissioner shall establish a certification program to  
29 assure the competency of persons to perform lead evaluations or  
30 lead abatement work in a safe and reliable manner. The  
31 commissioner may establish different classes of certification  
32 reflecting the different types and complexities of lead evaluation  
33 and abatement activities.

34 c. The commissioner shall certify a person who satisfactorily  
35 completes the certification training course required pursuant to  
36 this act, passes an examination prescribed by the department and  
37 meets any other requirements for certification that may be  
38 established by the commissioner or by federal law.

39 d. The certification shall be in writing with a photo  
40 identification, signed and dated by the commissioner. It shall be  
41 carried upon the person while performing evaluation or  
42 abatement services.

43 e. Notwithstanding the provisions of subsection a. of this  
44 section to the contrary, a person who is certified to conduct lead  
45 evaluations or perform lead abatement work in a jurisdiction  
46 outside of New Jersey is entitled to receive a New Jersey  
47 certification from the department if the person demonstrates  
48 successful completion of a training and certification program in  
49 that jurisdiction that is at least as rigorous and comprehensive as  
50 the State training and certification program.

51 f. Lead evaluation and lead abatement certifications shall be  
52 for a period not to exceed two years and shall be  
53 non-transferable. A person may apply for recertification during  
54 the 90-day period before the certification expiration date or the

1 90-day period after the certification expiration date; except that  
2 if a person applies after the certification expiration date, he shall  
3 not perform any services for which certification is required until  
4 the certification is renewed. If a certification has expired for  
5 more than 90 days, the person is required to obtain a new  
6 certification.

7 g. Nothing in this section shall be construed to restrict or  
8 otherwise affect the right of any person to engage in painting,  
9 woodworking, structural renovation or other indoor or outdoor  
10 contracting services that may result in the disturbance of paint,  
11 but a person shall not hold himself out as certified by the  
12 department or otherwise represent that he has specialized  
13 competency to perform lead evaluation or abatement work,  
14 unless he has been certified or otherwise specifically authorized  
15 pursuant to sections 1 through 13 of P.L. , c. (C. )(pending  
16 before the Legislature as this bill).

17 4. a. The department shall develop, offer, or accredit training  
18 courses which shall be required for certification. These training  
19 courses shall include instruction in safe and effective evaluation  
20 and abatement methods. The training courses shall be developed  
21 in accordance with regulations adopted by the Department of  
22 Community Affairs pursuant to sections 14 through 23 of P.L. ,  
23 c. (C. )(pending before the Legislature as this bill) and the  
24 "State Uniform Construction Code Act," P.L.1975, c.217  
25 (C.52:27D-119 et seq.).

26 b. The training course for persons performing lead evaluation  
27 shall include, but not be limited to, instruction in:

28 (1) safe and effective techniques and methods to test for lead  
29 hazards and assess lead hazards on premises before, during and  
30 after abatement of lead hazards;

31 (2) risk assessment of the dangers posed by lead hazards on a  
32 premises and the effectiveness of various abatement techniques  
33 and methods and hazard reduction measures to reduce the risk  
34 posed by the presence of lead;

35 (3) safe work practices, including determining whether  
36 occupants must be relocated during lead abatement;

37 (4) practices to prevent contamination of the premises; and

38 (5) applicable State and federal requirements.

39 c. The training course for persons performing lead abatement  
40 shall include, but not be limited to, instruction concerning:

41 (1) safe and effective abatement techniques to remove, cover,  
42 encapsulate, or otherwise mitigate lead-based paint and  
43 lead-contaminated dust and soil;

44 (2) possible routes of exposure during abatement of lead  
45 hazards;

46 (3) safe work practices, including determining whether  
47 occupants must be relocated during lead abatement;

48 (4) proper cleanup of lead-contaminated waste generated on  
49 the premises during and after lead abatement;

50 (5) safe and lawful handling, transport and disposal of  
51 lead-contaminated waste; and

52 (6) applicable State and federal requirements.

53 d. The commissioner is authorized to adopt any applicable  
54 federal requirements or guidelines established by federal law,

1 including any requirements or guidelines that apply to  
2 homeowners or other property owners, notwithstanding that the  
3 requirements or guidelines may be inconsistent with the  
4 provisions of sections 1 through 13 of P.L. , c. (C. )(pending  
5 before the Legislature as this bill).

6 e. The department may establish continuing education  
7 requirements for recertification.

8 f. A person shall not hold himself out as accredited by the  
9 department or otherwise represent that he is competent to offer  
10 training unless he has been accredited to provide training  
11 pursuant to this section.

12 5. a. The department may deny, suspend, impose conditions  
13 upon, revoke, or refuse to renew a certification for good cause,  
14 including but not limited to, the department's finding that:

15 (1) a person has obtained a certification based upon a  
16 misrepresentation or fraud;

17 (2) a person performed work without a certification as  
18 required in section 3 of P.L. , c. (C. )(pending before the  
19 Legislature as this bill);

20 (3) a person engaged in unsafe work practices, violated the  
21 rules promulgated by the Department of Community Affairs  
22 pursuant to sections 14 through 24 of P.L. , c. (C. )(pending  
23 before the Legislature as this bill), failed to obtain a permit  
24 pursuant to the Uniform Construction Code, N.J.A.C.5:23-1.1 et  
25 seq. or acted in a manner which posed a health risk to others;

26 (4) the quality of the person's performance is below standards  
27 set by the department and remedial measures such as  
28 consultation and training are not accepted or do not result in  
29 improvement to a level of acceptable proficiency;

30 (5) a person made false reports or reports not based on work  
31 done;

32 (6) a person knowingly authorized or permitted the use of the  
33 name of a certified person to an uncertified person;

34 (7) a person falsely represented his certification credentials; or

35 (8) a person has violated any provision of sections 1 through 13  
36 of P.L. , c. (C. )(pending before the Legislature as this bill).

37 b. An applicant or certificate holder whose application or  
38 certification is denied, suspended, conditionally issued, revoked  
39 or not renewed is entitled to a hearing pursuant to the provisions  
40 of the "Administrative Procedure Act," P.L.1968, c.410  
41 (C.52:14B-1 et seq.).

42 c. Denial of, suspension of, imposition of conditions upon,  
43 revocation of, or refusal to renew a certification shall not limit  
44 the department from pursuing against the applicant or certificate  
45 holder any other lawful remedy available to the department.

46 d. Any person whose certification has been revoked shall be  
47 ineligible to apply for certification for three years from the date  
48 of revocation.

49 6. If the department has reason to believe that a person who:  
50 is not certified pursuant to section 3 of P.L. , c. (C. )(pending  
51 before the Legislature as this bill) is engaging in lead evaluation  
52 or lead abatement work or is soliciting another person to engage,  
53 employ or retain him to perform lead evaluation or lead  
54 abatement work, for pecuniary gain; or is either certified or not

1 certified pursuant to section 3 of P.L. , c. (C. )(pending before  
2 the Legislature as this bill) and is causing an imminent threat to  
3 the public health, safety or welfare, the department may initiate  
4 a civil action in a court of competent jurisdiction for injunctive  
5 relief to enforce or prevent a violation of sections 1 through 13  
6 of P.L. , c. (C. )(pending before the Legislature as this bill).  
7 The court may proceed in the action in a summary manner.

8 7. A person who knowingly or purposely:

9 a. hinders or delays the department in the enforcement of  
10 sections 1 through 13 of P.L. , c. (C. )(pending before the  
11 Legislature as this bill);

12 b. fails to obtain the certification required by section 3 of  
13 P.L. , c. (C. )(pending before the Legislature as this bill) and  
14 engages in lead evaluation or lead abatement work for pecuniary  
15 gain;

16 c. solicits another person to engage, employ or retain him to  
17 perform a lead evaluation or lead abatement work, for pecuniary  
18 gain, when he is not certified pursuant to section 3 of P.L. , c.  
19 (C. )(pending before the Legislature as this bill);

20 d. holds himself out as accredited by the department or  
21 otherwise represents that he is competent to offer training when  
22 he is not accredited to provide training pursuant to section 4 of  
23 P.L. , c. (C. )(pending before the Legislature as this bill); or

24 e. otherwise violates any provision of sections 1 through 13 of  
25 P.L. , c. (C. )(pending before the Legislature as this bill);  
26 is guilty of a disorderly persons offense.

27 8. As an alternative, or in addition to the provisions of section  
28 7 of P.L. , c. (C. )(pending before the Legislature as this  
29 bill), the commissioner may, subject to notice and hearing,  
30 impose an administrative civil penalty for a violation set forth in  
31 this section not to exceed \$1,000 for the first offense and \$5,000  
32 for each subsequent offense. If the violation is of a continuing  
33 nature, each day it continues constitutes an additional and  
34 separate violation.

35 The penalty may be sued for and recovered by and in the name  
36 of the commissioner in a civil action in a court of competent  
37 jurisdiction by a summary proceeding under "the penalty  
38 enforcement law," N.J.S.2A:58-1 et seq. For the purposes of this  
39 act, the Superior Court and the municipal court shall have  
40 jurisdiction to enforce the provisions of "the penalty enforcement  
41 law."

42 The department may compromise and settle a claim for a  
43 penalty under this section in such amount as the department  
44 determines to be appropriate and equitable.

45 As used in this section, a violation shall include the:

46 a. obstructing, hindering, delaying or interfering by force or  
47 otherwise with the commissioner in the exercise of any power or  
48 the discharge of any function or duty pursuant to the provisions  
49 of sections 1 through 13 of P.L. , c. (C. )(pending before the  
50 Legislature as this bill);

51 b. preparing, uttering or rendering of any false statements,  
52 reports, documents, plans or specifications permitted or required  
53 pursuant to sections 1 through 13 of P.L. , c. (C. )(pending  
54 before the Legislature as this bill); or

1 c. refusal or failure to comply with a ruling, action, order or  
2 notice of the commissioner pursuant to sections 1 through 13 of  
3 P.L. , c. (C. )(pending before the Legislature as this bill).

4 9. The department shall assess fees from persons for  
5 certification and recertification and from training providers for  
6 any training course or continuing education course that it  
7 accredits. The fees shall be used to support the certification and  
8 accreditation programs.

9 10. The provisions of sections 1 through 13 of P.L. , c. (C. )  
10 (pending before the Legislature as this bill) shall not apply to a  
11 property owner who personally performs his own lead abatement  
12 in a dwelling unit that he occupies as his primary place of  
13 residence.

14 11. Sections 1 through 13 of P.L. , c. (C. )(pending before  
15 the Legislature as this bill) shall be enforced by the commissioner  
16 or his representative, who shall have the right of entry to all  
17 premises at which the department has reason to believe that lead  
18 abatement or evaluation activities have taken place or are taking  
19 place, or to any premises occupied or used by a business firm  
20 subject to sections 14 through 24 of P.L. , c. (C. )(pending  
21 before the Legislature as this bill); and the right to review any  
22 records for the purposes of inspection or investigation.

23 12. The department, in consultation with the Department of  
24 Community Affairs, shall adopt rules and regulations pursuant to  
25 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
26 et seq.) to carry out the provisions of sections 1 through 13 of  
27 P.L. , c. (C. )(pending before the Legislature as this bill).

28 13. There is appropriated to the Department of Health \$90,000  
29 from the General Fund to establish and implement the  
30 certification and training program established pursuant to  
31 sections 1 through 13 of P.L. , c. (C. )(pending before the  
32 Legislature as this bill).

33 14. As used in sections 14 through 24 of P.L. , c. (C. )  
34 (pending before the Legislature as this bill):

35 "Business firm" means and includes any corporation, company,  
36 association, society, firm, partnership or joint stock company, or  
37 any sole proprietor, engaged in, advertising, or holding itself out  
38 to be in the business of lead evaluation or lead abatement.

39 "Commissioner" means the Commissioner of Community  
40 Affairs.

41 "Department" means the Department of Community Affairs.

42 "Lead abatement" means a process designed either to mitigate  
43 or to eliminate permanently lead-based paint hazards on a  
44 premises and includes, but is not limited to: the removal of  
45 lead-based paint and lead-contaminated dust; the containment or  
46 encapsulation of lead-based paint; the replacement of  
47 lead-painted surfaces or fixtures; the removal or covering of  
48 lead-contaminated soil; and all preparation, cleanup, disposal and  
49 post-abatement clearance testing activities associated with such  
50 measures.

51 "Lead evaluation" means a surface-by-surface investigation to  
52 determine the presence of lead-based paint and the provision of a  
53 report explaining the results of the investigation.

54 "Lead-based paint" means paint or other surface coating

1 material that contains lead in excess of 1.0 milligrams per  
2 centimeter squared or in excess of 0.5% by weight, or such other  
3 level as may be established by federal law.

4 "Lead-based paint hazard" means any condition that causes  
5 exposure to lead from lead-contaminated dust or soil or  
6 lead-contaminated paint that is deteriorated or present in  
7 surfaces, that would result in adverse human health effects.

8 "Surface" means an area such as an interior or exterior wall,  
9 ceiling, floor, door, door frame, window sill, window frame,  
10 porch, stair, handrail and spindle, or other abradable surface, soil,  
11 furniture, a carpet, a radiator or a water pipe.

12 15. a. A business firm shall neither directly nor indirectly  
13 perform lead evaluation or abatement work without first  
14 obtaining certification from the department. Certification may  
15 be issued to perform lead evaluation or abatement work if the  
16 business firm employs or will employ sufficient numbers and  
17 types of personnel certified by the Department of Health  
18 pursuant to section 3 of P.L. , c. (C. )(pending before the  
19 Legislature as this bill) to perform lead abatement work and  
20 meets all other requirements that the commissioner may  
21 establish pursuant to section 23 of P.L. , c. (C. )(pending  
22 before the Legislature as this bill). The certification shall be in  
23 writing, shall contain an expiration date, and shall be signed by  
24 the commissioner.

25 b. A person or business firm shall not undertake a project  
26 involving lead abatement work without first obtaining a  
27 construction permit for that project pursuant to section 12 of  
28 P.L. 1975, c.217 (C.52:27D-130). No permit shall be issued for  
29 lead abatement work, except to:

30 (1) an owner undertaking work on his own premises using his  
31 own employees, if those employees are certified by the  
32 Department of Health pursuant to section 3 of P.L. , c. (C. )  
33 (pending before the Legislature as this bill);

34 (2) a homeowner proposing to perform lead abatement work  
35 himself on a dwelling unit that he owns and occupies as a primary  
36 place of residence; or

37 (3) a business firm certified pursuant to this section to  
38 perform such work.

39 The issuance of a construction permit to an individual  
40 homeowner proposing to perform lead abatement work on a  
41 dwelling unit that he owns and occupies as a primary place of  
42 residence shall be accompanied by written information developed  
43 by the department explaining the dangers of improper lead  
44 abatement, procedures for conducting safe lead abatement, and  
45 the availability of certified lead abatement contractors, or of any  
46 available training for homeowners.

47 c. Nothing in this section shall be construed to restrict or  
48 otherwise affect the right of any business firm to engage in  
49 painting, woodworking, structural renovation or other indoor or  
50 outdoor contracting services that may result in the disturbance of  
51 paint, but a business firm shall not hold itself out as certified by  
52 the department or otherwise represent that it has specialized  
53 competency to perform lead evaluation or abatement work unless  
54 it has been certified or otherwise specifically authorized pursuant



1 to this section.

2 16. The certification required pursuant to section 15 of P.L. ,  
3 c. (C. )(pending before the Legislature as this bill) shall be for  
4 a period not to exceed two years and shall not be transferable. A  
5 business firm may apply for recertification during the 90-day  
6 period before the certification expiration date, or the 90-day  
7 period after the certification expiration date; except that if a  
8 business firm applies after the certification expiration date, the  
9 firm shall not perform any services for which certification is  
10 required until the certification is renewed. If a certification has  
11 expired for more than 90 days, the business firm is required to  
12 obtain a new certification.

13 A copy of the certification shall be conspicuously displayed for  
14 public review in the business office of a business firm engaged in  
15 the business of abating lead-based paint hazards or conducting  
16 lead evaluations. Additionally, the certification number shall be  
17 displayed on all business vehicles and at all lead abatement or  
18 lead evaluation jobs in progress.

19 A certification or recertification shall not be issued until a  
20 certification fee has been paid in full to the department. The  
21 commissioner shall establish application and certification fees by  
22 regulation pursuant to the "Administrative Procedure Act,"  
23 P.L.1968, c.410 (C.52:14B-1 et seq.), in an amount sufficient to  
24 cover the costs to the department of administering and enforcing  
25 the provisions of sections 14 through 24 of P.L. , c. (C. )  
26 (pending before the Legislature as this bill).

27 17. The commissioner may adopt regulations, including  
28 amendments to the Uniform Construction Code, N.J.A.C.5:23-1.1  
29 et seq., prescribing standards, including appropriate training and  
30 certification requirements, governing safe practices for  
31 construction work that, although not a lead abatement, may  
32 create a lead hazard to an occupant of a building or structure. In  
33 addition, the commissioner may adopt any applicable  
34 requirements or guidelines established by federal law or  
35 regulation.

36 18. Sections 14 through 24 of P.L. , c. (C. )(pending before  
37 the Legislature as this bill) shall be enforced by the commissioner  
38 or his representative who shall have the right of entry to all  
39 premises at which the department has reason to believe that lead  
40 abatement or evaluation activities may have taken place or are  
41 taking place or to any premises used or occupied by a business  
42 firm subject to sections 14 through 24 of P.L. , c. (C. )  
43 (pending before the Legislature as this bill); and the right to  
44 review any records for the purposes of inspection or investigation.

45 19. a. The department may deny, suspend, impose conditions  
46 upon, revoke, or refuse to renew a certification for good cause,  
47 including:

48 (1) violating, or abetting another to commit a violation of  
49 sections 14 through 24 of P.L. , c. (C. )(pending before the  
50 Legislature as this bill);

51 (2) making a false statement on an application for  
52 certification, or in providing other information required by the  
53 department;

54 (3) misrepresentation of qualifications, or fraudulently

1 obtaining certification;

2 (4) engaging in practices during lead abatement work contrary  
3 to safe procedures established therefor; and

4 (5) employing persons to perform lead abatement or lead  
5 evaluation work who are not certified pursuant to section 3 of  
6 P.L. , c. (C. )(pending before the Legislature as this bill) to  
7 perform such work.

8 b. A business firm whose application or certification is denied,  
9 suspended, conditionally issued, revoked, or not renewed is  
10 entitled to a hearing pursuant to the provisions of the  
11 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
12 seq.).

13 c. Denial of, suspension of, the imposition of conditions upon,  
14 revocation of, or refusal to renew a certification shall not limit  
15 the department from pursuing against the applicant or certificate  
16 holder any other lawful remedy available to the department.

17 d. A business firm whose certification has been revoked shall  
18 be ineligible to apply for certification for three years from the  
19 date of revocation. This ineligibility shall extend to any other  
20 business firm having any proprietor, officer, director, general  
21 partner, or shareholder or limited partner with at least a 10%  
22 interest, in common with the business firm whose certification  
23 was revoked.

24 20. If the department has reason to believe that a condition  
25 exists that poses an imminent threat to the public health, safety  
26 or welfare, the department may initiate a civil action in a court  
27 of competent jurisdiction for injunctive relief to enforce or  
28 prevent a violation of sections 14 through 24 of P.L. , c. (C. )  
29 (pending before the Legislature as this bill). The court may  
30 proceed in the action in a summary manner.

31 21. Any person who knowingly or purposely:

32 a. hinders or delays the department in the enforcement of  
33 sections 14 through 24 of P.L. , c. (C. )(pending before the  
34 Legislature as this bill);

35 b. fails to obtain certification required by sections 14 through  
36 24 of P.L. , c. (C. )(pending before the Legislature as this bill);

37 c. refuses to make his certification accessible to the  
38 commissioner; or

39 d. otherwise violates any provision of sections 14 through 24 of  
40 P.L. , c. (C. )(pending before the Legislature as this bill);

41 is guilty of a disorderly persons offense. If the person is a  
42 corporation, all officers, directors, and shareholders owning at  
43 least a 10% interest in the corporation may be held liable for any  
44 violation by the corporation pursuant to this section.

45 22. As an alternative, or in addition to the provisions of  
46 section 21 of P.L. , c. (C. )(pending before the Legislature as  
47 this bill), the commissioner may, subject to notice and hearing,  
48 impose an administrative civil penalty for a violation set forth in  
49 this section not to exceed \$1,000 for the first offense and \$5,000  
50 for each subsequent offense. If the violation is of a continuing  
51 nature, each day it continues constitutes an additional and  
52 separate violation.

53 The penalty may be sued for and recovered by and in the name  
54 of the commissioner in a civil action in a court of competent

1 jurisdiction by a summary proceeding under "the penalty  
2 enforcement law," N.J.S.2A:58-1 et seq. For the purposes of this  
3 act, the Superior Court and the municipal court shall have  
4 jurisdiction to enforce the provisions of "the penalty enforcement  
5 law."

6 The department may compromise and settle a claim for a  
7 penalty under this section in such amount as the department  
8 determines to be appropriate and equitable.

9 a. As used in this section, a violation shall include the:

10 (1) obstructing, hindering, delaying or interfering by force or  
11 otherwise with the commissioner in the exercise of any power or  
12 the discharge of any function or duty pursuant to the provisions  
13 of sections 14 through 24 of P.L. , c. (C. )(pending before the  
14 Legislature as this bill);

15 (2) preparing, uttering or rendering of any false statements,  
16 reports, documents, plans or specifications permitted or required  
17 pursuant to sections 14 through 24 of P.L. , c. (C. )(pending  
18 before the Legislature as this bill); or

19 (3) refusal or failure to comply with a ruling, action, order or  
20 notice of the commissioner pursuant to sections 14 through 24 of  
21 P.L. , c. (C. )(pending before the Legislature as this bill).

22 b. A person shall be deemed to have violated or caused to be  
23 violated the provisions of sections 14 through 24 of P.L. , c.  
24 (C. )(pending before the Legislature as this bill) if an officer,  
25 agent or employee under his control has violated or caused to be  
26 violated any provision of sections 14 through 24 of P.L. , c.  
27 (C. )(pending before the Legislature as this bill).

28 c. If a person subject to sections 14 through 24 of P.L. , c.  
29 (C. )(pending before the Legislature as this bill) is a corporation,  
30 all officers, directors and shareholders having at least a 10%  
31 interest shall be jointly and individually liable for any violation by  
32 the corporation.

33 23. The department, in consultation with the Department of  
34 Health, shall adopt regulations pursuant to the "Administrative  
35 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to  
36 implement the provisions of sections 14 through 24 of P.L. , c.  
37 (C. )(pending before the Legislature as this bill), including  
38 regulations prescribing standards for the performance of lead  
39 abatement work. Additionally, the commissioner may adopt any  
40 applicable requirements or guidelines established by federal law  
41 or regulation, including any requirements or guidelines that apply  
42 to homeowners or other property owners, notwithstanding that  
43 the requirements or guidelines may be inconsistent with the  
44 provisions of sections 14 through 24 of P.L. , c. (C. )(pending  
45 before the Legislature as this bill).

46 24. The department shall delegate, by rule or by interagency  
47 agreement pursuant to R.S. 52:14-4, to the Department of Labor,  
48 its administrative and enforcement duties and functions pursuant  
49 to the provisions of sections 14 through 24 of P.L. , c. (C.  
50 )(pending before the Legislature as this bill) relating to the  
51 certification of business firms to perform lead evaluation or  
52 abatement work on public buildings, commercial buildings,  
53 bridges or any other buildings or structures that do not contain  
54 dwelling units. When the Department of Labor receives such a

1 delegation, the Department of Labor shall be reimbursed by the  
2 department in an amount that is sufficient to cover the costs  
3 incurred by the Department of Labor in administering and  
4 enforcing the provisions of sections 14 through 24 of P.L. , c.  
5 (C. ) (pending before the Legislature as this bill). The costs  
6 incurred by the Department of Labor in administering and  
7 enforcing this act shall be annually certified by the Director of  
8 the Office of Management and Budget in the Department of the  
9 Treasury. The Department of Community Affairs shall have  
10 ultimate responsibility for ensuring that lead evaluation and  
11 abatement work on all buildings and structures conforms to the  
12 requirements of sections 14 through 24 of P.L. , c. (C. )  
13 (pending before the Legislature as this bill).

14 25. This act shall take effect 18 months after the date of  
15 enactment; except that sections 12 and 23 of this act shall take  
16 effect immediately and sections 3, 4 and 15 shall take effect six  
17 months after the date of enactment.

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#### STATEMENT

21

22 Sections 1 through 13 of this Assembly Substitute direct the  
23 Commissioner of Health to establish a certification program to  
24 assure the competency of persons to perform lead evaluations or  
25 lead abatement work in a safe and reliable manner. The  
26 commissioner may establish different classes of certification  
27 reflecting the different types and complexities of lead evaluation  
28 and abatement activities.

29 The substitute provides that the commissioner shall certify a  
30 person who satisfactorily completes the required certification  
31 training course, passes an examination prescribed by the  
32 Department of Health (DOH) and meets any other requirements  
33 for certification that may be established by the commissioner or  
34 by federal law.

35 The substitute provides, however, that the certification  
36 requirements shall not be construed to restrict or otherwise  
37 affect the right of any person to engage in painting,  
38 woodworking, structural renovation or other indoor or outdoor  
39 contracting services that may result in the disturbance of paint;  
40 but a person shall not hold himself out as certified by the  
41 department or otherwise represent that he has specialized  
42 competency to perform lead evaluation or abatement work,  
43 unless he has been certified or otherwise specifically authorized  
44 pursuant to the substitute.

45 The substitute also directs the DOH to develop, offer, or  
46 accredit training courses which shall be required for certification.

47 Sections 14 through 24 of this substitute would require that a  
48 business firm obtain certification from the Department of  
49 Community Affairs (DCA) before performing lead evaluation or  
50 abatement work. Certification, for a period not to exceed two  
51 years, may be issued if the business firm employs sufficient  
52 numbers and types of personnel certified by the DOH to perform  
53 lead abatement work, and meets all other requirements that the  
54 Commissioner of Community Affairs adopts by regulation. The

1 substitute sets forth the procedures for obtaining certification  
2 and requires that a business firm conspicuously display its  
3 certification for public review.

4 The substitute also requires that a person or business firm  
5 obtain a construction permit prior to undertaking any project  
6 involving lead abatement. A construction permit for lead  
7 abatement work would be issued only to: the owner of the  
8 premises using his own DOH-certified employees, a homeowner  
9 doing the abatement work himself, or a business firm certified  
10 pursuant to the substitute. The substitute expressly excludes  
11 from its provisions any painting, woodworking or other  
12 contractual services that may result in the disturbance of paint.

13 The substitute provides that a person or business firm is guilty  
14 of a disorderly persons offense if it knowingly or intentionally:

15 a. hinders or delays the DOH or DCA in the enforcement of  
16 the substitute;

17 b. fails to obtain the required certification and engages in lead  
18 evaluation or lead abatement work;

19 c. in the case of individuals, solicits another person to engage,  
20 employ or retain him to perform a lead evaluation or lead  
21 abatement work when he is not certified;

22 d. in the case of training programs, holds itself out as  
23 accredited by the department or otherwise represents that it is  
24 competent to offer training when it is not accredited to provide  
25 training;

26 e. in the case of business firms, refuses to make its  
27 certification accessible to the Commissioner of Community  
28 Affairs; or

29 f. otherwise violates any provision of the substitute.

30 The respective departments are authorized to deny, suspend,  
31 impose conditions on, revoke or refuse to renew a certification  
32 for good cause, as outlined in the substitute.

33 The substitute also authorizes the Commissioner of Health and  
34 Community Affairs, respectively, to impose civil penalties of  
35 \$1,000 for the first offense and \$5,000 for each subsequent  
36 offense.

37 The substitute provides that the Commissioners of Health and  
38 Community Affairs shall assess fees for certification and  
39 accreditation of training programs, which fees shall be used to  
40 support the departments' respective certification and  
41 accreditation programs. The substitute also appropriates \$90,000  
42 to the DOH to begin implementation of the program.

43 The DCA is mandated to delegate its administrative and  
44 enforcement duties to the Department of Labor for buildings or  
45 structures that do not contain dwelling units.

46 Finally, the substitute takes effect 18 months after enactment,  
47 but the respective commissioners shall begin certification of  
48 individuals and business firms six months from the date of  
49 enactment.

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53 Requires certification of persons and business firms performing  
54 lead evaluation and lead abatement by DOH and DCA,  
55 respectively; appropriates \$90,000.

SENATE, No. 1135

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 10, 1992

By Senator BASSANO

1 AN ACT requiring the certification of lead inspectors and lead  
2 abatement workers, supplementing Title 26 of the Revised  
3 Statutes and making an appropriation therefor.

4

5 BE IT ENACTED by the Senate and General Assembly of the  
6 State of New Jersey:

7 1. The Legislature finds and declares that:

8 Lead poisoning is the most prevalent environmental health  
9 problem facing children in New Jersey today; the Department of  
10 Health estimates that over 177,000 children under the age of five  
11 in New Jersey are at high risk of lead poisoning, and the effects  
12 of lead poisoning in children include learning disabilities, mental  
13 retardation, behavioral disorders, hyper-irritability, lack of  
14 coordination, loss of appetite, vomiting, abdominal pain,  
15 convulsions, permanent brain damage and death; even low levels  
16 of lead exposure can cause subtle neurological changes, reduced  
17 concentration and attentiveness, reduced IQ scores, behavioral  
18 problems, and learning disabilities; these problems persist and can  
19 adversely affect the child's chances for success in school and  
20 life; lead poisoning is caused by environmental exposure to lead  
21 and the most significant sources are lead-based paint in older  
22 housing and lead-laden dust and soil; and the Department of  
23 Health estimates that approximately 65% of New Jersey's  
24 housing stock may contain lead-based paint, representing a  
25 potential public health hazard of alarming magnitude.

26 The Legislature further finds and declares that:

27 Lead inspectors and lead abatement workers and supervisors  
28 must receive appropriate training and certification to ensure that  
29 lead inspections and abatements are reliable, thorough, and safe;  
30 inspectors, without proper training, may fail to detect  
31 lead-contaminated surfaces; an abatement work plan that is  
32 based on an improper inspection will be inadequate to rid a  
33 dwelling of a lead hazard; abatement workers, without proper  
34 training, may cause the contamination of an entire home with  
35 dangerous levels of lead; and a certification program for lead  
36 abatement is essential to ensure the safety of the occupants and  
37 the safety of the workers and is also necessary to protect  
38 consumers from fraud, abuse, and shoddy work practices.

39 2. As used in this act:

40 "Accessible surface" means an interior or exterior surface  
41 painted with lead-based paint that is accessible for a child to  
42 mouth or chew.

43 "Commissioner" means the Commissioner of Health.

44 "Department" means the Department of Health.

45 "Friction surface" means an interior or exterior surface that is

1 subject to abrasion or friction, and includes a window sash and  
2 other window surfaces and door, floor and stair surfaces.

3 "Impact surface" means an interior or exterior surface that is  
4 subject to damage by repeated impacts, and includes a door jam  
5 and accessible door frame, stair tread, hand rail and spindles.

6 "Lead abatement" means the process of permanently  
7 eliminating lead-based paint hazards on a premises and includes:  
8 determining each location on the premises that contains a  
9 lead-based paint hazard; for each lead-based paint hazard,  
10 replacing, removing, encapsulating, or covering lead-based paint  
11 and removing or covering lead-contaminated soil; collecting  
12 lead-contaminated dust and waste; cleaning and disposing of the  
13 waste created from the remediation efforts; relocation of  
14 occupants during the abatement process; and post-abatement  
15 clearance testing activities.

16 "Lead abatement worker" means any person engaged in lead  
17 abatement activities and includes a person who designs, performs,  
18 oversees, or evaluates lead abatement projects.

19 "Lead-based paint" means paint or other surface coating  
20 material containing: more than 0.06% lead by weight, calculated  
21 as lead metal, in the total nonvolatile content of liquid paint or  
22 other coating material; more than one milligram of lead per  
23 square centimeter in the dried film of applied paint or other  
24 coating material as measured by x-ray fluorescence; or more  
25 than 0.5% lead by weight using laboratory analysis.

26 "Lead-based paint hazard" means any hazard to human health  
27 caused by exposure or likely exposure to lead from  
28 lead-contaminated dust or soil, peeling paint or an accessible,  
29 friction or impact surface.

30 "Lead-contaminated waste" means any discarded material  
31 resulting from lead abatement that due to the presence of lead  
32 fails the test for the Toxicity Characteristic set forth at 40  
33 C.F.R. 261.24, or for a more restrictive standard that the State  
34 Department of Environmental Protection and Energy or the  
35 federal Environmental Protection Agency may apply by  
36 regulation.

37 "Lead hazard" means a situation in which a person is at high  
38 risk of lead poisoning from a lead-based paint hazard or  
39 lead-contaminated dust or soil.

40 "Lead inspection" means the process of identifying the sources  
41 of lead exposure, identifying the visible hazards, and sampling  
42 and testing appropriate surfaces for lead contamination.

43 "Occupant" means any person who resides in, or regularly uses,  
44 a premises.

45 "Peeling paint" means interior or exterior paint that is peeling,  
46 flaking, chalking, chipped, cracked or blistered or paint located  
47 on an interior or exterior surface or fixture that is damaged or  
48 deteriorated.

49 "Premises" means a vacant lot, or a lot or portion of a lot that  
50 contains a dwelling or structure and includes any land, open  
51 areas, play area, playground, private yard, community garden,  
52 exterior grounds of a facility, and any buildings or structures  
53 thereon.

54 "Surface" means areas such as interior and exterior walls,

1 ceilings, floors, doors, door frames, window sills, window frames,  
2 porches, stairs, handrails and spindles, and other abradable  
3 surfaces, soil, furniture, carpets, radiators and water pipes.

4 3. a. A person shall not perform a lead inspection or lead  
5 abatement work unless the person is certified by the Department  
6 of Health as competent to perform in a safe and reliable manner  
7 as a lead inspector or lead abatement worker, as appropriate.

8 b. The commissioner shall certify a person who satisfactorily  
9 completes the certification training course required pursuant to  
10 this act.

11 c. The certification shall be in writing with a photo  
12 identification, signed and dated by the commissioner. It shall be  
13 carried upon the worker's person while performing an inspection  
14 or abatement services.

15 d. Notwithstanding the provisions of subsection b. of this  
16 section, a lead inspector or abatement worker who is certified to  
17 conduct lead inspections or perform lead abatement work in a  
18 jurisdiction outside of New Jersey is entitled to receive a New  
19 Jersey certification from the department if the person  
20 demonstrates successful completion of a training and  
21 certification program in that jurisdiction that is at least as  
22 rigorous and comprehensive as the State training and  
23 certification program.

24 e. Lead inspection and lead abatement certifications shall be  
25 for a two-year period and shall be non-transferable. A person  
26 may apply for recertification during the 90-day period before the  
27 certification expiration date or the 90-day period after the  
28 certification expiration date, except that if a person applies after  
29 the certification expiration date, he shall not perform any  
30 services for which certification is required until his certification  
31 is renewed. If a certification has expired for more than 90 days,  
32 the person is required to obtain a new certification.

33 4. a. The department shall develop, offer, or approve training  
34 courses which shall be required for the certification of lead  
35 inspectors and lead abatement workers.

36 b. The training course for lead inspectors shall include, but not  
37 be limited to instruction in:

38 (1) safe and effective techniques and methods to test for lead  
39 hazards and assess lead hazards on premises before, during and  
40 after abatement of lead hazards;

41 (2) risk assessment of the dangers posed by lead hazards on a  
42 premises and the effectiveness of various abatement techniques  
43 and methods and hazard reduction measures to reduce the risk  
44 posed by the presence of lead;

45 (3) safe work practices for the protection of workers and  
46 occupants;

47 (4) practices to prevent contamination of the premises,  
48 ambient discharges, and ground contamination; and

49 (5) applicable State and federal requirements.

50 c. The training course for lead abatement workers shall  
51 include, but not be limited to instruction concerning:

52 (1) safe and effective abatement techniques to remove, cover,  
53 or encapsulate lead-based paint and lead-contaminated dust and  
54 soil;



- 1 (2) possible routes of exposure to workers and occupants during  
2 abatement of lead hazards;
  - 3 (3) safe work practices for the protection of workers and  
4 occupants, including the relocation of occupants during lead  
5 abatement;
  - 6 (4) proper cleanup of lead-contaminated dust and waste during  
7 and after lead abatement;
  - 8 (5) safe handling, transport and disposal of lead-contaminated  
9 waste; and
  - 10 (6) applicable State and federal requirements.
- 11 d. At a minimum, the State training and certification program  
12 shall conform with all applicable federal training and  
13 certification requirements.
- 14 e. The department shall establish continuing education  
15 requirements for recertification.
- 16 5. a. The department may deny, suspend, revoke, or refuse to  
17 renew a certification for good cause, including but not limited to,  
18 the department's finding that:
- 19 (1) a person has obtained a certification based upon a  
20 misrepresentation or fraud;
  - 21 (2) a person performed work without a certification as  
22 required in this act;
  - 23 (3) a person engaged in unsafe work practices or acted in a  
24 manner which posed a health risk to others;
  - 25 (4) the quality of the person's performance is below standards  
26 set by the department and remedial measures such as  
27 consultation and training are not accepted or do not result in  
28 improvement to a level of acceptable proficiency;
  - 29 (5) a person reported fictitious results or reports not based on  
30 work done;
  - 31 (6) a person knowingly lent the use of the name of a certified  
32 lead inspector or abatement worker to an uncertified lead  
33 inspector or abatement worker;
  - 34 (7) a person falsely represented his certification credentials; or  
35 (8) a person has violated any provision of this act.
- 36 b. Before denying, suspending, revoking, or refusing to renew a  
37 certification, the department shall afford the applicant or  
38 certificate holder an opportunity for a hearing pursuant to the  
39 provisions of the "Administrative Procedure Act," P.L.1968,  
40 c.410 (C. 52:14B-1 et seq.)
- 41 c. Denial, suspension, revocation, or refusal to renew a  
42 certification shall not limit the department from pursuing against  
43 the applicant or certificate holder any other lawful remedy  
44 available to the department.
- 45 d. Any person whose certification has been revoked shall be  
46 ineligible to apply for certification for three years from the  
47 effective date of revocation.
- 48 6. If the department has reason to believe that a lead  
49 inspector or abatement worker is causing an imminent threat to  
50 the public health, safety or welfare, it may order the person to  
51 temporarily cease and desist operations pending the outcome of a  
52 hearing pursuant to the "Administrative Procedure Act,"  
53 P.L.1968, c.410 (C.52:14B-1 et seq.).
- 54 7. A person who hinders or delays the department in the

1 enforcement of this act, fails to obtain the certification required  
2 by this act, or otherwise violates any provision of this act, is  
3 guilty of a disorderly persons offense.

4 8. As an alternative, or in addition to, the provisions of section  
5 7 of this act, the department may:

6 a. Subject to notice and hearing, impose an administrative civil  
7 penalty not to exceed \$1,000 for each offense; and

8 b. Institute an action in Superior Court for injunctive or other  
9 relief for any violation of this act. The court may issue any order  
10 it deems necessary to enforce this act, including an order  
11 requiring a lead inspector or abatement worker to correct  
12 hazardous conditions he caused or to cease operations in violation  
13 of this act.

14 9. The department shall assess fees for certification and  
15 recertification and for any training course or continuing  
16 education course that it offers. The fees shall be used to support  
17 the certification and training and continuing education programs.

18 10. The department shall adopt rules and regulations pursuant  
19 to the "Administrative Procedure Act," P.L.1968, c.410  
20 (C.52:14B-1 et seq.) to carry out the provisions of this act and to  
21 protect workers and occupants from the dangers of abatement  
22 work. These regulations shall include, but not be limited to:

23 a. safe and effective abatement techniques and work practices  
24 that a certified lead abatement worker shall employ to remove,  
25 cover, or encapsulate lead-based paint and lead contaminated  
26 dust and soil;

27 b. proper cleanup of debris during and after lead abatement; and

28 c. safe handling, transport and disposal of lead-contaminated  
29 waste.

30 11. There is appropriated to the Department of Health \$90,000  
31 from the General Fund to establish and implement the  
32 certification and training program established pursuant to this act.

33 12. This act shall take effect on July 1, 1993, except that the  
34 department may take such anticipatory administrative actions in  
35 advance, including the adoption of regulations, as shall be  
36 necessary for the implementation of this act.

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#### STATEMENT

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41 This bill provides for the certification of lead inspectors and  
42 lead abatement workers by the Department of Health.

43 Lead poisoning is the most prevalent environmental health  
44 problem facing children in New Jersey today. The Department of  
45 Health estimates that over 177,000 children under the age of five  
46 in New Jersey are at high risk of lead poisoning. Lead poisoning  
47 is caused by environmental exposure to lead and the most  
48 significant sources are lead-based paint in older housing and  
49 lead-laden dust and soil. In order to ensure that lead inspections  
50 and abatements are reliable, thorough, and safe for both the  
51 occupants and the abatement workers, it is necessary to establish  
52 a State certification program for persons who perform this work.

53 The bill provides that a person shall not perform a lead  
54 inspection or lead abatement work unless the person is certified

1 by the department as competent to perform in a safe and reliable  
2 manner as a lead inspector or lead abatement worker. A person  
3 is required to satisfactorily complete a certification training  
4 course developed, offered or approved by the department in order  
5 to qualify for certification.

6 The bill appropriates \$90,000 to the Department of Health as  
7 start-up funds to implement the certification and training  
8 program.

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13 Requires certification of lead inspectors and lead abatement  
14 workers by DOH; appropriates \$90,000.

ASSEMBLY, No. 1732  
STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 14, 1992

By Assemblymen HARTMANN and Catania

1 AN ACT concerning the removal of lead-based paint hazards,  
2 creating the "Lead Removal Worker Certification Fund," and  
3 supplementing P.L.1975, c.217 (C.52:27D-119 et seq.).  
4

5 BE IT ENACTED *by the Senate and General Assembly of the*  
6 *State of New Jersey:*

7 1. As used in this act:

8 "Commissioner" means the Commissioner of Community  
9 Affairs;

10 "Department" means the Department of Community Affairs;

11 "Lead abatement" means a comprehensive process of removing  
12 lead-based paint from a building or structure, and includes  
13 determining each location in the building or structure that  
14 contains lead-based paint, removing or encapsulating lead-based  
15 paint, containing dust and debris therefrom, and cleaning up and  
16 disposing of the resultant waste; and

17 "Lead inspection" means a process of sampling and testing for  
18 lead contamination or other hazards, including lead-based paint,  
19 and lead contaminated surface and airborne dust, and includes the  
20 sampling and testing of lead-laden soil.

21 2. The department shall, commencing on or before July 1,  
22 1993, develop, offer or approve training courses which shall be  
23 required for the certification of lead abatement workers and lead  
24 inspectors. At a minimum, the State training and certification  
25 program shall conform with all federal training and certification  
26 requirements.

27 (1) The training course for lead abatement workers shall  
28 include, but shall not be limited to, instruction in: general  
29 renovation and lead abatement techniques; the known health  
30 effects of lead toxicity and possible routes of exposure of  
31 workers and occupants during abatement of lead-based paint  
32 hazards; various techniques and methods of abating lead-based  
33 paint hazards; safe methods of lead abatement and safe work  
34 practices for the protection of workers and occupants, including  
35 the enclosure of work areas; proper cleanup of debris and lead  
36 bearing dust during and after lead abatement; the safe handling,  
37 transport and disposal of hazardous lead waste; instruction on the  
38 proper use of equipment; instruction on applicable State and  
39 federal requirements; and such other health and safety concerns  
40 as the department may deem appropriate or necessary.

41 (2) The training course for lead inspectors shall include, but  
42 shall not be limited to, instruction in different techniques and  
43 methods of assessing total lead hazards in buildings or other  
44 structures before, during and after abatement of lead hazards,  
45 including knowledge of different lead testing techniques and  
46 radiation safety instruction on the proper use of equipment,  
47 instruction on applicable State and federal requirements, general

1 safe work practices and any other requirements the department  
2 may deem necessary and appropriate.

3 The training courses, to the greatest extent possible, shall be  
4 modeled on the training programs of the Hudson County Urban  
5 League and the University of Medicine and Dentistry of New  
6 Jersey. The training course curriculum shall be reviewed  
7 periodically by the department, and shall be updated as necessary  
8 to insure that the training course reflects the most current  
9 information available.

10 3. Beginning January 1, 1994, every person who performs lead  
11 abatement work shall first procure certification from the  
12 department or shall perform the work under the direct on-site  
13 supervision of a certified person. No certification shall be issued  
14 unless the applicant has completed a course of training offered or  
15 approved by the department, and, if required by the department,  
16 has completed an examination, on lead abatement work offered  
17 or certified by the commissioner pursuant to section 2 of this  
18 act. Application for certification shall be made to the  
19 department in a manner and on such forms as may be prescribed  
20 by the department. The certification shall be in writing, shall be  
21 dated when issued and shall be signed by the commissioner. The  
22 certification shall be carried upon the worker's person when  
23 performing lead inspections and shall be readily available for  
24 inspection by representatives of the commissioner.

25 4. Beginning January 1, 1994, every person who performs lead  
26 inspections shall first procure certification from the department.  
27 No certification shall be issued unless the applicant has  
28 completed a course of training and, if required by the  
29 department, completed an examination, on lead inspections  
30 certified or offered by the department pursuant to section 2 of  
31 this act. Application for certification shall be made to the  
32 department in a manner and on such forms as may be prescribed  
33 by the department. The certification shall be in writing, shall be  
34 dated when issued and shall be signed by the commissioner. The  
35 certification shall be carried upon the worker's person when  
36 performing lead inspections and shall be readily available for  
37 inspection by representatives of the commissioner.

38 5. No business firm shall either directly or indirectly perform  
39 lead abatement work without first obtaining a performance  
40 permit for a job site from the department. A performance  
41 permit may be issued to perform lead abatement work if it is  
42 demonstrated that there are sufficient certified personnel to  
43 perform lead abatement work. The performance permit shall be  
44 in writing, shall contain an expiration date, and shall be signed by  
45 the commissioner. The performance permit shall be readily  
46 available at the work site for inspection by representatives of the  
47 commissioner.

48 6. Notwithstanding the provisions of sections 3 and 4 of this  
49 act, an inspector or abatement worker who is certified to conduct  
50 lead inspections or perform lead abatement work in a jurisdiction  
51 outside of New Jersey may apply to the department for New  
52 Jersey certification and is entitled to receive such certification  
53 if he or she demonstrates successful completion of a training and  
54 certification program that is at least as rigorous and

1 comprehensive as the New Jersey training and certification  
2 program.

3 7. Certification shall be for a two-year period. Application  
4 for recertification shall be made to the department at least  
5 60 days prior to the expiration date of the certification.  
6 Certification shall not be transferable. No certification or  
7 recertification shall be issued until a certification fee has been  
8 paid in full to the department. Application and certification fees  
9 shall be established by the commissioner, by rule or regulation  
10 adopted pursuant to the "Administrative Procedure Act,"  
11 P.L.1968, c.410 (C.52:14B-1 et seq.), in an amount sufficient to  
12 cover the costs to the department of administering and enforcing  
13 the provisions of this act. The department may establish  
14 continuing education requirements for recertification.

15 A person shall have 90 days from the expiration date of a  
16 certification to renew an expired certification, after which date  
17 the person shall be required to apply for a new certification. The  
18 90-day grace period shall not entitle a person to perform any  
19 services for which certification is required.

20 A copy of the certification shall be conspicuously displayed for  
21 public review in the business office of a business firm engaged in  
22 the business of abating lead-based paint hazards or conducting  
23 lead inspections. When engaged in on-site abatement or  
24 inspection activities, a person certified pursuant to this act shall  
25 carry on his person for inspection by an authorized public official,  
26 a copy of his certification.

27 8. An on-site supervisor shall be responsible for the training of  
28 any person performing lead abatement work under his supervision,  
29 who is not certified pursuant to this act, in safe work practices  
30 while performing lead abatement work, and for assuring that such  
31 practices are followed during the course of the work. The nature,  
32 manner or scope of such training may be prescribed by the rules  
33 and regulations of the department.

34 9. This act, and the rules and regulations adopted pursuant  
35 thereto, shall be enforced by the commissioner or his  
36 representative, who shall have the right of entry to all pertinent  
37 premises and the right to review any records for the purposes of  
38 inspection and information.

39 10. Any person who hinders or delays the commissioner or his  
40 representative in the performance of his duty to enforce this act,  
41 or fails to obtain certification required by the provisions of this  
42 act, or refuses to make his certification accessible to the  
43 commissioner or his representative, or otherwise violates any  
44 provision of this act or any rule or regulation adopted under this  
45 act, is guilty of a disorderly persons offense.

46 11. a. The department may deny, suspend, revoke, or refuse to  
47 renew a certification for good cause, including:

48 (1) violating, or abetting another to commit a violation of this  
49 act, including any rule or regulation adopted pursuant to this act,  
50 or order issued hereunder;

51 (2) making a false statement on an application for  
52 certification, or in providing other information required by the  
53 department;

54 (3) misrepresentation of qualifications, or fraudulently

1 obtaining certification; and

2 (4) engaging in practices during lead abatement work contrary  
3 to safe procedures established therefor, which pose a significant  
4 health risk to employees or to occupants.

5 b. Before suspending, revoking, or refusing to renew a  
6 certification, the department shall afford the applicant or  
7 certificate holder an opportunity to be heard in accordance with  
8 the provisions of the "Administrative Procedure Act," P.L.1968,  
9 c.410 (C.52:14B-1 et seq.).

10 c. Suspension, revocation, or refusal to renew a certification  
11 shall not bar the department from pursuing against the applicant  
12 or certificate holder any other lawful remedy available to the  
13 department.

14 d. Any employer or any person whose certification is revoked  
15 shall be ineligible to apply for certification for three years from  
16 the date of revocation.

17 e. If the department has reason to believe that a condition  
18 exists that poses an imminent threat to the public health, safety  
19 or welfare, it may order the certificate holder to cease  
20 operations pending the outcome of the hearing.

21 12. a. If a person violates any of the provisions of this act,  
22 including any rule or regulation adopted thereunder, the  
23 department may:

24 (1) institute a civil action in a court of competent jurisdiction  
25 to enjoin the violation, and the court may proceed in the action in  
26 a summary manner;

27 (2) impose a civil administrative penalty of not more than  
28 \$1,000 for the first offense, not more than \$5,000 for the second  
29 offense, and not more than \$10,000 for the third and each  
30 subsequent offense. If the violation is of a continuing nature,  
31 each day of violation subsequent to receipt of an order to cease  
32 the violation constitutes an additional, separate and distinct  
33 offense; or

34 (3) file a civil action in a court of competent jurisdiction to  
35 collect a civil penalty of not more than \$1,000 for the first  
36 offense, not more than \$5,000 for the second offense, and not  
37 more than \$10,000 for the third and each subsequent offense. If  
38 the violation is of a continuing nature, each day of violation  
39 subsequent to receipt of an order to cease the violation  
40 constitutes an additional, separate and distinct offense;

41 b. No civil administrative penalty shall be levied except  
42 subsequent to the notification of the violator by certified mail or  
43 personal service. The notice shall include: a reference to the  
44 section of the statute, regulation, order or certification condition  
45 violated; a concise statement of the facts alleged to constitute  
46 the violation; a statement of the amount of the civil penalty to  
47 be imposed; and a statement of the violator's right to a hearing.  
48 The violator shall have 20 days from receipt of notice within  
49 which to deliver to the department a written request for a  
50 hearing. Subsequent to the hearing and upon a finding that a  
51 violation has occurred, the department may issue a final order  
52 assessing the amount of the penalty. If no hearing is requested,  
53 the notice shall become a final order upon the expiration of the  
54 20-day period. Payment of the penalty is due when a final order

1 is issued or when the notice becomes a final order. Agreement  
2 to, or payment of a civil administrative penalty shall not be  
3 deemed to affect the availability of any other enforcement  
4 provision in connection with the violation for which the penalty is  
5 levied.

6 c. Any person violating a court order issued pursuant to of  
7 subsection a. of this section, or who fails to pay a civil  
8 administrative penalty when due and owing as provided in  
9 subsection b. of this section, is subject to a civil penalty not to  
10 exceed \$10,000 per day of the violation. Each day's continuance  
11 of a violation constitutes a separate and distinct violation. Any  
12 penalty imposed under this subsection may be recovered with  
13 costs in a summary proceeding pursuant to "the penalty  
14 enforcement law," N.J.S.2A:58-1 et seq.

15 d. The department may compromise and settle any claim for a  
16 penalty under this section in such amount as the department may  
17 determine to be appropriate and equitable under all of the  
18 circumstances.

19 e. Any person who fails to contest or to pay, in whole or in  
20 part, a civil administrative penalty imposed pursuant to this  
21 section, including payments required to be made pursuant to a  
22 payment schedule therefor, within 30 days of the date that the  
23 penalty is owing, shall be subject to an interest charge on the  
24 amount of the penalty owing from the date that the amount was  
25 owed. The rate of interest shall be that established by the New  
26 Jersey Supreme Court for interest rates on judgments, as set  
27 forth the in Rules Governing the Courts of the State of New  
28 Jersey.

29 13. a. There is established, in the Department of Community  
30 Affairs, a nonlapsing revolving fund entitled the "Lead Removal  
31 Worker Certification Fund." The fund shall be maintained by the  
32 commissioner, and shall be credited with all penalties, monies and  
33 fees assessed and collected pursuant to this act and any earnings  
34 on the investment thereof. The commissioner shall report by  
35 December 31 annually, to the State Treasurer and to the Joint  
36 Budget Oversight Committee, or its successor on income,  
37 expenditures and the balance of the fund.

38 b. Moneys in the fund shall be used by the department for the  
39 purposes of administering and enforcing the provisions of this act.

40 14. Not later than July 1, 1993, the department shall adopt, in  
41 accordance with the "Administrative Procedure Act," P.L.1968,  
42 c.410 (C.52:14B-1 et seq.), rules and regulations necessary to  
43 implement the provisions of this act, and shall have procured  
44 adequate personnel and materials for the appropriate courses,  
45 tests, or both.

46 15. This act shall take effect immediately.

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48  
49 STATEMENT

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51 This bill requires the Department of Community Affairs (DCA)  
52 to develop and enforce a program for the mandatory training and  
53 certification of lead abatement workers and lead inspectors by  
54 July, 1993.



1 The training and certification program for lead abatement  
2 workers would include, among other things, instruction in  
3 renovation and lead abatement techniques, safe work practices  
4 for the protection of workers and occupants, and proper cleanup  
5 of debris and lead bearing dust during and after lead abatement.  
6 The training and certification program for lead inspectors would  
7 include, among other things, instruction in the techniques and  
8 methods of assessing lead hazards in buildings, and different lead  
9 testing techniques.

10 The bill would require that any person performing lead  
11 abatement work or lead inspection be certified. Further, business  
12 firms would be required to obtain a performance permit for any  
13 job site where lead abatement work is to be performed. The bill  
14 would allow lead abatement workers or inspectors who are  
15 certified in another jurisdiction to be entitled to a New Jersey  
16 certification if the certification program in the other jurisdiction  
17 is comparable to the State program established by this bill.  
18 Certifications must be renewed every two years.

19 A person violating the act would be subject to suspension,  
20 revocation or refusal to renew a certificate, a disorderly persons  
21 offense, as well as penalties of \$1,000 for the first offense,  
22 \$5,000 for a second offense, and \$10,000 for the third and  
23 subsequent offense. The bill establishes the "Lead Abatement  
24 Worker Certification Fund" into which shall be deposited all fees,  
25 penalties and other monies collected to be used to administer and  
26 enforce the bill's provisions.

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31 Establishes certification program for lead abatement workers and  
32 inspectors; establishes "Lead Removal Worker Certification  
33 Fund."

ASSEMBLY, No. 1350

STATE OF NEW JERSEY

INTRODUCED MAY 4, 1992

By Assemblyman CHARLES

1 AN ACT concerning the abatement of lead-based paint hazards,  
2 creating the "Lead Abatement Worker Certification Fund," and  
3 supplementing P.L.1975, c.217 (C.52:27D-119 et seq.).  
4

5 BE IT ENACTED by the Senate and General Assembly of the  
6 State of New Jersey:

7 1. As used in this act:

8 "Commissioner" means the Commissioner of Community  
9 Affairs;

10 "Department" means the Department of Community Affairs;

11 "Lead abatement" means a comprehensive process of removing  
12 lead-based paint from a building or structure, and includes  
13 determining each location in the building or structure that  
14 contains lead-based paint, removing or encapsulating lead-based  
15 paint, containing dust and debris therefrom, and cleaning up and  
16 disposing of the resultant waste; and

17 "Lead inspection" means a process of sampling and testing for  
18 lead contamination or other hazards, including lead-based paint,  
19 and lead contaminated surface and airborne dust , and includes  
20 the sampling and testing of lead-laden soil.

21 2. The department shall , commencing on or before March 1,  
22 1992, develop, offer or approve training courses which shall be  
23 required for the certification of lead abatement workers and lead  
24 inspectors. At a minimum, the State training and certification  
25 program shall conform with all federal training and certification  
26 requirements.

27 (1) The training course for lead abatement workers shall  
28 include, but shall not be limited to, instruction in: general  
29 renovation and lead abatement techniques; the known health  
30 effects of lead toxicity and possible routes of exposure of  
31 workers and occupants during abatement of lead-based paint  
32 hazards; various techniques and methods of abating lead-based  
33 paint hazards; safe methods of lead abatement and safe work  
34 practices for the protection of workers and occupants, including  
35 the enclosure of work areas; proper cleanup of debris and lead  
36 bearing dust during and after lead abatement; the safe handling,  
37 transport and disposal of hazardous lead waste; instruction on the  
38 proper use of equipment; instruction on applicable State and  
39 federal requirements; and such other health and safety concerns  
40 as the department may deem appropriate or necessary.

41 (2) The training course for lead inspectors shall include, but  
42 shall not be limited to, instruction in different techniques and  
43 methods of assessing total lead hazards in buildings or other  
44 structures before, during and after abatement of lead hazards,  
45 including knowledge of different lead testing techniques and

1 radiation safety, instruction on the proper use of equipment,  
2 instruction on applicable State and federal requirements, general  
3 safe work practices and any other requirements the department  
4 may deem necessary and appropriate.

5 The training courses, to the greatest extent possible, shall be  
6 modeled on the training programs of the Hudson County Urban  
7 League and the University of Medicine and Dentistry of New  
8 Jersey. The training course curriculum shall be reviewed  
9 periodically by the department, and shall be updated as necessary  
10 to insure that the training course reflects the most current  
11 information available.

12 3. Beginning not later than 360 days following the effective  
13 date of this act, every person who performs lead abatement work  
14 shall first procure certification from the department or shall  
15 perform the work under the direct on-site supervision of a  
16 certified person. No certification shall be issued unless the  
17 applicant has completed a course of training offered or approved  
18 by the department, and, if required by the department, has  
19 completed an examination, on lead abatement work offered or  
20 certified by the commissioner pursuant to section 2 of this act.  
21 Application for certification shall be made to the department in a  
22 manner and on such forms as may be prescribed by the  
23 department. The certification shall be in writing, shall be dated  
24 when issued and shall be signed by the commissioner. The  
25 certification shall be carried upon the worker's person and shall  
26 be readily available for inspection by representatives of the  
27 commissioner.

28 4. Beginning not later than 360 days following the effective  
29 date of this act, every person who performs lead inspections shall  
30 first procure certification from the department. No certification  
31 shall be issued unless the applicant has completed a course of  
32 training and, if required by the department, completed an  
33 examination, on lead inspections certified or offered by the  
34 department pursuant to section 2 of this act. Application for  
35 certification shall be made to the department in a manner and on  
36 such forms as may be prescribed by the department. The  
37 certification shall be in writing, shall be dated when issued and  
38 shall be signed by the commissioner. The certification shall be  
39 carried upon the worker's person and shall be readily available  
40 for inspection by representatives of the commissioner.

41 5. No business firm shall either directly or indirectly perform  
42 lead abatement work without first obtaining a performance  
43 permit for a job site from the commissioner. A performance  
44 permit may be issued to perform lead abatement work if it is  
45 demonstrated that there are sufficient certified personnel to  
46 perform lead abatement work. The performance permit shall be  
47 in writing, shall contain an expiration date, and shall be signed by  
48 the commissioner. The performance permit shall be readily  
49 available at the work site for inspection by representatives of the  
50 commissioner.

51 6. Notwithstanding the provisions of sections 3 and 4 of this  
52 act, an inspector or abatement worker who is certified to conduct  
53 lead inspections or perform lead abatement work in a jurisdiction  
54 outside of New Jersey may apply to the department for New

1 Jersey certification and is entitled to receive such certification  
2 if he or she demonstrates successful completion of a training and  
3 certification program that is at least as rigorous and  
4 comprehensive as the New Jersey training and certification  
5 program.

6 7. Complete certification shall be for a two-year period.  
7 Application for recertification shall be made to the department  
8 at least 60 days prior to the expiration date of the certification.  
9 Certification shall not be transferable. No certification or  
10 recertification shall be issued until a certification fee has been  
11 paid in full to the department. Application and certification fees  
12 shall be established by the commissioner, by rule or regulation  
13 adopted pursuant to the "Administrative Procedure Act,"  
14 P.L.1968, c.410 (C.52:14B-1 et seq.), in an amount sufficient to  
15 cover the costs to the department of administering and enforcing  
16 the provisions of this act. The department may establish  
17 continuing education requirements for recertification.

18 A person shall have 90 days from the expiration date of a  
19 certification to renew an expired certification, after which date  
20 the person shall be required to apply for a new certification. The  
21 90-day grace period shall not entitle a person to perform any  
22 services for which certification is required.

23 A copy of the certification shall be conspicuously displayed for  
24 public review in the business office of a business firm engaged in  
25 the business of abating lead-based paint hazards or conducting  
26 lead inspections. When engaged in on-site abatement or  
27 inspection activities, a person certified pursuant to this act shall  
28 carry on his person for inspection by an authorized public official,  
29 a copy of his certification.

30 8. An on-site supervisor shall be responsible for the training of  
31 any person performing lead abatement work under his supervision,  
32 who are not certified pursuant to this act, in safe work practices  
33 while performing lead abatement work, and for assuring that such  
34 practices are followed during the course of the work. The nature,  
35 manner or scope of such training may be prescribed by the rules  
36 and regulations of the department.

37 9. This act, and the rules and regulations adopted pursuant  
38 thereto, shall be enforced by the commissioner or his  
39 representative, who shall have the right of entry to all pertinent  
40 premises and the right to review any records for the purposes of  
41 inspection and information.

42 10. Any person who hinders or delays the commissioner or his  
43 representative in the performance of his duty to enforce this act,  
44 or fails to obtain certification required by the provisions of this  
45 act, or refuses to make his certification accessible to the  
46 commissioner or his representative, or otherwise violates any  
47 provision of this act or any rule or regulation adopted under this  
48 act, is guilty of a disorderly persons offense.

49 11. a. The department may deny, suspend, revoke, or refuse to  
50 renew a certification for good cause, including:

51 (1) violating, or abetting another to commit a violation of this  
52 act, including any rule or regulation adopted pursuant to this act,  
53 or order issued hereunder;

54 (2) making a false statement on an application for

1 certification, or in providing other information required by the  
2 department;

3 (3) misrepresentation of qualifications, or fraudulently  
4 obtaining certification; and

5 (4) engaging in practices during lead abatement work contrary  
6 to safe procedures established therefor, which pose a significant  
7 health risk to employees or to occupants.

8 b. Before suspending, revoking, or refusing to renew a  
9 certification, the department shall afford the applicant or  
10 certificate holder an opportunity to be heard in accordance with  
11 the provisions of the "Administrative Procedure Act," P.L.1968,  
12 c.410 (C.52:14B-1 et seq.).

13 c. Suspension, revocation, or refusal to renew a certification  
14 shall not bar the department from pursuing against the applicant  
15 or certificate holder any other lawful remedy available to the  
16 department.

17 d. Any employer or any person whose certification is revoked  
18 shall be ineligible to apply for certification for three years from  
19 the date of revocation.

20 e. If the department has reason to believe that a condition  
21 exists that poses an imminent threat to the public health, safety  
22 or welfare, it may order the certificate holder to cease  
23 operations pending the outcome of the hearing.

24 12. a. If a person violates any of the provisions of this act,  
25 including any rule or regulation adopted thereunder, the  
26 department may:

27 (1) institute a civil action in a court of competent jurisdiction  
28 to enjoin the violation, and the court may proceed in the action in  
29 a summary manner;

30 (2) impose a civil administrative penalty of not more than  
31 \$1,000 for the first offense, not more than \$5,000 for the second  
32 offense, and not more than \$10,000 for the third and each  
33 subsequent offense. If the violation is of a continuing nature,  
34 each day of violation subsequent to receipt of an order to cease  
35 the violation constitutes an additional, separate and distinct  
36 offense; or

37 (3) file a civil action in a court of competent jurisdiction to  
38 collect a civil penalty of not more than \$1,000 for the first  
39 offense, not more than \$5,000 for the second offense, and not  
40 more than \$10,000 for the third and each subsequent offense. If  
41 the violation is of a continuing nature, each day of violation  
42 subsequent to receipt of an order to cease the violation  
43 constitutes an additional, separate and distinct offense;

44 b. No civil administrative penalty shall be levied except  
45 subsequent to the notification of the violator by certified mail or  
46 personal service. The notice shall include: a reference to the  
47 section of the statute, regulation, order or certification condition  
48 violated; a concise statement of the facts alleged to constitute  
49 the violation; a statement of the amount of the civil penalty to  
50 be imposed; and a statement of the violator's right to a hearing.  
51 The violator shall have 20 days from receipt of notice within  
52 which to deliver to the department a written request for a  
53 hearing. Subsequent to the hearing and upon a finding that a  
54 violation has occurred, the department may issue a final order

1 assessing the amount of the penalty. If no hearing is requested,  
2 the notice shall become a final order upon the expiration of the  
3 20-day period. Payment of the penalty is due when a final order  
4 is issued or when the notice becomes a final order. Agreement  
5 to, or payment of a civil administrative penalty shall not be  
6 deemed to affect the availability of any other enforcement  
7 provision in connection with the violation for which the penalty is  
8 levied.

9 c. Any person violating an administrative order of the  
10 department or a court order issued pursuant to paragraph (1) of  
11 subsection a. of this section, or who fails to pay a civil  
12 administrative penalty when due and owing as provided in  
13 subsection b. of this section, is subject to a civil penalty not to  
14 exceed \$10,000 per day of the violation. Each day's continuance  
15 of a violation constitutes a separate and distinct violation. Any  
16 penalty imposed under this subsection may be recovered with  
17 costs in a summary proceeding pursuant to "the penalty  
18 enforcement law" N.J.S.2A:58-1 et seq.

19 d. The department may compromise and settle any claim for a  
20 penalty under this section in such amount as the department may  
21 determine to be appropriate and equitable under all of the  
22 circumstances.

23 e. Any person who fails to contest or to pay, in whole or in  
24 part, a civil administrative penalty imposed pursuant to this  
25 section, including payments required to be made pursuant to a  
26 payment schedule therefor, within 30 days of the date that the  
27 penalty is owing, shall be subject to an interest charge on the  
28 amount of the penalty owing from the date that the amount was  
29 owed. The rate of interest shall be that established by the New  
30 Jersey Supreme Court for interest rates on judgments, as set  
31 forth in the Rules Governing the Courts of the State of New  
32 Jersey.

33 13. a. There is established, in the Department of Community  
34 Affairs, a nonlapsing revolving fund entitled the "Lead  
35 Abatement Worker Certification Fund." The fund shall be  
36 maintained by the commissioner, and shall be credited with all  
37 penalties, monies and fees assessed and collected pursuant to this  
38 act and any earnings on the investment thereof. The  
39 commissioner shall report by December 31 annually, to the State  
40 Treasurer and to the Joint Budget Oversight Committee, or its  
41 successor on income, expenditures and the balance of the fund.

42 b. Moneys in the fund shall be used by the department for the  
43 purposes of administering and enforcing the provisions of this act.

44 14. Not later than March 1, 1993, the department shall adopt,  
45 in accordance with the "Administrative Procedure Act,"  
46 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
47 necessary to implement the provisions of this act, and shall have  
48 procured adequate personnel and materials for the appropriate  
49 courses, tests, or both.

50 15. This act shall take effect immediately.

## STATEMENT

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This bill requires the Department of Community Affairs (DCA) to develop and enforce a program for the mandatory training and certification of lead abatement workers and lead inspectors by March, 1993.

The training and certification program for lead abatement workers would include, among other things, instruction in renovation and lead abatement techniques, safe work practices for the protection of workers and occupants, and proper cleanup of debris and lead bearing dust during and after lead abatement. The training and certification program for lead inspectors would include, among other things, instruction in the techniques and methods of assessing lead hazards in buildings, and different lead testing techniques.

The bill would require that any person performing lead abatement work or lead inspection be certified. Further, business firms would be required to obtain a performance permit for any job site where lead abatement work is to be performed. The bill would allow lead abatement workers or inspectors who are certified in another jurisdiction to be entitled to a New Jersey certification if the certification program is comparable in the other jurisdiction is comparable to the State program established by this bill. Certifications must be renewed every two years.

A person violating the act would be subject to suspension, revocation or refusal to renew a certificate, a disorderly persons offense, as well as penalties of \$1,000 for the first offense, \$5,000 for a second offense, and \$10,000 for the third and subsequent offense. The bill establishes the "Lead Abatement Worker Certification Fund" into which shall be deposited all fees, penalties and other monies collected to be used to administer and enforce the bill's provisions.

This bill establishes the "Lead Abatement Worker Certification Fund" into which shall be deposited all fees, penalties and other monies collected pursuant to the bill for use by the DCA to administer the program.

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Establishes certification program for lead abatement workers and inspectors; establishes "Lead Abatement Worker Certification Fund."

ASSEMBLY ENERGY AND HAZARDOUS WASTE COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 1135

STATE OF NEW JERSEY

DATED: NOVEMBER 9, 1992

The Assembly Energy and Hazardous Waste Committee favorably reports Senate Bill No. 1135 [1R].

This bill provides for the certification of lead inspectors and lead abatement workers by the Department of Health. The bill prohibits a person from knowingly performing a lead inspection or lead abatement work unless the person is certified by the department as competent to perform in a safe and reliable manner as a lead inspector or lead abatement worker. A person is required to satisfactorily complete a certification training course developed, offered or approved by the department in order to qualify for certification.

The department may deny, suspend, revoke, or refuse to renew a certification for good cause, as specified in the bill. An applicant or certificate holder whose application or certification is denied, suspended, revoked or not renewed is entitled to a hearing pursuant to the "Administrative Procedure Act". A person who hinders or delays the department's enforcement of the act, fails to obtain certification as required, or otherwise violates the act is guilty of a disorderly person's offense. A person who, without certification, performs a lead inspection or lead abatement on a premises occupied by a child under 12 years of age is guilty of a crime in the fourth degree. Civil administrative penalties of \$1,000 for the first offense, \$5,000 for the second offense, and \$10,000 for the third and each subsequent offense may also be levied. A judge may order a person who is in violation of the bill to perform community service.

The Department of Health would adopt rules and regulations to carry out the provisions of the bill, in consultation with the Department of Community Affairs.

The bill appropriates \$90,000 to the Department of Health as start-up funds to implement the certification and training program.



SENATE HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

**SENATE, No. 1135**

with committee amendments

**STATE OF NEW JERSEY**

DATED: OCTOBER 1, 1992

The Senate Health and Human Services Committee favorably reports Senate Bill No. 1135 with committee amendments.

As amended by committee, this bill provides for the certification of lead inspectors and lead abatement workers by the Department of Health.

Lead poisoning is the most prevalent environmental health problem facing children in New Jersey today. The Department of Health estimates that over 177,000 children under the age of five in New Jersey are at high risk of lead poisoning. Lead poisoning is caused by environmental exposure to lead and the most significant sources are lead-based paint in older housing and lead-laden dust and soil. In order to ensure that lead inspections and abatements are reliable, thorough, and safe for both the occupants and the abatement workers, it is necessary to establish a State certification program for persons who perform this work.

The bill provides that a person shall not perform a lead inspection or lead abatement work unless the person is certified by the department as competent to perform in a safe and reliable manner as a lead inspector or lead abatement worker. A person is required to satisfactorily complete a certification training course developed, offered or approved by the department in order to qualify for certification.

The bill appropriates \$90,000 to the Department of Health as start-up funds to implement the certification and training program.

The committee amended the bill to increase the penalty for an uncertified person who performs lead inspection or lead abatement work on a premises in which one or more occupants is a child 12 years of age or under. The penalty is increased from a disorderly persons offense to a crime of the fourth degree. Also, the administrative fines for a violation of the bill are increased from a maximum of \$1,000 (as the bill originally provided), to up to \$5,000 for a second offense and up to \$10,000 for a third and each subsequent offense. The amendments also provide that a judge may order a person who is in violation of the bill to perform community service.

Other amendments clarify definitions in the bill and specify that a "lead abatement worker" is a person who designs, performs, oversees or evaluates lead abatement projects, rather than any person who engages in lead abatement activities. The definition of "lead-based paint" is amended to clarify the two accepted methods for measuring lead content. The term "premises" is amended to specify that it shall not include an industrial establishment. Also, an amendment was added to provide that the Department of Health would adopt rules and regulations to carry out the provisions of the bill, in consultation with the Department of Community Affairs. Other committee amendments are technical and clarify the intent of the sponsor.