

House File 638 - Introduced

HOUSE FILE _____
BY FORD

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing lead product content procedures and
2 restrictions applicable to retail establishments and providing
3 a penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2384HH 83
6 rn/nh/14

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1 1 Section 1. NEW SECTION. 135.105E LEAD PRODUCT CONTENT
1 2 PROCEDURES == RESTRICTIONS == CIVIL PENALTY.
1 3 1. The department shall establish by rule lead-based paint
1 4 procedures and protocols applicable to retail establishments
1 5 engaged in the sale of paint or paint products, which shall
1 6 require the establishment to provide or perform, at a minimum,
1 7 the following:
1 8 a. Offer for sale a lead test kit that is capable of
1 9 determining the presence of a lead-based paint hazard.
1 10 b. Provide to customers an approved lead hazard
1 11 information pamphlet.
1 12 c. Provide to customers information regarding the
1 13 existence of the lead inspector and lead abater training and
1 14 certification program, and the program for the training of
1 15 painting, demolition, and remodeling contractors, established
1 16 in section 135.105A.
1 17 d. Ensure that at least one employee who provides advice
1 18 to customers concerning paint and paint products has completed
1 19 the program for the training of painting, demolition, and
1 20 remodeling contractors and provides training to other
1 21 employees of the retail establishment regarding the hazards of
1 22 lead-based paint.
1 23 2. A retail establishment that sells, offers for sale, or
1 24 distributes paint or paint products shall not remove, erase,
1 25 or obscure the visibility of a statement that a manufacturer
1 26 or wholesaler has placed on the paint or paint product package
1 27 or container specifying that the paint or paint product
1 28 contains or may contain lead.
1 29 3. A retail establishment shall not sell, offer to sell,
1 30 or distribute paint or paint products, or any product, surface
1 31 coating material, or packaging which possesses a lead content
1 32 that does either of the following:
1 33 a. Exceeds the lesser of the lead content specifications
1 34 for lead paint in 16 C.F.R. 1303.2 or other applicable
1 35 specification as established by state law.
2 1 b. Poses a danger of childhood lead poisoning because the
2 2 product, material, or packaging may be reasonably expected to
2 3 be accessible to, chewed by, or ingested by a child who is
2 4 less than six years of age.
2 5 4. a. The department, in conjunction with the department
2 6 of inspections and appeals or a local health department, may
2 7 at any time during regular business hours inspect any premises
2 8 to establish compliance with this section.
2 9 b. If the department, based upon test results performed by
2 10 a certified laboratory at the department's request,
2 11 information received from a federal agency, information
2 12 observed during an inspection, or information obtained from
2 13 another source, has reason to believe that a violation of this
2 14 section has occurred, the department may issue a cease and
2 15 desist order and report the suspected violation to the
2 16 attorney general to bring an action to enjoin further
2 17 violation.
2 18 c. A person who violates this section is subject to a
2 19 civil penalty not to exceed five thousand dollars for each

2 20 offense.

2 21 EXPLANATION

2 22 This bill relates to the lead content of products sold or
2 23 distributed at retail in this state, with an emphasis on paint
2 24 and paint products.

2 25 The bill directs the department of public health to
2 26 establish by rule lead-based paint procedures and protocols
2 27 applicable to retail establishments engaged in the sale of
2 28 paint or paint products, which shall require the establishment
2 29 to offer for sale a lead test kit, provide specified lead
2 30 hazard and training program information to customers, and
2 31 ensure that at least one employee completes a program for the
2 32 training of painting, demolition, and remodeling contractors
2 33 offered by the department and provides similar training to
2 34 other employees.

2 35 The bill additionally provides that a retail establishment
3 1 that sells, offers for sale, or distributes paint and paint
3 2 products shall not remove, erase, or obscure the visibility of
3 3 a statement that a manufacturer or wholesaler has placed on
3 4 the paint or paint product package or container specifying
3 5 that the paint or paint product contains or may contain lead.
3 6 Further, the bill provides that any retail establishment shall
3 7 not sell, offer to sell, or distribute paint or paint
3 8 products, or any product, surface coating material, or
3 9 packaging which possesses a lead content that exceeds levels
3 10 specified in federal or state law, or is packaged in such a
3 11 way that it could be reasonably anticipated that a child under
3 12 the age of six might have access to it.

3 13 The bill provides for inspection by the department, in
3 14 conjunction with the department of inspections and appeals or
3 15 a local health department, and provides for issuance by the
3 16 department of a cease and desist order and injunctive relief
3 17 by the attorney general. The bill specifies a civil penalty
3 18 not to exceed \$5,000 per violation of the bill's provisions.

3 19 LSB 2384HH 83

3 20 rn/nh/14