

Senate Study Bill 1072

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC HEALTH BILL)

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

A BILL FOR

1 An Act relating to health-related activities and regulation by
2 the department of public health and making penalties
3 applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1142DP 83
6 jp/nh/5

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1 1 DIVISION I
1 2 LEAD=SAFE RENOVATORS AND CHILD=OCCUPIED FACILITIES
1 3 Section 1. Section 135.105A, Code 2009, is amended to read
1 4 as follows:
1 5 135.105A LEAD INSPECTOR, ~~AND~~ LEAD ABATER, ~~AND~~ LEAD=SAFE
1 6 RENOVATOR TRAINING AND CERTIFICATION PROGRAM ESTABLISHED ==
1 7 CIVIL PENALTY.
1 8 1. The department shall establish a program for the
1 9 training and certification of lead inspectors, ~~and~~ lead
1 10 abaters, ~~and~~ lead=safe renovators. The department shall
1 11 maintain a listing, available to the public and to city and
1 12 county health departments, of lead inspector, ~~and~~ lead abater,
1 13 ~~and~~ lead=safe renovator training programs that have been
1 14 approved by the department, and of lead inspectors, ~~and~~ lead
1 15 abaters, ~~and~~ lead=safe renovators who have successfully
1 16 completed the training program and have been certified by the
1 17 department. A person may be certified as ~~both~~ a lead
1 18 inspector, ~~and~~ a lead abater, ~~or~~ a lead=safe renovator, ~~or may~~
1 19 ~~be certified to provide two or more of such services.~~
1 20 However, a person who is certified as ~~both a lead inspector~~
1 21 ~~and a lead abater~~ holds more than one such certification shall
1 22 not provide both inspection service and also provide abatement
1 23 services service or renovation service at the same site unless
1 24 a written consent or waiver, following full disclosure by the
1 25 person, is obtained from the owner or manager of the site.
1 26 2. ~~The department shall also establish a program for the~~
1 27 ~~training of painting, demolition, and remodeling contractors~~
1 28 ~~and those who conduct interim controls of lead-based paint~~
1 29 ~~hazards. The training shall be completed on a voluntary~~
1 30 ~~basis.~~
1 31 3. 2. A person who owns real property which includes a
1 32 residential dwelling and who performs lead inspection, ~~or~~ lead
1 33 abatement, ~~or~~ renovation of the residential dwelling is not
1 34 required to obtain certification to perform these measures,
1 35 unless the residential dwelling is occupied by a person other
2 1 than the owner or a member of the owner's immediate family
2 2 while the measures are being performed. However, the
2 3 department shall encourage property owners who are not
2 4 required to be certified to complete the applicable training
2 5 course to ensure the use of appropriate and safe lead
2 6 inspection ~~and~~ lead abatement, ~~or~~ lead=safe renovation
2 7 procedures.
2 8 4. 3. Except as otherwise provided in this section, a
2 9 person shall not perform lead abatement or lead inspections,
2 10 ~~and shall not perform renovations on target housing or a~~
2 11 ~~child=occupied facility~~, unless the person has completed a
2 12 training program approved by the department and has obtained
2 13 certification pursuant to this section. All lead abatement
2 14 and lead inspections, ~~and~~ lead inspector, ~~and~~ lead abater,
2 15 ~~and~~ lead=safe renovation training programs, ~~and~~ renovations
2 16 on target housing or a child=occupied facility, shall be
2 17 performed and conducted in accordance with work practice
2 18 standards established by the department. A person shall not

2 19 conduct a training program for lead inspectors, or lead
2 20 abaters, ~~or lead=safe renovators~~ unless the program has been
2 21 submitted to and approved by the department.

2 22 4. A person who violates this section is subject to a
2 23 civil penalty not to exceed five thousand dollars for each
2 24 offense.

2 25 5. The department shall adopt rules regarding minimum
2 26 requirements for lead inspector, lead abater, and lead=safe
2 27 renovator training programs, certification, work practice
2 28 standards, and suspension and revocation requirements, and
2 29 shall implement the training and certification programs. The
2 30 department shall seek federal funding and shall establish fees
2 31 in amounts sufficient to defray the cost of the programs.
2 32 Fees received shall be considered repayment receipts as
2 33 defined in section 8.2.

2 34 Sec. 2. Section 135.105C, Code 2009, is amended to read as
2 35 follows:

3 1 135.105C RENOVATION, REMODELING, AND REPAINTING == LEAD
3 2 HAZARD NOTIFICATION PROCESS ESTABLISHED.

3 3 1. A person who performs renovation, remodeling, or
3 4 repainting services ~~of for~~ target housing ~~or a child=occupied~~
3 5 ~~facility~~ for compensation shall provide an approved lead
3 6 hazard information pamphlet to the owner and occupant of the
3 7 housing ~~or facility~~ prior to commencing the services. ~~The~~
3 8 ~~department shall adopt rules to implement the renovation,~~
3 9 ~~remodeling, and repainting lead hazard notification process~~
3 10 ~~under this section.~~

3 11 2. For the purpose of this section and section 135.105A,
3 12 ~~"target unless the context otherwise requires:~~

3 13 a. (1) ~~"Child=occupied facility" means a building, or~~
3 14 ~~portion of a building, constructed prior to 1978, that is~~
3 15 ~~described by all of the following:~~

3 16 (a) ~~The building is visited on a regular basis by the same~~
3 17 ~~child, who is less than six years of age, on at least two~~
3 18 ~~different days within any week. For purposes of this~~
3 19 ~~paragraph "a", a week is a Sunday through Saturday period.~~
3 20 (b) ~~Each day's visit by the child lasts at least three~~
3 21 ~~hours, and the combined annual visits total at least sixty~~
3 22 ~~hours.~~

3 23 (2) ~~A child=occupied facility may include but is not~~
3 24 ~~limited to a child care center, preschool, or kindergarten~~
3 25 ~~classroom. A child=occupied facility also includes common~~
3 26 ~~areas that are routinely used by children who are less than~~
3 27 ~~six years of age, such as restrooms and cafeterias, and the~~
3 28 ~~exterior walls and adjoining space of the building that are~~
3 29 ~~immediately adjacent to the child=occupied facility or the~~
3 30 ~~common areas routinely used by children under the age of six~~
3 31 ~~years.~~

3 32 b. ~~"Target housing" means housing constructed prior to~~
3 33 ~~1978 with the exception of housing for the elderly or for~~
3 34 ~~persons with disabilities and housing that does not contain a~~
3 35 ~~bedroom, unless at least one child, under six years of age,~~
4 1 ~~resides or is expected to reside in the housing. The~~
4 2 ~~department shall adopt rules to implement the renovation,~~
4 3 ~~remodeling, and repainting lead hazard notification process.~~

4 4 3. A person who violates this section is subject to a
4 5 civil penalty not to exceed five thousand dollars for each
4 6 offense.

4 7 DIVISION II

4 8 NEWBORN AND INFANT HEARING SCREENING

4 9 Sec. 3. Section 135.131, Code 2009, is amended to read as
4 10 follows:

4 11 135.131 UNIVERSAL NEWBORN AND INFANT HEARING SCREENING.

4 12 1. For the purposes of this section, unless the context
4 13 otherwise requires:

4 14 a. "Birth center" means birth center as defined in section
4 15 135.61.

4 16 b. "Birthing hospital" means a private or public hospital
4 17 licensed pursuant to chapter 135B that has a licensed
4 18 obstetric unit or is licensed to provide obstetric services.

4 19 2. ~~Beginning January 1, 2004, all~~ All newborns and infants
4 20 born in this state shall be screened for hearing loss in
4 21 accordance with this section. The person required to perform
4 22 the screening shall use at least one of the following
4 23 procedures:

4 24 a. Automated or diagnostic auditory brainstem response.

4 25 b. Otoacoustic emissions.

4 26 c. Any other technology approved by the department.

4 27 3. ~~a. Beginning January 1, 2004, a~~ A birthing hospital
4 28 shall screen every newborn delivered in the hospital for
4 29 hearing loss prior to discharge of the newborn from the

4 30 birthing hospital. A birthing hospital that transfers a
4 31 newborn for acute care prior to completion of the hearing
4 32 screening shall notify the receiving facility of the status of
4 33 the hearing screening. The receiving facility shall be
4 34 responsible for completion of the newborn hearing screening.
4 35 b. The birthing hospital or other facility completing the
5 1 hearing screening under this subsection shall report the
5 2 results of the screening to the parent or guardian of the
5 3 newborn and to the department in a manner prescribed by rule
5 4 of the department. The birthing hospital or other facility
5 5 shall also report the results of the hearing screening to the
5 6 primary care provider of the newborn or infant upon discharge
5 7 from the birthing hospital or other facility. If the newborn
5 8 or infant was not tested prior to discharge, the birthing
5 9 hospital or other facility shall report the status of the
5 10 hearing screening to the primary care provider of the newborn
5 11 or infant.
5 12 4. ~~Beginning January 1, 2004, a~~ A birth center shall refer
5 13 the newborn to a licensed audiologist, physician, or hospital
5 14 for screening for hearing loss prior to discharge of the
5 15 newborn from the birth center. The hearing screening shall be
5 16 completed within thirty days following discharge of the
5 17 newborn. The person completing the hearing screening shall
5 18 report the results of the screening to the parent or guardian
5 19 of the newborn and to the department in a manner prescribed by
5 20 rule of the department. Such person shall also report the
5 21 results of the screening to the primary care provider of the
5 22 newborn.
5 23 5. ~~Beginning January 1, 2004, if~~ If a newborn is delivered
5 24 in a location other than a birthing hospital or a birth
5 25 center, the physician or other health care professional who
5 26 undertakes the pediatric care of the newborn or infant shall
5 27 ensure that the hearing screening is performed within three
5 28 months of the date of the newborn's or infant's birth. The
5 29 physician or other health care professional shall report the
5 30 results of the hearing screening to the parent or guardian of
5 31 the newborn or infant, to the primary care provider of the
5 32 newborn or infant, and to the department in a manner
5 33 prescribed by rule of the department.
5 34 6. A birthing hospital, birth center, physician, or other
5 35 health care professional required to report information under
6 1 subsection 3, 4, or 5 shall report all of the following
6 2 information to the department relating to a newborn's or
6 3 infant's hearing screening, as applicable:
6 4 a. The name, address, and telephone number, if available,
6 5 of the mother of the newborn or infant.
6 6 b. The primary care provider at the time of the newborn's
6 7 or infant's discharge from the birthing hospital or birth
6 8 center for the newborn or infant.
6 9 c. The results of the hearing screening.
6 10 d. Any rescreenings and the diagnostic audiological
6 11 assessment procedures used.
6 12 e. Any known risk indicators for hearing loss of the
6 13 newborn or infant.
6 14 f. Other information specified in rules adopted by the
6 15 department.
6 16 7. The department may share information with agencies and
6 17 persons involved with newborn and infant hearing screenings,
6 18 follow-up, and intervention services, including the local
6 19 birth-to-three coordinator or similar agency, the local area
6 20 education agency, and local health care providers. The
6 21 department shall adopt rules to protect the confidentiality of
6 22 the individuals involved.
6 23 8. ~~An area education agency with which information is~~
6 24 ~~shared pursuant to subsection 7~~ audiologist who provides
6 25 services addressed by this section shall conduct diagnostic
6 26 audiological assessments of newborns and infants in accordance
6 27 with standards specified in rules adopted by the department.
6 28 The audiologist shall report all of the following information
6 29 to the department relating to a newborn's or infant's hearing,
6 30 follow-up, diagnostic audiological assessment, and
6 31 intervention services, as applicable:
6 32 a. The name, address, and telephone number, if available,
6 33 of the mother of the newborn or infant.
6 34 b. The results of the hearing screening and any
6 35 rescreenings, including the diagnostic audiological assessment
7 1 procedures used.
7 2 c. The nature of any follow-up or other intervention
7 3 services provided to the newborn or infant.
7 4 d. Any known risk indicators for hearing loss of the
7 5 newborn or infant.

7 6 e. Other information specified in rules adopted by the
7 7 department.

7 8 9. This section shall not apply if the parent objects to
7 9 the screening. If a parent objects to the screening, the
7 10 birthing hospital, birth center, physician, or other health
7 11 care professional required to report information under
7 12 subsection 3, 4, or 5 to the department shall obtain a written
7 13 refusal from the parent, shall document the refusal in the
7 14 newborn's or infant's medical record, and shall report the
7 15 refusal to the department in the manner prescribed by rule of
7 16 the department.

7 17 10. A person who acts in good faith in complying with this
7 18 section shall not be civilly or criminally liable for
7 19 reporting the information required to be reported by this
7 20 section.

7 21 DIVISION III

7 22 PUBLIC HEALTH DISASTER AUTHORITY

7 23 Sec. 4. Section 135.140, subsection 6, paragraph b, Code
7 24 2009, is amended by adding the following new subparagraph:
7 25 NEW SUBPARAGRAPH. (4) Short-term or long-term physical or
7 26 behavioral health consequences to a large number of the
7 27 affected population.

7 28 Sec. 5. Section 135.140, subsection 7, Code 2009, is
7 29 amended to read as follows:

7 30 7. "Public health response team" means a team of
7 31 professionals, including licensed health care providers,
7 32 nonmedical professionals skilled and trained in disaster or
7 33 emergency response, and public health practitioners, which is
7 34 sponsored by a hospital or other entity and approved by the
7 35 department to provide disaster ~~medical~~ assistance in the event
8 1 of a disaster or threatened disaster.

8 2 Sec. 6. Section 135.141, subsection 2, paragraphs b, g,
8 3 and i, Code 2009, are amended to read as follows:

8 4 b. Coordinate with federal, state, and local agencies and
8 5 officials, and private agencies, organizations, companies, and
8 6 persons, the administration of emergency planning, response,
8 7 and recovery matters that involve the public health.

8 8 g. Conduct or coordinate public information activities
8 9 regarding emergency and disaster planning, response, and
8 10 recovery matters that involve the public health.

8 11 i. Establish and coordinate other programs or activities
8 12 as necessary for the prevention, detection, management, and
8 13 containment of public health disasters, and for the recovery
8 14 from such disasters.

8 15 Sec. 7. Section 135.143, subsection 1, paragraph b, Code
8 16 2009, is amended by adding the following new subparagraphs:

8 17 NEW SUBPARAGRAPH. (6) During or after a natural
8 18 occurrence or incident, including but not limited to fire,
8 19 flood, storm, drought, earthquake, tornado, or windstorm.

8 20 NEW SUBPARAGRAPH. (7) During or after a man-made
8 21 occurrence or incident, including but not limited to an
8 22 attack, spill, or explosion.

8 23 Sec. 8. Section 135.143, Code 2009, is amended by adding
8 24 the following new subsection:

8 25 NEW SUBSECTION. 1A. The department shall provide by rule
8 26 a process for registration and approval of public health
8 27 response team members and sponsor entities and shall authorize
8 28 specific public health response teams, which may include but
8 29 are not limited to disaster assistance teams and environmental
8 30 health response teams. The department may expedite the
8 31 registration and approval process during a disaster,
8 32 threatened disaster, or other incident described in subsection
8 33 1.

8 34 Sec. 9. Section 135.144, subsection 4, Code 2009, is
8 35 amended to read as follows:

9 1 4. Take reasonable measures as necessary to ensure that
9 2 all cases of chemical, biological, and radiological
9 3 contamination, and other environmental health hazards are
9 4 properly identified, controlled, and treated, and remediated.
9 5 In coordination with local boards of health, the department
9 6 may conduct investigations of environmental health hazards and
9 7 initiate and conduct environmental sampling to assess risks to
9 8 human health. The department may provide recommendations or
9 9 issue orders as necessary for the purpose of reducing or
9 10 eliminating any identified environmental health hazards.

9 11 Sec. 10. Section 135.144, Code 2009, is amended by adding
9 12 the following new subsection:

9 13 NEW SUBSECTION. 12. Temporarily reassign department
9 14 employees for purposes of response and recovery efforts, to
9 15 the extent such employees consent to the reassignments.

9 16 EXPLANATION

9 17 This bill relates to health-related activities and
9 18 regulation by the department of public health involving
9 19 lead-safe renovators, newborn and infant hearing screening,
9 20 and public health disaster authority. The bill is organized
9 21 into divisions.

9 22 LEAD-SAFE RENOVATORS AND CHILD-OCCUPIED FACILITIES. This
9 23 division relates to the existing program established in Code
9 24 section 135.105A for training and certification of lead
9 25 inspectors and lead abaters by adding lead-safe renovators to
9 26 the program. The renovator provisions replace an existing
9 27 provision for a voluntary program for renovators. Other than
9 28 a person's own residential dwelling occupied by the person or
9 29 an immediate family member, performing a renovation of target
9 30 housing or child-occupied facility without obtaining a
9 31 lead-safe renovator certification is prohibited. Training
9 32 programs for lead-safe renovators are subject to the approval
9 33 of the department.

9 34 Violations of Code section 135.105A are punishable by a
9 35 civil penalty of not more than \$5,000.

10 1 Code section 135.105C, relating to lead hazard
10 2 notifications, is amended to add a notice requirement for
10 3 services provided at a "child-occupied facility" to current
10 4 law requiring persons performing, for compensation,
10 5 renovation, remodeling, or painting services for target
10 6 housing. The required notice involves providing a pamphlet to
10 7 the owner and occupant prior to commencing the services.
10 8 "Child-occupied facility" is defined to mean a building or
10 9 portion of a building constructed prior to 1978 visited by a
10 10 child who is under six on a regular basis as specified in the
10 11 bill. The bill lists examples of such facilities which
10 12 include child care centers, preschools, and kindergarten
10 13 classrooms and common areas routinely used by such children.

10 14 Violation of the notice requirement is punishable by a
10 15 civil penalty of not more than \$5,000.

10 16 NEWBORN AND INFANT HEARING SCREENING. This division amends
10 17 Code section 135.131, providing for universal newborn and
10 18 infant hearing screening.

10 19 References to the initial applicability date of January 1,
10 20 2004, are eliminated.

10 21 In addition to existing reporting requirements, a birthing
10 22 hospital, birth center, or person performing the screening is
10 23 required to report hearing screening results or screening
10 24 status to the primary care provider of the newborn or infant
10 25 upon discharge from the birthing hospital or other facility.
10 26 Additions to the required reporting information include
10 27 identifying the primary care provider, known risk indicators
10 28 for hearing loss, and other information to be specified in
10 29 departmental rule.

10 30 Language applying reporting requirements to area education
10 31 agencies receiving information from the department is deleted
10 32 and replaced with a requirement for audiologists. An
10 33 audiologist providing services under the law is required to
10 34 conduct diagnostic audiological assessments in accordance with
10 35 standards in rules to be adopted by the department. Additions
11 1 to the information required to be reported to the department
11 2 by audiologists include diagnostic audiological assessments,
11 3 known risk indicators for hearing loss, and other information
11 4 to be specified in departmental rule.

11 5 PUBLIC HEALTH DISASTER AUTHORITY. This division revises
11 6 and adds to the department's duties and authority involving
11 7 public health disasters and other disasters.

11 8 Code section 135.140, providing definitions for the
11 9 department's disaster preparedness provisions, is amended.
11 10 The term "public health disaster" is expanded to include
11 11 conditions that pose a high probability of short-term or
11 12 long-term physical or behavioral health consequences to a
11 13 large number of the affected population. The term "public
11 14 health response team" is expanded to allow such a team to
11 15 provide general disaster assistance rather than being
11 16 restricted to disaster medical assistance.

11 17 Code section 135.141, specifying the department's duties
11 18 involving disasters, is amended to include in the duties
11 19 emergency response and recovery activities involving public
11 20 health.

11 21 Code section 135.143, relating to public health response
11 22 teams, is amended to include natural and man-made occurrences
11 23 and incidents in the list of incidents for which the teams can
11 24 be requested by local medical or public health personnel or
11 25 hospitals to provide support services. The department is
11 26 required to provide by rule a process for registering and
11 27 approving team members and sponsor entities, including types

11 28 specified in the bill. The department is authorized to
11 29 expedite the registration and approval process when certain
11 30 disaster or emergency conditions exist.
11 31 Code section 135.144, relating to additional duties of the
11 32 department in response to a public health disaster, is amended
11 33 to expand the duties and departmental authority. The duty to
11 34 take reasonable measures regarding various forms of
11 35 contamination is expanded to include other environmental
12 1 hazards and the authority to remediate the contamination and
12 2 hazards. In addition, the department is authorized to conduct
12 3 investigations, including environmental sampling, in
12 4 coordination with local boards of health. The department is
12 5 authorized to provide recommendations and to issue orders to
12 6 reduce or eliminate identified environmental health hazards.
12 7 Code section 135.144 is also amended to authorize the
12 8 department to temporarily reassign employees for response and
12 9 recovery efforts when there is a public health disaster. The
12 10 authority is limited to the extent the employees consent to
12 11 the reassignments.
12 12 LSB 1142DP 83
12 13 jp/nh/5.2