

# House Bill 3078

Sponsored by COMMITTEE ON CONSUMER PROTECTION (at the request of Pacific Northwest Paint Council)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes Lead Poisoning Prevention Educational Program in Department of Human Services. Requires Governor and Director of Human Services to implement program of public service announcements about dangers of lead-based paint and about screening program of department. Establishes screening program for elevated blood lead levels. Appropriates moneys from General Fund to finance program.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1 Relating to lead poisoning prevention; appropriating money; and declaring an emergency.

2 Whereas nearly 300,000 American children may have levels of lead in their blood in excess of  
3 10 micrograms per deciliter and, unless prevented or treated, elevated blood lead levels in egregious  
4 cases may result in impairment of the ability to think, concentrate and learn; and  
5

6 Whereas a significant cause of lead poisoning in children is the ingestion of lead particles from  
7 deteriorating lead-based paint in older, poorly maintained residences; and

8 Whereas childhood lead poisoning can be prevented if parents, property owners, health profes-  
9 sionals and those who work with young children are informed about the risks of childhood lead  
10 poisoning and how to prevent it; and

11 Whereas knowledge of lead-based paint hazards, their control, mitigation, abatement and risk  
12 avoidance is not sufficiently widespread; and

13 Whereas most children who live in older homes and who otherwise may be at risk for childhood  
14 lead poisoning are not tested for the presence of elevated lead levels in their blood; and

15 Whereas testing for elevated lead levels in the blood can lead to the mitigation or prevention  
16 of the harmful effects of childhood lead poisoning and may also prevent similar injuries to other  
17 children living in the same household; now, therefore,

18 **Be It Enacted by the People of the State of Oregon:**

19 **SECTION 1. Sections 2 to 4 of this 2007 Act may be cited as the Lead Poisoning Pre-**  
20 **vention Screening and Education Act.**

21 **SECTION 2. As used in sections 2 to 4 of this 2007 Act:**

22 (1) "Affected property" means a room or group of rooms within a property constructed  
23 before January 1, 1960, or within a property constructed between January 1, 1960, and Jan-  
24 uary 1, 1978, where the owner has actual knowledge of the presence of lead-based paint, that  
25 form a single independent habitable dwelling unit for occupation by one or more individuals  
26 and that have living facilities with permanent provisions for living, sleeping, eating, cooking  
27 and sanitation. "Affected property" does not include:

28 (a) An area not used for living, sleeping, eating, cooking or sanitation, such as an un-  
29 finished basement;

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (b) A unit within a hotel, motel or similar seasonal or transient facility, unless the unit  
2 is occupied by one or more persons at risk for a period exceeding 30 days;

3 (c) An area that is secured and inaccessible to occupants; or

4 (d) A unit that is not offered for rent.

5 (2) "Dust lead hazard" means surface dust in a residential dwelling or a facility occupied  
6 by a person at risk that contains a mass-per-area concentration of lead equal to or exceeding  
7 40 micrograms per square foot on floors or 250 micrograms per square foot on interior  
8 windowsills, based on wipe samples.

9 (3) "Elevated blood lead level" means a quantity of lead in whole venous blood, expressed  
10 in micrograms per deciliter, that exceeds 10 micrograms per deciliter or another level as  
11 specifically provided in sections 2 to 4 of this 2007 Act.

12 (4) "Lead-based paint" means paint or other surface coatings that contain lead equal to  
13 or exceeding 1.0 milligrams per square centimeter, 0.5 percent by weight or 5,000 parts per  
14 million by weight.

15 (5) "Lead-based paint hazard" means paint lead hazards and dust lead hazards.

16 (6) "Owner" means a person, firm, corporation, nonprofit organization, partnership,  
17 government, guardian, conservator, receiver, trustee, executor or other judicial officer or  
18 other entity that, alone or with others, owns, holds or controls the freehold or leasehold title  
19 or part of the title to property, with or without actually possessing it. "Owner" includes a  
20 vendee who possesses the title, but does not include a mortgagee or an owner of a  
21 reversionary interest under a ground rent lease. "Owner" includes any authorized agent of  
22 the owner, including a property manager or leasing agent.

23 (7) "Paint lead hazard" means any one of the following:

24 (a) Any lead-based paint on a friction surface that is subject to abrasion and where the  
25 dust lead levels on the nearest horizontal surface underneath the friction surface, such as  
26 the windowsill or floor, are equal to or greater than the dust lead hazard levels defined in  
27 subsection (2) of this section;

28 (b) Any damaged or otherwise deteriorated lead-based paint on an impact surface where  
29 the damage or deterioration is caused by impact from a related building material, such as a  
30 door knob that knocks into a wall or a door that knocks against its door frame;

31 (c) Any chewable surface, coated with lead-based paint, on which there is evidence of  
32 teeth marks; or

33 (d) Any other deteriorated lead-based paint in or on the exterior of any residential  
34 building or any facility occupied by a person at risk.

35 (8) "Person at risk" means a child under the age of six years or a pregnant woman who  
36 resides or regularly spends at least 24 hours per week in an affected property.

37 (9) "Tenant" means the individual named as the lessee in a lease, rental agreement or  
38 occupancy agreement for a dwelling unit.

39 **SECTION 3.** (1) The Lead Poisoning Prevention Educational Program is established in the  
40 Department of Human Services as a statewide, multifaceted, ongoing educational program  
41 designed to meet the needs of tenants, property owners, health care providers, early child-  
42 hood educators, care providers and realtors.

43 (2) The Governor in conjunction with the Director of Human Services shall sponsor a  
44 series of public service announcements on radio, on television, on the Internet and in print  
45 media about the nature of lead-based paint hazards, the importance of standards for lead

1 poisoning prevention in properties, and the purposes and responsibilities set forth in sections  
 2 2 to 4 of this 2007 Act. In developing and coordinating this public information initiative, the  
 3 sponsors shall seek the participation and involvement of private industry organizations, in-  
 4 cluding those involved in real estate, insurance, mortgage banking and pediatrics.

5 (3) The director shall develop culturally and linguistically appropriate information pam-  
 6 phlets regarding childhood lead poisoning, the importance of testing for elevated blood lead  
 7 levels, prevention of childhood lead poisoning, treatment of childhood lead poisoning and,  
 8 where appropriate, the requirements of sections 2 to 4 of this 2007 Act. These information  
 9 pamphlets shall be distributed to parents and legal guardians of children six years of age or  
 10 younger:

11 (a) By a health care provider at the time of a child's birth and at the time of any child-  
 12 hood immunization or vaccination unless it is established that an information pamphlet has  
 13 been provided to the parent or legal guardian by the health care provider within the previous  
 14 12 months.

15 (b) By the owner or operator of any child care facility or preschool or kindergarten class  
 16 on or before October 15 of the calendar year.

17 **SECTION 4.** (1) The Director of Human Services shall establish a program for early  
 18 identification of persons at risk who have elevated blood lead levels. The program shall sys-  
 19 tematically screen children under six years of age in the target populations identified in  
 20 subsection (2) of this section for the presence of elevated blood lead levels. The director shall,  
 21 after consultation with recognized professional medical groups and any other sources as the  
 22 director deems appropriate, promulgate rules establishing:

23 (a) The means by which and the intervals at which such children under six years of age  
 24 shall be screened for lead poisoning and elevated blood lead levels.

25 (b) Guidelines for the medical follow-up on children found to have elevated blood lead  
 26 levels.

27 (2) In developing screening programs to identify persons at risk with elevated blood lead  
 28 levels, priority shall be given to persons within the following categories:

29 (a) All children enrolled in the Medicaid program, at age 12 months and age 24 months,  
 30 or between the ages of 36 months and 72 months if they have not previously been screened.

31 (b) Children under the age of six years who exhibit delayed cognitive development or  
 32 other symptoms of childhood lead poisoning.

33 (c) Persons at risk who reside in the same household, or who have recently resided in  
 34 the same household, as another person at risk with a blood lead level of 10 micrograms per  
 35 deciliter or greater.

36 (d) Persons at risk who reside, or who have recently resided, in buildings or geographical  
 37 areas in which significant numbers of cases of lead poisoning or elevated blood lead levels  
 38 have recently been reported.

39 (e) Persons at risk who reside, or who have recently resided, in an affected property  
 40 contained in a building that, during the preceding three years, has been subject to enforce-  
 41 ment for violations of lead poisoning prevention statutes, ordinances, rules or regulations  
 42 as specified by the director.

43 (f) Persons at risk who reside, or who have recently resided, in a room or group of rooms  
 44 contained in a building whose owner also owns a building containing affected properties that,  
 45 during the preceding three years, has been subject to an enforcement action for a violation

1 of lead poisoning prevention statutes, ordinances, rules or regulations.

2 (g) Persons at risk who reside in other buildings or geographical areas in which the di-  
3 rector reasonably determines there to be a significant risk of affected individuals having a  
4 blood lead level of 10 micrograms per deciliter or greater.

5 (3) The director shall maintain comprehensive records of all screenings conducted pur-  
6 suant to this section. The records shall be indexed geographically and by owner in order to  
7 determine the location of areas of relatively high incidence of lead poisoning and other ele-  
8 vated blood lead levels. All cases or probable cases of lead poisoning found in the course of  
9 screenings conducted pursuant to this section shall be reported to the affected individual, to  
10 the individual's parent or legal guardian if the individual is a minor and to the director.

11 SECTION 5. There is appropriated to the Department of Human Services, for biennium  
12 beginning July 1, 2007, out of the General Fund, the amount of \$\_\_\_\_\_ for the purpose of  
13 carrying out the provisions of sections 3 and 4 of this 2007 Act.

14 SECTION 6. This 2007 Act being necessary for the immediate preservation of the public  
15 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect  
16 on its passage.

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