

HOUSE AMENDMENTS TO HOUSE BILL 2134

By COMMITTEE ON HUMAN SERVICES

May 1

1 On page 1 of the printed bill, line 2, after “431.920” delete the rest of the line and delete line
2 3 and insert “, 701.005, 701.505, 701.510 and 701.515; repealing ORS 701.500; and appropriating
3 money.”.

4 Delete lines 5 through 30.

5 On page 2, delete lines 1 through 33 and insert:

6 **“SECTION 1. (1) Lead poisoning is a significant health concern because lead is a potent**
7 **neurotoxin that affects every system of the human body. It is harmful to individuals of all**
8 **ages and is especially harmful to children, fetuses and women of childbearing age. Lead**
9 **poisoning is one of the most common and preventable pediatric health problems in Oregon.**

10 **“(2) Common renovation activities such as sanding, cutting and demolition can create**
11 **hazardous lead dust and chips by disturbing lead-based paint, which can be harmful to adults**
12 **and children.**

13 **“(3) The federal government assists states in preventing lead poisoning and reducing lead**
14 **hazards through:**

15 **“(a)(A) The Lead-Based Paint Poisoning Prevention Act;**

16 **“(B) The Lead Contamination Control Act of 1988;**

17 **“(C) The Safe Drinking Water Act; and**

18 **“(D) The Resource Conservation and Recovery Act of 1976.**

19 **“(b) Implementing regulations of:**

20 **“(A) The Department of Housing and Urban Development;**

21 **“(B) The Environmental Protection Agency;**

22 **“(C) The Occupational Safety and Health Administration; and**

23 **“(D) The Centers for Disease Control and Prevention.**

24 **“(c) The Residential Lead-Based Paint Hazard Reduction Act of 1992, which:**

25 **“(A) Requires that sellers and landlords of residential housing constructed before 1978**
26 **notify buyers and tenants of known lead-based paint hazards; and**

27 **“(B) Allows states to receive authorization from the Environmental Protection Agency**
28 **to provide for the accreditation of lead-based paint activities and renovation training pro-**
29 **grams, the certification of persons completing training programs and the certification of**
30 **lead-based paint activities and renovation contractors pursuant to standards developed by**
31 **the agency.**

32 **“SECTION 2. As used in ORS 431.920 and section 4 of this 2009 Act:**

33 **“(1) ‘Certified’ and ‘certification’ means an action by the Department of Human Services**
34 **verifying the successful completion of a training program accredited by the department and**
35 **any other requirements.**

1 “(2) ‘Firm’ has the meaning given that term in 40 C.F.R. 745.83 and as further defined
2 pursuant to the authorities described in section 1 of this 2009 Act.

3 “(3) ‘Lead-based paint’ has the meaning given that term in P.L. 102-550, section 1004, and
4 as further defined pursuant to the authorities described in section 1 of this 2009 Act.

5 “(4) ‘Lead-based paint activities’ has the meaning given that term in 40 C.F.R. 745.223 and
6 as further defined pursuant to the authorities described in section 1 of this 2009 Act.

7 “(5) ‘Renovation’ has the meaning given that term in 40 C.F.R. 745.83 and as further de-
8 fined pursuant to the authorities described in section 1 of this 2009 Act.

9 “**SECTION 3.** ORS 431.920 is amended to read:

10 “431.920. (1) The Department of Human Services shall:

11 “[(1) *Develop accreditation programs for training providers;*]

12 “[(2) *Prescribe the requirements for and the manner of testing the competency of license applicants*
13 *for the protection of the public and as required by federal law;*]

14 “[(3) *Prescribe those actions or circumstances that constitute failure to achieve or maintain com-*
15 *petency, or that otherwise are contrary to the public interest, for which the agency may refuse to issue*
16 *or renew or may suspend or revoke a certification;*]

17 “[(4) *Develop and conduct programs to screen blood lead levels, to identify hazards and to educate*
18 *the public, including parents, residential dwelling owners and child care facility operators, about the*
19 *dangers of lead-based paint hazards and of appropriate precautions that should be taken to reduce the*
20 *possibility of childhood lead poisoning; and]*

21 “[(5) *Impose fees to the extent necessary to pay the costs of the following;*]

22 “[(a) *Certification of training curriculums, up to \$1,500;*]

23 “[(b) *Annual renewal of training providers and curriculums, up to \$500;*]

24 “[(c) *Certification of trainers, up to \$500;*]

25 “[(d) *Annual renewal of trainer’s certification, up to \$250; and]*

26 “[(e) *Certification test, up to \$85.*]

27 “(a) **Certify individuals to perform lead-based paint activities;**

28 “(b) **Certify firms to perform renovation;**

29 “(c) **Accredit training providers to train individuals and firms to perform lead-based paint**
30 **activities and renovation;**

31 “(d) **Develop and approve training programs for individuals and firms performing lead-**
32 **based paint activities and renovation;**

33 “(e) **Establish standards based on best practices for the conduct of lead-based paint in-**
34 **spections, risk assessment and abatement services, renovation activities that disturb lead-**
35 **based paint and the disposal of lead-based paint that are in addition to, not inconsistent with**
36 **and not in lieu of any other workplace standards required by law;**

37 “(f) **Develop and conduct programs to screen blood lead levels, identify hazards and edu-**
38 **cate the public, including but not limited to parents, residential dwelling owners, pediatric**
39 **medical providers and child care facility operators, about the dangers of lead-based paint and**
40 **about appropriate precautions that may reduce the probability of childhood lead poisoning;**

41 “(g) **Adopt rules necessary to implement the provisions of this section and sections 4 and**
42 **5 of this 2009 Act; and**

43 “(h) **Establish fees sufficient to recover the costs of implementing the provisions of this**
44 **section and sections 4 and 5 of this 2009 Act, including but not limited to:**

45 “(A) **Fees for certification and recertification of individuals and firms to perform lead-**

1 based paint activities and renovation; and

2 “(B) Accreditation and reaccreditation of lead-based paint training providers.

3 “(2) The Department of Human Services may:

4 “(a) Enter private or public property at any reasonable time with consent of the owner
5 or custodian of the property to inspect, investigate, evaluate or conduct tests or take speci-
6 mens or samples for testing, as necessary to determine compliance with section 4 of this 2009
7 Act;

8 “(b) Issue subpoenas to determine compliance with section 4 of this 2009 Act;

9 “(c) Suspend, revoke or modify an individual’s or firm’s certification to perform lead-
10 based paint activities or renovation if the individual or firm fails to comply with state or
11 federal statutes or regulations related to lead-based paint; and

12 “(d) Suspend, revoke or modify a certified renovator’s certification if the renovator fails
13 to comply with state or federal statutes or regulations related to lead-based paint.”.

14 In line 40, after the period insert “Moneys paid to the Public Health Account under this section
15 may be used only for the purposes of lead poisoning prevention, including consumer and industry
16 outreach, public education, blood lead screening and other activities.”.

17 In line 43, after “law” insert a period and delete the rest of the line.

18 On page 5, delete line 39 and insert:

19 “**SECTION 7.** ORS 701.505 is amended to read:

20 “701.505. For the purposes of ORS [431.920 and] 701.500 to 701.515:

21 “(1) ‘Abatement’ has the meaning given that term in P.L. 102-550, section 1004, 40 C.F.R. 745.223
22 and as further defined pursuant to the authorities described in [ORS 701.500] **section 1 of this 2009**
23 **Act.**

24 “(2) ‘Accredited training program’ means a training program that has been accredited by the
25 Department of Human Services to provide training for individuals engaged in lead-based paint ac-
26 tivities.

27 “[3] ‘Certified’ means an action by the Department of Human Services verifying the successful
28 completion of a training program accredited by the department and any other requirements.]

29 “(3) ‘Certified lead-based paint renovation contractor’ means a contractor that is licensed
30 by the Construction Contractors Board to conduct lead-based paint renovation under ORS
31 701.515.

32 “[4] ‘Discipline’ means a specific type or category of lead-based paint activity.]

33 “[5] ‘Evaluation’ has the meaning given that term in P.L. 102-550, section 1004, and as further
34 defined pursuant to the authorities described in ORS 701.500.]

35 “[6] (4) ‘Inspection’ has the meaning given that term in P.L. 102-550, section 1004, 40 C.F.R.
36 745.223 and as further defined pursuant to the authorities described in [ORS 701.500] **section 1 of**
37 **this 2009 Act.**

38 “[7] (5) ‘Lead-based paint’ has the meaning given that term in P.L. 102-550, section 1004, and
39 as further defined pursuant to the authorities described in [ORS 701.500] **section 1 of this 2009**
40 **Act.**

41 “[8] (6) ‘Lead-based paint activities’ has the meaning given that term in 40 C.F.R. 745.223 and
42 as further defined pursuant to the authorities described in [ORS 701.500] **section 1 of this 2009**
43 **Act.**

44 “[9] ‘Lead-based paint hazard’ means any condition that causes exposure to lead from lead-
45 contaminated dust, lead-contaminated soil, lead-contaminated paint that is deteriorated or present in

1 accessible surfaces, friction surfaces or impact surfaces that would result in adverse human health ef-
2 fects as established by the appropriate federal agency.]

3 “[10] ‘Licensed’ means a person who has been certified by the Department of Human Services in
4 one or more disciplines and has completed the requirements of the Construction Contractors Board.]

5 “[11] ‘Registered’ means a person or business that has met the requirements for registration under
6 this chapter.]

7 “(7) **‘Lead-based paint activities contractor’ means a contractor that is licensed by the**
8 **Construction Contractors Board to conduct lead-based paint activities under ORS 701.515.**

9 “(8) **‘Renovation’ has the meaning given that term in 40 C.F.R. 745.83 and as further de-**
10 **finied pursuant to the authorities described in section 1 of this 2009 Act.**

11 “**SECTION 8.** ORS 701.510 is amended to read:

12 “701.510. (1) A [person] **contractor** may not perform lead-based paint activities in this state
13 unless the [person] **contractor** is [licensed in the appropriate lead-based paint discipline under ORS
14 701.515] **a lead-based paint activities contractor.**

15 “(2) **A contractor may not perform lead-based paint renovation in this state unless the**
16 **contractor is a certified lead-based paint renovation contractor.**

17 “[2] (3) A [person required by subsection (1) of this section to obtain a license] **lead-based paint**
18 **activities contractor or certified lead-based paint renovation contractor** must comply with the
19 provisions of ORS 431.920 and 701.500 to 701.515 [or] **and** any rules adopted pursuant thereto.

20 “[3] A person registered to conduct a lead-based paint activities business may not employ any in-
21 dividual to perform lead-based paint activities unless the person is licensed in the appropriate lead-
22 based paint discipline under ORS 701.515.]

23 “(4) A construction contractor who successfully completes an accredited training program in
24 lead-based paint activities qualifies to have certification in that activity included in the professional
25 credentials of the contractor as described in ORS 701.120. The provisions of this subsection do not
26 affect the licensing requirements established in ORS 701.515.

27 “**SECTION 9.** ORS 701.515 is amended to read:

28 “701.515. [(1) In accordance with any applicable provisions of ORS chapter 183, the Construction
29 Contractors Board by rule shall establish a system to license persons and individuals in lead-based
30 paint disciplines required to be licensed under ORS 701.510. Such licensing shall include disciplines
31 and requirements described in 40 C.F.R. 745.225. Such a system shall include but not be limited to
32 provisions:]

33 “[a] Prescribing the form and content of the times and procedures for submitting applications for
34 license issuance or renewal.]

35 “[b] Prescribing the fees for original issuance and renewal of the license in amounts that do not
36 exceed the cost of administering the program.]

37 “[c] Prescribing those actions or circumstances that constitute failure to achieve or maintain li-
38 censing requirements, or that otherwise are contrary to the public interest, for which the agency may
39 refuse to issue or renew or may suspend or revoke a license.]

40 “[2] (1) In accordance with [any] applicable provisions of ORS chapter 183, the Construction
41 Contractors Board by rule shall establish a system to [register businesses that employ persons or in-
42 dividuals in lead-based paint disciplines required to be licensed under ORS 701.510] **license con-**
43 **tractors as lead-based paint activities contractors and certified lead-based paint renovation**
44 **contractors.** [Such registration shall] **The licensing system must** include the requirements de-
45 scribed in 40 C.F.R. 745.226. [Such a system shall] **The licensing system must** include but **need**

1 not be limited to provisions:

2 “(a) Prescribing the form and content of the times and procedures for submitting applications
3 for [registration] **licensing** or renewal.

4 “(b) Prescribing the fees for original [registration] **licensing** and renewal of the [registration]
5 **license** in amounts that do not exceed the cost of administering the program.

6 “(c) **Requiring an applicant for a certified lead-based paint renovation contractor license
7 to show that an employee of the applicant has completed an accredited training program.**

8 “[c] (d) Prescribing [those] **the** actions or circumstances that constitute failure to achieve or
9 maintain licensing requirements, or that otherwise are contrary to the public interest, for which the
10 [agency] **board** may refuse to issue or renew or may suspend or revoke a **lead-based paint activ-
11 ities contractor or certified lead-based paint renovation contractor** license.

12 “(2) **The board may establish by rule the requirements for specific types of licenses for
13 lead-based paint activities contractors.**

14 “(3) The [Construction Contractors] board may impose the following licensing fees:

15 “(a) Lead abatement contractor, up to \$50 per year;

16 “(b) Lead inspection contractor, up to \$50 per year;

17 “(c) Lead supervisor or lead contractor, up to \$50 per year;

18 “(d) Lead inspector or assessor, up to \$50 per year; [and]

19 “(e) Lead worker, up to \$25 per year[.]; **and**

20 “(f) **Certified lead-based paint renovation contractor, up to \$50 per year.**

21 “**SECTION 10. (1) A person who violates any provision of, or any rule adopted under, ORS
22 701.500 to 701.515 shall pay to the Construction Contractors Board Lead-Based Paint Activ-
23 ities Fund established under section 11 of this 2009 Act a civil penalty of not more than \$5,000
24 for each violation.**

25 “(2) **Civil penalties under this section shall be imposed as provided in ORS 183.745.**

26 “(3) **A civil penalty imposed under this section is in addition to and not in lieu of any
27 other penalty or sanction provided by law.**

28 “(4) **The board shall report all civil penalties or sanctions imposed under this section to
29 each of the following state agencies:**

30 “(a) **The Department of Human Services;**

31 “(b) **The Occupational Safety and Health Division of the Department of Consumer and
32 Business Services; and**

33 “(c) **The Department of Environmental Quality.**

34 “**SECTION 11. The Construction Contractors Board Lead-Based Paint Activities Fund is
35 established in the State Treasury, separate and distinct from the General Fund. Interest
36 earned by the Construction Contractors Board Lead-Based Paint Activities Fund shall be
37 credited to the fund. The fund consists of moneys received by the Construction Contractors
38 Board under section 10 of this 2009 Act. Moneys in the fund are continuously appropriated
39 to the Construction Contractors Board for the purposes of lead poisoning prevention, in-
40 cluding consumer and industry outreach, public education and other activities.**

41 “**SECTION 12. ORS 701.500 is repealed.**”.