

2019 Regular Session

HOUSE BILL NO. 490

BY REPRESENTATIVE GAINES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ENVIRONMENT: Provides relative to testing child-occupied facilities for lead and mercury hazards

1 AN ACT

2 To amend and reenact R.S. 30:2351.1(6)(a) and 2351.28(A) and (B) and to enact R.S.
3 30:2351.1(6)(d) and (e), relative to lead and mercury hazards; to provide for
4 definitions; to provide for inspections; to provide for reports and record keeping; and
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 30:2351.1(6)(a) and 2351.28(A) and (B) are hereby amended and
8 reenacted and R.S. 30:2351.1(6)(d) and (e) are hereby enacted to read as follows:

9 §2351.1. Definitions

10 As used in this Chapter, unless the context indicates otherwise, the following
11 terms have the following meanings:

12 * * *

13 (6) "Child-occupied facility" means a building or portion of a building or
14 common area, other than the child's principal residence, ~~constructed prior to 1978,~~
15 and meeting one of the following:

16 (a) Is visited regularly by the same child, who is ~~six~~ eighteen years of age or
17 younger, on at least two different days within any week, provided that each day's
18 visit lasts at least three hours, that the combined weekly visits last at least six hours,
19 and that the combined annual visits last at least sixty hours. Examples of child-

1 occupied facilities include but are not limited to public and non-public elementary
2 and secondary schools, day care centers, parks, playgrounds and community centers.

3 * * *

4 (d) Is a "playground" which, for purposes of this Section, means any outdoor
5 facility, including any attached parking lot, intended for recreation, open to the
6 public, and with any portion thereof containing three or more separate apparatus
7 intended for the recreation of children including, but not limited to, sliding boards,
8 swing sets, and teeter boards.

9 (e) Is a "park" which, for purposes of this Section, means an enclosed
10 pleasure-ground in or near a city, set apart for the recreation of the public.

11 * * *

12 §2351.28. ~~Data~~ Lead and mercury data collection program

13 A. The secretary ~~may~~ shall establish a program for the collection and
14 analysis of data on lead and mercury hazard detection and lead and mercury hazard
15 reduction activities in the state, and on the certification, accreditation, and
16 enforcement activities of the department.

17 B.(1) The owner of any ~~licensed~~ playground, park, day care center,
18 preschool, or public or non-public elementary or secondary school facility that
19 qualifies as a child-occupied facility and first placed in operation ~~after August 1,~~
20 ~~2012~~ before February 1, 2020, shall have an inspector conduct an inspection of the
21 facility and grounds for the presence of lead hazards and mercury hazards by
22 February 1, 2020. For any facility and grounds first placed into operation after
23 February 1, 2020, the inspection shall be conducted prior to commencement of the
24 facility and grounds first being placed into operation. No inspection shall be
25 required if ~~the~~ both of the following occur:

26 (a) The facility or its grounds has been inspected or has been the subject of
27 lead abatement or remediation since 1978.

Present law provides the second criteria is a facility that has been determined by the department, in conjunction with the state health officer, to be a significant risk because of its contribution to lead poisoning or lead exposure to children who are six years of age or younger. Proposed law retains present law.

Present law provides the third criteria is a facility that has a child-occupied unit and common area in a multi-use building. Proposed law retains present law.

Proposed law adds playgrounds and parks as additional criteria. Proposed law defines a "playground" as any outdoor facility, including any attached parking lot, intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swing sets, and teeter boards.

Proposed law defines a "park" as an enclosed pleasure-ground in or near a city, set apart for the recreation of the public.

Present law authorizes the secretary of the Dept. of Environmental Quality to establish a program for the collection and analysis of data on lead hazard detection and lead hazard reduction activities in the state, and on the certification, accreditation, and enforcement activities of the department. Proposed law requires the secretary to establish the program and expands the program to include data on mercury.

Present law requires the owner of any licensed day care center, preschool, or public or non-public elementary school facility that qualifies as a child-occupied facility and first placed in operation after Aug. 1, 2012, to have an inspection of the facility and grounds for the presence of lead hazards. Proposed law expands the facilities required to be inspected to include playgrounds, parks, and secondary schools. Proposed law also changes the date facilities are first placed in operation that are required to inspect from those after Aug. 1, 2012, to those before Feb. 1, 2020.

Proposed law requires that any facility and grounds first placed into operation after Feb. 1, 2020, be inspected prior to commencement of the facility and grounds first being placed into operation.

Present law provides that no inspection shall be required if the facility or its grounds has been inspected or has been the subject of lead abatement or remediation since 1978. Proposed law also requires that in order to be relieved of the inspection requirement that records exist establishing the inspection, abatement, or remediation and are provided to the state health officer and the secretary, including a full report containing sampling locations and findings.

Present law provides that if a portion of the facility or its grounds has not been inspected or been the subject of lead abatement or remediation since 1978, then those portions of the facility or its grounds shall be subject to the provisions of this Section. Proposed law retains present law.

Present law requires the owner or operator of the facility to maintain documentation that the inspection, lead abatement, or remediation activities were conducted in accordance with applicable requirements. Proposed law retains present law.

Present law requires the inspector and the owner to report findings to the state health officer and the secretary if a lead hazard is found to be present. Proposed law requires the reporting of all findings, whether a lead hazard is found or not and include sampling locations and findings.

Present law requires the state health officer to compile the results and report the findings to the legislature in the annual La. Health Report Card. Proposed law retains present law.

(Amends R.S. 30:2351.1(6)(a) and 2351.28(A) and (B); Adds R.S. 30:2351.1(6)(d) and (e))