

By: Hunter

H.B. No. 2642

A BILL TO BE ENTITLED

AN ACT

relating to inspections related to childhood lead poisoning and blood lead levels of concern; imposing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 88, Health and Safety Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. INSPECTIONS

Sec. 88.051. DEFINITIONS. In this subchapter:

(1) "Department" means the Department of State Health Services.

(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Sec. 88.052. INSPECTIONS OF RESIDENTIAL PROPERTY. (a) The executive commissioner shall adopt rules providing for the inspection of a residence in which a person that has been reported under this chapter as having lead poisoning or blood lead levels of concern spends at least 24 hours a week. The inspection must be completed before the 30th day after the date the report was made.

(b) The department shall provide inspectors to enforce this section. In performing an inspection required under Subsection (a), the inspector shall:

(1) present identifying information to the owner or occupant of the residence that identifies the inspector's authority to inspect the property;

1 (2) inspect the property for lead-based paint hazards,
2 soil lead hazards, and other lead hazards caused by the occupant's
3 personal property, including some forms of pottery, cooking
4 utensils, and home remedies; and

5 (3) if necessary, remove samples for laboratory
6 analysis.

7 (c) The cost of an inspection performed under this section
8 may be charged to the owner of the residence inspected if the
9 department determines that the principal cause of the lead
10 poisoning or blood lead levels of concern is lead-based paint
11 hazards or soil lead hazards.

12 (d) If the department determines that there are lead-based
13 substances in a residence that are hazardous to the health of a
14 child younger than six years of age or a pregnant woman, the
15 department shall send a written notice to the owner and occupants of
16 the residence containing:

17 (1) notice that one or more lead hazards exist at the
18 residence;

19 (2) appropriate methods and directions for the removal
20 and elimination of the lead hazards;

21 (3) notice that the owner must remove and eliminate
22 the lead hazards not later than the 30th day after the date the
23 owner receives the notice, in a manner that does not endanger the
24 health of the occupants of the residence, if the principal cause of
25 the lead poisoning or the blood lead levels of concern is determined
26 to be lead-based paint hazards or soil lead hazards; and

27 (4) the penalties that may be imposed if the owner does

1 not comply with the notice under Subdivision (3).

2 (e) If the owner of a residence who receives notice under
3 Subsection (d)(3) does not remove and eliminate the lead hazards at
4 the residence within the period specified by the notice, the
5 department shall post a prominently displayed warning on the
6 residence, in both English and Spanish, that states that lead
7 hazards exist in the residence and that the residence is unfit for
8 habitation by a child younger than six years of age. The warning
9 must remain posted until the owner of the residence has complied
10 with this section.

11 (f) Notwithstanding any provision in this chapter, the
12 executive commissioner and the department are not required to
13 implement this section if money has not been appropriated to the
14 department to cover the cost of implementing this section.

15 Sec. 88.053. PENALTIES AND ENFORCEMENT. (a) A person
16 commits an offense if the person:

17 (1) owns a residence at which lead-based paint hazards
18 or soil lead hazards have been found by the department;

19 (2) receives notice under Section 88.052(d)(3); and

20 (3) fails to remove and eliminate the lead hazards at
21 the residence before the expiration of the period stated in the
22 notice.

23 (b) An offense under Subsection (a) is a Class C
24 misdemeanor.

25 (c) The attorney general or a county or municipal attorney
26 may bring a civil action for injunctive relief to require the owner
27 of a residence to permit an inspection, pay inspection costs, or

1 remove and eliminate lead hazards as required by Section 88.052.

2 (d) The attorney general or county or municipal attorney
3 shall report to the department:

4 (1) any action taken under Subsection (c); or

5 (2) any criminal prosecution of an offense under
6 Subsection (a).

7 Sec. 88.054. ENFORCEMENT REPORT. The department shall
8 issue an annual report describing enforcement actions reported
9 under this section. The report must include:

10 (1) the identity of the owner of each residence
11 involved;

12 (2) the authority bringing the enforcement action;

13 (3) the nature of the enforcement action; and

14 (4) the penalty imposed or the relief granted.

15 Sec. 88.055. INSPECTION AND ENFORCEMENT CONTRACTS ALLOWED.
16 The department by intergovernmental contract may delegate its
17 duties under this subchapter to a health authority, local health
18 department, or public health district.

19 SECTION 2. Sections 88.001-88.006, Health and Safety Code,
20 are designated as Subchapter A, Chapter 88, Health and Safety Code,
21 and a subchapter heading is added to read as follows:

22 SUBCHAPTER A. GENERAL PROVISIONS; REPORTING

23 SECTION 3. The heading to Chapter 88, Health and Safety
24 Code, is amended to read as follows:

25 CHAPTER 88. ~~[REPORTS OF]~~ CHILDHOOD LEAD POISONING

26 SECTION 4. This Act takes effect September 1, 2005.