

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 299**

**Representative Merrin**

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**A BILL**

To amend section 3742.04 of the Revised Code to  
enact the Lead Safety and Uniformity Act to  
provide that the state, acting through the  
Department of Health, has the sole and exclusive  
authority to compel, prohibit, license, or  
regulate lead abatement activities in Ohio.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 3742.04 of the Revised Code be  
amended to read as follows:

**Sec. 3742.04.** (A) The director of health shall do all of  
the following:

(1) Administer and enforce the requirements of sections  
3742.01 to 3742.19 and 3742.99 of the Revised Code and the rules  
adopted pursuant to those sections;

(2) Examine records and reports submitted by lead  
inspectors, lead abatement contractors, lead risk assessors,  
lead abatement project designers, lead abatement workers, and  
clearance technicians in accordance with section 3742.05 of the  
Revised Code to determine whether the requirements of this  
chapter are being met;

(3) Examine records and reports submitted by physicians, 20  
clinical laboratories, and environmental lead analytical 21  
laboratories under section 3701.25 or 3742.09 of the Revised 22  
Code; 23

(4) Issue approval to manufacturers of encapsulants that 24  
have done all of the following: 25

(a) Submitted an application for approval to the director 26  
on a form prescribed by the director; 27

(b) Paid the application fee established by the director; 28

(c) Submitted results from an independent laboratory 29  
indicating that the manufacturer's encapsulants satisfy the 30  
requirements established in rules adopted under division (H) of 31  
section 3742.03 of the Revised Code; 32

(d) Complied with rules adopted by the director regarding 33  
durability and safety to workers and residents. 34

(5) Establish liaisons and cooperate with the directors or 35  
agencies in states having lead abatement, licensing, 36  
accreditation, certification, and approval programs to promote 37  
consistency between the requirements of this chapter and those 38  
of other states in order to facilitate reciprocity of the 39  
programs among states; 40

(6) Establish a program to monitor and audit the quality 41  
of work of lead inspectors, lead risk assessors, lead abatement 42  
project designers, lead abatement contractors, lead abatement 43  
workers, and clearance technicians. The director may refer 44  
improper work discovered through the program to the attorney 45  
general for appropriate action. 46

(B) In addition to any other authority granted by this 47

chapter, the director of health may do any of the following: 48

(1) Employ persons who have received training from a 49  
program the director has determined provides the necessary 50  
background. The appropriate training may be obtained in a state 51  
that has an ongoing lead abatement program under which it 52  
conducts educational programs. 53

(2) Cooperate with the United States environmental 54  
protection agency in any joint oversight procedures the agency 55  
may propose for laboratories that offer lead analysis services 56  
and are accredited under the agency's laboratory accreditation 57  
program; 58

(3) Advise, consult, cooperate with, or enter into 59  
contracts or cooperative agreements with any person, government 60  
entity, interstate agency, or the federal government as the 61  
director considers necessary to fulfill the requirements of this 62  
chapter and the rules adopted under it. 63

(C) In accordance with Section 34 of Article II, Ohio 64  
Constitution, the purpose of this chapter and rules adopted 65  
under it is to protect the comfort, safety, and general welfare 66  
of employees and others who may encounter lead and lead-based 67  
paint. Therefore, it is the intent of the general assembly that 68  
the Revised Code and rules adopted under it be the sole and 69  
exclusive means by which lead abatement activities may be 70  
compelled, prohibited, licensed, or regulated. Any law or rule 71  
governing the abatement of lead, lead-based paint, or the 72  
employment or licensing of lead abatement professionals who 73  
abate lead and lead-based paint enacted or adopted by a 74  
political subdivision before or after the effective date of this 75  
section is void. 76

(1) The department of health has the sole and exclusive 77  
authority to compel, prohibit, license, or regulate lead 78  
abatement activities within the state, including the licensing 79  
of lead abatement professionals, and excepting only those 80  
activities for which oversight has been delegated by the Revised 81  
Code to boards of health. The regulation of lead abatement 82  
activities is a matter of general statewide interest that 83  
requires uniform statewide regulation, and this chapter and 84  
rules adopted under it constitute a comprehensive plan with 85  
respect to all aspects of lead abatement within this state. In 86  
order to assist the department in the furtherance of its sole 87  
and exclusive authority as established in this section, the 88  
director may enter into cooperative agreements with other state 89  
agencies for advice and consultation. Such cooperative 90  
agreements do not confer on other state agencies any authority 91  
to administer or enforce this chapter and rules adopted under 92  
it. In addition, such cooperative agreements shall not be 93  
construed to dilute or diminish the department's sole and 94  
exclusive authority as established in this section. 95

(2) The director of health has the sole and exclusive 96  
authority to adopt rules pertaining to lead and lead abatement, 97  
the purposes of which are, in part, to protect the health, 98  
safety, and welfare of persons owning or living in homes 99  
containing lead and persons working to abate lead. Any such 100  
rules shall be adopted in accordance with Chapter 119. of the 101  
Revised Code and shall include procedures and requirements 102  
governing all of the following: 103

(a) The dissemination of information for purposes of 104  
educating persons who own, dwell, or work in homes containing 105  
lead or lead-based paint through affirmations, warnings, and 106  
guidelines; 107

(b) The dissemination of information for purposes of the 108  
training of lead abatement employees in order to address the 109  
hazardous duties and inherent risks associated with lead 110  
abatement and testing; 111

(c) The gathering of data for purposes of improving the 112  
implementation of this chapter. 113

(D) Nothing in this section shall be construed to 114  
eliminate any authority statutorily granted to the department of 115  
health prior to the effective date of this section. 116

**Section 2.** That existing section 3742.04 of the Revised 117  
Code is hereby repealed. 118

**Section 3.** This act shall be known as the Lead Safety and 119  
Uniformity Act. 120  
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