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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **695**

February 8, 2007

Authored by Clark, Laine, Abeler, Thao and Davnie

The bill was read for the first time and referred to the Committee on Finance

A bill for an act

relating to children's environmental health; allowing filter paper testing for blood lead levels; lowering the blood lead level threshold for reporting and risk assessments; prohibiting the sale of children's items containing lead; requiring medical assistance coverage to cover environmental investigations for children with elevated blood lead levels; and requiring landlords to know and disclose whether their properties contain lead hazards; amending Minnesota Statutes 2006, sections 144.9501, by adding a subdivision; 144.9502, subdivisions 3, 4, 8; 144.9503, subdivision 2; 144.9504, subdivision 2; 144.9507, by adding a subdivision; 256B.0625, subdivision 14, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 325E; 504B.

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

Section 1. Minnesota Statutes 2006, section 144.9501, is amended by adding a subdivision to read:

Subd. 11a. **Filter paper test.** A "filter paper test" means a test for preserving and testing blood specimens for lead that involves preserving patient blood specimens in the form of blood drops spotted on filter paper.

Sec. 2. Minnesota Statutes 2006, section 144.9502, subdivision 3, is amended to read:

Subd. 3. Reports of blood lead analysis required. (a) Every hospital, medical clinic, medical laboratory, other facility, or individual performing blood lead analysis shall report the results after the analysis of each specimen analyzed, for both capillary, filter paper test, and venous specimens, and epidemiologic information required in this section to the commissioner of health, within the time frames set forth in clauses (1) and (2):

(1) within two working days by telephone, fax, or electronic transmission, with written or electronic confirmation within one month, for a venous or filter paper test

2.1 blood lead level equal to or greater than ~~15~~ five micrograms of lead per deciliter of whole
 2.2 blood; or

2.3 (2) within one month in writing or by electronic transmission, for any capillary, or
 2.4 filter paper test, result or for a venous blood lead level less than ~~15~~ five micrograms of
 2.5 lead per deciliter of whole blood.

2.6 (b) If a blood lead analysis is performed outside of Minnesota and the facility
 2.7 performing the analysis does not report the blood lead analysis results and epidemiological
 2.8 information required in this section to the commissioner, the provider who collected the
 2.9 blood specimen must satisfy the reporting requirements of this section. For purposes of
 2.10 this section, "provider" has the meaning given in section 62D.02, subdivision 9.

2.11 (c) The commissioner shall coordinate with hospitals, medical clinics, medical
 2.12 laboratories, and other facilities performing blood lead analysis to develop a universal
 2.13 reporting form and mechanism.

2.14 Sec. 3. Minnesota Statutes 2006, section 144.9502, subdivision 4, is amended to read:

2.15 Subd. 4. **Blood lead analyses and epidemiologic information.** The blood lead
 2.16 analysis reports required in this section must specify:

2.17 (1) whether the specimen was collected as a capillary, filter paper test, or venous
 2.18 sample;

2.19 (2) the date the sample was collected;

2.20 (3) the results of the blood lead analysis;

2.21 (4) the date the sample was analyzed;

2.22 (5) the method of analysis used;

2.23 (6) the full name, address, and phone number of the laboratory performing the
 2.24 analysis;

2.25 (7) the full name, address, and phone number of the physician or facility requesting
 2.26 the analysis;

2.27 (8) the full name, address, and phone number of the person with the blood lead level,
 2.28 and the person's birthdate, gender, and race.

2.29 Sec. 4. Minnesota Statutes 2006, section 144.9502, subdivision 8, is amended to read:

2.30 Subd. 8. **Laboratory standards.** (a) A laboratory performing blood lead analysis
 2.31 shall use methods that:

2.32 (1) meet or exceed the proficiency standards established in the federal Clinical
 2.33 Laboratory Improvement Regulations, Code of Federal Regulations, title 42, section 493,

3.1 promulgated in accordance with the Clinical Laboratory Improvement Act amendments
3.2 of 1988, Public Law 100-578; ~~or~~

3.3 (2) meet or exceed the Occupational Safety and Health Standards for Lead in
3.4 General Industries, Code of Federal Regulations, section 1910.1025, and Occupational
3.5 Safety and Health Standards for Lead in Construction, Code of Federal Regulations,
3.6 section 1926.62; or

3.7 (3) meet or exceed the standards established by the commissioner under paragraph
3.8 (c) for filter paper testing.

3.9 (b) A laboratory performing lead analysis of paint, soil, or dust must be a laboratory
3.10 recognized by the United States Environmental Protection Agency under the Toxic
3.11 Substances Control Act, United States Code, title 15, section 2685, paragraph (b).
3.12 Analysis of samples of drinking water must be performed by a laboratory certified by
3.13 the commissioner to analyze lead in water.

3.14 (c) The commissioner shall establish minimum standards for the use of filter paper
3.15 tests in analyzing blood lead levels.

3.16 Sec. 5. Minnesota Statutes 2006, section 144.9503, subdivision 2, is amended to read:

3.17 Subd. 2. **Priorities for primary prevention.** (a) The commissioner of health and
3.18 boards of health serving cities of the first class shall determine areas at high risk for toxic
3.19 lead exposure.

3.20 (b) A board of health serving a city of the first class shall rank order census tracts
3.21 by awarding points as specified in this paragraph. The priority for primary prevention in
3.22 census tracts at high risk for toxic lead exposure shall be based on the cumulative points
3.23 awarded to each census tract. A greater number of points means a higher priority.

3.24 (1) One point may be awarded to a census tract for each ten percent of children who
3.25 were under six years old at the time they were screened for lead in blood and whose blood
3.26 lead level exceeds ten micrograms of lead per deciliter of whole blood, provided the
3.27 commissioner has determined that the data used to award the points are comprehensive
3.28 and representative.

3.29 (2) One point may be awarded for every five percent of housing that is defined as
3.30 dilapidated or deteriorated by the planning department or similar agency of the city in
3.31 which the housing is located. Where data is available by neighborhood or section within a
3.32 city, the percent of dilapidated or deteriorated housing shall apply equally to each census
3.33 tract within the neighborhood or section.

3.34 (3) One point may be awarded for every 100 parts per million of lead in soil, based
3.35 on the median soil lead values of foundation soil samples, calculated on 100 parts per

4.1 million intervals, or fraction thereof. A board of health shall use data from its own soil
 4.2 survey conducted according to rules adopted under section 144.9508, except that a board
 4.3 of health serving Minneapolis or St. Paul that has not conducted its own soil survey
 4.4 shall use the June 1988 census tract version of the houseside map titled "Distribution of
 4.5 Houseside Lead Content of Soil-Dust in the Twin Cities," prepared by the Center for
 4.6 Urban and Regional Affairs, Humphrey Institute, University of Minnesota, Publication
 4.7 1989, Center for Urban and Regional Affairs 89-4. Where the map displays a census
 4.8 tract that is crossed by two or more intervals, the board of health shall make a reasoned
 4.9 determination of the median foundation soil lead value for that census tract.

4.10 (4) A board of health may award one point to each census tract for each of the
 4.11 following factors based on cutoff criteria to be determined by the board of health:

- 4.12 (i) percent of minority population;
- 4.13 (ii) number of children less than six years of age;
- 4.14 (iii) percent of housing built before 1950; and
- 4.15 (iv) percent of population living in poverty.

4.16 (c) The commissioner may determine areas at high risk for toxic lead exposure at
 4.17 the county level or within a county outside a city of the first class using one or more
 4.18 of the following criteria:

4.19 (1) blood lead levels greater than ~~ten~~ five micrograms per deciliter of whole blood in
 4.20 children under six years of age;

4.21 (2) percent of dilapidated or deteriorated housing;

4.22 (3) soil lead levels in excess of 100 parts per million;

4.23 (4) percent of minority population;

4.24 (5) percent of housing built before 1950;

4.25 (6) percent of children living in poverty; or

4.26 (7) other factors appropriate in preventing lead exposure, as determined by a federal
 4.27 agency including the United States Centers for Disease Control and Prevention, the United
 4.28 States Environmental Protection Agency, or the United States Department of Housing
 4.29 and Urban Development.

4.30 Sec. 6. Minnesota Statutes 2006, section 144.9504, subdivision 2, is amended to read:

4.31 Subd. 2. **Lead risk assessment.** (a) An assessing agency shall conduct a lead risk
 4.32 assessment of a residence according to the ~~venous~~ blood lead level, as determined by a
 4.33 venous blood draw or second filter paper test, and time frame set forth in clauses (1) to
 4.34 (4) for purposes of secondary prevention:

5.1 (1) within 48 hours of a child or pregnant female in the residence being identified to
5.2 the agency as having a ~~venous~~ blood lead level equal to or greater than ~~60~~ 45 micrograms
5.3 of lead per deciliter of whole blood, as confirmed by a venous blood draw or second
5.4 filter paper test;

5.5 (2) within five working days of a child or pregnant female in the residence being
5.6 identified to the agency as having a ~~venous~~ blood lead level equal to or greater than ~~45~~ 15
5.7 micrograms of lead per deciliter of whole blood, as confirmed by a venous blood draw or
5.8 second filter paper test;

5.9 (3) within ten working days of a child in the residence being identified to the agency
5.10 as having a ~~venous~~ blood lead level equal to or greater than ~~15~~ five micrograms of lead per
5.11 deciliter of whole blood, as confirmed by a venous blood draw or second filter paper test; or

5.12 (4) within ten working days of a pregnant female in the residence being identified
5.13 to the agency as having a ~~venous~~ blood lead level equal to or greater than ~~ten~~ five
5.14 micrograms of lead per deciliter of whole blood, as confirmed by a venous blood draw or
5.15 second filter paper test.

5.16 (b) Within the limits of available local, state, and federal appropriations, an assessing
5.17 agency may also conduct a lead risk assessment for children with any elevated blood
5.18 lead level.

5.19 (c) In a building with two or more dwelling units, an assessing agency shall assess
5.20 the individual unit in which the conditions of this section are met and shall inspect all
5.21 common areas accessible to a child. If a child visits one or more other sites such as another
5.22 residence, or a residential or commercial child care facility, playground, or school, the
5.23 assessing agency shall also inspect the other sites. The assessing agency shall have one
5.24 additional day added to the time frame set forth in this subdivision to complete the lead
5.25 risk assessment for each additional site.

5.26 (d) Within the limits of appropriations, the assessing agency shall identify the
5.27 known addresses for the previous 12 months of the child or pregnant female with ~~venous~~
5.28 blood lead levels of at least ~~15~~ five micrograms per deciliter ~~for the child or at least~~
5.29 ~~ten micrograms per deciliter for the pregnant female,~~ as confirmed by a venous blood
5.30 draw or second filter paper test; notify the property owners, landlords, and tenants at
5.31 those addresses that an elevated blood lead level was found in a person who resided
5.32 at the property; and give them primary prevention information. Within the limits of
5.33 appropriations, the assessing agency may perform a risk assessment and issue corrective
5.34 orders in the properties, if it is likely that the previous address contributed to the child's
5.35 or pregnant female's blood lead level. The assessing agency shall provide the notice
5.36 required by this subdivision without identifying the child or pregnant female with the

6.1 elevated blood lead level. The assessing agency is not required to obtain the consent of
6.2 the child's parent or guardian or the consent of the pregnant female for purposes of this
6.3 subdivision. This information shall be classified as private data on individuals as defined
6.4 under section 13.02, subdivision 12.

6.5 (e) The assessing agency shall conduct the lead risk assessment according to rules
6.6 adopted by the commissioner under section 144.9508. An assessing agency shall have
6.7 lead risk assessments performed by lead risk assessors licensed by the commissioner
6.8 according to rules adopted under section 144.9508. If a property owner refuses to allow
6.9 a lead risk assessment, the assessing agency shall begin legal proceedings to gain entry
6.10 to the property and the time frame for conducting a lead risk assessment set forth in this
6.11 subdivision no longer applies. A lead risk assessor or assessing agency may observe the
6.12 performance of lead hazard reduction in progress and shall enforce the provisions of this
6.13 section under section 144.9509. Deteriorated painted surfaces, bare soil, and dust must be
6.14 tested with appropriate analytical equipment to determine the lead content, except that
6.15 deteriorated painted surfaces or bare soil need not be tested if the property owner agrees to
6.16 engage in lead hazard reduction on those surfaces. The lead content of drinking water
6.17 must be measured if another probable source of lead exposure is not identified. Within a
6.18 standard metropolitan statistical area, an assessing agency may order lead hazard reduction
6.19 of bare soil without measuring the lead content of the bare soil if the property is in a
6.20 census tract in which soil sampling has been performed according to rules established by
6.21 the commissioner and at least 25 percent of the soil samples contain lead concentrations
6.22 above the standard in section 144.9508.

6.23 (f) Each assessing agency shall establish an administrative appeal procedure which
6.24 allows a property owner to contest the nature and conditions of any lead order issued by
6.25 the assessing agency. Assessing agencies must consider appeals that propose lower cost
6.26 methods that make the residence lead safe. The commissioner shall use the authority and
6.27 appeal procedure granted under sections 144.989 to 144.993.

6.28 (g) Sections 144.9501 to 144.9509 neither authorize nor prohibit an assessing agency
6.29 from charging a property owner for the cost of a lead risk assessment.

6.30 Sec. 7. Minnesota Statutes 2006, section 144.9507, is amended by adding a subdivision
6.31 to read:

6.32 Subd. 6. **Medical assistance.** Medical assistance reimbursement for lead risk
6.33 assessment services under section 256B.0625, subdivision 49, shall not be used to replace
6.34 or decrease existing state or local funding for lead services and lead-related activities.

7.1 Sec. 8. Minnesota Statutes 2006, section 256B.0625, subdivision 14, is amended to
7.2 read:

7.3 Subd. 14. **Diagnostic, screening, and preventive services.** (a) Medical assistance
7.4 covers diagnostic, screening, and preventive services.

7.5 (b) "Preventive services" include services related to pregnancy, including:

7.6 (1) services for those conditions which may complicate a pregnancy and which may
7.7 be available to a pregnant woman determined to be at risk of poor pregnancy outcome;

7.8 (2) prenatal HIV risk assessment, education, counseling, and testing; and

7.9 (3) alcohol abuse assessment, education, and counseling on the effects of alcohol
7.10 usage while pregnant. Preventive services available to a woman at risk of poor pregnancy
7.11 outcome may differ in an amount, duration, or scope from those available to other
7.12 individuals eligible for medical assistance.

7.13 (c) "Screening services" include, but are not limited to, blood lead tests. Screening
7.14 services also include, for children with blood lead levels equal to or greater than five
7.15 micrograms of lead per deciliter of whole blood, environmental investigations to
7.16 determine the source of lead exposure. Reimbursement is limited to a health professional's
7.17 time and activities during an on-site investigation of a child's home or primary residence.

7.18 Sec. 9. Minnesota Statutes 2006, section 256B.0625, is amended by adding a
7.19 subdivision to read:

7.20 Subd. 49. **Lead risk assessments.** (a) Effective October 1, 2007, or six months after
7.21 federal approval, whichever is later, medical assistance covers lead risk assessments
7.22 provided by a lead risk assessor who is licensed by the commissioner of health under
7.23 section 144.9505 and employed by an assessing agency as defined in section 144.9501.
7.24 Medical assistance covers a onetime on-site investigation of a recipient's home or primary
7.25 residence to determine the existence of lead so long as the recipient is under the age
7.26 of 21 and has a venous blood lead level specified in section 144.9504, subdivision 2,
7.27 paragraph (a).

7.28 (b) Medical assistance reimbursement covers the lead risk assessor's time to
7.29 complete the following activities:

7.30 (1) gathering samples;

7.31 (2) interviewing family members;

7.32 (3) gathering data, including meter readings; and

7.33 (4) providing a report with the results of the investigation and options for reducing
7.34 lead-based paint hazards.

8.1 Medical assistance coverage of lead risk assessment does not include testing of
 8.2 environmental substances such as water, paint, or soil or any other laboratory services.
 8.3 Medical assistance coverage of lead risk assessments is not included in the capitated
 8.4 services for children enrolled in health plans through the prepaid medical assistance
 8.5 program and the MinnesotaCare program.

8.6 (c) Payment for lead risk assessment must be cost-based and must meet the criteria
 8.7 for federal financial participation under the medical assistance program. The rate must
 8.8 be based on allowable expenditures from statewide cost information gathered. Under
 8.9 section 144.9507, subdivision 5, federal medical assistance funds may not replace existing
 8.10 funding for lead-related activities. The nonfederal share of costs for services provided
 8.11 under this subdivision must be from state or local funds and is the responsibility of the
 8.12 agency providing the risk assessment. Eligible expenditures for the nonfederal share of
 8.13 costs may not be made from federal funds or funds used to match other federal funds,
 8.14 except as allowed for Indian tribes under federal law. Any federal disallowances are the
 8.15 responsibility of the agency providing risk assessment services.

8.16 **Sec. 10. [325E.385] SALE OF CHILDREN'S ITEMS CONTAINING LEAD**
 8.17 **PROHIBITED.**

8.18 Subdivision 1. **Short title.** This section may be cited as the "Jarnell Brown Act."

8.19 Subd. 2. **Definition.** For the purposes of this section "lead bearing substance" means
 8.20 an item containing or coated with lead so that the lead content is more than 600 parts per
 8.21 million of lead, or, for candy, more than 0.0 parts per million.

8.22 Subd. 3. **Sale prohibited.** On or after July 1, 2007, no person shall sell, offer for
 8.23 sale, transfer, or distribute free of charge toys, furniture, clothing, accessories, jewelry,
 8.24 decorative objects, edible items, candy, food, dietary supplements, or other articles used
 8.25 by or intended to be chewable by children containing a lead bearing substance.

8.26 **Sec. 11. [325E.386] REQUIREMENTS FOR PAINT RETAILERS.**

8.27 A person selling paint to the public in quantities of one gallon or more must do
 8.28 the following:

8.29 (1) offer copies of the United States Environmental Protection Agency's "Protecting
 8.30 Your Family From Lead" pamphlet to all paint customers;

8.31 (2) place a poster visible in the paint department that informs customers of the
 8.32 right to receive a copy of the pamphlet; and

8.33 (3) offer for sale a lead dust test kit that is capable of determining the presence of
 8.34 lead-based paint hazards.

9.1 Sec. 12. **[504B.196] LEAD TESTING AND DISCLOSURE REQUIRED.**

9.2 (a) Prior to renting a property, a landlord of a residential building built before 1978
9.3 must:

9.4 (1) have a third party, approved by the commissioner of health, perform a lead
9.5 dust wipe to determine the risk for lead hazards and disclose the results to any potential
9.6 tenant; or

9.7 (2) provide documentation according to standards developed by the commissioner of
9.8 health that a lead dust wipe has been performed by a third party and disclose the results to
9.9 any potential tenant.

9.10 (b) the commissioner of health shall develop standards for the documentation
9.11 required in paragraph (a) and make those standards available to landlords.

9.12 **EFFECTIVE DATE.** This section is effective January 1, 2008.