

ASSEMBLY BILL

No. 1316

Introduced by Assembly Members Quirk and Weber

February 17, 2017

An act to amend Sections 1367.3, 105280, 105285, 105290, and 105310 of the Health and Safety Code, relating to childhood lead poisoning.

LEGISLATIVE COUNSEL'S DIGEST

AB 1316, as introduced, Quirk. Public health: childhood lead poisoning: prevention.

Existing law, the Childhood Lead Poisoning Prevention Act of 1991, required the State Department of Public Health (formerly the State Department of Health Services) between July 1, 1992, and July 1, 1993, to adopt regulations establishing a standard of care, at least as stringent as the most recent United States Centers for Disease Control and Prevention screening guidelines, whereby all children are evaluated for risk of lead poisoning by health care providers during each child's periodic health assessment. The standard of care, among others, is required to be that, upon evaluation, those children determined to be at risk for lead poisoning, according to the regulations, are required to be screened. Existing law creates the Childhood Lead Poisoning Prevention Fund consisting of fees imposed on manufacturers and other persons formerly, presently, or both formerly and presently engaged in the stream of commerce of lead or products containing lead, or who are otherwise responsible for identifiable sources of lead that have significantly contributed historically, currently contribute, or both have significantly contributed historically and contribute currently to environmental lead contamination. The moneys in the fund are required

to be expended, upon appropriation by the Legislature, for the purposes of the act.

This bill would instead require the standard of care to be that all children be screened for blood lead levels and would clarify that the lead screening would not be paid for by funds from the Childhood Lead Poisoning Prevention Fund. The bill would also make conforming changes and delete obsolete provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1367.3 of the Health and Safety Code is
2 amended to read:

3 1367.3. (a) ~~On and after January 1, 1993, every~~ Every health
4 care service plan that covers hospital, medical, or surgical expenses
5 on a group basis shall offer benefits for the comprehensive
6 preventive care of children. This section shall apply to children
7 17 and 18 years of age, except as provided in ~~paragraph (4)~~
8 *subparagraph (D) of paragraph (2)* of subdivision (b). Every plan
9 shall communicate the availability of these benefits to all group
10 contractholders and to all prospective group contractholders with
11 whom they are negotiating. This section shall apply to a plan
12 ~~which, that,~~ by rule or order of the director, has been exempted
13 from subdivision (i) of Section 1367, insofar as that section and
14 the rules thereunder relate to the provision of the preventive health
15 care services described herein.

16 (b) For purposes of this section, benefits for the comprehensive
17 preventive care of children shall comply with both of the following:

18 (1) Be consistent with both of the following:
19 (A) The Recommendations for Preventive Pediatric Health Care,
20 as adopted by the American Academy of Pediatrics in September
21 of 1987.

22 (B) The most current version of the Recommended Childhood
23 Immunization Schedule/United States, jointly adopted by the
24 American Academy of Pediatrics, the Advisory Committee on
25 Immunization Practices, and the American Academy of Family
26 Physicians, unless the State Department of ~~Health Services~~ *Public*
27 *Health* determines, within 45 days of the published date of the

1 schedule, that the schedule is not consistent with the purposes of
2 this section.

3 (2) Provide for the following:

4 (A) Periodic health evaluations.

5 (B) Immunizations.

6 (C) Laboratory services in connection with periodic health
7 evaluations.

8 (D) For health care service plan contracts within the scope of
9 this section that are issued, amended, or renewed on and after
10 January 1, 1993, screening for blood lead levels in children at risk
11 for lead poisoning, as determined by a physician and surgeon
12 affiliated with the plan, ~~section, screening for blood lead levels in~~
13 *all children* when the screening is prescribed by a physician and
14 surgeon affiliated with the plan. This subparagraph shall be
15 applicable to all children and shall not be limited to children 17
16 and 18 years of age.

17 SEC. 2. Section 105280 of the Health and Safety Code is
18 amended to read:

19 105280. For purposes of this chapter, the following definitions
20 apply:

21 (a) "Appropriate case management" means health care referrals,
22 environmental assessments, and educational activities, performed
23 by the appropriate person, professional, or entity, necessary to
24 reduce a child's exposure to lead and the consequences of the
25 exposure, as determined by the United States Centers for Disease
26 ~~Control~~, *Control and Prevention*, or as determined by the
27 department pursuant to Section 105300.

28 (b) "Lead poisoning" means the disease present when the
29 concentration of lead in whole venous blood reaches or exceeds
30 levels constituting a health risk, as specified in the most recent
31 United States Centers for Disease Control *and Prevention*
32 guidelines for lead poisoning as determined by the department, or
33 when the concentration of lead in whole venous blood reaches or
34 exceeds levels constituting a health risk as determined by the
35 department pursuant to Section 105300.

36 (c) "Department" means the State Department of ~~Health~~
37 ~~Services~~. *Public Health*.

38 (d) "Health assessment" has the same meaning as prescribed in
39 Section 6800 of Title 17 of the California Code of Regulations.

1 (e) “Screen” means the medical procedure by which the
2 concentration of lead in whole venous blood is measured.

3 (f) “Health care” means the identification, through evaluation
4 and screening, if indicated, of lead poisoning, as well as any
5 followup medical treatment necessary to reduce the elevated blood
6 lead levels.

7 (g) “Environmental lead contamination” means the persistent
8 presence of lead in the environment, in quantifiable amounts, that
9 results in ongoing and chronic exposure to children.

10 SEC. 3. Section 105285 of the Health and Safety Code is
11 amended to read:

12 ~~105285. (a) After July 1, 1992, but on or before July 1, 1993,~~
13 ~~the~~ *The* department shall adopt regulations establishing a standard
14 of care, at least as stringent as the most recent United States Centers
15 for Disease Control *and Prevention* screening guidelines, whereby
16 all children ~~shall be~~ *are* evaluated for risk of lead poisoning by
17 health care providers during each child’s periodic health
18 assessment. The regulations shall be developed in consultation
19 with medical experts, environmental experts, appropriate
20 professional organizations, and the public, as determined by the
21 department.

22 (b) The standard of care shall provide ~~that, upon evaluation,~~
23 ~~those children determined to be “at risk” for lead poisoning,~~
24 ~~according to the regulations adopted pursuant to subdivision (a),~~
25 ~~that all children~~ shall be screened.

26 (c) The standard of care shall provide that ~~no~~ *a* child shall *not*
27 be screened pursuant to this ~~article~~ *chapter* if the parent or guardian
28 of the child refuses to consent to the screening.

29 (d) The standard of care shall provide that health care providers
30 ~~shall be~~ *are* responsible only for evaluation of all ~~children, for~~
31 ~~screening of children determined to be at risk, children~~ and for
32 medically necessary followup services.

33 ~~(e) The standard of care established pursuant to this section~~
34 ~~shall not become operative before April 1, 1993.~~

35 SEC. 4. Section 105290 of the Health and Safety Code is
36 amended to read:

37 ~~105290. On or after April 1, 1993, in those instances in which~~
38 ~~When~~ a child is identified with lead poisoning, the department
39 shall ensure appropriate case management. The department may

1 contract with any public or private entity, including local agencies,
2 to conduct the case management.

3 SEC. 5. Section 105310 of the Health and Safety Code is
4 amended to read:

5 105310. (a) There is hereby imposed a fee on manufacturers
6 and other persons formerly, presently, or both formerly and
7 presently engaged in the stream of commerce of lead or products
8 containing lead, or who are otherwise responsible for identifiable
9 sources of ~~lead, which~~ *lead that* have significantly contributed
10 historically, currently contribute, or both have significantly
11 contributed historically and contribute currently to environmental
12 lead contamination.

13 (b) After July 1, 1992, but on or before January 1, 1993, the
14 department shall, by regulation, establish specific fees to be
15 assessed on manufacturers and other parties formerly, presently,
16 or both formerly and presently engaged in the stream of commerce
17 of lead or products containing lead, or who are otherwise
18 responsible for identifiable sources of lead ~~which,~~ *that,* as
19 determined by the department, have significantly contributed
20 historically, currently contribute, or both have significantly
21 contributed historically and contribute currently to environmental
22 lead contamination.

23 To the maximum extent practicable, the fees shall be assessed
24 on the basis of the following criteria:

25 (1) A person's past and present responsibility for environmental
26 lead contamination.

27 (2) A person's "market share" responsibility for environmental
28 lead contamination.

29 This section shall not apply to, and no fee shall be assessed upon,
30 any retailer of lead or products containing lead.

31 (c) The fee shall be assessed and collected annually by the State
32 Board of Equalization. The first payment of these fees shall be due
33 on or before April 1, 1993. The annual fee assessment in
34 subdivision (a) shall be adjusted by the department to reflect both
35 of the following:

36 (1) The increase in the annual average of the California
37 ~~Consumers~~ *Consumer* Price Index, as recorded by the California
38 Department of Industrial Relations, for the most recent year
39 available.

1 (2) The increase or decrease in the number of children in
 2 California who are receiving ~~services~~ *services, excluding screening*
 3 *for blood lead levels as described in Section 105285*, pursuant to
 4 ~~this article~~ *chapter*.

5 This adjustment of fees shall not be subject to the requirements
 6 of Chapter 3.5 (commencing with Section 11340) of Part 1 of
 7 Division 3 of Title 2 of the Government Code.

8 (d) (1) ~~No~~A fee shall *not* be assessed upon a person if that
 9 person can demonstrate, as determined by the department, that his
 10 or her industry did not contribute in any manner, as described in
 11 this section, to environmental lead contamination.

12 (2) ~~No~~A fee shall *not* be assessed upon a party if that party
 13 demonstrates, as determined by the department, that the lead, or
 14 the product containing lead, with which it is currently, or was
 15 historically, associated does not currently, or did not historically,
 16 result in quantifiably persistent environmental lead contamination.

17 (e) The fee imposed pursuant to this section shall be
 18 administered and collected by the ~~board~~ *State Board* of
 19 Equalization in accordance with Part 22 (commencing with Section
 20 43001) of Division 2 of the Revenue and Taxation Code. The fees
 21 shall be deposited in the Childhood Lead Poisoning Prevention
 22 Fund, which is hereby created in the State Treasury. Moneys in
 23 the fund shall be expended for the purposes of this chapter,
 24 including the State Board of Equalization’s costs of collection and
 25 administration of fees, upon appropriation by the Legislature. All
 26 interest earned on the moneys ~~which~~ *that* have been deposited into
 27 the Childhood Lead Poisoning Prevention Fund shall be retained
 28 in that fund.

29 (f) The fees collected pursuant to this section and the earnings
 30 therefrom shall be used solely for the purposes of implementing
 31 this chapter. The department shall not collect fees pursuant to this
 32 section in excess of the amount reasonably anticipated by the
 33 department to fully implement this chapter. The department shall
 34 not spend more than it collects from the fees and the earnings in
 35 implementing this chapter. In no fiscal year shall the department
 36 collect more than sixteen million dollars (\$16,000,000) in fees, as
 37 adjusted for inflation pursuant to subdivision (b).

38 (g) It is the intent of the Legislature, in subsequent legislation,
 39 to appropriate and deposit into the Childhood Lead Poisoning
 40 Prevention Fund the sum of one hundred twenty-eight thousand

1 dollars (\$128,000) from the General Fund on July 1, 1992, to the
2 Controller for allocation as loans as follows:

3 (1) Seventy-eight thousand dollars (\$78,000) to the department,
4 for the purposes of adopting regulations to establish the fee
5 schedule authorized by this section. The State Board of
6 Equalization shall repay the amount of this appropriation, on or
7 before June 30, 1993, with interest at the pooled money investment
8 rate, from fees collected pursuant to this section.

9 (2) Fifty thousand dollars (\$50,000) to the State Board of
10 Equalization, for the purposes of implementing this section. The
11 State Board of Equalization shall repay the amount of this
12 appropriation on or before June 30, 1993, with interest at the pooled
13 money investment rate, from fees collected pursuant to this section.

14 (h) Regulations adopted for fee assessment and collection
15 pursuant to this section shall be exempt from review by the Office
16 of Administrative Law.