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.


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

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

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

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

(1) Be consistent with both of the following:


(B) The most current version of the Recommended Childhood Immunization Schedule/United States, jointly adopted by the American Academy of Pediatrics, the Advisory Committee on Immunization Practices, and the American Academy of Family Physicians, unless the State Department of Health Services Public Health determines, within 45 days of the published date of the
schedule, that the schedule is not consistent with the purposes of
this section.

(2) Provide for the following:
(A) Periodic health evaluations.
(B) Immunizations.
(C) Laboratory services in connection with periodic health
evaluations.
(D) For health care service plan contracts within the scope of
this section that are issued, amended, or renewed on and after
January 1, 1993, screening for blood lead levels in children at risk
for lead poisoning, as determined by a physician and surgeon
affiliated with the plan, section, screening for blood lead levels in
all children when the screening is prescribed by a physician and
surgeon affiliated with the plan. This subparagraph shall be
applicable to all children and shall not be limited to children 17
and 18 years of age.

SEC. 2. Section 105280 of the Health and Safety Code is
amended to read:
105280. For purposes of this chapter, the following definitions
apply:
(a) “Appropriate case management” means health care referrals,
environmental assessments, and educational activities, performed
by the appropriate person, professional, or entity, necessary to
reduce a child’s exposure to lead and the consequences of the
exposure, as determined by the United States Centers for Disease
Control and Prevention, or as determined by the
department pursuant to Section 105300.
(b) “Lead poisoning” means the disease present when the
concentration of lead in whole venous blood reaches or exceeds
levels constituting a health risk, as specified in the most recent
United States Centers for Disease Control and Prevention
guidelines for lead poisoning as determined by the department, or
when the concentration of lead in whole venous blood reaches or
exceeds levels constituting a health risk as determined by the
department pursuant to Section 105300.
(c) “Department” means the State Department of—Health
(d) “Health assessment” has the same meaning as prescribed in
Section 6800 of Title 17 of the California Code of Regulations.
(e) “Screen” means the medical procedure by which the concentration of lead in whole venous blood is measured.

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

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

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

105285. (a) After July 1, 1992, but on or before July 1, 1993, the department shall 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 shall be evaluated for risk of lead poisoning by health care providers during each child’s periodic health assessment. The regulations shall be developed in consultation with medical experts, environmental experts, appropriate professional organizations, and the public, as determined by the department.

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

(c) The standard of care shall provide that a child shall not be screened pursuant to this article chapter if the parent or guardian of the child refuses to consent to the screening.

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

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

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

105290. On or after April 1, 1993, in those instances in which a child is identified with lead poisoning, the department shall ensure appropriate case management. The department may
contract with any public or private entity, including local agencies, to conduct the case management.

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

105310. (a) There is hereby imposed a fee 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, which have significantly contributed historically, currently contribute, or both have significantly contributed historically and contribute currently to environmental lead contamination.

(b) After July 1, 1992, but on or before January 1, 1993, the department shall, by regulation, establish specific fees to be assessed on manufacturers and other parties 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, which, as determined by the department, have significantly contributed historically, currently contribute, or both have significantly contributed historically and contribute currently to environmental lead contamination.

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

(1) A person’s past and present responsibility for environmental lead contamination.

(2) A person’s “market share” responsibility for environmental lead contamination.

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

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

(1) The increase in the annual average of the California Consumer Price Index, as recorded by the California Department of Industrial Relations, for the most recent year available.
(2) The increase or decrease in the number of children in California who are receiving services, excluding screening for blood lead levels as described in Section 105285, pursuant to this article.

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

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

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

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

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

(g) It is the intent of the Legislature, in subsequent legislation, to appropriate and deposit into the Childhood Lead Poisoning Prevention Fund the sum of one hundred twenty-eight thousand dollars ($128,000).
dollars ($128,000) from the General Fund on July 1, 1992, to the Controller for allocation as loans as follows:

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

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

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