Regular Session, 2011

HOUSE BILL NO. 471

BY REPRESENTATIVE GUILLORY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

WATER/DRINKING WATER: Provides with respect to certain plumbing used to convey water for human consumption

AN ACT

To amend and reenact R.S. 40:1299.28 and to enact R.S. 40:1299.27.1, relative to lead-free pipes, fittings, fixtures, solder, or flux; to provide for the use, introduction into commerce, and sale of certain pipes, fittings, fixtures, solder, or flux; to require lead-free pipes, fittings, fixtures, solder, or flux; to provide for exclusions; to provide for labeling; to provide for definitions; to provide for the authority of the Department of Health and Hospitals; to provide for enforcement; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1299.28 is hereby amended and reenacted and R.S. 40:1299.27.1 is hereby enacted to read as follows:

§1299.27.1. Lead-free pipe, fitting, fixture, solder, or flux; exclusions; definitions

A.(1) No person shall use any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption, except when necessary for the repair of leaded joints of cast iron pipes.

(2) No person shall introduce into commerce any pipe, pipe or plumbing fitting, or fixture intended to convey or dispense water for human consumption through drinking or cooking that is not lead free, including kitchen faucets, bathroom

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faucets, and any other end-use devices intended to convey or dispense water for human consumption through drinking or cooking.

(3) The provisions of this Subsection shall not apply to the following:

(a) Pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption.

(b) Toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, showers, safety shower flushes, service saddles, or water distribution main gate valves that are two inches in diameter or larger.

(c) Materials purchased or acquired by public water systems prior to July 1, 2013.

B.(1) No person engaged in the business of selling plumbing supplies, except a manufacturer, shall sell solder or flux that is not lead free.

(2) No person shall introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.

C. Except as provided for in Paragraph (2) of this Subsection, for the purposes of this Section, "lead free" means not more than 0.2 percent lead when used with respect to solder and flux and not more than a weighted average of 0.25 percent when used with respect to the wetted surfaces of pipes and pipe fittings, plumbing fittings, and fixtures. The weighted average lead content of a pipe and pipe fitting, plumbing fitting, and fixture shall be calculated by using the following formula: The percentage of lead content within each component that comes into contact with water shall be multiplied by the percent of the total wetted surface of the entire pipe and pipe fitting, plumbing fitting, or fixture represented in each component containing lead. These percentages shall be added and the sum shall constitute the weighted average lead content of the pipe and pipe fitting, plumbing fitting, or fixture.

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D. All pipe, pipe or plumbing fittings or fixtures, solder, or flux shall be certified by an independent American National Standards Institute (ANSI) accredited third party as being in compliance with this Section.

E. The Department of Health and Hospitals shall promulgate rules and regulations implementing the provisions of this Section.

§1299.28. Violations; enforcement

A. Any violation of R.S. 40:1299.26 ~~and R.S. 40:1299.27~~, 1299.27, and 1299.27.1 may be treated by any party as a violation of the state, municipal, or parochial health codes and all procedures and remedies applicable to such violations of said codes shall be available to correct, deter, or punish violations of said provisions. The district and appellate courts shall have jurisdiction to enforce the said provisions to the same extent that said courts have jurisdiction to enforce said codes.

B. All local health officers, health unit supervisors, or other code enforcement agencies shall enforce R.S. 40:1299.26 ~~and R.S. 40:1299.27~~, 1299.27, and 1299.27.1 in the same manner and with the same authority as they may enforce the health code.

C. The state health officer shall have concurrent responsibility and authority to enforce R.S. 40:1299.26 ~~and R.S. 40:1299.27~~, 1299.27, and 1299.27.1 and in so doing shall have available to him all powers and authority which shall be available to local health officers and health unit supervisors. The state health officer's responsibility with respect to objects sold or placed into commerce in violation of R.S. 40:1299.27.1 is limited to those instances where the state officer or his personnel are notified of such violation.

D. Violations of R.S. 40:1299.26 ~~and R.S. 40:1299.27~~, 1299.27, and 1299.27.1 shall be treated as emergency matters, and shall be given preference by enforcing agencies and speedy hearings by district and appellate courts.

Section 2. This Act shall become effective on January 1, 2013.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Guillory HB No. 471

Proposed law provides no person shall use any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption, except when necessary for the repair of leaded joints of cast iron pipes.

Proposed law provides no person shall introduce into commerce any pipe, pipe or plumbing fitting, or fixture intended to convey or dispense water for human consumption through drinking or cooking that is not lead free, including kitchen faucets, bathroom faucets, and any other end-use devices intended to convey or dispense water for human consumption through drinking or cooking.

Proposed law provides for the following exclusions:

> Pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption.
>
> Toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, showers, safety shower flushes, service saddles, or water distribution main gate valves that are two inches in diameter or larger.
>
> Materials purchased or acquired by public water systems prior to July 1, 2013.

Proposed law provides that no person engaged in the business of selling plumbing supplies, except a manufactured, shall sell solder or flux that is not lead free.

Proposed law provides that no person shall introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.

Proposed law defines "lead free".

Proposed law provides that all pipe, pipe or plumbing fittings or fixtures, solder, or flux shall be certified by an independent American National Standards Institute (ANSI) accredited third party as being in compliance with proposed law.

Proposed law requires the Dept. of Health and Hospitals to promulgate rules and regulations implementing the provisions of proposed law.

Present law provides for the enforcement of violations of provisions prohibiting use and sale of lead-based paint and the removal of lead-based paint in certain circumstances as health code violations by all local health officers, health unit supervisors concurrently with the state health officer. Such violations are treated as emergency matters.

Proposed law retains present law except adds violations of proposed law.

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Proposed law provides that the enforcement of prohibitions on placing certain items into commerce shall be limited to instances of notification to the state health officer.

(Amends R.S. 40:1299.28; Adds R.S. 40:1299.27.1)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Natural Resources and Environment to the original bill.

1. Added toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, showers, safety shower flushes to the exclusions of proposed law.

2. Added materials purchased or acquired by public water systems prior to July 1, 2013 to the exclusions of proposed law.

2. Removed the definition of "lead free" for purposes other than human consumption.

3. Limited the enforcement of proposed law prohibiting placing certain items into commerce to instances of notification to the state health officer.

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