



April 29, 2026

Honorable Stephen M. Casey
Chairman, House Municipal Government and Housing Committee
Rhode Island State House
82 Smith Street
Providence, RI 02903

RE: H8467 - AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT - LEAD HAZARD MITIGATION

Dear Chairman Casey and Honorable Members of the Committee:

As the Executive Director of Rhode Island Business Leaders Alliance (the “Alliance”), I am grateful for the opportunity to provide the House Municipal Government and Housing Committee with this written testimony in response to H8467 - AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT - LEAD HAZARD MITIGATION, which would require all renovation projects of buildings built before 1978 for housing, offices, or any other purpose to comply with the provisions of the Lead Poisoning Prevention Act and the Hazardous Substances Right-to-Know Act and would require any renovation project to have a lead inspector, lead training, and a lead supervisor.¹

Workplace safety and health issues are generally a matter of federal jurisdiction as specifically delineated in Section 18 of the Occupational Safety and Health Act (“OSH Act”) of 1970. Section 18(b) of the OSH Act states, in part that “any State which, at any time, desires to assume responsibility for development and enforcement therein of occupational safety and health standards relating to any occupational safety or health issue with respect to which a Federal standard” must “submit a State plan for the development of such standards and their enforcement.” However, in Section 18(a) of the OSH Act, Congress also reserved for a state the ability to “assert jurisdiction under State law over any occupational safety or health issue with respect to which no standard is in effect.”

¹ This testimony was prepared by occupational safety and health subject matter experts from Littler Mendelson, PC. The undersigned thanks Peter Vassalo, Esq. <https://www.littler.com/people/peter-vassalo>) for contributing his knowledge and expertise on this important issue.

Here, there is already a standard in effect. OSHA enforces a comprehensive Lead in Construction Standard that can be found at 29 CFR 1926.62. 29 CFR 1926.62 is a comprehensive, health protective standard aimed at preventing lead poisoning in construction through strict exposure limits (50 micrograms of lead per cubic meter of air (50 $\mu\text{g}/\text{m}^3$) averaged over an eight (8) hour time weighted average (TWA)), mandatory monitoring, engineering controls, medical surveillance, and robust employee protections.

While H8467 touches upon several areas that are outside of OSHA's jurisdiction, there are two sections of H8467 that squarely fall within OSHA's Lead in Construction Standard and are preempted.

H8467 contains a prescriptive, time related training requirement:

“(d) Any employee of the person or firm performing any renovation project referenced in subsection (a) of this section, shall be required to have a minimum of twenty-four (24) hours of lead worker training in compliance with § 28-21-9.”

This provision is likely preempted by the OSHA Lead in Construction Standard. First, pursuant to 29 CFR 1926.62(l)(2), the standard contains very comprehensive training requirements. OSHA, however, has not included any sort of time determination in the requirements. Instead, it just states that the employer must “assure that each employee is training in the following” and then gives a laundry list. This allows employers to tailor the training to the jobsite. For example, a small job may not require 24 hours of training, while a larger job or a bigger employer might require more.

Like the ill-conceived heat safety bill that is making its way through the General Assembly committees of jurisdiction, quantifying these requirements removes an employer's ability to tailor their training as appropriate and could even have the reverse effect of training being LESS comprehensive if its read as a ceiling as opposed to a floor (although it does say “minimum” there is a practical effect). Based on the Alliance's reading of the Standard, OSHA made a deliberate regulatory decision to allow for this flexibility. And, because Rhode Island is not an approved OSHA state plan pursuant to Section 18 of the OSH Act, the training provision is likely preempted.

In addition, H8467 contains what appears to be a “competent person” requirement for the jobsite:

“(e) Any person or firm performing any renovation project referenced in subsection (a) of this section shall have a lead work supervisor present and on site for a minimum of forty (40) hours per week.”

The OSHA Lead in Construction Standard has a competent person requirement, with competent person defined as “one who is capable of identifying existing and predictable lead hazards in the

surroundings or working conditions and who has authorization to take prompt corrective measures to eliminate them.” 29 CFR 1926.62(e)(2)(iii) goes on to state: “The compliance program shall provide for frequent and regular inspections of job sites, materials, and equipment to be made by a competent person.”

The relevant provisions of the Code of Federal Regulations contain no requirement that the individual be a supervisor, nor does it have a prescriptive onsite requirement. Similar to the training requirements above, OSHA made a regulatory determination to give employers flexibility as to who would be a competent person on the job site. If this is the case, this provision is also likely to be preempted pursuant to Section 18 of the OSH Act, particularly the job title and onsite time requirements.

In conclusion, the training and on-site supervisor provisions are likely preempted because they directly address safety and health concerns that are already covered by an OSHA Lead in Construction Standard. In both cases, regardless of whether OSHA made specific regulatory decisions to maintain the performance orientation of these standards, the quantification of the provisions will deprive employers of the ability to tailor their lead programs to their jobsites. As noted above, OSHA’s Lead in Construction Standard is far more comprehensive than this bare bones piece of legislation and already serves to provide comprehensive protection from lead hazards. OSHA has robust enforcement mechanisms in place to address and abate these hazards. H8467 would do nothing to augment the existing requirements to keep Rhode Island workers working at pre-1978 jobsites safe.

Respectfully submitted by:

Gregory Tumolo

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