

Vermont's Lead in Plumbing Supplies Law - Answers to Frequently Asked Questions

QUESTION	RESPONSE
THE LAW	
What does the Vermont lead in plumbing supplies law (also known as "Act 193") require?	Effective January 1, 2010, "no person shall sell or offer for sale in or into the State of Vermont, or use in the State of Vermont, solder or flux for plumbing containing more than 0.2 percent of lead, or plumbing fixtures whose wetted surfaces contain more than a weighted average of 0.25 percent lead."
What fixtures are covered by the lead limits of the Vermont lead in plumbing supplies law?	The test for whether the statutory lead limit applies to a specific fixture is whether the fixture conveys water for human consumption - that is, water that is used for drinking or cooking.
What if the fixture can be used for both covered (conveying water for human consumption) and non covered use?	Sellers are advised to notify consumers that the fixture should not be used to convey water for drinking or cooking. We suggest a clear and conspicuous disclosure posted near the product.
Who can be liable for violating the lead in plumbing supplies law?	Manufacturers, importers, wholesalers, retailers and plumbers are liable for their own sale, offer for sale, or installation of non-compliant fixtures or solder.
Who enforces the lead in plumbing supplies law?	The Attorney General's Office may enforce violations of the lead in plumbing supplies law as a violation of the Vermont Consumer Fraud Act. State courts have the authority to impose civil penalties of up to \$10,000.00 per violation, award consumer relief, and require reimbursement to the State for fees and costs. In addition, there may be a private right of action.
RULES, CODES AND OTHER LAWS	
Does the lead in plumbing supplies law apply, even when the building is an owner occupied, single family residence not on a public water system that is exempt from the Vermont Plumbing Code?	The lead in plumbing supplies law (Act 193) is separate and distinct from the existing Vermont Plumbing Code. The restrictions and limits of Act 193 apply in all buildings, even those buildings which are exempt from the Vermont Plumbing Code.

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GUIDANCE FROM THE ATTORNEY GENERAL	
Is there a guide available to say what has to be lead free?	The Attorney General's Office does have a guide on plumbing supplies that you may want to review: http://www.atg.state.vt.us/assets/files/LeadinPlumbing.pdf
CERTIFICATION	
Does the lead in plumbing supplies law require that plumbing supplies and/or fixtures be certified as meeting the lead limits?	No. However, sellers and installers must have a reasonable basis for believing that a particular product is compliant before selling or installing it. For purposes of a Consumer Fraud Act claim, liability is
EXISTING FIXTURES AND INVENTORY	
Was this law intended to require that any fixtures that had been installed prior to January 1, 2010, with lead levels above the threshold would need to be removed from service?	No, the law was not intended to require the replacement of plumbing in existing properties. However, any renovation that occurs must comply with the law.
If I am selling a property with existing plumbing, do I need to replace the plumbing prior to the sale?	No, the law was not intended to require the replacement of plumbing in existing properties. The sale of your property is not the sort of "sale" covered by the law.
Assuming that some of the remaining fixtures in my inventory have lead levels that exceed the 0.25% threshold, can we complete the installation on this project even though it is now 2010?	No, under Act 193, the non-compliant fixtures which are in your inventory <u>may not</u> be sold or installed after January 1, 2010. Note: The law was enacted in mid-2008 and there was an 18 month "grace period" prior to it taking effect in January 2010.
RENOVATION	
To the extent a renovation requires removal and replacement of certain portions of a property's internal plumbing, but not others (for example, if a leaky section is being replaced), does Act 193 require that the remaining plumbing, which would otherwise be left in place, be removed and replaced with new plumbing?	No.

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AVAILABILITY OF COMPLIANT SUPPLIES	
<p>What happens if I can't find a fixture that complies with the lead law and my supplier says that the fixture won't be available for some time?</p>	<p>It is unlikely that the State would take legal action to enforce the statute (1) if a fixture is in fact completely unavailable in the short term; (2) the lack of availability can be documented; and (3) the purchaser and ultimate consumer are informed verbally and in writing that (a) a fixture with more than the allowable content of lead is being offered, (b) lead is toxic, especially to young children, and (c) a compliant fixture may be available later on. If product availability persists beyond the short term, we will need to take another look at the situation. Note: product unavailability is becoming less of an issue in the months since the law took effect. We encourage you to investigate thoroughly the availability of compliant parts before concluding that none is available. Some products initially thought to be unavailable have turned out to be available from the same or another supplier. It is expected that products will be generally available by Spring 2010.</p>
SPECIFIC PRODUCT QUESTIONS	
<p>Is the faucet in a laundry sink (which does not sit on the floor like a service sink) subject to the limits of the lead in plumbing supplies law?</p>	<p>The test for whether the statutory lead limit applies to a specific fixture is whether the fixture conveys water for human consumption – that is, water for drinking or cooking. If there is any chance that a laundry sink would convey water to be used for human consumption, then it would be prudent to install a compliant fixture.</p>
<p>Are water heaters subject to the lead limits of the lead in plumbing supplies law?</p>	<p>Yes, but only if they convey water for cooking or drinking.</p>
<p>Are hose bibs subject to the lead limits of the lead in plumbing supplies law?</p>	<p>Yes, but only if they convey water for cooking or drinking.</p>
<p>Are garden hoses or other plumbing fixtures which are used to distribute water for agriculture/gardening subject to the lead limits of the lead in plumbing supplies law?</p>	<p>No.</p>

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<p>Are fixtures in branch piping that are not in the actual stream of water going to the lead compliant fixture covered by the lead in plumbing supplies law?</p>	<p>The determining factor will be whether the branch pipes convey or dispense water that is for human consumption.</p>
<p>Is there a list of fixtures which are not subject to the statutory lead limit?</p>	<p>Yes. There is a list of fixtures which are <u>not</u> subject to the statutory lead limit in the Attorney General's Office's guide on plumbing supplies: http://www.atg.state.vt.us/assets/files/LeadinPlumbing.pdf</p>
<p>Is there a list of fixtures which are subject to the statutory lead limit?</p>	<p>Yes. There is also a list of fixtures which <u>are</u> subject to the statutory lead limit in the Attorney General's Office's guide on plumbing supplies: http://www.atg.state.vt.us/assets/files/LeadinPlumbing.pdf</p>
<p>MANUFACTURED HOMES (HUD CODE HOMES)</p>	
<p>Does the lead in plumbing supplies law apply to manufactured homes (also known as "HUD code homes")?</p>	<p>No. The Vermont lead in plumbing supplies law is preempted by federal law with respect to manufactured homes/HUD code homes. Manufactured homes/HUD code homes are typically transported on non-removable steel chassis which remain a structural part of the home. Manufactured homes/HUD code homes are often placed on land owned by others (e.g. parks), and are usually removable and re-locateable.</p>
<p>MODULAR HOMES</p>	
<p>Does the lead in plumbing supplies law apply to modular homes?</p>	<p>Yes. The Vermont lead in plumbing supplies law does apply to modular homes sold or installed in Vermont. Modular homes are transported on a removable transporter that is not part of the home. Modular homes are not re-locateable and are considered a permanent structure when placed upon the foundation.</p>