

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 621

H. P. 474

House of Representatives, February 1, 1973

Referred to Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mrs. Najarian of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Relating to Lead Poisoning Control.

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 22, c. 252, additional. Title 22 of the Revised Statutes is amended by adding a new chapter 252, to read as follows:

CHAPTER 252

LEAD POISONING CONTROL ACT

§ 1314. Short title

This Act may be cited as the Lead Poisoning Control Act.

§ 1315. Definitions

As used in this Act, the following words and terms, unless the context requires otherwise, shall have the following meanings.

1. Department. "Department" means the Department of Health and Welfare.
2. Dwelling. "Dwelling" means a structure, all or part of which is designed or used for human habitation.
3. Dwelling unit. "Dwelling unit" means any room, group of rooms or other areas of a structure designed or used for human habitation.
4. Exposed interior surface. "Exposed interior surface" means any interior surface of a dwelling or dwelling unit.

5. Lead base substance. "Lead base substance" means any paint, plaster or other surface material or substance containing more than .5% lead by weight, calculated as lead metal, in the total nonvolatile content on or before January 1, 1974, or more than .06% lead by weight calculated as lead metal, in the total nonvolatile content after January 1, 1974.

6. Person. "Person" includes any individuals, firms, corporations, associations, trusts and partnerships.

7. Sale or sell. "Sale" or "sell" shall include transfer or delivery for a consideration, barter, exchange or gift or offer therefor.

8. Toys. "Toys" shall mean all articles intended for use by infants or children as playthings.

§ 1316. Restrictions on use of lead base substances

No person shall use or apply lead base substances:

1. Interiors. In or upon any exposed interior surface of a dwelling or dwelling unit;

2. Fixtures. In or upon any fixtures or other objects used, installed or located in or upon any exposed interior surface of a dwelling or dwelling unit, or intended to be so used, installed or located; and

3. Toys or furniture. In and upon toys or household furniture.

§ 1317. Sale of lead base articles restricted

No person shall sell or offer for sale any of the following if the exterior finish contains a lead base substance:

1. Toys. Toys;

2. Furniture. Household furniture;

3. Fixtures. Fixtures or other objects intended to be used, installed or located in or upon any exposed interior surface of a dwelling or dwelling unit; or

4. Interior. Any lead base substance for use on any exposed interior surface of any dwelling or dwelling unit.

§ 1318. Warning on lead base substance

No person shall have, keep, sell or offer for sale any lead base substance for use in any manner not otherwise prohibited by this Act unless the container bears a warning statement which shall be an integral part of the labeling and shall be placed prominently in a conspicuous place on the immediate container of such substance and shall be printed in letters which are legible and in conspicuous contrast with other printing appearing on the container. The statement shall be as follows unless alternate wording is approved in writing by the department:

WARNING
CONTAINS LEAD — HARMFUL
IF EATEN. UNLAWFUL TO
APPLY ON TOYS, HOUSEHOLD
FURNITURE, WINDOW SILLS,
OR OTHER INTERIOR SURFACES
OF ANY DWELLING.

KEEP OUT OF REACH OF CHILDREN

Labels or containers of lead base paint may be made to conform with the above labeling requirements by the application of a separate warning label securely affixed upon existing label.

§ 1319. Report of suspected lead poisoning by physicians

Whenever any physician knows or has reason to believe that any person he examines or treats has or is suspected of having lead poisoning, such physician shall forthwith give notice thereof to the Department of Health and Welfare. The department will specify the procedure to be followed in making such reports and shall provide necessary forms for the use of physicians. When such reports are received, the department may, by laboratory work and otherwise, assist the attending physician in determining whether the case is one of lead poisoning, and if so, the source of the poison. For purposes of this section, the department may determine the definition of the term "lead poisoning."

§ 1320. Inspection of dwellings by department

Any authorized representative of the department, upon presenting the appropriate credentials to the owner, occupant or his representative, may inspect any dwelling or dwelling unit at reasonable times for the purpose of ascertaining the presence of lead base substances, and may remove samples or objects necessary for laboratory analysis.

§ 1321. Notification

If the department determines that there are lead base substances in or upon the exposed interior surfaces of any dwelling or dwelling unit, the department may cause to be posted upon such dwelling or dwelling unit in a conspicuous place or places, notice of the existence of such substance. The department shall give notice to all persons residing in any such dwelling or dwelling unit that there are lead base substances in or upon exposed interior surfaces of the dwelling or dwelling unit which may be hazardous to their health.

The owner of the dwelling or the building in which the dwelling unit is located shall be given written notification by the Commissioner of Health and Welfare, advising of the existence of such substances in the dwelling or dwelling unit and instructing that such lead base substances shall be removed, replaced or securely and permanently covered or modified within 30 days and in such manner that the lead base substance no longer constitutes a health hazard. If the lead base substance is not removed, replaced or securely and

permanently covered or modified within 30 days of the notice, the owner of the dwelling or the building in which the dwelling unit is located shall be deemed in violation of this Act.

§ 1322. Occupants under 6 years of age

No person shall knowingly allow a dwelling or dwelling unit which has paint or building materials with a lead content of 1% or more on exposed interior surfaces to be occupied by children 6 years of age or younger. In such circumstances where the presence of such lead base paint or building materials is unsuspected and becomes known when the dwelling or dwelling unit is already occupied under a rental agreement by children 6 years of age or younger, the family of the children shall not be evicted and the owner of the dwelling or dwelling unit shall be notified in writing by the department to remove, replace or securely and permanently cover or modify the said exposed interior surfaces within 30 days and in such manner that the lead base substance no longer constitutes a health hazard. If the lead base substance is not removed, replaced or securely and permanently covered or modified within 30 days of the notice, the owner of the dwelling or the building in which the dwelling unit is located shall be deemed in violation of this Act.

§ 1323. Rules and regulations

The Commissioner of Health and Welfare is authorized to adopt rules and regulations for carrying out this Act.

§ 1324. No impairment to civil damages; local ordinances

Nothing in this Act shall be interpreted or applied in any manner to defeat or impair the right of any person, entity, municipality or other political subdivision to maintain an action or suit for damages sustained or equitable relief, or for violation of an ordinance by reason of or in connection with any violation of this Act. The failure to remove lead base substances within the time prescribed by this Act shall be prima facie evidence of negligence in any action brought to recover damages for injuries incurred after the expiration of the prescribed time period.

This Act shall not prevent any municipality or other political subdivision from enacting any enforcing ordinances which establish a system of lead poisoning control that provide the same or higher standards than those provided in this Act.

§ 1325. Violation

Any person who violates any section of this Act shall be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both.

STATEMENT OF FACT

The purpose of this Act is to regulate the sale and use of certain lead base substances and to provide legal means for the elimination of childhood lead poisoning in Maine.