

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 594

H. P. 474

House of Representatives, February 11, 1975

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

EDWIN H. PERT, Clerk

Presented by Mr. Goodwin of South Berwick.

Cosponsor: Mr. Connolly of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT Amending the Lead Poisoning Control Act.

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

Sec. 1. 22 MRSA § 1315, sub-§§ 9 and 10 are enacted to read:

9. Lead poisoning. "Lead poisoning" means a blood lead level at an elevation hazardous to health as established by the commissioner.

10. Commissioner. "Commissioner" means Commissioner of Health and Welfare.

Sec. 2. 22 MRSA §§ 1317-A and 1317-B are enacted to read:

§ 1317-A. Early diagnosis program

The commissioner shall establish a program for early diagnosis of cases of lead poisoning. To the extent permitted by appropriations, the program shall provide for systematic examination for lead poisoning of all children between one and 6 years of age residing within the State. Examinations shall be made by such means and at such intervals as the commissioner shall determine may be medically necessary and proper.

The commissioner, when informed of a case of lead poisoning pursuant to section 1319 or otherwise, shall have examined all other children between one and 6 years of age, and such other children as may be found advisable to examine, residing or recently residing in the household of the victim. The results of such examinations shall be reported to the commissioner, to the

person or agency reporting the original case pursuant to section 1319 and to such other persons or agencies as the commissioner deems advisable.

§ 1317-B. Educational and publicity program

The commissioner shall institute an educational and publicity program in order to inform the general public of the dangers, frequency and sources of lead poisoning, and the methods of preventing such poisoning.

Sec. 3. 22 MRSA § 1319, as enacted by PL 1973, c. 367, is amended to read:

§ 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~~ **within 7 days** give notice thereof to the ~~Department of Health and Welfare~~ **Department**. The department ~~will~~ **shall** 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~~ **shall**, 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"~~

Sec. 4. 22 MRSA § 1320, as enacted by PL 1973, c. 367, is amended to read:

§ 1320. Inspection of dwelling units by department

Any authorized representative of the department, upon presenting the appropriate credentials to the owner and occupant, or their representatives, 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. Such inspections shall be made only where there are reasonable grounds to believe that there are lead base substances in or upon the exposed surfaces of any ~~dwelling or~~ dwelling unit, or upon the request of either the owner or the occupant, or where a case of lead poisoning has been reported.

Sec. 5. 22 MRSA § 1320-A is enacted to read:

§ 1320-A. Inspection of dwellings by department

The department shall within 30 days inspect all dwelling units in a dwelling when:

1. Lead poisoning found. A case of lead poisoning has been found in any dwelling unit within the dwelling;
2. Lead base substances. Lead base substances have been found in any dwelling unit within the dwelling.

Sec. 6. 22 MRSA § 1321, 2nd ¶, as enacted by PL 1973, c. 367, is amended to read:

The owner or managing agent 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 ~~recommending~~ ordering that within 30 days such lead base substances be removed, replaced or securely and permanently covered ~~or modified in such manner that the lead base substance no longer constitutes a health hazard.~~ The dwelling or dwelling unit shall remain posted until the lead base substances no longer constitute a health hazard in the opinion of the department. If posted notices are removed by the owner prior to written approval from the department that the lead base substances no longer constitute a health hazard, the owner of the dwelling or the building in which the dwelling unit is located shall be deemed in violation of this chapter. **The commissioner shall establish regulations relating to the removal, replacement or covering of the lead base substance.**

Sec. 7. 22 MRSA § 1322, as enacted by PL 1973, c. 367, is amended to read:

§ 1322. Occupants under 6 years of age

No person shall knowingly rent a dwelling or dwelling unit which has paint or building materials with a lead content of ~~1%~~ 5% or more on exposed surfaces to be occupied by children 6 years of age or younger ~~without notice of the potential health hazard to the renter.~~ 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~~ rented to a family with children 6 years of age or younger, the family of the children shall not be evicted for that reason and the owner and occupant of the dwelling or dwelling unit shall be given written notice by the Commissioner of Health and Welfare advising of the existence of such substances in the dwelling or dwelling unit and ~~recommending~~ ordering that within 30 days such lead base substances be removed, replaced or securely and permanently covered ~~or modified, in such a manner that the lead base substances no longer constitute a health hazard.~~

Sec. 8. 22 MRSA § 1324, as enacted by PL 1973, c. 367, is amended by adding at the end a new paragraph to read:

Notwithstanding any other section of this chapter, any occupant of a building which is in violation of sections 1314 to 1324 shall be entitled to seek equitable relief in the Superior Court.

Sec. 9. 22 MRSA § 1324-A is enacted to read:

§ 1324-A. Liability of owner of residential property; damages

The owner of any residential property shall be liable for all damages caused by his failure to perform the duties required of him pursuant to this chapter.

The owner of any residential property who is notified pursuant to this chapter of a dangerous level of lead in paint, plaster or other material present upon his premises and who does not satisfactorily correct or remove said dangerous conditions shall in addition to the preceding paragraph be subject to punitive damages, which shall be treble the actual damages found.

Sec. 10. 22 MRSA § 1325, as enacted by PL 1973, c. 367, is amended to read:

§ 1325. Violation

Any person who violates any section of this chapter shall be punished by a fine of not more than ~~\$100~~ \$500 or by imprisonment for not more than ~~3~~ 6 months, or by both. **Violations existing within individual dwelling units shall be considered separate violations.**

STATEMENT OF FACT

The purpose of this bill is to strengthen the Lead Poisoning Control Act. The bill establishes by statute the early diagnosis program presently being carried out and clarifies some of the existing legislation. The bill also allows the Department of Health and Welfare to order deposits of lead found to be endangering a child to be removed, replaced or securely and permanently covered.