

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2047

S.P. 727

In Senate, March 25, 1999

An Act to Amend the Lead Poisoning Control Act.

Submitted by the Department of Human Services pursuant to Joint Rule 204.
Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator LONGLEY of Waldo.
Cosponsored by Representative COLWELL of Gardiner.

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

2
4
Sec. 1. 22 MRSA §1315, sub-§1-C is enacted to read:

6 1-C. Child-occupied facility. "Child-occupied facility"
8 means a building or portion of a building visited regularly for
10 the purpose of child care by the same child, 6 years of age or
under, on at least 2 days within any week if each day's visit
lasts at least 3 hours, the combined weekly visit lasts at least
6 hours and the combined annual visit lasts at least 60 hours.

12 Sec. 2. 22 MRSA §1315, sub-§3-A, as amended by PL 1995, c.
14 453, §2, is further amended to read:

16 3-A. Environmental lead hazard. "Environmental lead
18 hazard" means ~~the presence of lead in any form that exceeds the~~
~~permissible concentration and that exists in an unacceptable~~
~~condition. "Permissible concentration" and "unacceptable~~
20 ~~condition" are defined by rules adopted under this Act, using~~
~~information currently available on environmental lead hazards,~~
~~including but not limited to information from the federal~~
22 ~~Environmental Protection Agency or the federal Department of~~
~~Housing and Urban Development. "Environmental lead hazard" may~~
24 ~~include, but is not limited to, lead in dust, paint, soil or~~
26 water any condition that may cause exposure to lead from
lead-contaminated dust, lead-contaminated soil, lead-contaminated
water or lead-based paint that is in poor condition.

28
30 Sec. 3. 22 MRSA §1315, sub-§§3-B and 3-C, as enacted by PL
1991, c. 810, §5, are amended to read:

32 3-B. Environmental lead inspection. "Environmental lead
34 inspection" means ~~an assessment performed by a lead inspector to~~
~~identify lead-based substances~~ a lead inspection as defined in
36 rules of the Department of Environmental Protection in chapter
424, "Lead Management Regulations."

38 3-C. Environmental lead investigation. "Environmental lead
40 investigation" means a detailed and extensive investigation to
42 determine the potential cause of a confirmed case of lead
poisoning in a child.

44 Sec. 4. 22 MRSA §1315, sub-§6-B, as amended by PL 1997, c.
494, §3 and affected by §15, is repealed.

46 Sec. 5. 22 MRSA §1315, sub-§6-C, as enacted by PL 1995, c.
48 453, §6, is repealed.

50 Sec. 6. 22 MRSA §1315, sub-§6-D is enacted to read:

2 6-D. Single-family residence. "Single-family residence"
3 means a dwelling consisting of only one dwelling unit.

4 Sec. 7. 22 MRSA §1317-A, sub-§2, as enacted by PL 1991, c.
5 810, §21, is amended to read:

6
7 2. **Inspections.** Comprehensive environmental lead
8 inspections and technical assistance and advice regarding the
9 appropriate reduction of environmental lead hazards to families
10 with children who have lead-poisoning elevated levels of lead in
11 their blood. By July 1, 1993, the department shall adopt rules
12 defining lead poisoning and establishing priorities for
13 inspections and technical assistance based on the degree of lead
14 poisoning; and

15 Sec. 8. 22 MRSA §1319, as amended by PL 1991, c. 810, §25, is
16 repealed.

17 Sec. 9. 22 MRSA §1319-B, as repealed and replaced by PL 1995,
18 c. 453, §9, is repealed.

19 Sec. 10. 22 MRSA §1319-C is enacted to read:

20 §1319-C. Screening for potential lead hazards

21
22 1. Annual screening required. The department shall require
23 a day care center as defined in chapter 1673 and a nursery school
24 as defined in chapter 1675 to have an annual screening for
25 potential lead hazards.

26 2. Exemptions. A facility may be exempt if:

27 A. The facility was constructed in 1978 or later;

28 B. The facility has been certified as lead-safe within the
29 previous 12 months;

30 C. The facility has been certified as lead-free; or

31 D. The facility does not serve any children under 6 years
32 of age.

33 3. Approval dependent on compliance. As of July 1, 1998, a
34 day care center or nursery school may not be licensed,
35 registered, certified or otherwise approved or receive any state
36 funds unless it is in compliance with this section.

37 Sec. 11. 22 MRSA §1320, as amended by PL 1991, c. 810, §27,
38 is further amended to read:

removal, replacement or covering of the lead-based substance. If
2 the lead-based substances can not be removed, replaced or
securely and permanently covered within 30 days, the department
4 may grant an extension of reasonable time. In an owner-occupied,
single-family residence the department may provide technical
6 assistance and guidance in lieu of enforcement activity at the
department's discretion;

8
4. **Sale of dwelling, residential facility, day care center
10 or nursery school.** If, before the end of the 30-day period or
extension, the owner sells the dwelling, premises, ~~residential
12 child-care-facility-or-preschool-facility~~ day care center or
nursery school, the owner must ~~shall~~ notify the prospective buyer
14 of the environmental lead hazard and the new owner must assume
the responsibility of carrying out the requirements of this
16 section within the specified time period; and

18 **Sec. 14. 22 MRSA §1321, sub-§6**, as amended by PL 1997, c. 375,
§§6 and 7, is repealed.

20 **Sec. 15. 22 MRSA §1322**, as amended by PL 1995, c. 453, §13,
22 is further amended to read:

24 **§1322. Child occupants**

26 A person may not knowingly rent a dwelling that has been
posted and ordered cleared of harmful lead-based substances in
28 accordance with section 1321 ~~to be occupied by children~~. In
circumstances where the presence of lead-based paint or building
30 materials is unsuspected and becomes known when the dwelling is
already rented to a family with children, the family of the
32 children may not be evicted for that reason and the owner and
occupant of the dwelling must be given written notice by the
34 department advising of the existence of lead-based substances in
the dwelling and ordering that within 30 days the lead-based
36 substances be removed, replaced or securely and permanently
covered.

38
40 If the owner decides to bring any residential dwelling or
premises into compliance with this Act while a tenant is
occupying a dwelling unit, the owner may ~~may~~ shall move the tenant to
42 a substitute dwelling unit upon reasonable notice ~~as long as~~
~~the.~~ The owner pays shall pay reasonable moving expenses and any
44 use and occupancy charges for a substitute dwelling unit that
exceed the rent for the vacated dwelling unit for which the
46 tenant remains responsible. "Substitute dwelling unit" means a
dwelling unit of like or similar accommodation and in like or
48 similar location that is lead-safe. If the tenant fails to
accept the substitute dwelling unit selected by the owner while
50 the owner is required to bring the vacated dwelling unit into

2 compliance with this Act or the tenant fails to remain current in
3 rent pursuant to the lease or tenancy at will under Title 14,
4 section 6002, including the statutory period of right to cure,
5 the owner is not obligated beyond 10 days after completion of
6 remediation to reimburse the tenant for any expense or
7 inconvenience other than moving expenses and any use and
8 occupancy charges for the substitute dwelling unit selected by
9 the owner that exceed the rent for the vacated dwelling unit.

10 **Sec. 16. 22 MRSA §1322-D**, as enacted by PL 1991, c. 810, §30,
11 is repealed.

12 **Sec. 17. 22 MRSA §1327**, as enacted by PL 1995, c. 453, §19,
13 is amended to read:

14 **§1327. Essential maintenance practices**

15 Notwithstanding any other provision of law, an owner of a
16 building constructed prior to 1978 that is rented for residential
17 purposes or used as a residential--child-care--facility--or--a
18 preschool facility may perform essential maintenance practices if
19 ~~the--owner+~~ as defined under rules of the Department of
20 Environmental Protection, chapter 424, "Lead Management
21 Regulations."

22 ~~1.---Precautions.---Takes--all--necessary--precautions--to--avoid~~
23 ~~creating--lead--hazards--during--any--renovation,---remodeling,~~
24 ~~maintenance--or--repair--project--that--disturbs--a--lead--based--painted~~
25 ~~surface--pursuant--to--guidelines--issued--by--the--department.---For~~
26 ~~purposes--of--essential--maintenance--practices,---all--paint--is~~
27 ~~presumed--to--be--lead--based--unless--a--certified--inspector--has~~
28 ~~determined--that--it--is--not--lead--based--paint.---The--guidelines--must~~
29 ~~include+~~

30 ~~A.---A--prohibition--against--paint--removal--by--burning,--water~~
31 ~~blasting,--dry--scraping,--power--sanding--or--sandblasting,~~
32 ~~unless--undertaken--with--proper--containment,--cleanup--and~~
33 ~~disposal;~~

34 ~~B.---A--description--of--good--work--practices--and--precautions--to~~
35 ~~prevent--the--spread--of--lead--dust,--including--limiting--access~~
36 ~~to--work--areas--to--workers,--covering--the--work--area--with~~
37 ~~appropriate--protective--covering,---protecting--workers,~~
38 ~~protecting--belongings--of--occupants--by--covering--or--removing~~
39 ~~them--from--the--work--area,--wetting--painted--surfaces--before~~
40 ~~disturbing--the--paint--and--wet--sweeping--debris,--and~~

41 ~~C.---Appropriate--cleaning--of--the--work--area--at--the--conclusion~~
42 ~~of--the--work--using--methods--designed--to--remove--lead--dust;~~

2 ~~2.---Checks.---Performs visual checks of the property to~~
3 ~~identify deteriorated paint upon a change of tenant or within 12~~
4 ~~months of the effective date of this subsection, whichever is~~
5 ~~sooner, and annually thereafter;~~

6 ~~3.---Removes or stabilizes paint.---Promptly and safely~~
7 ~~removes or stabilizes paint if more than one square foot of~~
8 ~~deteriorated paint is found on any interior surface, exterior~~
9 ~~porch or exterior wall or surface or fixture within an exterior~~
10 ~~porch, and restore that surface within 30 days after visual~~
11 ~~identification of deteriorated paint or within 30 days of~~
12 ~~receiving a written or oral report of deteriorated paint from a~~
13 ~~tenant or from an owner of a child care facility.---If exterior~~
14 ~~repair work is identified after November 1st of any year, the~~
15 ~~repair work may be delayed but must be commenced no later than~~
16 ~~May 31st of the following year;~~

17 ~~4.---Repairs.---If more than one contiguous square foot of~~
18 ~~deteriorated paint is found on any exterior wall, surface or~~
19 ~~fixture not covered by subsection 3 and is located in an area~~
20 ~~frequented by children in warm weather, promptly and safely~~
21 ~~repairs and stabilizes the paint and restores the surface or~~
22 ~~prohibits access to the area, surface or fixture to ensure that~~
23 ~~children can not come into contact with the deteriorated paint;~~
24 ~~and~~

25 ~~5.---Provides information.---Provides written lead-based paint~~
26 ~~hazard information to current and prospective tenants and to~~
27 ~~current and prospective owners or managers of child care or~~
28 ~~preschool facilities, including but not limited to information on~~
29 ~~the importance of promptly reporting the presence of deteriorated~~
30 ~~paint to the owner or to the owner's agent.---The notice must~~
31 ~~include the name, address and telephone number of the owner or~~
32 ~~the owner's agent.~~

36 SUMMARY

37
38 This bill changes the Lead Poisoning Control Act, Maine
39 Revised Statutes, Title 22, chapter 252, to increase the
40 efficiency of limited resources of the Department of Human
41 Services, allow for more flexibility in dealing with lead-based
42 substances in single-family homes, and to allow for preliminary
43 lead screenings by child care licensing staff of the department.
44 These changes will also make the Lead Poisoning Control Act
45 consistent with Title 38, chapter 12-B and rules of the
46 Department of Environmental Protection, chapter 424, "Lead
47 Management Regulations."
48