

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 1602

H.P. 1175

House of Representatives, May 6, 2003

### An Act To Revise and Amend Certain Public Health Laws

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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.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative KANE of Saco.  
Cosponsored by Senator WESTON of Waldo and  
Representative: LAVERRIERE-BOUCHER of Biddeford, Senator: BRENNAN of  
Cumberland.

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

2  
3       **Sec. 1. 13 MRSA §1101-A**, as enacted by PL 1999, c. 700, §2,  
4 is amended to read:

6       **§1101-A. Definitions**

8       As used in this article, unless the context otherwise  
9 indicates, the following ~~term~~--has terms have the following  
10 meaning meanings.

12       **1. Ancient burying ground.** "Ancient burying ground" means  
13 a private cemetery established before 1880.

14       **2. Columbarium.** "Columbarium" means a structure or room or  
15 space in a mausoleum or other building containing niches or  
16 recesses for disposition of cremated human remains.

18       **3. Community mausoleum.** "Community mausoleum" means an  
19 aboveground structure designed for entombment of human remains of  
20 the general public, as opposed to the entombment of the remains  
21 of family members in a privately owned, family mausoleum.

24       **Sec. 2. 13 MRSA §1341, sub-§1**, as enacted by PL 1999, c. 620,  
25 §1, is amended to read:

26       **1. Mausoleum, crematory or other structure.** A community  
27 mausoleum, community crematory or other community structure that  
28 holds or contains dead human bodies may only be erected in a  
29 cemetery that is at least 20 acres in size and has been in  
30 existence and used for burial for at least 2 years preceding the  
31 erection of the structure.

34       **Sec. 3. 22 MRSA §1319-C, sub-§1**, as enacted by PL 1999, c.  
35 276, §10, is amended to read:

36       **1. Annual screening required.** The department shall require  
37 a day child care center facility and a home child care provider  
38 as defined in chapter 1673 and a nursery school as defined in  
39 chapter 1675 to have an annual screening for potential lead  
40 hazards. If potential lead hazards are identified, a full lead  
41 inspection must be conducted.

44       **Sec. 4. 22 MRSA §1319-C, sub-§1-A** is enacted to read:

46       **1-A. Lead-safe status.** A facility found to have lead  
47 hazards shall abate or remediate the hazards to at least a  
48 lead-safe status.

2           **Sec. 5. 22 MRSA §1319-C, sub-§2**, as enacted by PL 1999, c.  
276, §10, is amended to read:

4           **2. Exemptions.** A facility may be exempt from subsection 1  
if:

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

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

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

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

16           **Sec. 6. 22 MRSA §1321, first ¶**, as amended by PL 1995, c. 453,  
18 §10, is further amended to read:

20           If the department determines that an environmental lead  
hazard exists in or on any dwelling, premises, residential  
22 ~~child-care~~ child-occupied facility, child care facility or  
~~preschool-facility~~ nursery school:

24           **Sec. 7. 22 MRSA §1321, sub-§1**, as amended by PL 1999, c. 276,  
26 §13, is further amended to read:

28           **1. Notice posted.** The department shall post in or upon the  
dwelling, premises, residential child-occupied facility, day  
30 child care center or nursery school, in a conspicuous place or  
places, notice of the existence of environmental lead hazard.  
32 Notice may not be removed until the department states that the  
environmental lead hazard no longer exists;

34           **Sec. 8. 22 MRSA §1321, sub-§4**, as amended by PL 1999, c. 790,  
36 Pt. A, §23, is further amended to read:

38           **4. Sale of dwelling, residential facility, child-occupied**  
**facility or nursery school.** If, before the end of the 30-day  
40 period or extension, the owner sells the dwelling, premises, day  
child care center facility, residential child-occupied facility  
42 or nursery school, the owner shall notify the prospective buyer  
of the environmental lead hazard and the new owner must assume  
44 the responsibility of carrying out the requirements of this  
section within the specified time period.

46           **Sec. 9. 22 MRSA §1322, 2nd ¶**, as amended by PL 1999, c. 276,  
48 §15, is further amended to read:

2 If ~~Until~~ the owner ~~decides-to-bring~~ brings any residential  
dwelling or premises into compliance with this Act while a tenant  
4 is occupying a dwelling unit, the owner shall move the tenant to  
a substitute dwelling unit upon reasonable notice. The  
6 department may, on a case-by-case basis, waive this requirement  
if the department determines that the implementation of interim  
8 controls sufficiently protects the residents of the unit until  
full abatement is achieved. The owner shall pay reasonable  
moving expenses and any use and occupancy charges for a  
10 substitute dwelling unit that exceed the rent for the vacated  
dwelling unit for which the tenant remains responsible.  
12 "Substitute dwelling unit" means a dwelling unit of like or  
similar accommodation and in like or similar location that is  
14 lead-safe. If the tenant fails to accept the substitute dwelling  
unit selected by the owner while the owner is required to bring  
16 the vacated dwelling unit into compliance with this Act or the  
tenant fails to remain current in rent pursuant to the lease or  
18 tenancy at will under Title 14, section 6002, including the  
statutory period of right to cure, the owner is not obligated  
20 beyond 10 days after completion of remediation to reimburse the  
tenant for any expense or inconvenience other than moving  
22 expenses and any use and occupancy charges for the substitute  
dwelling unit selected by the owner that exceed the rent for the  
24 vacated dwelling unit.

26 **Sec. 10. 22 MRSA §1326**, as amended by PL 1995, c. 453, §18,  
is further amended to read:

28 **§1326. Injunction requiring removal**

30  
32 If the lead-based substance remains an environmental lead  
hazard at the expiration of 30 days or at the expiration of an  
extension given by the commissioner pursuant to section 1321, the  
34 State, in addition to any other remedies it has, may seek a  
mandatory injunction ordering the environmental lead hazard  
36 removed by a suitable 3rd party at the expense of the owner of  
the dwelling, premises, residential ~~child-care~~ child-occupied  
38 facility, child care center or preschool-facility nursery school.

40 **Sec. 11. 22 MRSA §1402, first ¶**, as amended by PL 1995, c. 292,  
§1, is further amended to read:

42  
44 All hospitals and other health care facilities providing  
screening, diagnostic or therapeutic services with respect to  
cancer shall report to the Department of Human Services all  
46 persons diagnosed as having a malignant tumor or certain benign  
tumors as determined by rule no later than ~~30-days~~ 6 months from  
48 the date of diagnosis ~~or discharge from a hospital.~~ The report  
must include information on the person's usual occupation and  
50 industry of employment and other elements determined by rule to

2 be appropriate. The Commissioner of Human Services shall adopt  
3 rules to implement this section. Rules adopted pursuant to this  
4 section are routine technical rules as defined in Title 5,  
5 chapter 375, subchapter 2-A.

## 6 **SUMMARY**

8  
9  
10 This bill defines columbarium and community mausoleum. It  
11 also inserts the word "community" to distinguish between the  
12 burial of dead human remains in a community mausoleum or other  
13 structure and the burial of dead human remains in a privately  
14 owned or family mausoleum.

15  
16 This bill amends the cancer registry laws to call for  
17 reporting certain benign tumors and to extend certain reporting  
18 deadlines.

19  
20 This bill amends the childhood lead poisoning laws to  
achieve consistency with the day care statutes and to achieve  
internal consistency of the law.