

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1034

H.P. 719

House of Representatives, March 1, 2005

An Act To Prevent Lead Poisoning of Children and Adults

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DUPLESSIE of Westbrook.
Cosponsored by Senator MAYO of Sagadahoc and
Representatives: CUMMINGS of Portland, FAIRCLOTH of Bangor, MILLER of Somerville,
PATRICK of Rumford, PINGREE of North Haven, Senators: BRENNAN of Cumberland,
MILLS of Somerset, ROSEN of Hancock.

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

4 **Sec. 1. 22 MRSA §1315, sub-§3-A,** as amended by PL 1999, c.
276, §2, is further amended to read:

6 **3-A. Environmental lead hazard.** "Environmental lead
8 hazard" means any condition that may cause exposure to lead from
lead-contaminated dust, lead-contaminated soil, lead-contaminated
10 water ~~or~~ lead-based paint that is in poor condition or the use
and disposal of lead-added products.

12 **Sec. 2. 22 MRSA §1315, sub-§4-H** is enacted to read:

14 **4-H. Lead-added product.** "Lead-added product" means an
16 item to which lead has been added during manufacture.

18 **Sec. 3. 22 MRSA §§1322-E and 1322-F** are enacted to read:

20 **§1322-E. Lead Poisoning Prevention Fund**

22 **1. Fund established.** The Lead Poisoning Prevention Fund,
referred to in this section as "the fund," is established within
24 the department as a nonlapsing fund for the purposes specified in
this section.

26 **2. Sources of fund.** The fund is funded from all fees
collected under section 1322-F and from other funds accepted by
28 the commissioner or allocated or appropriated by the Legislature.

30 **3. Prevention purposes.** Allocations from the fund must be
made for the following purposes:

32 **A.** Grants for funding community and worker educational
34 outreach programs to enable the public to identify lead
36 hazards and take precautionary actions to prevent exposure
to lead. At least 50% of the fund must be allocated for
grants for the purposes of this paragraph;

38 **B.** An ongoing major media campaign to fulfill the purposes
40 of the educational and publicity program required by section
1317-B;

42 **C.** Measures to prevent children's exposure to lead,
44 including targeted educational mailings to families with
46 children that occupy dwellings built prior to 1978 with
culturally appropriate information on the health hazards of
48 lead, the identification of lead sources, actions to take to
prevent lead exposure and the importance of screening
children for lead poisoning;

2 D. Measures to prevent occupational exposures to lead for
4 private and public employees, including improvements in the
6 effectiveness of the occupational disease reporting system
8 required in chapter 259-A in identifying and educating
 health care providers, employers and lead-exposed adults
 about occupational lead poisoning prevention strategies; and

10 E. Funding an assessment of current uses of lead and the
 availability, effectiveness and affordability of lead-free
 alternatives.

12 4. Administration. The Bureau of Health shall administer
14 the fund allocations with the review and advice of an advisory
16 board established by the department pursuant to section 1323.
18 Preference must be given to programs that reach high-risk or
 underserved populations. The bureau may contract for
 professional services to carry out the purposes of this section.

20 **§1322-F. Lead poisoning prevention fee**

22 1. Fee imposed. A fee is imposed on manufacturers and
24 other persons who have significantly contributed historically or
26 who currently contribute to environmental lead hazards or
28 occupational lead hazards through the commerce of lead,
 lead-based substances or lead-added products or who are otherwise
 responsible for identifiable sources of lead.

30 2. Criteria. To the maximum extent practicable, fees
32 established under this section must be assessed on a person on
 the basis of the following criteria:

34 A. The person's past and present responsibility for
 environmental lead hazards;

36 B. The person's relative responsibility for environmental
38 lead hazards based on its market share of lead-based or
 lead-added products;

40 C. The lead content of lead-added products sold by the
 person in the State;

42 D. The person's reports of environmental releases or
44 off-site transfers of lead under Title 38, chapter 26; and

46 E. The person's potential as an employer for causing
48 occupational lead poisoning.

50 3. Rules. By July 1, 2006, the department shall adopt
 rules that set the amounts of the annual fees on manufacturers

2 and other persons as imposed by subsection 1, taking into
3 consideration the criteria listed in subsection 2. To the extent
4 practicable, the rules must ensure that fees are collected on
5 products sold by distributors and wholesalers. In determining
6 the total amount of fees and the specific fee schedule, the
7 department shall also consider similar fee-funded lead poisoning
8 prevention programs as adopted by other states. The costs for
9 development of these rules and for administration of the fund
10 must be reimbursed from the fees collected. The rules must
11 specify that the first payment of fees is due on or before April
12 1, 2007. Rules adopted pursuant to this subsection are routine
13 technical rules as defined in Title 5, chapter 375, subchapter
14 2-A.

15 **4. Exemption.** A fee may not be assessed upon a person if
16 that person demonstrates, to the satisfaction of the
17 commissioner, that the lead or the product containing lead with
18 which it is or was associated does not or did not result in
19 quantifiable persistent environmental or occupational lead
20 hazards.

21 **Sec. 4. Report.** The Department of Health and Human Services,
22 Bureau of Health shall report to the Joint Standing Committee on
23 Health and Human Services by January 15, 2006 with
24 recommendations, if any, for additional legislation needed to
25 fully implement the anticipated fee schedule under development by
26 rules as required by the Maine Revised Statutes, Title 22,
27 section 1322-F, subsection 3. The Joint Standing Committee on
28 Health and Human Services may report a bill to the Second Regular
29 Session of the 122nd Legislature in response to the
30 recommendations of the Bureau of Health.

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33 SUMMARY

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35 **36** The bill creates the Lead Poisoning Prevention Fund to
36 support grants, contracts and programs for educational outreach
37 to prevent lead poisoning in children and adults. The bill
38 creates a fee to be imposed on manufacturers and other persons
39 who contribute to environmental and occupational lead hazards.
40 The bill requires the Department of Health and Human Services,
41 Bureau of Health to adopt rules by July 1, 2006 to assess fees
42 based on a person's relative contribution to lead hazards, the
43 lead content of products, releases of lead to the environment or
44 known occupational lead exposures. The Bureau of Health shall
45 report to the Joint Standing Committee on Health and Human
46 Services by January 15, 2006 with recommendations to implement
47 the fee schedule.

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