

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2005

liability, other than liability ~~which~~ that may exist by law, for harm to an employee from smoking by others in any business facility covered by this section.

All enclosed areas of a business facility into which members of the public are invited or allowed are governed by the provisions of chapter 262.

The Bureau of Health shall accept inquiries from employers and employees and shall, when requested, assist employers in developing a policy.

~~4. Violations. Failure to establish, post or supervise the implementation of a policy. Any violation of this section is a civil violation for which a fine of not more than \$100 may be adjudged, except that a fine of not more than \$1,500 may be adjudged for each violation of this section in cases in which the employer has engaged in a pattern of conduct that demonstrates a lack of good faith in complying with the requirements of this section. The Bureau of Health shall have authority to enforce provisions of this section.~~

Sec. 5. 22 MRSA §1580-A, sub-§4-A is enacted to read:

4-A. Injunctive relief. The Attorney General may bring an action to enforce this section in District Court or Superior Court and may seek injunctive relief, including a preliminary or final injunction and fines, penalties and equitable relief, and may seek to prevent or restrain violations of this section by any person.

Sec. 6. 22 MRSA §1580-A, sub-§7, as enacted by PL 1985, c. 126, is amended to read:

7. Application. This section does not apply to any a business facility ~~where~~ that is a veterans' service organization chartered under 36 United States Code, Subtitle II, Part B (2004) that is not open to the public or to any other club that was not open to the public and that was in operation prior to January 1, 2004, if policies concerning smoking have been mutually agreed upon by the employer and all the employees and the veterans' service organization or the club:

A. Has written procedures ensuring that only the employer and employees, members and invited guests accompanied by a member are allowed entry to the premises; and

B. Demonstrates by a written secret ballot vote taken at least once every 3 years that a majority of the members have voted to allow smoking. The date of the vote must be announced to all members at least 14 days prior to the vote. All ballots cast in the vote must be kept on file for at

least 3 years and made available to the Bureau of Health upon request.

See title page for effective date.

CHAPTER 339

H.P. 1077 - L.D. 1532

An Act To Protect Maine Citizens from Lead Hazards that Harm Maine Children and Families

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

Sec. 1. 14 MRSA §6030-B is enacted to read:

§6030-B. Environmental lead hazards

1. Environmental lead hazard disclosure. A landlord or other lessor of residential property shall provide to potential tenants and lessees a residential real property disclosure statement that includes, but is not limited to, information about the presence or prior removal of lead-based paint in accordance with Title 22, section 1328.

2. Application. The landlord or lessor shall provide the residential real property disclosure statement under subsection 1 when a structure that is part of the real property was built prior to 1978.

Sec. 2. 22 MRSA §1328 is enacted to read:

§1328. Residential real property disclosure statement forms

1. Sellers of real property. The department shall prepare a standard residential real property disclosure statement form for potential sellers of real property to use to disclose to potential purchasers information concerning environmental lead hazards, in or about the real property, to comply with Title 33, section 173, subsection 4, paragraph B. The statement is in addition to that required under 42 United States Code, Section 4852d and implementing regulations.

A. The following warning must be included at the top of the form. The heading and the first and last paragraphs must be printed in a font that is at least as large as 16-point type in Times Roman font.

MAINE WARNING: LEAD-BASED PAINT HAZARDS

Any residence built before 1978 may contain lead sufficient to poison children and sometimes adults. LEAD poisoning poses a particular risk if

you are pregnant or may become pregnant. LEAD poisoning in young children may produce permanent neurological damage, including learning disabilities, a reduced intelligence quotient (IQ), impaired memory and behavioral problems such as attention deficit hyperactive disorder and a propensity for violence.

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. The seller of any interest in real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

The only way to know with certainty whether lead-based paint hazards are present on the property is to test the property for the presence of lead.

B. The form must also include all the provisions required by federal law.

C. The form must include the purchaser's acknowledgment as required by federal law and an acknowledgment that the purchaser has received the residential real property disclosure statement required by this section. The form must include the following statement: "This acknowledgment does not constitute a waiver of any rights." This acknowledgement does not affect rights, duties or liability under federal law.

2. Landlords and lessors. The department shall prepare a standard residential real property disclosure statement form for landlords and other lessors of real property to use to disclose to potential tenants and lessees information concerning environmental lead hazards, in or about the real property, to comply with Title 14, section 6030-B. The statement is in addition to that required under 42 United States Code, Section 4852d and implementing regulations.

A. The following warning must be included at the top of the form. The heading and the first and last paragraphs must be printed in a font that is at least as large as 16-point type in Times Roman font.

**MAINE WARNING: LEAD-BASED
PAINT HAZARDS**

Any residence built before 1978 may contain lead sufficient to poison children and sometimes

adults. Lead poisoning poses a particular risk if you are pregnant or may become pregnant. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, a reduced intelligence quotient (IQ), impaired memory and behavioral problems such as attention deficit hyperactive disorder and a propensity for violence.

Every tenant or lessor of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. The landlord or other lessor of any interest in real property is required to provide the tenant or lessee with any information on lead-based paint hazards from risk assessments or inspections in the landlord's or lessor's possession and notify the tenant or lessee of any known lead-based paint hazards.

The only way to know with certainty whether lead-based paint hazards are present on the property is to test the property for the presence of lead.

B. The form must also include all the provisions required by federal law.

C. The form must include the lessee's acknowledgment as required by federal law and an acknowledgment that the lessee has received the property disclosure statement required by this section. The form must include the following statement: "This acknowledgment does not constitute a waiver of any rights." This acknowledgement does not affect rights, duties or liability under federal law.

3. Downloadable forms. The department shall post and maintain the forms required by this section on the Internet in a format that is easily downloadable.

4. Rights, duties or liability under federal law. This section may not be construed to affect rights, duties or liability under federal law.

Sec. 3. 33 MRSA §173, sub-§4, ¶B, as enacted by PL 1999, c. 476, §1, is amended to read:

B. Lead-based paint for pre-1978 homes in accordance with federal regulations and Title 22, section 1328;

See title page for effective date.
