

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## An Act To Protect Children from Hazardous Lead-based Paint

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

### PART A

**Sec. A-1. 22 MRSA §1317-C, sub-§2**, as enacted by PL 1991, c. 810, §23, is amended to read:

**2. Data.** At least annually, the department shall analyze and summarize lead-screening information provided by health care providers, facilities and programs and provide the information to other state and local agencies involved in lead-poisoning issues. The information must also be provided to interested parties on request in a format that is easily understood by the general public. ~~The department may not release any information under this subsection if that information identifies or could lead to the identification of individuals.~~

**Sec. A-2. 22 MRSA §1317-C, sub-§3** is enacted to read:

**3. Confidentiality.** Unless otherwise authorized by section 42, subsection 5, the department may not release any information described in subsection 2 regarding the screening of children for lead poisoning or the source of any lead exposure if that information identifies children, families or other persons, directly or indirectly. The department may disclose information that relates to the address of a residential unit in which an environmental lead hazard or case of lead poisoning has been identified if the disclosure contains only the information necessary to advance the public health and does not directly identify an individual.

**Sec. A-3. 22 MRSA §1322-E, sub-§3, ¶E**, as enacted by PL 2005, c. 403, §1, is amended to read:

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

**Sec. A-4. 22 MRSA §1322-E, sub-§3, ¶F**, as enacted by PL 2005, c. 403, §1, is amended to read:

F. Funding for educational programs and information for owners of rental property used for residential purposes; and

**Sec. A-5. 22 MRSA §1322-E, sub-§3, ¶G** is enacted to read:

G. Implementation of the lead-safe housing registry by the Department of Environmental Protection pursuant to Title 38, chapter 12-B and achieving the goal of elimination of childhood lead poisoning risks in the State.

**Sec. A-6. 22 MRSA §1322-F, sub-§4**, as enacted by PL 2005, c. 403, §1, is amended to read:

**4. Contingent repeal.** This section is repealed July 1, 2011 when the Commissioner of Health and Human Services certifies that a period of 24 months has elapsed since the Department of Health and Human Services identified a child with an elevated blood lead level through screening by health care providers under section 1317-C. The Commissioner of Health and Human Services shall provide notice to the Secretary of the Senate, the Clerk of the House of Representatives and the Office of the Revisor of Statutes when this condition has been met. For purposes of this subsection, "elevated blood lead level" means a confirmed level of blood lead of 10 micrograms per deciliter or a level of blood lead defined by the federal Department of Health and Human Services, Centers for Disease Control and Prevention, whichever is lower.

**Sec. A-7. 22 MRSA §1329** is enacted to read:

**§ 1329. Lead poisoning warning statement**

**1. Display of poster; availability of brochure.** A retailer, store or commercial establishment that offers paint or other supplies intended for the removal of paint shall display a poster in a prominent and easily visible location and make available to its customers brochures containing statements that the dry sanding or scraping of paint in dwellings built before 1978 is dangerous and that the improper removal of old paint is a significant source of lead dust and the primary cause of lead poisoning. The poster and brochure must also inform consumers about where they may obtain more information on lead poisoning and paint removal.

**2. Posters and brochures.** The department shall produce posters and brochures to meet the requirements of subsection 1 and shall provide paper copies of the posters and brochures to retailers, stores and commercial establishments and post copies for downloading on the department's website. A retailer, store or commercial establishment may display posters and provide brochures that differ from those provided by the department if the posters and brochures provide the information required under subsection 1.

**PART B**

**Sec. B-1. 38 MRSA §1291, sub-§19-A** is enacted to read:

**19-A. Lead-safe.** "Lead-safe" means premises do not contain lead at a level or in a condition that constitutes an environmental hazard, according to rules adopted pursuant to section 1295.

**Sec. B-2. 38 MRSA §1291, sub-§23-A** is enacted to read:

**23-A. Property owner.** "Property owner" means a person, firm, corporation, guardian, conservator, trustee, executor, legal representative or registered agent who alone or jointly and severally with others owns, holds or controls the whole or any part of the freehold or leasehold interest to any property, with or without actual possession.

**Sec. B-3. 38 MRSA §1291, sub-§26-A** is enacted to read:

**26-A. Residential dwelling.** "Residential dwelling" means a room or group of rooms that form a single independent habitable unit for permanent occupation by one or more individuals that has facilities with permanent provisions for living, sleeping, eating, cooking and sanitation, including common areas and appurtenant structures. "Residential dwelling" does not include:

- A. An area not used for living, sleeping, eating, cooking or sanitation, such as an unfinished basement, that is not readily accessible to children under 6 years of age;
- B. A unit within a hotel, motel or seasonal or temporary lodging facility unless the unit is occupied by one or more children under 6 years of age for a period exceeding 30 days;
- C. An area that is secured and inaccessible to occupants;
- D. Housing for the elderly, or a dwelling unit designated exclusively for adults with disabilities. This exemption does not apply if a child under 6 years of age resides or is expected to reside in the dwelling unit or visit the dwelling unit on a regular basis; or
- E. An unoccupied dwelling unit that is to be demolished, as long as the dwelling unit remains unoccupied until demolition.

**Sec. B-4. 38 MRSA §1298** is enacted to read:

### **§ 1298. Registry of leased lead-safe residential dwellings**

**1. Registry.** The department shall maintain a registry of leased residential dwellings built before 1978 that are lead-safe as designated by the property owners in accordance with subsection 2.

**2. Designation as lead-safe.** A leased residential dwelling may be designated as lead-safe for the purposes of this section if the property owner has submitted to the department an application for the property to be placed on the registry created under subsection 1. Submission of an application to the registry is voluntary on the part of the property owner.

**3. Application.** The application under subsection 2 must be submitted together with a report by a lead inspector that indicates that the leased residential dwelling has been tested for the presence of lead-based paint and lead-contaminated dust and that the dwelling meets the requirements for certification as lead-safe in accordance with the standards and procedures established by rules adopted by the commissioner.

## **PART C**

**Sec. C-1. Review and report.** The Department of Environmental Protection, the Maine State Housing Authority and the Department of Health and Human Services, Maine Center for Disease Control and Prevention, jointly referred to in this section as "the agencies," shall review the following issues related to achieving housing safe from lead hazards and the elimination of childhood lead poisoning. The

agencies shall report by January 1, 2009 and may make recommendations regarding achieving lead-safe housing and eliminating lead poisoning with proposed legislation to the joint standing committees of the Legislature having jurisdiction over health and human services matters and natural resources matters.

1. The agencies shall review and make recommendations on resources and incentives to promote housing that is lead-safe, as defined in the Maine Revised Statutes, Title 38, section 1291, subsection 19-A, including the lead poisoning prevention fee established in Title 22, section 1322-F and lead-safe renovation notification and work practice requirements.

2. The agencies shall review and make recommendations concerning the establishment of a requirement to ensure that every leased residential dwelling is maintained as lead-safe, including routine maintenance and owner self-inspection requirements, and the inclusion of such a requirement under a warranty of habitability.

3. The agencies shall review and make recommendations concerning the establishment of a requirement that the owner of a residential property built before 1978 subject the property to a lead inspection and provide a copy of the lead inspection report to any prospective buyer prior to transfer of the property to a new owner and the capacity of qualified lead professionals to perform this work.

4. The agencies shall review ways to fully implement and enforce lead poisoning prevention programs established by statute and make recommendations to eliminate lead paint and lead poisoning risks in the State.

Effective July 18, 2008