

HOUSE BILL 1163

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M3

2001 Regular Session
(11r1908)

ENROLLED BILL

-- Environmental Matters/Judicial Proceedings --

Introduced by **Delegates Oaks, Rosenberg, and Hubbard**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER 707

1 AN ACT concerning

2 **Environment - Lead Poisoning Prevention**

3 FOR the purpose of requiring a medical laboratory to report certain information
4 related to lead poisoning when requested by the Department of the
5 Environment; requiring certain facilities that draw blood under certain
6 circumstances to obtain certain information; requiring certain facilities to
7 forward certain information to certain other facilities under certain
8 circumstances; establishing certain penalties for violations of certain
9 requirements; requiring certain laboratories to make a written request for
10 certain information under certain circumstances; requiring certain laboratories
11 to inform the Department of the failure of certain facilities to provide certain
12 information under certain circumstances; requiring certain laboratories to
13 provide certain referral forms under certain circumstances; altering the
14 membership of the Lead Poisoning Prevention Commission; requiring an owner
15 of certain property to test for lead-contaminated dust provided that chipping,
16 peeling, or flaking paint on certain painted surfaces has been removed and
17 repainted; ~~requiring certain funds to be dedicated to the Community Outreach~~

1 ~~and Education Program beginning in a certain fiscal year; providing for certain~~
 2 ~~penalties the penalty to be assessed in consideration of certain circumstances;~~
 3 ~~repealing a provision of law that requires certain funds to be dedicated to the~~
 4 ~~Community Outreach and Education Program; and generally relating to lead~~
 5 ~~poisoning prevention.~~

6 BY repealing and reenacting, with amendments,
 7 Article - Environment
 8 Section ~~6-302~~, 6-303(a), 6-807(b)(1) and (2), 6-815(a), 6-819(g), and 6-849(a)
 9 Annotated Code of Maryland
 10 (1996 Replacement Volume and 2000 Supplement)

11 ~~BY adding to~~
 12 ~~Article - Environment~~
 13 ~~Section 6-843(e)~~
 14 ~~Annotated Code of Maryland~~
 15 ~~(1996 Replacement Volume and 2000 Supplement)~~

16 ~~BY repealing and reenacting, with amendments,~~
 17 ~~Chapter 114 of the Acts of the General Assembly of 1994, as amended by~~
 18 ~~Chapter 555 of the Acts of the General Assembly of 1996~~
 19 ~~Section 5~~

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article - Environment**

23 6-302.

24 (a) A person who violates any provision OF § 6-301 of this subtitle is guilty of
 25 a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or
 26 imprisonment not exceeding 30 days or both.

27 (b) (1) A PERSON WHO VIOLATES § 6-303 OF THIS SUBTITLE OR ANY
 28 REGULATION ADOPTED UNDER § 6-303 OF THIS SUBTITLE IS SUBJECT TO AN
 29 ADMINISTRATIVE PENALTY OF UP TO \$250 PER VIOLATION, NOT EXCEEDING \$10,000.

30 (2) THE ADMINISTRATIVE PENALTY UNDER THIS SUBSECTION SHALL BE
 31 ASSESSED WITH CONSIDERATION GIVEN TO:

32 (I) THE WILLFULNESS OF THE VIOLATION AND THE EXTENT TO
 33 WHICH THE VIOLATION WAS KNOWN TO THE VIOLATOR BUT UNCORRECTED BY THE
 34 VIOLATOR;

35 (II) THE EXTENT TO WHICH THE VIOLATION RESULTED IN ACTUAL
 36 HARM TO HUMAN HEALTH;

1 (III) THE NATURE AND DEGREE OF INJURY TO OR INTERFERENCE
2 WITH GENERAL WELFARE AND HEALTH; AND

3 (IV) THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A
4 RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION COMMITTED
5 BY THE VIOLATOR.

6 (C) Each day a violation continues constitutes a separate offense under this
7 section.

8 6-303.

9 (a) (1) ~~Notwithstanding paragraph (2) of this subsection, a medical~~
10 ~~laboratory shall report to the Department the results of all blood tests for lead~~
11 ~~poisoning [performed] AND RELATED INFORMATION REQUESTED BY THE~~
12 ~~DEPARTMENT on A MEDICAL LABORATORY, OFFICE, OR OTHER FACILITY THAT~~
13 ~~DRAWS BLOOD FROM any child 18 years and under FOR ANALYSIS OF BLOOD LEAD~~
14 ~~LEVELS SHALL OBTAIN ALL INFORMATION REQUIRED BY THE DEPARTMENT,~~
15 ~~INCLUDING THE ADDRESS, DATE OF BIRTH, SEX, AND RACE OF THE CHILD.~~

16 ~~(2)~~ ~~(1)~~ (2) THE MEDICAL LABORATORY, OFFICE, OR FACILITY
17 DRAWING BLOOD FOR ANALYSIS UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL
18 FORWARD THE INFORMATION REQUIRED UNDER PARAGRAPH (1) OF THIS
19 SUBSECTION WITH THE BLOOD TO THE MEDICAL LABORATORY THAT PERFORMS
20 BLOOD LEAD LEVEL TESTING.

21 (3) A MEDICAL LABORATORY THAT PERFORMS BLOOD LEAD LEVEL
22 TESTING SHALL REPORT TO THE DEPARTMENT THE RESULTS OF BLOOD LEAD LEVEL
23 TESTS AND THE INFORMATION REQUIRED UNDER PARAGRAPH (1) OF THIS
24 SUBSECTION IN ACCORDANCE WITH THE TIME FRAMES ESTABLISHED BY THE
25 DEPARTMENT.

26 (4) (I) IN ADDITION TO THE REQUIREMENTS OF PARAGRAPH (3) OF
27 THIS SUBSECTION, FOR A CHILD WHO RESIDES IN BALTIMORE CITY, A ~~A~~ medical
28 laboratory shall report the results of tests ~~AND THE INFORMATION REQUIRED~~ under
29 paragraph (1) of this subsection ~~concerning a child who resides in Baltimore City~~ to
30 the Commissioner of the Baltimore City Health Department.

31 (ii) The Commissioner of the Baltimore City Health Department
32 may report the information received under subparagraph (i) of this paragraph to the
33 Baltimore Immunization Registry Program.

34 (5) (I) IF A MEDICAL LABORATORY THAT PERFORMS BLOOD LEAD
35 LEVEL TESTING RECEIVES A BLOOD SAMPLE WITHOUT THE INFORMATION
36 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE MEDICAL LABORATORY
37 SHALL MAKE A WRITTEN REQUEST TO THE MEDICAL LABORATORY, OFFICE, OR
38 FACILITY IN WHICH THE BLOOD WAS INITIALLY DRAWN FOR THE INFORMATION
39 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

1 (II) IF THE MEDICAL LABORATORY, OFFICE, OR FACILITY DOES NOT
 2 PROVIDE THE INFORMATION REQUESTED UNDER SUBPARAGRAPH (I) OF THIS
 3 PARAGRAPH, THE MEDICAL LABORATORY THAT PERFORMS BLOOD LEAD LEVEL
 4 TESTING SHALL INFORM THE DEPARTMENT OF THE FAILURE OF THE MEDICAL
 5 LABORATORY, OFFICE, OR FACILITY TO PROVIDE THE INFORMATION REQUIRED
 6 UNDER PARAGRAPH (1) OF THIS SUBSECTION.

7 (III) A MEDICAL LABORATORY THAT PERFORMS BLOOD LEAD LEVEL
 8 TESTING SHALL PROVIDE MEDICAL LABORATORIES, OFFICES, OR FACILITIES THAT
 9 DRAW BLOOD WITH REFERRAL FORMS THAT REQUEST THE INFORMATION REQUIRED
 10 BY THE DEPARTMENT, INCLUDING THE ADDRESS, DATE OF BIRTH, SEX, AND RACE OF
 11 THE CHILD.

12 6-807.

13 (b) (1) The Commission consists of [18] 19 members.

14 (2) Of the [18] 19 members:

15 (i) One shall be a member of the Senate of Maryland, appointed by
 16 the President of the Senate;

17 (ii) One shall be a member of the Maryland House of Delegates,
 18 appointed by the Speaker of the House; and

19 (iii) [16] 17 shall be appointed by the Governor as follows:

20 1. The Secretary or the Secretary's designee;

21 2. The Secretary of Health and Mental Hygiene or the
 22 Secretary's designee;

23 3. The Secretary of Housing and Community Development or
 24 the Secretary's designee;

25 4. The Maryland Insurance Commissioner or the
 26 Commissioner's designee;

27 5. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
 28 HUMAN RESOURCES, CHILD CARE ADMINISTRATION, OR THE EXECUTIVE
 29 DIRECTOR'S DESIGNEE;

30 [5.] 6. A representative of local government;

31 [6.] 7. A representative from an insurer that offers
 32 premises liability coverage in the State;

33 [7.] 8. A representative of a financial institution that makes
 34 loans secured by rental property;

- 1 [8.] 9. A representative of owners of rental property located
 2 in Baltimore City built before 1950;
- 3 [9.] 10. A representative of owners of rental property located
 4 outside Baltimore City built before 1950;
- 5 [10.] 11. A representative of owners of rental property built
 6 after 1949;
- 7 [11.] 12. A representative of a child health or youth advocacy
 8 group;
- 9 [12.] 13. A health care provider;
- 10 [13.] 14. A child advocate;
- 11 [14.] 15. A parent of a lead poisoned child;
- 12 [15.] 16. A lead hazard identification professional; and
- 13 [16.] 17. A representative of child care providers.

14 6-815.

15 (a) No later than the first change in occupancy in an affected property that
 16 occurs on or after February 24, 1996, before the next tenant occupies the property, an
 17 owner of an affected property shall initially satisfy the risk reduction standard
 18 established under this subtitle by:

19 (1) Passing the test for lead-contaminated dust under § 6-816 of this
 20 subtitle ~~PROVIDED THAT ANY CHIPPING, PEELING, OR FLAKING PAINT ON~~ HAS BEEN
 21 REMOVED OR REPAINTED ON:

22 (I) THE EXTERIOR AND INTERIOR PAINTED SURFACES OF THE
 23 RESIDENTIAL BUILDING IN WHICH THE RENTAL DWELLING UNIT IS LOCATED; AND

24 (II) THE INTERIOR PAINTED SURFACES OF THE RENTAL DWELLING
 25 UNIT; OR HAS BEEN REMOVED AND REPAINTED; or

26 (2) Performing the following lead hazard reduction treatments:

27 (i) A visual review of all exterior and interior painted surfaces;

28 (ii) The removal and repainting of chipping, peeling, or flaking
 29 paint on exterior and interior painted surfaces;

30 (iii) The repair of any structural defect that is causing the paint to
 31 chip, peel, or flake that the owner of the affected property has knowledge of or, with
 32 the exercise of reasonable care, should have knowledge of;

1 (iv) Stripping and repainting, replacing, or encapsulating all
 2 interior windowsills with vinyl, metal, or any other material in a manner and under
 3 conditions approved by the Department;

4 (v) Ensure that caps of vinyl, aluminum, or any other material in a
 5 manner and under conditions approved by the Department, are installed in all
 6 window wells in order to make the window wells smooth and cleanable;

7 (vi) Except for a treated or replacement window that is free of
 8 lead-based paint on its friction surfaces, fixing the top sash of all windows in place in
 9 order to eliminate the friction caused by movement of the top sash;

10 (vii) Rehangng all doors necessary in order to prevent the rubbing
 11 together of a lead-painted surface with another surface;

12 (viii) Making all bare floors smooth and cleanable;

13 (ix) Ensure that all kitchen and bathroom floors are overlaid with a
 14 smooth, water-resistant covering; and

15 (x) HEPA-vacuuming and washing of the interior of the affected
 16 property with high phosphate detergent or its equivalent, as determined by the
 17 Department.

18 6-819.

19 (g) In lieu of satisfying the modified risk reduction standard, the owner of an
 20 affected property may elect to pass the test for lead-contaminated dust under § 6-816
 21 of this subtitle PROVIDED THAT ANY CHIPPING, PEELING, OR FLAKING PAINT ~~ON HAS~~
 22 BEEN REMOVED OR REPAINTED ON:

23 ~~(1)~~ (1) THE EXTERIOR AND INTERIOR PAINTED SURFACES OF THE
 24 RESIDENTIAL BUILDING IN WHICH THE RENTAL DWELLING UNIT IS LOCATED; AND

25 ~~(2)~~ (2) THE INTERIOR PAINTED SURFACES OF THE RENTAL
 26 DWELLING UNIT; OR HAS BEEN REMOVED AND REPAINTED.

27 ~~6-843.~~

28 ~~(E) OF THE FEES GENERATED AND PAID INTO THE LEAD POISONING~~
 29 ~~PREVENTION FUND UNDER THIS SECTION, AT LEAST \$250,000 PER FISCAL YEAR~~
 30 ~~SHALL BE DEDICATED TO THE COMMUNITY OUTREACH AND EDUCATION PROGRAM~~
 31 ~~ESTABLISHED UNDER § 6-848 OF THIS SUBTITLE BEGINNING IN FISCAL YEAR 2004.~~

32 6-849.

33 (a) (1) The Department shall impose an administrative penalty on an owner
 34 who fails to register an affected property by December 31, 1995 or within the time
 35 period specified in § 6-811(a)(2) or § 6-812(b) of this subtitle or fails to renew or
 36 update a registration as provided under § 6-812(a) of this subtitle. The

1 administrative penalty imposed shall be UP TO \$10 per day, calculated from the date
2 compliance is required, for each affected property which is not registered or for which
3 registration is not renewed or updated.

4 (2) THE PENALTY SHALL BE ASSESSED WITH CONSIDERATION GIVEN
5 TO:

6 (I) THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO WHICH
7 THE EXISTENCE OF THE VIOLATION WAS KNOWN TO THE VIOLATOR BUT
8 UNCORRECTED BY THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR
9 EXERCISED REASONABLE CARE;

10 (II) THE EXTENT TO WHICH THE VIOLATION RESULTED IN ACTUAL
11 HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH OR SAFETY;

12 (III) THE NATURE AND DEGREE OF INJURY TO OR INTERFERENCE
13 WITH GENERAL WELFARE, HEALTH, AND PROPERTY;

14 (IV) THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A
15 RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION COMMITTED
16 BY THE VIOLATOR; AND

17 (V) THE EXTENT TO WHICH THE VIOLATION CREATES THE
18 POTENTIAL FOR HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH OR SAFETY.

19 [(2)] (3) [The] ON OR BEFORE MARCH 31, 2002, THE Department may
20 waive an administrative penalty under this subsection upon a showing of hardship OR
21 PROVIDED THAT:

22 (I) THE AFFECTED PROPERTY IS REGISTERED, THE REGISTRATION
23 IS RENEWED, OR THE REGISTRATION IS UPDATED ~~ON OR BEFORE MARCH 31, 2002;~~

24 (II) THE DEPARTMENT HAS NOT INITIATED AN ENFORCEMENT
25 ACTION FOR VIOLATION OF THIS SUBTITLE ~~THE REGISTRATION REQUIREMENTS~~
26 BEFORE THE DATE UPON WHICH THE PROPERTY IS REGISTERED OR THE
27 REGISTRATION IS RENEWED OR UPDATED; AND

28 (III) ALL OF THE OWNER'S AFFECTED PROPERTIES ~~ARE IN HAVE~~
29 BEEN BROUGHT INTO COMPLIANCE WITH § 6-811 OF THIS SUBTITLE OR THE OWNER
30 EXECUTES A CONSENT ORDER WITH THE DEPARTMENT AGREEING TO BRING ALL OF
31 THE OWNER'S AFFECTED PROPERTIES INTO COMPLIANCE WITH THIS SUBTITLE
32 UNDER THE TERMS AND CONDITIONS PRESCRIBED BY THE DEPARTMENT AND 65%
33 OF THE OWNER'S AFFECTED PROPERTIES HAVE BEEN CERTIFIED IN COMPLIANCE
34 WITH THE FULL RISK REDUCTION STANDARDS IN ACCORDANCE WITH §§ 6-815 AND
35 6-817(B) OF THIS SUBTITLE.

Chapter 114 of the Acts of 1994, as amended by Chapter 555 of the Acts of
1996

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) ~~Of the fees generated and paid into the Lead Poisoning Prevention Fund under § 6-843 of the Environment Article, as enacted by this Act, for fiscal years 1996 and 1997 only, 50% of those fees, up to a maximum of \$750,000 per fiscal year, shall be dedicated to the Community Outreach and Education Program established under § 6-848 of the Environment Article, as enacted by this [Act; and starting in fiscal year 1998, at least \$750,000 per fiscal year shall be dedicated to the Community Outreach and Education Program] ACT.~~

(b) ~~During fiscal years 1998, 1999, and 2000, [in addition to the \$750,000 dedicated annually to the Community Outreach and Education Program from the Lead Poisoning Prevention Fund,] the Department shall dedicate an aggregate additional amount of fees to the Program from the Fund equal to the difference between \$1,500,000 and the amount of fees dedicated to the Program from the Fund in fiscal years 1996 and 1997. One third of the aggregate additional amount shall be dedicated to the Program from the Fund in each of fiscal years 1998, 1999, and 2000.~~

(c) ~~The Department of the Environment shall establish priorities for allocation of funding to local governments and to not for profit organizations for the Community Outreach and Education Program. Criteria for priorities of not for profit organizations shall include prior experience of the organizations in lead poisoning issues, outreach and education, child health issues, and relationships with tenants of low income housing and with health care providers for childhood lead poisoning.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2001.