

HOUSE BILL 1163

Unofficial Copy
M3

2001 Regular Session
1r1908

By: **Delegates Oaks, Rosenberg, and Hubbard**
Introduced and read first time: February 9, 2001
Assigned to: Environmental Matters

A BILL ENTITLED

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; altering the membership of the Lead Poisoning Prevention
6 Commission; requiring an owner of certain property to test for
7 lead-contaminated dust provided that chipping, peeling, or flaking paint on
8 certain painted surfaces has been removed and repainted; requiring certain
9 funds to be dedicated to the Community Outreach and Education Program
10 beginning in a certain fiscal year; providing for the penalty to be assessed in
11 consideration of certain circumstances; repealing a provision of law that
12 requires certain funds to be dedicated to the Community Outreach and
13 Education Program; and generally relating to lead poisoning prevention.

14 BY repealing and reenacting, with amendments,
15 Article - Environment
16 Section 6-303(a), 6-807(b)(1) and (2), 6-815(a), 6-819(g), and 6-849(a)
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 2000 Supplement)

19 BY adding to
20 Article - Environment
21 Section 6-843(e)
22 Annotated Code of Maryland
23 (1996 Replacement Volume and 2000 Supplement)

24 BY repealing and reenacting, with amendments,
25 Chapter 114 of the Acts of the General Assembly of 1994, as amended by
26 Chapter 555 of the Acts of the General Assembly of 1996
27 Section 5

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

Article - Environment

2 6-303.

3 (a) (1) Notwithstanding paragraph (2) of this subsection, a medical
4 laboratory shall report to the Department the results of all blood tests for lead
5 poisoning [performed] AND RELATED INFORMATION REQUESTED BY THE
6 DEPARTMENT on any child 18 years and under.

7 (2) (i) A medical laboratory shall report the results of tests under
8 paragraph (1) of this subsection concerning a child who resides in Baltimore City to
9 the Commissioner of the Baltimore City Health Department.

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

13 6-807.

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

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

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

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

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

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

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

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

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

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

31 [5.] 6. A representative of local government;

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

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

16 6-815.

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

21 (1) Passing the test for lead-contaminated dust under § 6-816 of this
 22 subtitle PROVIDED THAT ANY CHIPPING, PEELING, OR FLAKING PAINT ON EXTERIOR
 23 AND INTERIOR PAINTED SURFACES HAS BEEN REMOVED AND REPAINTED; or

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

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

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

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

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

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

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

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

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

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

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

15 6-819.

16 (g) In lieu of satisfying the modified risk reduction standard, the owner of an
17 affected property may elect to pass the test for lead-contaminated dust under § 6-816
18 of this subtitle PROVIDED THAT ANY CHIPPING, PEELING, OR FLAKING PAINT ON
19 EXTERIOR AND INTERIOR PAINTED SURFACES HAS BEEN REMOVED AND REPAINTED.
20 6-843.

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

25 6-849.

26 (a) (1) The Department shall impose an administrative penalty on an owner
27 who fails to register an affected property by December 31, 1995 or within the time
28 period specified in § 6-811(a)(2) or § 6-812(b) of this subtitle or fails to renew or
29 update a registration as provided under § 6-812(a) of this subtitle. The
30 administrative penalty imposed shall be \$10 per day, calculated from the date
31 compliance is required, for each affected property which is not registered or for which
32 registration is not renewed or updated.

33 (2) THE PENALTY SHALL BE ASSESSED WITH CONSIDERATION GIVEN
34 TO:

35 (I) THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO WHICH
36 THE EXISTENCE OF THE VIOLATION WAS KNOWN TO THE VIOLATOR BUT

1 UNCORRECTED BY THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR
2 EXERCISED REASONABLE CARE;

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

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

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

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

12 [(2)] (3) [The] ON OR BEFORE MARCH 31, 2002, THE Department may
13 waive an administrative penalty under this subsection upon a showing of hardship OR
14 PROVIDED THAT:

15 (I) THE AFFECTED PROPERTY IS REGISTERED, THE REGISTRATION
16 IS RENEWED, OR THE REGISTRATION IS UPDATED ON OR BEFORE MARCH 31, 2002;

17 (II) THE DEPARTMENT HAS NOT INITIATED AN ENFORCEMENT
18 ACTION FOR VIOLATION OF THE REGISTRATION REQUIREMENTS BEFORE THE DATE
19 UPON WHICH THE PROPERTY IS REGISTERED OR THE REGISTRATION IS RENEWED OR
20 UPDATED; AND

21 (III) ALL OF THE OWNER'S AFFECTED PROPERTIES ARE IN
22 COMPLIANCE WITH THIS SUBTITLE OR THE OWNER EXECUTES A CONSENT ORDER
23 WITH THE DEPARTMENT AGREEING TO BRING ALL OF THE OWNER'S AFFECTED
24 PROPERTIES INTO COMPLIANCE WITH THIS SUBTITLE UNDER THE TERMS AND
25 CONDITIONS PRESCRIBED BY THE DEPARTMENT.

26 **Chapter 114 of the Acts of 1994, as amended by Chapter 555 of the Acts of**
27 **1996**

28 SECTION 5. AND BE IT FURTHER ENACTED, That:

29 (a) Of the fees generated and paid into the Lead Poisoning Prevention Fund
30 under § 6-843 of the Environment Article, as enacted by this Act, for fiscal years 1996
31 and 1997 only, 50% of those fees, up to a maximum of \$750,000 per fiscal year, shall
32 be dedicated to the Community Outreach and Education Program established under §
33 6-848 of the Environment Article, as enacted by this [Act; and starting in fiscal year
34 1998, at least \$750,000 per fiscal year shall be dedicated to the Community Outreach
35 and Education Program] ACT.

36 (b) During fiscal years 1998, 1999, and 2000, [in addition to the \$750,000
37 dedicated annually to the Community Outreach and Education Program from the
38 Lead Poisoning Prevention Fund,] the Department shall dedicate an aggregate

1 additional amount of fees to the Program from the Fund equal to the difference
2 between \$1,500,000 and the amount of fees dedicated to the Program from the Fund
3 in fiscal years 1996 and 1997. One-third of the aggregate additional amount shall be
4 dedicated to the Program from the Fund in each of fiscal years 1998, 1999, and 2000.

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

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