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

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 20, 2001

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## CHAPTER\_\_\_\_\_

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~~  
18 ~~and Education Program beginning in a certain fiscal year; providing for certain~~  
19 ~~penalties the penalty to be assessed in consideration of certain circumstances;~~  
20 ~~repealing a provision of law that requires certain funds to be dedicated to the~~  
21 ~~Community Outreach and Education Program; and generally relating to lead~~  
22 poisoning prevention.

23 BY repealing and reenacting, with amendments,  
24 Article - Environment  
25 Section 6-302, 6-303(a), 6-807(b)(1) and (2), 6-815(a), 6-819(g), and 6-849(a)  
26 Annotated Code of Maryland

1 (1996 Replacement Volume and 2000 Supplement)

2 ~~BY adding to~~

3 ~~Article - Environment~~

4 ~~Section 6-843(e)~~

5 ~~Annotated Code of Maryland~~

6 ~~(1996 Replacement Volume and 2000 Supplement)~~

7 ~~BY repealing and reenacting, with amendments,~~

8 ~~Chapter 114 of the Acts of the General Assembly of 1994, as amended by~~

9 ~~Chapter 555 of the Acts of the General Assembly of 1996~~

10 ~~Section 5~~

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

13 **Article - Environment**

14 6-302.

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

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

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

23 (I) THE WILLFULNESS OF THE VIOLATION AND THE EXTENT TO  
24 WHICH THE VIOLATION WAS KNOWN TO THE VIOLATOR BUT UNCORRECTED BY THE  
25 VIOLATOR;

26 (II) THE EXTENT TO WHICH THE VIOLATION RESULTED IN ACTUAL  
27 HARM TO HUMAN HEALTH;

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

30 (IV) THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A  
31 RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION COMMITTED  
32 BY THE VIOLATOR.

33 (C) Each day a violation continues constitutes a separate offense under this  
34 section.

1 6-303.

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

9 (2) (i) (2) THE MEDICAL LABORATORY, OFFICE, OR FACILITY  
10 DRAWING BLOOD FOR ANALYSIS UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL  
11 FORWARD THE INFORMATION REQUIRED UNDER PARAGRAPH (1) OF THIS  
12 SUBSECTION WITH THE BLOOD TO THE MEDICAL LABORATORY THAT PERFORMS  
13 BLOOD LEAD LEVEL TESTING.

14 (3) A MEDICAL LABORATORY THAT PERFORMS BLOOD LEAD LEVEL  
15 TESTING SHALL REPORT TO THE DEPARTMENT THE RESULTS OF BLOOD LEAD LEVEL  
16 TESTS AND THE INFORMATION REQUIRED UNDER PARAGRAPH (1) OF THIS  
17 SUBSECTION IN ACCORDANCE WITH THE TIME FRAMES ESTABLISHED BY THE  
18 DEPARTMENT.

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

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

27 (5) (I) IF A MEDICAL LABORATORY THAT PERFORMS BLOOD LEAD  
28 LEVEL TESTING RECEIVES A BLOOD SAMPLE WITHOUT THE INFORMATION  
29 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE MEDICAL LABORATORY  
30 SHALL MAKE A WRITTEN REQUEST TO THE MEDICAL LABORATORY, OFFICE, OR  
31 FACILITY IN WHICH THE BLOOD WAS INITIALLY DRAWN FOR THE INFORMATION  
32 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

33 (II) IF THE MEDICAL LABORATORY, OFFICE, OR FACILITY DOES NOT  
34 PROVIDE THE INFORMATION REQUESTED UNDER SUBPARAGRAPH (I) OF THIS  
35 PARAGRAPH, THE MEDICAL LABORATORY THAT PERFORMS BLOOD LEAD LEVEL  
36 TESTING SHALL INFORM THE DEPARTMENT OF THE FAILURE OF THE MEDICAL  
37 LABORATORY, OFFICE, OR FACILITY TO PROVIDE THE INFORMATION REQUIRED  
38 UNDER PARAGRAPH (1) OF THIS SUBSECTION.

39 (III) A MEDICAL LABORATORY THAT PERFORMS BLOOD LEAD LEVEL  
40 TESTING SHALL PROVIDE MEDICAL LABORATORIES, OFFICES, OR FACILITIES THAT  
41 DRAW BLOOD WITH REFERRAL FORMS THAT REQUEST THE INFORMATION REQUIRED

1 BY THE DEPARTMENT, INCLUDING THE ADDRESS, DATE OF BIRTH, SEX, AND RACE OF  
 2 THE CHILD.

3 6-807.

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

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

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

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

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

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

12 2. The Secretary of Health and Mental Hygiene or the  
 13 Secretary's designee;

14 3. The Secretary of Housing and Community Development or  
 15 the Secretary's designee;

16 4. The Maryland Insurance Commissioner or the  
 17 Commissioner's designee;

18 5. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF  
 19 HUMAN RESOURCES, CHILD CARE ADMINISTRATION, OR THE EXECUTIVE  
 20 DIRECTOR'S DESIGNEE;

21 [5.] 6. A representative of local government;

22 [6.] 7. A representative from an insurer that offers  
 23 premises liability coverage in the State;

24 [7.] 8. A representative of a financial institution that makes  
 25 loans secured by rental property;

26 [8.] 9. A representative of owners of rental property located  
 27 in Baltimore City built before 1950;

28 [9.] 10. A representative of owners of rental property located  
 29 outside Baltimore City built before 1950;

30 [10.] 11. A representative of owners of rental property built  
 31 after 1949;

32 [11.] 12. A representative of a child health or youth advocacy  
 33 group;

- |   |       |     |  |
|---|-------|-----|--|
| 1 | [12.] | 13. | A health care provider;                        |
| 2 | [13.] | 14. | A child advocate;                              |
| 3 | [14.] | 15. | A parent of a lead poisoned child;             |
| 4 | [15.] | 16. | A lead hazard identification professional; and |
| 5 | [16.] | 17. | A representative of child care providers.      |

6 6-815.

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

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

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

16 (II) THE INTERIOR PAINTED SURFACES OF THE RENTAL DWELLING  
17 UNIT; OR HAS BEEN REMOVED AND REPAINTED; ~~or~~

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

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

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

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

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

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

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

- 1 (vii) Rehang all doors necessary in order to prevent the rubbing  
2 together of a lead-painted surface with another surface;
- 3 (viii) Making all bare floors smooth and cleanable;
- 4 (ix) Ensure that all kitchen and bathroom floors are overlaid with a  
5 smooth, water-resistant covering; and
- 6 (x) HEPA-vacuuming and washing of the interior of the affected  
7 property with high phosphate detergent or its equivalent, as determined by the  
8 Department.

9 6-819.

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

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

16 (II) THE INTERIOR PAINTED SURFACES OF THE RENTAL DWELLING  
17 UNIT; OR HAS BEEN REMOVED AND REPAINTED.

18 ~~6-843.~~

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

23 6-849.

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

31 (2) THE PENALTY SHALL BE ASSESSED WITH CONSIDERATION GIVEN  
32 TO:

33 (I) THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO WHICH  
34 THE EXISTENCE OF THE VIOLATION WAS KNOWN TO THE VIOLATOR BUT  
35 UNCORRECTED BY THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR  
36 EXERCISED REASONABLE CARE;

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

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

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

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

10 [(2)] (3) [The] ON OR BEFORE MARCH 31, 2002, THE Department may  
11 waive an administrative penalty under this subsection upon a showing of hardship OR  
12 PROVIDED THAT:

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

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

19 (III) ALL OF THE OWNER'S AFFECTED PROPERTIES ~~ARE IN~~ HAVE  
20 BEEN BROUGHT INTO COMPLIANCE WITH § 6-811 OF THIS SUBTITLE ~~OR THE OWNER~~  
21 ~~EXECUTES A CONSENT ORDER WITH THE DEPARTMENT AGREEING TO BRING ALL OF~~  
22 ~~THE OWNER'S AFFECTED PROPERTIES INTO COMPLIANCE WITH THIS SUBTITLE~~  
23 ~~UNDER THE TERMS AND CONDITIONS PRESCRIBED BY THE DEPARTMENT AND 65%~~  
24 OF THE OWNER'S AFFECTED PROPERTIES HAVE BEEN CERTIFIED IN COMPLIANCE  
25 WITH THE FULL RISK REDUCTION STANDARDS IN ACCORDANCE WITH §§ 6-815 AND  
26 6-817(B) OF THIS SUBTITLE.

27 **Chapter 114 of the Acts of 1994, as amended by Chapter 555 of the Acts of**  
28 **1996**

29 ~~SECTION 5. AND BE IT FURTHER ENACTED, That:~~

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

37 (b) ~~During fiscal years 1998, 1999, and 2000, [in addition to the \$750,000~~  
38 ~~dedicated annually to the Community Outreach and Education Program from the~~  
39 ~~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 (e) ~~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.