

ENROLLED BILL

-- Environmental Matters/Judicial Proceedings --

Introduced by **Delegates Carter, Anderson, Branch, V. Clagett, C. Davis, D. Davis, Doory, Goodwin, Hammen, Haynes, Hubbard, Kaiser, Kelley, Kirk, Krysiak, Lee, Marriott, McHale, McIntosh, Murray, Oaks, Paige, Quinter, Rosenberg, Simmons, Smigiel, Taylor, F. Turner, and Vaughn**

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 _____

1 AN ACT concerning

2 **Environment - Lead-Contaminated Dust Testing and Inspections - Related**
3 **Party to the Owner**

4 FOR the purpose of prohibiting a certain ~~owner person~~ owner from employing or
5 engaging a related party to the ~~owner person~~ owner to perform certain
6 lead-contaminated dust testing or conduct certain inspections; requiring the
7 Department of the Environment to impose an administrative penalty, not to
8 exceed a certain amount, on ~~an owner a person~~ an owner who employs or
9 engages a related party to the ~~owner person~~ owner to perform certain
10 lead-contaminated dust testing or conduct certain inspections; requiring the
11 Department to impose an administrative penalty, not to exceed a certain amount,
12 on a related party to an owner who performs certain lead-contaminated dust
13 testing or conducts certain inspections; and generally relating to
14 lead-contaminated dust testing and inspections.

1 BY repealing and reenacting, with amendments,
2 Article - Environment
3 Section 6-818 and 6-849
4 Annotated Code of Maryland
5 (1996 Replacement Volume and 2004 Supplement)

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

8 **Article - Environment**

9 6-818.

10 (a) (1) Any person performing lead-contaminated dust testing or conducting
11 inspections required by this subtitle:

12 [(1)] (I) Shall be accredited by the Department;

13 [(2)] (II) May not be a related party to the owner; and

14 [(3)] (III) Shall submit a verified report of the result of the
15 lead-contaminated dust testing or visual inspection to the Department, the owner,
16 and the tenant, if any, of the affected property.

17 (2) ~~AN OWNER A PERSON AN OWNER~~ MAY NOT EMPLOY OR ENGAGE A
18 RELATED PARTY TO THE ~~OWNER PERSON OWNER~~ TO PERFORM
19 LEAD-CONTAMINATED DUST TESTING OR CONDUCT INSPECTIONS REQUIRED BY
20 THIS SUBTITLE.

21 (b) A report submitted to the Department under subsection (a) of this section
22 that certifies compliance for an affected property with the risk reduction standard
23 shall be conclusive proof that the owner is in compliance with the risk reduction
24 standard for the affected property during the period for which the certification is
25 effective, unless there is:

26 (1) Proof of actual fraud as to that affected property;

27 (2) Proof that the work performed in the affected property was not
28 performed by or under the supervision of personnel accredited under § 6-1002 of this
29 title; or

30 (3) Proof that the owner failed to respond to a complaint regarding the
31 affected property as required by § 6-819 of this subtitle.

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

1 update a registration as provided under § 6-812(a) of this subtitle. The
 2 administrative penalty imposed shall be up to \$10 per day, calculated from the date
 3 compliance is required, for each affected property which is not registered or for which
 4 registration is not renewed or updated.

5 ~~(2) THE DEPARTMENT SHALL IMPOSE AN ADMINISTRATIVE PENALTY,~~
 6 ~~NOT TO EXCEED \$25,000, ON ANY PERSON WHO VIOLATES § 6-818(A)(1)(II) OR (2) OF~~
 7 ~~THIS SUBTITLE.~~

8 ~~(2)~~ (3) The penalty shall be assessed with consideration given to:

9 (i) The willfulness of the violation, the extent to which the
 10 existence of the violation was known to the violator but uncorrected by the violator,
 11 and the extent to which the violator exercised reasonable care;

12 (ii) The extent to which the violation resulted in actual harm to the
 13 environment or to human health or safety;

14 (iii) The nature and degree of injury to or interference with general
 15 welfare, health, and property;

16 (iv) The extent to which the current violation is part of a recurrent
 17 pattern of the same or similar type of violation committed by the violator; and

18 (v) The extent to which the violation creates the potential for harm
 19 to the environment or to human health or safety.

20 ~~(3)~~ (4) On or before March 31, 2002, the Department may waive an
 21 administrative penalty under this subsection upon a showing of hardship or provided
 22 that:

23 (i) The affected property is registered, the registration is renewed,
 24 or the registration is updated;

25 (ii) The Department has not initiated an enforcement action for
 26 violation of this subtitle 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 have been brought into
 29 compliance with this subtitle and 65% of the owner's affected properties have been
 30 certified in compliance with the full risk reduction standards in accordance with §§
 31 6-815 and 6-817(b) of this subtitle.

32 (b) ~~THE DEPARTMENT SHALL IMPOSE AN ADMINISTRATIVE PENALTY, NOT TO~~
 33 ~~EXCEED \$5,000, ON A OWNER WHO VIOLATES § 6-818(A)(2) OF THIS SUBTITLE.~~

34 ~~(C)~~ An owner who fails to renew or update a registration as required under §
 35 6-812 of this subtitle within 90 days after the date specified shall be deemed to be out
 36 of compliance with the provisions of this subtitle, with respect to each affected

1 property to which that renewal or update relates, for purposes of § 6-836 of this
2 subtitle on the 91st day after the date the renewal or update was required.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2005.