
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**

Introduced and read first time: February 11, 2005

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 24, 2005

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

12 BY repealing and reenacting, with amendments,
 13 Article - Environment
 14 Section 6-818 and 6-849
 15 Annotated Code of Maryland
 16 (1996 Replacement Volume and 2004 Supplement)

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

1

Article - Environment

2 6-818.

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

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

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

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

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

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

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

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

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

24 6-849.

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

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

35 (2) (3) The penalty shall be assessed with consideration given to:

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

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

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

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

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

12 ~~(3)~~ (4) On or before March 31, 2002, the Department may waive an
13 administrative penalty under this subsection upon a showing of hardship or provided
14 that:

15 (i) The affected property is registered, the registration is renewed,
16 or the registration is updated;

17 (ii) The Department has not initiated an enforcement action for
18 violation of this subtitle before the date upon which the property is registered or the
19 registration is renewed or updated; and

20 (iii) All of the owner's affected properties have been brought into
21 compliance with this subtitle and 65% of the owner's affected properties have been
22 certified in compliance with the full risk reduction standards in accordance with §§
23 6-815 and 6-817(b) of this subtitle.

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

26 ~~(C)~~ An owner who fails to renew or update a registration as required under §
27 6-812 of this subtitle within 90 days after the date specified shall be deemed to be out
28 of compliance with the provisions of this subtitle, with respect to each affected
29 property to which that renewal or update relates, for purposes of § 6-836 of this
30 subtitle on the 91st day after the date the renewal or update was required.

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

