

HOUSE BILL 1233

M3, J1
HB 304/18 – ENV

9lr0753

By: **Delegates R. Lewis and Holmes**

Introduced and read first time: February 8, 2019

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Reduction of Lead Risk in Housing – Elevated Blood Lead Levels**
3 **and Environmental Investigations**
4 **(Maryland Healthy Children Act)**

5 FOR the purpose of reducing the elevated blood lead level that initiates certain case
6 management, notification, and lead risk reduction requirements; altering certain
7 notification requirements triggered by the receipt of the results of a certain blood
8 test; requiring the Department of the Environment to conduct a certain
9 environmental investigation within a certain number of days when a child under a
10 certain age or a woman who is pregnant has a certain elevated blood lead level;
11 requiring the Department to include the results of certain investigations in a certain
12 report; requiring the owner of a certain affected property to satisfy a certain risk
13 reduction standard within 30 days after receiving a certain written notice; defining
14 certain terms; and generally relating to the prevention of lead poisoning and the
15 reduction of lead risk in housing.

16 BY repealing and reenacting, with amendments,
17 Article – Environment
18 Section 6–304, 6–801, 6–819(c), and 6–846(a)
19 Annotated Code of Maryland
20 (2013 Replacement Volume and 2018 Supplement)

21 BY adding to
22 Article – Environment
23 Section 6–305
24 Annotated Code of Maryland
25 (2013 Replacement Volume and 2018 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Environment**2 **6–304.**

3 (a) The Secretary shall assist local governments, if necessary, to provide case
4 management of children with elevated blood lead levels greater than or equal to [10
5 micrograms per deciliter ($\mu\text{g}/\text{dl}$)] **THE REFERENCE LEVEL DEFINED IN § 6–801(Q) OF**
6 **THIS TITLE.**

7 (b) On receipt of the results of a blood test for lead poisoning indicating that a
8 child under **THE AGE OF 6 years** [of age] has an elevated blood lead level greater than or
9 equal to [10 $\mu\text{g}/\text{dl}$] **THE REFERENCE LEVEL DEFINED IN § 6–801(Q) OF THIS TITLE**, the
10 Department or a local health department shall notify:

11 (1) The child's parent or legal guardian; and

12 (2) [In the case of a child who lives in a rental dwelling unit, the owner of
13 the rental dwelling unit] **IF THE CHILD DOES NOT RESIDE AT A PROPERTY OWNED BY**
14 **THE CHILD'S PARENT OR LEGAL GUARDIAN, THE OWNER OF THE PROPERTY** where
15 the child resides.

16 **6–305.**

17 (A) **ON OR BEFORE OCTOBER 1, 2020, THE DEPARTMENT SHALL ADOPT**
18 **REGULATIONS FOR CONDUCTING ENVIRONMENTAL INVESTIGATIONS TO**
19 **DETERMINE LEAD HAZARDS FOR:**

20 (1) **CHILDREN UNDER THE AGE OF 6 YEARS WITH ELEVATED BLOOD**
21 **LEAD LEVELS GREATER THAN OR EQUAL TO THE REFERENCE LEVEL DEFINED IN §**
22 **6–801(Q) OF THIS TITLE; AND**

23 (2) **PREGNANT WOMEN WITH ELEVATED BLOOD LEAD LEVELS**
24 **GREATER THAN OR EQUAL TO THE REFERENCE LEVEL AS DEFINED IN § 6–801(Q) OF**
25 **THIS TITLE.**

26 (B) (1) **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**
27 **REGULATIONS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE**
28 **CONSISTENT WITH THE GUIDELINES FOR THE EVALUATION AND CONTROL OF**
29 **LEAD–BASED PAINT HAZARDS IN HOUSING PUBLISHED BY THE U.S. DEPARTMENT**
30 **OF HOUSING AND URBAN DEVELOPMENT.**

31 (2) **THE REGULATIONS ADOPTED UNDER SUBSECTION (A) OF THIS**
32 **SECTION SHALL PROVIDE FOR AN ENVIRONMENTAL INVESTIGATION TO BE**
33 **COMPLETED WITHIN 10 BUSINESS DAYS OF RECEIPT BY THE DEPARTMENT OR THE**

1 COUNTY BOARD OF HEALTH OF THE RESULTS OF A BLOOD TEST UNDER § 6-304 OF
2 THIS SUBTITLE FOR:

3 (I) CHILDREN UNDER THE AGE OF 6 YEARS WITH ELEVATED
4 BLOOD LEAD LEVELS GREATER THAN OR EQUAL TO THE REFERENCE LEVEL
5 DEFINED IN § 6-801(Q) OF THIS TITLE; OR

6 (II) PREGNANT WOMEN WITH ELEVATED BLOOD LEAD LEVELS
7 GREATER THAN OR EQUAL TO THE REFERENCE LEVEL DEFINED IN § 6-801(Q) OF
8 THIS TITLE.

9 (3) THIS SUBSECTION MAY NOT BE INTERPRETED TO REQUIRE THE
10 DEPARTMENT TO ALTER ANY STANDARD ESTABLISHED BY REGULATION BEFORE
11 OCTOBER 1, 2020, FOR LEAD-BASED PAINT OR A LEAD-CONTAINING SUBSTANCE.

12 (C) THE DEPARTMENT SHALL INCLUDE IN ITS ANNUAL REPORT ON
13 STATEWIDE CHILDHOOD BLOOD LEAD TESTING THE RESULTS OF ANY
14 ENVIRONMENTAL INVESTIGATION CONDUCTED IN ACCORDANCE WITH THIS
15 SECTION.

16 6-801.

17 (a) In this subtitle the following words have the meanings indicated.

18 (b) (1) "Affected property" means:

19 (i) A property constructed before 1950 that contains at least one
20 rental dwelling unit;

21 (ii) On and after January 1, 2015, a property constructed before 1978
22 that contains at least one rental unit; or

23 (iii) Any residential rental property for which the owner makes an
24 election under § 6-803(a)(2) of this subtitle.

25 (2) "Affected property" includes an individual rental dwelling unit within
26 a multifamily rental dwelling.

27 (3) "Affected property" does not include property exempted under §
28 6-803(b) of this subtitle.

29 (c) "Change in occupancy" means a change of tenant in an affected property in
30 which the property is vacated and possession is either surrendered to the owner or
31 abandoned.

1 (d) “Child” means an individual under the age of 6 years.

2 (e) “Commission” means the Lead Poisoning Prevention Commission.

3 (f) (1) “Elevated blood lead” or “EBL” means a quantity of lead in blood,
4 expressed in micrograms per deciliter ($\mu\text{g}/\text{dl}$), that exceeds the [threshold] **REFERENCE**
5 level specified in this subtitle and is determined in accordance with the following protocols:

6 (i) A venous blood test; or

7 (ii) Two capillary blood tests taken in accordance with paragraph (2)
8 of this subsection.

9 (2) If the capillary blood test method is used, an individual shall:

10 (i) Have a first sample of capillary blood drawn and tested; and

11 (ii) Have a second sample of capillary blood drawn and tested within
12 84 days after the first sample is drawn.

13 (3) If the result of one capillary blood test would require action under this
14 subtitle and the other result would not, an individual’s elevated blood lead level shall be
15 confirmed by a venous blood test.

16 (g) “Exterior surfaces” means:

17 (1) All fences and porches that are part of an affected property;

18 (2) All outside surfaces of an affected property that are accessible to a child
19 and that are:

20 (i) Attached to the outside of an affected property; or

21 (ii) Other buildings and structures, including play equipment,
22 benches, and laundry line poles, that are part of the affected property, except buildings or
23 structures that are not owned or controlled by the owner of the affected property; and

24 (3) All painted surfaces in stairways, hallways, entrance areas, recreation
25 areas, laundry areas, and garages within a multifamily rental dwelling unit that are
26 common to individual dwelling units and are accessible to a child.

27 (h) “Fund” means the Lead Poisoning Prevention Fund.

28 (i) (1) “High efficiency particle air vacuum” or “HEPA–vacuum” means a
29 device capable of filtering out particles of 0.3 microns or greater from a body of air at an
30 efficiency of 99.97% or greater.

1 (2) “HEPA–vacuum” includes use of a HEPA–vacuum.

2 (j) “Lead–based paint” means paint or other surface coatings that contain lead in
3 excess of the maximum lead content level allowed by the Department by regulation.

4 (k) “Lead–contaminated dust” means dust in affected properties that contains an
5 area or mass concentration of lead in excess of the lead content level determined by the
6 Department by regulation.

7 (l) “Lead–free” means at or below a lead content level deemed to be lead–free in
8 accordance with criteria established by the Department by regulation.

9 (m) “Lead–safe housing” means a rental dwelling unit that:

10 (1) Is certified to be lead–free in accordance with § 6–804 of this subtitle;

11 (2) Was constructed after 1978;

12 (3) Is deemed to be lead–safe by the Department in accordance with
13 criteria established by the Department by regulation; or

14 (4) Is certified to be in compliance with § 6–815(a) of this subtitle and:

15 (i) In which all windows are either lead–free or have been treated
16 so that all friction surfaces are lead–free;

17 (ii) In which lead–contaminated dust levels are determined to be
18 within abatement clearance levels established by the Department by regulation, within a
19 time frame established by the Department by regulation; and

20 (iii) Which is subject to ongoing maintenance and testing as specified
21 by the Department by regulation.

22 (n) “Multifamily rental dwelling” means a property which contains more than one
23 rental dwelling unit.

24 (o) (1) “Owner” means a person, firm, corporation, guardian, conservator,
25 receiver, trustee, executor, or legal representative who, alone or jointly or severally with
26 others, owns, holds, or controls the whole or any part of the freehold or leasehold interest
27 to any property, with or without actual possession.

28 (2) “Owner” includes:

29 (i) Any vendee in possession of the property; and

30 (ii) Any authorized agent of the owner, including a property
31 manager or leasing agent.

1 (3) "Owner" does not include:

2 (i) A trustee or a beneficiary under a deed of trust or a mortgagee;
3 or

4 (ii) The owner of a reversionary interest under a ground rent lease.

5 (p) "Person at risk" means a child or a pregnant woman who resides or regularly
6 spends at least 24 hours per week in an affected property.

7 **(Q) "REFERENCE LEVEL" MEANS THE BLOOD LEAD REFERENCE LEVEL AS**
8 **DETERMINED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION.**

9 **[(q)] (R)** "Related party" means any:

10 (1) Person related to an owner by blood or marriage;

11 (2) Employee of the owner; or

12 (3) Entity in which an owner, or any person referred to in paragraph (1) or
13 (2) of this subsection, has an interest.

14 **[(r)] (S)** "Relocation expenses" means all expenses necessitated by the relocation
15 of a tenant's household to lead-safe housing, including moving and hauling expenses, the
16 HEPA-vacuuming of all upholstered furniture, payment of a security deposit for the
17 lead-safe housing, and installation and connection of utilities and appliances.

18 **[(s)] (T)** "Rent subsidy" means the difference between the rent paid by a tenant
19 for housing at the time a qualified offer is made under Part V of this subtitle and the rent
20 due for the lead-safe housing to which the tenant is relocated.

21 **[(t)] (U)** (1) "Rental dwelling unit" means a room or group of rooms that form
22 a single independent habitable rental unit for permanent occupation by one or more
23 individuals that has living facilities with permanent provisions for living, sleeping, eating,
24 cooking, and sanitation.

25 (2) "Rental dwelling unit" does not include:

26 (i) An area not used for living, sleeping, eating, cooking, or
27 sanitation, such as an unfinished basement;

28 (ii) A unit within a hotel, motel, or similar seasonal or transient
29 facility;

30 (iii) An area which is secured and inaccessible to occupants; or

1 (iv) A unit which is not offered for rent.

2 [(u)] (v) “Risk reduction standard” means a risk reduction standard established
3 under § 6–815 or § 6–819 of this subtitle.

4 6–819.

5 (c) (1) After February 23, 1996, an owner of an affected property shall satisfy
6 the modified risk reduction standard:

7 (i) Within 30 days after receipt of written notice that a person at
8 risk who resides in the property has an elevated blood lead level documented by a test for
9 EBL greater than or equal to [15 µg/dl before February 24, 2006 or greater than or equal
10 to] 10 µg/dl [on or after February 24, 2006] **BEFORE OCTOBER 1, 2019, OR GREATER
11 THAN OR EQUAL TO THE REFERENCE LEVEL DEFINED IN § 6–801(Q) OF THIS TITLE
12 ON OR AFTER OCTOBER 1, 2019, AND AN ENVIRONMENTAL INVESTIGATION
13 CONDUCTED UNDER § 6–305 OF THIS TITLE HAS CONCLUDED THAT THERE IS A
14 DEFECT AT THE AFFECTED PROPERTY;** or

15 (ii) Within 30 days after receipt of written notice from the tenant, or
16 from any other source, of:

17 1. A defect; and

18 2. The existence of a person at risk in the affected property.

19 (2) (i) An owner who receives multiple notices of an elevated blood
20 **LEAD** level under this subsection or multiple notices of defect under subsection (d) of this
21 section may satisfy all such notices by subsequent compliance with the risk reduction
22 measures specified in subsection (a) of this section, as documented by satisfaction of
23 subsection (f) or (g) of this section, if the owner complies with the risk reduction measures
24 specified in subsection (a) of this section after the date of the test documenting the elevated
25 blood **LEAD** level or after the date the notices of defect were issued.

26 (ii) Subparagraph (i) of this paragraph does not affect an owner’s
27 obligation to perform the risk reduction measures specified in subsection (a) of this section
28 for a triggering event that occurs after the owner satisfies the provisions of subparagraph
29 (i) of this paragraph.

30 6–846.

31 (a) On receiving the results of a blood lead test under § 6–303 of this title
32 indicating that a person at risk has an EBL greater than or equal to [15 µg/dl before
33 February 24, 2006, or greater than or equal to] 10 µg/dl [on or after February 24, 2006]
34 **BEFORE OCTOBER 1, 2019, OR GREATER THAN OR EQUAL TO THE REFERENCE**

1 **LEVEL DEFINED IN § 6-801(Q) OF THIS TITLE ON OR AFTER OCTOBER 1, 2019**, the
2 Department or a local health department shall notify:

3 (1) The person at risk, or in the case of a minor, the parent or legal
4 guardian of the person at risk, of the results of the test; and

5 (2) The owner of the affected property in which the person at risk resides
6 or regularly spends at least 24 hours per week of the results of the test.

7 **SECTION 2. AND BE IT FURTHER ENACTED**, That this Act shall take effect
8 October 1, 2019.