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## **An Act To Protect Children from Hazardous Lead-based Paint**

**Be it enacted by the People of the State of Maine as follows:**

### **PART A**

**Sec. A-1. 22 MRSA §1317-C, sub-§2**, as enacted by PL 1991, c. 810, §23, is amended to read:

**2. Data.** At least annually, the department shall analyze and summarize lead-screening information provided by health care providers, facilities and programs and provide the information to other state and local agencies involved in lead-poisoning issues. The information must also be provided to interested parties on request in a format that is easily understood by the general public. ~~The department may not release any information under this subsection if that information identifies or could lead to the identification of individuals.~~

**Sec. A-2. 22 MRSA §1317-C, sub-§3** is enacted to read:

**3. Confidentiality.** Unless otherwise authorized by section 42, subsection 5, the department may not release any information described in subsection 2 regarding the screening of children for lead poisoning or the source of any lead exposure if that information identifies children, families or other persons, directly or indirectly. The department may disclose information that relates to the address of a residential unit in which an environmental lead hazard or case of lead poisoning has been identified if the disclosure contains only the information necessary to advance the public health and does not directly identify an individual.

**Sec. A-3. 22 MRSA §1322-E, sub-§3, ¶E**, as enacted by PL 2005, c. 403, §1, is amended to read:

E. Funding an assessment of current uses of lead and the availability, effectiveness and affordability of lead-free alternatives; and

**Sec. A-4. 22 MRSA §1322-E, sub-§3, ¶F**, as enacted by PL 2005, c. 403, §1, is amended to read:

F. Funding for educational programs and information for owners of rental property used for residential purposes; and

**Sec. A-5. 22 MRSA §1322-E, sub-§3, ¶G** is enacted to read:

G. Implementation of the lead-safe housing and the lead-safe renovation notification, inspection and enforcement programs administered by the Department of Environmental Protection pursuant to Title 38, chapter 12-B and achieving the goal of elimination of childhood lead poisoning risks in the State.

**Sec. A-6. 22 MRSA §1322-F, sub-§4**, as enacted by PL 2005, c. 403, §1, is amended to read:

**4. Contingent repeal.** This section is repealed July 1, 2011 when the Commissioner of Health and Human Services certifies that a period of 24 months has elapsed since the Department of Health and Human Services identified a child with an elevated blood lead level through screening by health care providers under section 1317-C. The Commissioner of Health and Human Services shall provide notice to the Secretary of the Senate, the Clerk of the House of Representatives and the Office of the Revisor of Statutes when this condition has been met. For purposes of this subsection, "elevated blood lead level" means a confirmed level of blood lead of 10 micrograms per deciliter or a level of blood lead defined by the federal Department of Health and Human Services, Centers for Disease Control and Prevention, whichever is lower.

**Sec. A-7. 22 MRSA §1329** is enacted to read:

**§ 1329. Lead poisoning warning statement**

**1. Display of poster; availability of brochure.** A retailer, store or commercial establishment that offers paint or other supplies intended for the removal of paint shall display a poster in a prominent and easily visible location and make available to its customers brochures containing statements that the dry sanding or scraping of paint in dwellings built before 1978 is dangerous and that the improper removal of old paint is a significant source of lead dust and the primary cause of lead poisoning. The poster and brochure must also inform consumers about where they may obtain more information on lead poisoning and paint removal.

**2. Posters and brochures.** The Department of Environmental Protection shall produce posters and brochures to meet the requirements of subsection 1 and shall provide paper copies of the posters and brochures to retailers, stores and commercial establishments and post copies for downloading on the department's website. A retailer, store or commercial establishment may display posters and provide brochures that differ from those provided by the Department of Environmental Protection if the posters and brochures provide the information required under subsection 1.

**PART B**

**Sec. B-1. 38 MRSA §1291, sub-§9-A** is enacted to read:

**9-A. Exterior surface.** "Exterior surface" means:

A. Any surface of a fence or porch that is part of real property that is or contains a residential dwelling; and

B. A painted surface that is:

(1) Located in a stairway, hallway, entrance area, recreation area, laundry area or garage within a multifamily dwelling that is common to individual dwelling units, one or more of which constitutes a residential dwelling; or

(2) The outside surface of a building appurtenant to a residential dwelling, such as a garage or shed.

**Sec. B-2. 38 MRSA §1291, sub-§19-A** is enacted to read:

**19-A. Lead-safe.** "Lead-safe" means premises do not contain lead at a level or in a condition that constitutes an environmental hazard, according to rules adopted pursuant to section 1298.

**Sec. B-3. 38 MRSA §1291, sub-§23-A** is enacted to read:

**23-A. Property owner.** "Property owner" means a person, firm, corporation, guardian, conservator, trustee, executor, legal representative or registered agent who alone or jointly and severally with others owns, holds or controls the whole or any part of the freehold or leasehold interest to any property, with or without actual possession.

**Sec. B-4. 38 MRSA §1291, sub-§26-A** is enacted to read:

**26-A. Residential dwelling.** "Residential dwelling" means a room or group of rooms that form a single independent habitable unit for permanent occupation by one or more individuals that has facilities with permanent provisions for living, sleeping, eating, cooking and sanitation, including common areas and appurtenant structures. "Residential dwelling" does not include:

A. An area not used for living, sleeping, eating, cooking or sanitation, such as an unfinished basement, that is not readily accessible to children under 6 years of age;

B. A unit within a hotel, motel or seasonal or temporary lodging facility unless the unit is occupied by one or more children under 6 years of age for a period exceeding 30 days;

C. An area that is secured and inaccessible to occupants;

D. A unit that is not offered for occupation, either for rent or as an incident to employment;

E. Housing for the elderly, or a dwelling unit designated exclusively for adults with disabilities. This exemption does not apply if a child under 6 years of age resides or is expected to reside in the dwelling unit or visit the dwelling unit on a regular basis; or

F. An unoccupied dwelling unit that is to be demolished, as long as the dwelling unit remains unoccupied until demolition.

**Sec. B-5. 38 MRSA §1292, sub-§3,** as enacted by PL 1997, c. 375, §14, is amended to read:

**3. Notification required.** A person may not engage in any residential lead abatement activity, or in any renovation and remodeling activity identified by the department as an activity likely to cause lead hazards in a residential dwelling built before 1978, unless that person notifies the commissioner in

writing at least 5 working days before beginning any on-site work, including on-site preparation work, that has the potential to create lead dust. After the effective date of rules adopted by the department pursuant to section 1295 for notification of lead abatement activities in public buildings, commercial buildings and superstructures, a person may not engage in those lead abatement activities unless the person notifies the commissioner in writing at least 5 working days before beginning any on-site work, including on-site preparation work, that has the potential to create lead dust.

**Sec. B-6. 38 MRSA §1292, sub-§4,** as enacted by PL 1997, c. 375, §14, is amended to read:

**4. Work practices.** All residential lead-based paint activities and renovation and remodeling activities identified by the department as activities likely to cause lead hazards in residential dwellings built before 1978 must be conducted in accordance with work practice standards adopted by rule pursuant to this chapter. After the effective date of rules adopted by the department pursuant to section 1295 for work practices pertaining to lead-based paint activities in public buildings, commercial buildings and superstructures, those lead-based paint activities must be conducted in accordance with the applicable work practice standards adopted by rule.

**Sec. B-7. 38 MRSA §1292, sub-§5,** as amended by PL 1997, c. 624, §14 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**5. Exemption.** A person who is 18 years of age or older need not obtain licensing and certification to perform lead abatement activities within a residential dwelling unit that the person owns and personally occupies, as long as a child residing in the dwelling unit has not been identified as lead-poisoned. A person 18 years of age or older who owns and personally occupies a dwelling unit in which a resident child has been identified as lead-poisoned need not obtain licensing and certification to perform abatement activities within that dwelling unit, as long as the person completes any training required by the Department of Health and Human Services. A person 18 years of age or older who owns and personally occupies a residential dwelling and who engages in renovation or remodeling activities is exempt from the notification and work practice requirements of this section.

**Sec. B-8. 38 MRSA §1298** is enacted to read:

**§ 1298. Lead-safe leased residential dwellings**

**1. Reasonable precautions required.** A property owner shall take reasonable precautions to ensure each residential dwelling offered for lease is maintained free of lead-based paint hazards. A violation of this subsection is a breach of the implied warranty of habitability.

**2. Annual self-inspection by the property owner.** The department shall maintain a registry of residential dwellings built before 1978 that are lead-safe pursuant to standards established by rule according to subsection 3.

**3. Lead-safe residential property.** A leased residential dwelling is considered to be lead-safe for the purposes of this chapter if the property owner has submitted to the department an application for the property to be placed on the registry created pursuant to subsection 2, together with a report by a lead inspector that indicates that the residential dwelling has been tested for the presence of lead-based

paint and lead-contaminated dust and that the dwelling meets the requirements for certification as lead-safe in accordance with the standards and procedures established by rules adopted by the commissioner. The application must be sworn to and signed by the property owner.

A. The rules, which are designated as routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, must establish standards defining lead-safe.

B. The property owner shall retain a copy of the inspection report that indicates that the property meets the requirements of lead-safe status for a period of 5 years and shall provide a copy of the report to the commissioner upon request.

C. In order to maintain lead-safe status for the purposes of inclusion on the registry, the property owner of a leased residential dwelling with lead-based paint on any exterior surface that is considered to be lead-safe pursuant to this section shall annually conduct an investigation of the property and swear to and sign a statement that no painted exterior surface of the residential dwelling is chipping, peeling or flaking and that there has been no compromise of any interior abatement system that relies upon the enclosure or encapsulation of lead-based paint. A copy of the sworn statement must be retained by the property owner, made available for inspection by the commissioner and provided to the residential tenant.

## PART C

**Sec. C-1. Review and report.** The Department of Environmental Protection, the Maine State Housing Authority and the Department of Health and Human Services, Maine Center for Disease Control and Prevention, jointly referred to in this section as "the agencies," shall review issues related to achieving housing safe from lead hazards and the elimination of childhood lead poisoning. These issues must include, but are not limited to, resources and incentives to promote housing that is lead-safe, as defined in the Maine Revised Statutes, Title 38, section 1291, subsection 19-A, including the lead poisoning prevention fee established in Title 22, section 1322-F. The agencies shall also review the establishment of a requirement to ensure that every leased residential dwelling is maintained free of lead-based paint hazards, including routine maintenance and owner self-inspection requirements. The agencies shall also review ways to fully implement and enforce lead poisoning prevention programs established by statute and make recommendations to eliminate lead paint and lead poisoning risks in the State. By January 1, 2009, the agencies shall submit a report to the joint standing committees of the Legislature having jurisdiction over health and human services matters and natural resources matters on the results of the review and recommendations, including proposed legislation to achieve housing safe from lead hazards and lead poisoning prevention.

## SUMMARY

This bill protects children from hazardous lead-based paint.

1. The bill authorizes use of the Lead Poisoning Prevention Fund for lead-safe housing and lead-safe renovation notification, inspection and enforcement.

2. The bill amends the provision of law that repeals the lead poisoning prevention fee on July 1, 2011.
3. The bill requires certain paint retailers, stores and commercial establishments to display posters and make brochures available to consumers warning of lead hazards.
4. The bill clarifies the activities covered by the requirements for residential lead abatement.
5. The bill provides a mechanism for the Department of Environmental Protection to maintain a registry of lead-safe pre-1978 residential dwellings.
6. The bill requires owners of leased residential dwellings to take reasonable precautions to ensure that the dwellings are free of lead-based paint hazards.
7. The bill provides confidentiality protections for certain lead poisoning and lead exposure information.
8. The bill requires the Department of Environmental Protection, the Maine State Housing Authority and the Department of Health and Human Services, Maine Center for Disease Control and Prevention to review issues related to achieving lead-safe housing and the elimination of childhood lead poisoning and to report to the joint standing committees of the Legislature having jurisdiction over health and human services matters and natural resources matters on the results of the review and recommendations, including proposed legislation to achieve lead-safe housing and lead poisoning prevention.