

HOUSE BILL No. 6058

November 29, 2016, Introduced by Rep. Cochran and referred to the Committee on Appropriations.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 5453, 5454, 5456, 5457, 5458, 5459, 5474, and 5474b (MCL 333.5453, 333.5454, 333.5456, 333.5457, 333.5458, 333.5459, 333.5474, and 333.5474b), section 5453 as amended by 2008 PA 45, sections 5454, 5456, 5457, 5458, and 5459 as amended by 2002 PA 644, section 5474 as added by 1998 PA 219, and section 5474b as added by 2004 PA 432, and by adding section 5474d; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5453. (1) "Abatement", except as otherwise provided in
2 subsection (2), means a measure or set of measures designed to
3 permanently eliminate lead-based ~~paint~~ hazards. Abatement includes
4 all of the following:

5 (a) The removal of lead-based paint and dust lead hazards, the

1 permanent enclosure or encapsulation of lead-based paint, the
2 replacement of lead-painted surfaces or fixtures, the removal or
3 covering of soil lead hazards, and all preparation, cleanup,
4 disposal, and postabatement clearance testing activities associated
5 with such measures.

6 (b) A project for which there is a written contract or other
7 documentation that provides that a person will be conducting
8 activities in or to a residential dwelling or child occupied
9 facility that will result in the permanent elimination of lead-
10 based paint hazards or that are designed to permanently eliminate
11 lead-based paint hazards.

12 (c) A project resulting in the permanent elimination of lead-
13 based paint hazards, conducted by a person certified under this
14 part, except a project that is exempt from this part.

15 (d) A project resulting in the permanent elimination of lead-
16 based paint hazards, conducted by a person who, through their
17 company name or promotional literature, represents, advertises, or
18 holds themselves out to be in the business of performing lead-based
19 paint activities except a project that is exempt from this part.

20 (e) A project resulting in the permanent elimination of lead-
21 based paint hazards that is conducted in response to a state or
22 local government abatement order.

23 **(F) THE REPLACEMENT OF IN-HOME PLUMBING AND FIXTURES THAT MAY**
24 **CONTRIBUTE TO LEAD EXPOSURE.**

25 **(G) THE INSTALLATION OF WATER FILTERS IF TESTING DETERMINES**
26 **THAT THE WATER SOURCE CONTAINS LEAD AT A LEVEL HIGHER THAN 5 PPB.**

27 (2) Abatement does not include any of the following:

1 (a) Renovation, remodeling, landscaping, or other activity, if
2 the activity is not designed to permanently eliminate lead-based
3 paint hazards, but is instead designed to repair, restore, or
4 remodel a structure, target housing, or dwelling even though the
5 activity may incidentally result in a reduction or elimination of a
6 lead-based paint hazard.

7 (b) An interim control, operation, and maintenance activity,
8 or other measure or activity designed to temporarily, but not
9 permanently, reduce a lead-based paint hazard.

10 (c) Any lead-based paint activity performed by the owner of an
11 owner-occupied residential dwelling or an owner-occupied
12 multifamily dwelling containing 4 or fewer units if the activity is
13 performed only in that owner-occupied unit of the multifamily
14 dwelling.

15 (d) The scraping or removal of paint, painting over paint, or
16 other similar activity that may incidentally result in a reduction
17 or elimination of a lead-based paint hazard, if the activity meets
18 all of the following:

19 (i) The activity is performed only on residential or
20 multifamily dwellings containing 4 or fewer units.

21 (ii) The activity is coordinated by a nonprofit charitable or
22 volunteer organization that meets all of the following:

23 (A) Is in compliance with the procedures established under
24 subpart J of part 35 of title 24 of the code of federal
25 regulations, 24 CFR 35.900 to 35.940.

26 (B) Has written guidelines in place to ensure safe work
27 practices to protect residents and volunteers from hazards

1 including, but not limited to, lead exposure and asbestos exposure.

2 (C) In writing, discloses to the owner of the residential or
3 multifamily dwelling all of the following:

4 (I) The presence of any known lead-based paint and lead-based
5 paint hazards.

6 (II) Information regarding the lead safe housing registry
7 maintained by the department under section 5474b.

8 (III) Information regarding the owner's obligations under the
9 federal lead-based paint or lead-based paint hazard disclosure rule
10 under subpart F of part 745 of title 40 of the code of federal
11 regulations, 40 CFR 745.100 to 745.119.

12 (D) Notifies the department that the residential or
13 multifamily dwelling may be required to be on the lead safe housing
14 registry maintained by the department.

15 (iii) The activity is performed only by unpaid volunteers and
16 the organization receives no remuneration directly from the owner
17 or occupant of the residential dwelling or multifamily dwelling.

18 (iv) The activity does not involve the use of a lead-based
19 paint encapsulating product that requires certification from the
20 department.

21 (v) The activity does not involve the use of high-pressure
22 water or compressed air cleaning equipment on, the dry sanding of,
23 or the scraping of, asbestos siding prior to painting.

24 (3) "Accredited training program" means a training program
25 that has been accredited by the department under this part to
26 provide training for individuals engaged in lead-based paint
27 activities.

1 (4) "Adequate quality control" means a plan or design that
2 ensures the authenticity, integrity, and accuracy of a sample
3 including, but not limited to, a dust sample, a soil or paint chip
4 sample, or a paint film sample. Adequate quality control also
5 includes a provision in a plan or design described in this
6 subsection for representative sampling.

7 Sec. 5454. (1) "Certified abatement worker" means an
8 individual who has been trained to perform abatements by an
9 accredited training program and who is certified by the department
10 under this part to perform abatement.

11 (2) "Certified clearance technician" means an individual who
12 has completed an approved training course and been certified by the
13 department under this part to conduct clearance testing following
14 interim controls.

15 (3) "Certified firm" means a person that performs a lead-based
16 paint activity for which the department has issued a certificate of
17 approval under this part.

18 (4) "Certified inspector" means an individual who has been
19 trained by an accredited training program and certified by the
20 department under this part to conduct inspections and take samples
21 for the presence of lead in paint, dust, ~~and soil~~, **AND WATER** for
22 the purposes of abatement clearance testing.

23 (5) "Certified project designer" means an individual who has
24 been trained by an accredited training program and certified by the
25 department under this part to prepare abatement project designs,
26 occupant protection plans, and abatement reports.

27 (6) "Certified risk assessor" means an individual who has been

1 trained by an accredited training program and certified by the
2 department under this part to conduct inspections and risk
3 assessments and to take samples for the presence of lead in paint,
4 dust, ~~and soil~~, **AND WATER** for the purposes of abatement clearance
5 testing **AND DETERMINING THE NEED FOR WATER FILTERS.**

6 (7) "Certified supervisor" means an individual who has been
7 trained by an accredited training program and certified by the
8 department under this part to supervise and conduct abatements and
9 to prepare occupant protection plans and abatement reports.

10 (8) "Child occupied facility" means a building or portion of a
11 building constructed before 1978 that is visited regularly by a
12 child who is 6 years of age or less, on at least 2 different days
13 within a given week, if each day's visit is at least 3 hours and
14 the combined weekly visit is at least 6 hours in length, and the
15 combined annual visits are at least 60 hours in length. Child
16 occupied facility includes, but is not limited to, a day-care
17 center, a preschool, and a kindergarten classroom.

18 Sec. 5456. (1) "Department" means the department of ~~community~~
19 health **AND HUMAN SERVICES.**

20 (2) "Deteriorated paint" means paint or other surface coating
21 that is cracking, flaking, chipping, peeling, or otherwise damaged
22 or separating from the substrate of a building component.

23 (3) "Discipline" means 1 of the specific types or categories
24 of lead-based paint activities identified in this part for which an
25 individual may receive training from an accredited training program
26 and become certified by the department.

27 (4) "Distinct painting history" means the application history,

1 as indicated by its visual appearance or a record of application,
2 over time of paint or other surface coatings to a component or
3 room.

4 (5) "Documented methodology" means a method or protocol used
5 to do either or both of the following:

6 (a) Sample and test for the presence of lead in paint, dust,
7 ~~and soil~~, **AND WATER**.

8 (b) Perform related work practices as described in rules
9 promulgated under this part.

10 (6) "Dust lead hazard" means surface dust in a residential
11 dwelling or child occupied facility that contains a concentration
12 of lead at or in excess of levels identified by the EPA pursuant to
13 section 403 of title IV of the toxic substances control act, Public
14 Law 94-469, 15 ~~U.S.C.~~ **USC** 2683, or as otherwise defined by rule.

15 (7) "Elevated blood level" or "EBL" means for purposes of lead
16 abatement an excessive absorption of lead that is a confirmed
17 concentration of lead in whole blood of 20 ug/dl ~~—~~ (micrograms of
18 lead per deciliter of whole blood) ~~—~~ for a single venous test or of
19 15-19 ug/dl in 2 consecutive tests taken 3 to 4 months apart. For
20 purposes of case management of children 6 years of age or less,
21 elevated blood level means an excessive absorption of lead that is
22 a confirmed concentration of lead in whole blood of 10 ug/dl.

23 (8) "Encapsulant" means a substance that forms a barrier
24 between lead-based paint and the environment using a liquid-applied
25 coating, with or without reinforcement materials, or an adhesively
26 bonded covering material.

27 (9) "Encapsulation" means the application of an encapsulant.

1 (10) "Enclosure" means the use of rigid, durable construction
2 materials that are mechanically fastened to the substrate in order
3 to act as a barrier between lead-based paint and the environment.

4 (11) "EPA" means the United States environmental protection
5 agency.

6 (12) **"FUND" MEANS THE LEAD-SAFE HOMES FUND CREATED IN SECTION**
7 **5474D.**

8 Sec. 5457. (1) "Guest instructor" means an individual
9 designated by the manager or principal instructor of an accredited
10 training program to provide instruction specific to the lecture,
11 hands-on activities, or work practice components of a course in the
12 accredited training program.

13 (2) "Hands-on skills assessment" means an evaluation that
14 tests a trainee's ability to satisfactorily perform the work
15 practices, work procedures, or any other skill taught in an
16 accredited training program.

17 (3) "Hazardous waste" means waste as defined in 40 ~~C.F.R.~~ **CFR**
18 261.3.

19 (4) "Inspection" means a surface-by-surface investigation in
20 target housing or a child occupied facility to determine the
21 presence of lead-based paint **OR A WATER TEST INDICATING LEAD IN**
22 **WATER USED FOR DRINKING WATER OR OTHER HOUSEHOLD PURPOSES** and the
23 provision of a report explaining the results of the investigation.

24 (5) "Interim controls" means a set of measures designed to
25 temporarily reduce human exposure or likely exposure to lead-based
26 paint hazards including, but not limited to, specialized cleaning,
27 repairs, maintenance, painting, temporary containment, ongoing

1 monitoring of lead-based ~~paint~~ hazards or potential hazards, and
2 the establishment and operation of management and resident
3 education programs.

4 Sec. 5458. (1) "Lead-based paint" means paint or other surface
5 coatings that contain lead equal to or in excess of 1.0 milligrams
6 per square centimeter or more than 0.5% by weight.

7 (2) "Lead-based paint activity" means inspection, risk
8 assessment, and abatement in target housing and child occupied
9 facilities or in any part thereof.

10 (3) "Lead-based paint hazard" means any of the following
11 conditions:

12 (a) Any lead-based paint on a friction surface that is subject
13 to abrasion ~~and where~~ **IF** the lead dust levels on the nearest
14 horizontal surface are equal to or greater than the dust lead
15 hazard levels identified in rules promulgated under this part.

16 (b) Any ~~damaged or otherwise deteriorated~~ lead-based paint on
17 an impact surface that is ~~caused by~~ **DAMAGED OR OTHERWISE**
18 **DETERIORATED AS A RESULT OF** impact from a related building
19 component.

20 (c) Any chewable lead-based painted surface on which there is
21 evidence of teeth marks.

22 (d) Any other ~~deteriorated~~ **DETERIORATED** lead-based paint in
23 or on any residential building or child occupied facility.

24 (e) Surface dust in a residential dwelling or child occupied
25 facility that contains lead in a mass-per-area concentration equal
26 to or exceeding the levels established by rules promulgated under
27 this part.

1 (f) Bare soil on residential real property or property of a
2 child occupied facility that contains lead equal to or exceeding
3 levels established by rules promulgated under this part.

4 (4) "Lead-based ~~paint~~-investigation" means an activity
5 designed to determine the presence of lead-based paint, ~~or~~ lead-
6 based paint hazards, **OR LEAD IN WATER USED FOR DRINKING WATER OR**
7 **OTHER HOUSEHOLD PURPOSES** in target housing and child occupied
8 facilities.

9 (5) "Living area" means an area of a residential dwelling used
10 by 1 or more children age 6 and under including, but not limited
11 to, a living room, kitchen area, den, playroom, and a children's
12 bedroom.

13 Sec. 5459. (1) "Multifamily dwelling" means a structure that
14 contains more than 1 separate residential dwelling unit and that is
15 used or occupied, or intended to be used or occupied, in whole or
16 in part, as the home or residence of 1 or more persons.

17 (2) "Paint in poor condition" means 1 or more of the
18 following:

19 (a) More than 10 square feet of deteriorated paint on an
20 exterior component with a large surface area.

21 (b) More than 2 square feet of deteriorated paint on an
22 interior component with large surface areas.

23 (c) More than 10% of the total surface area of the component
24 is deteriorated on an interior or exterior component with a small
25 surface area.

26 (3) "Permanently covered soil" means soil that has been
27 separated from human contact by the placement of a barrier

1 consisting of solid, relatively impermeable materials including,
2 but not limited to, pavement or concrete but not including grass,
3 mulch, or other landscaping materials.

4 (4) "Person" means that term as defined in section 1106 but
5 including ~~the~~**THIS** state and a political subdivision of ~~the~~**THIS**
6 state.

7 (5) "Principal instructor" means the individual who has the
8 primary responsibility for organizing and teaching a particular
9 course in an accredited training program.

10 (6) "Recognized laboratory" means an environmental laboratory
11 recognized by the EPA pursuant to section 405 of title IV of the
12 toxic substances control act, Public Law 94-469, 15 U.S.C. 2685, as
13 being capable of performing an analysis for lead compounds in
14 paint, soil, and dust.

15 (7) "Reduction" means a measure designed to reduce or
16 eliminate human exposure to a lead-based paint hazard through
17 methods including, but not limited to, interim controls and
18 abatement.

19 (8) "Residential dwelling" means either of the following:

20 (a) A detached single family dwelling unit, including, but not
21 limited to, attached structures such as porches and stoops and
22 accessory structures such as garages, fences, and nonagricultural
23 or noncommercial outbuildings.

24 (b) A building structure that contains more than 1 separate
25 residential dwelling unit that is used or occupied, in whole or in
26 part, as the home or residence of 1 or more persons.

27 (9) "Risk assessment" means both of the following:

1 (a) An on-site investigation in target housing or a child
2 occupied facility to determine the existence, nature, severity, and
3 location of a lead-based paint hazard.

4 (b) The provision of a report by the person conducting the
5 risk assessment explaining the results of the investigation and
6 options for reducing the lead-based paint hazard **OR LEAD IN WATER**
7 **USED FOR DRINKING WATER OR OTHER HOUSEHOLD PURPOSES.**

8 (10) "Soil lead hazard" means bare soil ~~on~~**AT** a residential
9 dwelling or on the property of a child occupied facility that
10 contains lead at or in excess of levels identified by the EPA
11 pursuant to section 403 of title IV of the toxic substances control
12 act, Public Law 94-469, 15 U.S.C. 2683, or as otherwise defined by
13 rule.

14 Sec. 5474. (1) The department shall establish a lead poisoning
15 prevention program that has the following components:

16 (a) A coordinated and comprehensive plan to prevent childhood
17 lead poisoning and to minimize exposure of the general public to
18 lead-based ~~paint~~-hazards.

19 (b) A comprehensive educational and community outreach program
20 regarding lead poisoning prevention that, ~~shall,~~ at a minimum,
21 ~~include~~**INCLUDES** the development of appropriate educational
22 materials targeted to health care providers, child care providers,
23 public schools, owners and tenants of residential dwellings, and
24 parents of young children. These educational materials shall be
25 made available, upon request, to local and state community groups,
26 legal services organizations, and tenants' groups.

27 (c) A technical assistance system for health care providers to

1 assist those providers in managing cases of childhood lead
2 poisoning. As part of this system, the department shall require
3 that results of all blood lead level tests conducted in ~~Michigan~~
4 **THIS STATE** be reported to the department as provided for in rule
5 and that when the department receives notice of blood lead levels
6 above ~~10-5~~ micrograms per deciliter, it shall initiate contact with
7 the local public health department or the physician, or both, of
8 the child whose blood lead level exceeds ~~10-5~~ micrograms per
9 deciliter.

10 (2) The department shall report to the legislature by January
11 ~~1, 1999, and annually thereafter,~~ **EACH YEAR** the number of children
12 through age 6 who were screened for lead poisoning during the
13 preceding fiscal year and who were confirmed to have had blood lead
14 levels above ~~10-5~~ micrograms per deciliter. The report shall
15 compare these rates with those of previous fiscal years and the
16 department shall recommend methods for improving compliance with
17 guidelines issued by the federal ~~centers for disease control and~~
18 ~~prevention,~~ **CENTERS FOR DISEASE CONTROL AND PREVENTION**, including
19 any necessary legislation or appropriations.

20 (3) ~~Not more than 1 year after the effective date of this~~
21 ~~part, and annually thereafter, the~~ **THE** department shall **ANNUALLY**
22 prepare a written report regarding the expenditures under the lead
23 poisoning prevention program including the amounts and sources of
24 money from the previous year and a complete accounting of its use.
25 The report shall be given to the appropriate committees of the
26 legislature and be made available to the general public upon
27 request.

1 Sec. 5474b. (1) The department in cooperation with ~~the family~~
2 ~~independence agency and~~ the Michigan state housing development
3 authority shall establish and maintain a registry, to be known as
4 the "lead safe housing registry", to provide the public with a
5 listing of residential and multifamily dwellings and child occupied
6 facilities that have been abated of or have had interim controls
7 performed to control **LEAD IN WATER USED FOR DRINKING WATER OR OTHER**
8 **HOUSEHOLD PURPOSES AND** lead-based ~~paint~~ hazards as determined
9 through a lead-based ~~paint~~ investigation performed by a certified
10 risk assessor certified under this part.

11 (2) The owner of target housing that is offered for rent or
12 lease as a residence or the owner of a child occupied facility
13 shall register that property with the department if that property
14 has been abated of or has had interim controls performed to control
15 lead-based ~~paint~~ hazards as determined through a lead-based ~~paint~~
16 investigation performed by a certified risk assessor certified
17 under this part in a form as prescribed by the department free of
18 charge. The form shall include, at a minimum, the following:

19 (a) Name of the owner of the building.

20 (b) Address of the building.

21 (c) Date of construction.

22 (d) Date and description of any lead-based paint activity
23 including the name of the certified abatement worker or the
24 certified risk assessor certified under this part who performed the
25 abatement or conducted the inspection, lead-hazard screen,
26 assessment, or clearance testing of the building and the results of
27 the lead-based paint activity.

**(E) DATE AND DESCRIPTION OF MEASURES CONDUCTED TO ABATE LEAD
IN WATER USED FOR DRINKING WATER OR OTHER HOUSEHOLD PURPOSES.**

(3) An owner required to register his or her property under subsection (2) shall provide the department with a copy of each report, document, or other information that is required to be filed with the federal government under federal law and regulations related to lead-based paint.

(4) The owner of any other residential or multifamily dwelling that is offered for rent or lease as a residence or the owner of a child occupied facility may register that property with the department and the department shall include that property on the lead safe housing registry. A person who wishes to register under this subsection shall execute and return the registration form to the department with payment of the registration fee in an amount as prescribed by the department.

(5) The department shall publish the lead safe housing registry on its website and provide a copy of the registry to a person upon request. The department may charge a reasonable, cost-based fee for providing copies of the lead safe housing registry under this subsection.

**SEC. 5474D. (1) THE LEAD-SAFE HOMES FUND IS CREATED WITHIN THE
STATE TREASURY.**

**(2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM
ANY SOURCE FOR DEPOSIT INTO THE LEAD-SAFE HOMES FUND. THE STATE
TREASURER SHALL DIRECT THE INVESTMENT OF THE LEAD-SAFE HOMES FUND.
THE STATE TREASURER SHALL CREDIT TO THE LEAD-SAFE HOMES FUND
INTEREST AND EARNINGS FROM FUND INVESTMENTS.**

1 (3) MONEY IN THE LEAD-SAFE HOMES FUND AT THE CLOSE OF THE
2 FISCAL YEAR SHALL REMAIN IN THE LEAD-SAFE HOMES FUND AND SHALL NOT
3 LAPSE TO THE GENERAL FUND.

4 (4) THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE LEAD SAFE
5 HOMES FUND FOR AUDITING PURPOSES.

6 (5) THE DEPARTMENT SHALL EXPEND MONEY FROM THE LEAD-SAFE HOMES
7 FUND, UPON APPROPRIATION, ONLY FOR THE FOLLOWING:

8 (A) ABATEMENT MEASURE TO ELIMINATE HAZARDS FROM LEAD-BASED
9 PAINT.

10 (B) ABATEMENT MEASURES TO ELIMINATE LEAD FROM DRINKING WATER
11 AND WATER USED FOR OTHER HOUSEHOLD PURPOSES.

12 (C) TO IMPLEMENT THIS PART.

13 Enacting section 1. Section 5474b of the public health code,
14 1978 PA 368, MCL 333.5474b[1], is repealed.

15 Enacting section 2. This amendatory act does not take effect
16 unless the question provided for in the clean Michigan initiative
17 reauthorization act is approved by a majority of the registered
18 electors voting on the question at the next general election.