

HOUSE BILL No. 6247

June 12, 2018, Introduced by Reps. Hertel, Sabo, Rabhi, Green, Chang, Geiss, Lasinski, Elder, Yanez, Moss, Sowerby, LaGrand, Sneller, Yancey, Zemke, Cochran, Brinks, Chirkun, Singh, Durhal, Greig, Cambensy, Faris, Wittenberg, Phelps, Hammoud, Gay-Dagnogo and Jones and referred to the Committee on Natural Resources.

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 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~~-**THESE** 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~~-**HIS**
17 **OR HER** company name or promotional literature, represents,
18 advertises, or holds ~~themselves~~-**HIMSELF OR HERSELF** out to be in the
19 business of performing lead-based paint activities except a project
20 that is exempt from this part.

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

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

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

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

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

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

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

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

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

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

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

27 (B) Has written guidelines in place to ensure safe work

1 practices to protect residents and volunteers from hazards
2 including, but not limited to, lead exposure and asbestos exposure.

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

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

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

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

13 (D) Notifies the department that the residential or
14 multifamily dwelling may be required to be on the lead safe housing
15 registry maintained by the department **UNDER SECTION 5474B.**

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

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

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

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

1 activities.

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

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

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

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

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

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

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

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

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

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

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

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

1 (4) "Distinct painting history" means the application history,
2 as indicated by its visual appearance or a record of application,
3 over time of paint or other surface coatings to a component or
4 room.

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

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

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

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

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

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

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

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

5 (11) "EPA" means the United States ~~environmental protection~~
6 ~~agency.~~ **ENVIRONMENTAL PROTECTION AGENCY.**

7 **(12) "FUND" MEANS THE LEAD-SAFE HOMES FUND CREATED IN SECTION**
8 **5474D.**

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

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

18 (3) "Hazardous waste" means waste as defined in 40 ~~C.F.R.~~ **CFR**
19 261.3.

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

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

1 repairs, maintenance, painting, temporary containment, ongoing
2 monitoring of lead-based ~~paint~~ hazards or potential hazards, and
3 the establishment and operation of management and resident
4 education programs.

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

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

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

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

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

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

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

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

1 this part.

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

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

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

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

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

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

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

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

27 (3) "Permanently covered soil" means soil that has been

1 separated from human contact by the placement of a barrier
2 consisting of solid, relatively impermeable materials including,
3 but not limited to, pavement or concrete but not including grass,
4 mulch, or other landscaping materials.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 request.

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

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

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

21 (b) Address of the building.

22 (c) Date of construction.

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

1 the lead-based paint activity.

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

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

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

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

22 Enacting section 1. Section 5474b of the public health code,
23 1978 PA 368, MCL 333.5474b[1], is repealed.

24 Enacting section 2. This amendatory act does not take effect
25 unless all of the following bills of the 99th Legislature are
26 enacted into law:

27 (a) Senate Bill No. _____ or House Bill No. 6243 (request no.

1 06187'18).

2 (b) Senate Bill No.____ or House Bill No. 6246 (request no.
3 06529'18).

4 (c) Senate Bill No.____ or House Bill No. 6244 (request no.
5 06530'18).

6 (d) Senate Bill No.____ or House Bill No. 6245 (request no.
7 06531'18).

8 Enacting section 3. This amendatory act does not take effect
9 unless the question provided for in the clean Michigan initiative
10 reauthorization act is approved by a majority of the registered
11 electors voting on the question at the next general election.