

24:1A-1 to 24:1A-12

LEGISLATIVE HISTORY CHECKLIST
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(Lead paint)

NJSA: 24:1A-1 to 24:1A-12

LAWS OF: 1971 CHAPTER: 366

BILL NO: S998

SPONSOR(S): Dickinson

DATE INTRODUCED: December 10, 1970

COMMITTEE: ASSEMBLY: Air, Water Pollution
SENATE: Air, Water Pollution

AMENDED DURING PASSAGE: Yes Amendments during passage
Third official copy denoted by superscript numbers
reprint enacted

DATE OF PASSAGE: ASSEMBLY: May 3, 1971 Re-enacted 12-6-71
SENATE: April 5, 1971 Re-enacted 12-2-71

DATE OF APPROVAL: December 28, 1971

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No
SENATE: No

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

[THIRD OFFICIAL COPY REPRINT]

SENATE, No. 998

STATE OF NEW JERSEY

INTRODUCED DECEMBER 10, 1970

By Senators DICKINSON and WALLWORK

Referred to Committee on Air and Water Pollution and Public Health

AN ACT prohibiting the use of lead paint under certain circumstances, providing remedies and penalties for violations thereof, and supplementing Title 24 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. No person shall *****knowingly***** apply lead paint to toys,
2 furniture or the ****exposed**** interior surfaces of any dwelling,
3 dwelling unit, rooming house, rooming unit or facility occupied or
4 used by children. Such ****exposed**** interior surfaces include but
5 are not limited to window sills, window frames, doors, door frames,
6 walls, ceilings, stair rails and spindles or other appurtenances.

1 2. No person shall *****knowingly***** sell****, transfer or**
2 **deliver]**** ****or offer to sell**** toys or furniture to which lead paint
3 has been applied.

1 3. Any person violating the provisions of this act shall be a
2 disorderly person.

1 4. For purposes of this act:

2 a. "Approved" means satisfactory compliance as determined
3 and recorded by the Department of Health.

4 b. "Department" means the State Department of Health.

5 c. "Lead paint" means any pigmented, liquid substance applied
6 to surfaces by brush, roller ***[or]* ***, *** spray *or other means*** in
7 which the total nonvolatile ingredients contain more than 1% of
8 lead, by weight, calculated as metallic lead.

9 d. "Dwelling" means any building or structure or portion
10 thereof which is occupied in whole or in part as the home, residence,
11 or sleeping quarters of one or more persons.

12 e. "Board" means local board of health *****[or county board of**
13 **health]**** *******, *regional health commission or other locally con-*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

14 *stituted health agency**** having primary jurisdiction to enforce
15 this act.

1 5. The presence of lead paint upon the interior of any dwelling
2 causing a hazard to the occupants of such dwelling is hereby de-
3 clared to be a public nuisance.

1 ***[6. The local board of health in each municipality or in lieu of
2 the jurisdiction of the local board, then the county board of health
3 having]*** ***6. *The board in each municipality or other area*
3A *of**** jurisdiction, shall have the primary responsibility for in-
4 vestigation of violations under this act and the enforcement of this
5 act, and shall make reports of all such violations and enforcement
6 procedures to the State Department of Health.

1 7. When the board of health having primary jurisdiction under
2 this act finds that there is lead paint on the interior walls, ceilings,
3 doors, floors, baseboards or window sills and frames of any dwell-
4 ing, it may order the removal ****and appropriate disposition****
5 of such lead paint, under such safety conditions as it may specify,
6 and as shall be approved by the department.

1 8. When the board of health having primary jurisdiction here-
2 under finds that there is lead paint on the interior walls, ceilings,
3 doors, floors, baseboards or window sills and frames of any dwell-
4 ing and further finds that the blood-lead level of any person re-
5 siding in such dwelling is *[0.06 milligrams percent]* *60 micro-
6 grams per 100 ***[milligrams]**** ***milliliters*** or higher, it
7 shall at once notify the owner that he is maintaining a public
8 nuisance and order him to ***[remove the lead paint to the base
9 surface under such safety conditions as it may specify and may be
10 approved by the department, and the refinishing of such interior
11 surfaces of the dwelling with a suitable finish within 5 days.]***
12 ****abate the nuisance and refinish such interior surface of the
13 dwelling within 5 days in accordance with regulations specified by
14 the commissioner, and dispose of any lead paint residues in an
15 approved area.**** In lieu of removal of the lead paint *[in]*
16 the accessible surface may be covered by such a durable material
17 and in a manner approved by the department. Repainting a surface
18 *[without]* *with* a nonleaded paint without complete removal of
19 the existing lead paint shall not be deemed to be satisfactory com-
20 pliance with this act.

21 A duplicate of the notice shall be left with one or more of the
22 tenants or occupants of the dwelling. If the owner resides out of
23 the State or cannot be so notified speedily, a notice left at the house
24 or premises shall suffice.

1 9. If the owner so notified shall not comply with the notice or
2 order of the board of health having primary jurisdiction hereunder
3 within the time specified, the board shall proceed to remove the
4 nuisance and make the necessary repairs, bill the owner therefor,
5 and, if necessary, to recover the expense in a civil action against
6 the owner. The unpaid expense of the board shall become a lien
7 on the real property immediately upon removal of the nuisance and
8 completion of necessary repairs.

1 10. If the department finds that any board having primary juris-
2 diction under this act is not enforcing the provisions of this act
3 or any rules and regulations promulgated thereunder, the depart-
4 ment may cause a disorderly person's complaint to be made against
5 persons violating the provisions of this act, or may bring action
6 requiring such board to show cause why it is not enforcing this act.

1 11. The commissioner of the department shall have the power
2 to prescribe rules and regulations establishing criteria for the
3 identification of areas and conditions involving high risk of lead
4 poisoning, specifying methods of detection of lead in dwellings,
5 and standards for the repair of premises containing lead paint,
6 and other rules and regulations necessary to effectuate the pur-
7 poses of this act.

1 12. The department shall have the responsibility for the devel-
2 opment, implementation and coordination-of a program to control
3 lead poisoning by promoting research into methods of identifying
4 areas wherein there is a high risk of the presence of lead paint in
5 a dwelling, by setting up screening procedures for the detection
6 of the presence of lead in persons and dwellings and stimulating
7 professional and public education concerning the condition of lead
8 poisoning.

1 13. This act shall take effect *****[immediately]***** ****on the*
2 *first day of the month following enactment***.*

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5 persons violating the provisions of this act, or may bring action
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1 12. The department shall have the responsibility for the devel-
2 opment, implementation and coordination of a program to control
3 lead poisoning by promoting research into methods of identifying
4 areas wherein there is a high risk of the presence of lead paint in
5 a dwelling, by setting up screening procedures for the detection
6 of the presence of lead in persons and dwellings and stimulating
7 professional and public education concerning the condition of lead
8 poisoning.

1 13. This act shall take effect immediately.

STATEMENT

The incidence of the disease of lead poisoning especially among children in substandard housing has become a major public concern both in our State and at the Federal level. There is presently pending in the United States Senate a bill, passed by the House of Representatives which would provide Federal funding for up to 75% of the cost of certain local lead poisoning screening programs and State-conducted demonstration and research projects designed to study the extent of the lead-based paint poisoning problem and the methods for lead-based paint removal.

This bill is designed to set up a comprehensive program both at the State and local level to eliminate the causes of lead poisoning in New Jersey, to treat the incidents thereof, and to enable both State and local government units to take advantage of Federal funding for such programs.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

November 15, 1971

SENATE BILL NO. 998 (Second OCR)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 (b) of the Constitution, I herewith return Senate Bill No. 998 (Second OCR), without my approval, for reconsideration.

Senate Bill No. 998 (Second OCR) would prohibit the application of lead paint to toys, furniture or exposed interior surfaces of any dwellings or facility occupied or used by children. It also prohibits selling or offering to sell toys or furniture to which lead paint has been applied.

The bill provides that when lead paint is discovered in a dwelling, and it is shown that persons residing there have a blood-lead level of "60 micrograms per 100 milligrams, or higher," the appropriate Board of Health must notify the owner that he is maintaining a public nuisance and order removal of the lead paint and refinishing of the interior of the dwelling with a suitable finish within 5 days. If the owner does not comply, the Board of Health is authorized to remove the nuisance, bill the owner, and recover expenses in a civil action. S-998 (Second OCR) would also require the State Department of Health to develop, implement and coordinate a program to control lead poisoning. Violations of the act are made a disorderly persons offense.

Although I agree with the intent of this bill, there are several problems raised. In view of the fact that violations are made a criminal offense, it is my recommendation that actual knowledge of the user or vendor be set forth specifically in view of the widespread present use and availability of lead paints.

There are also certain technical aspects of the bill which should be corrected. The bill fails to cover regional health commissions and these should be included within the ambit of Section 4 (e) and Section 6. The bill also erroneously refers to a blood-lead level of "60 micrograms per 100 milligrams." Actually, the proper reference should be to "milliliters," rather than "milligrams." In addition, I recommend that the bill expressly allow area boards to abate the nuisance and provide for safe disposition of removed lead, and that the effective date be changed to provide for implementation on the first day of the month immediately following enactment.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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Accordingly, I herewith return Senate Bill No. 998 (Second OCR) for reconsideration and recommend that it be amended as follows:

1. Page 1, Section 1, Line 1: After "shall" insert "knowingly".
2. Page 1, Section 2, Line 1: After "shall" insert "Knowingly".
3. Page 1, Section 4, Line 12: After "health" delete "or county board of" and insert ",,".
4. Page 1, Section 4, Line 13: Delete "health" and insert in lieu thereof "regional health commission or other locally constituted health agency".
5. Page 2, Section 6, Lines 1-2: Delete in their entirety.
6. Page 2, Section 6, Line 3: Delete "having" and insert in lieu thereof "6. The Board in each municipality or other area of".
7. Page 2, Section 7, Line 4: After "removal" insert "and appropriate disposition".
8. Page 2, Section 8, Line 6: Delete "milligrams" and insert in lieu thereof "milliliters".
9. Page 2, Section 8, Lines 8-10: Delete in their entirety.
10. Page 2, Section 8, Line 11: Delete "able finish within 5 days." and insert in lieu thereof "abate the nuisance and refinish such interior surface of the dwelling within 5 days in accordance with regulations specified by the Commissioner, and dispose of any lead paint residues in an approved area."
11. Page 3, Section 13, Line 1: Delete "immediately" and insert in lieu thereof "on the first day of the month following enactment".

Respectfully,

/s/ William T. Cahill

GOVERNOR

[seal]

Attest:

/s/ Jean E. Mulford
Acting Secretary to the Governor