

*Rec'd from HFH
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HOUSE BILL No. 4949

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June 21, 1973, Introduced by Reps. Ogonowski, Harrison, Nelson,
Ziegler, Geake, Gaerlings, Brennan, Sheridan, Stackable,
Hunsinger, Symons, Mastin, Brodhead, Bradley, Griffin, Brown,
Keith, Markes, Thaddeus C. Stopczynski, Stephen Stopczynski,
Morris W. Hood, Jr., Raymond W. Hood, Crim, Jondahl and
Wolpe and referred to the Committee on Public Health.

A bill to prohibit lead-based paint poisoning; to require warning labels on
lead-based paint; to prohibit sales of lead-based paint; to prohibit applica-
tions of lead-based paint; to prescribe powers and duties of the department
of public health; and to prescribe penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known as "the lead-based paint poisoning pre-
2 vention act".

3 Sec. 2. As used in this act:

4 (a) "Child" means a natural person who is under 6 years of age.

5 (b) "Child care facility" means a structure or portion thereof used
6 primarily as a residence, school, nursery, day care center, clinic, treatment
7 center, or other facility catering to the needs of children, including an out-
8 building, fencing, or other structure used in conjunction therewith.

9 (c) "Dwelling" means a house, building, structure, trailer or vehicle,

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1 or portion thereof, occupied by a natural person or persons and used as a home
2 or residence, including an outbuilding, fencing, or other structure used in
3 conjunction therewith.

4 (d) "Dwelling unit" means a room, group of rooms, or other interior
5 area used by a natural person or persons as a home or residence, including
6 common passageways or areas, outbuilding, fencing, or other structure used
7 in conjunction therewith.

8 (e) "Household item" means an item designed for use in or around the
9 household, including fixtures, and which, in the ordinary course of use, would
10 be exposed to and chewable by children.

11 (f) "Person" means a natural person, firm, company, copartnership,
12 manufacturer, contractor, association, governmental unit, or agency.

13 (g) "Lead-based paint" means a paint, glaze, or similar surface coating
14 containing lead compounds of which the lead content, calculated as the metal
15 exceeds 0.5% of the total weight of the contained solids or dried paint film
16 or 1 milligram per square centimeter as measured by in situ analyzer device.

17 (h) "Readily accessible lead-based paint" means paint in a peeling,
18 flaking, or chipping condition or located on a surface from which it may be
19 chewed and ingested by children who inhabit or habitually frequent the premises.
20 Surfaces include door frames, doors, window sills, windows, including mullions,
21 stair rails, stair rail spindles, stair treads, porch railings, and fencing.

22 Sec. 3. (1) A person shall not sell, offer for sale, display for sale,
23 hold for sale, or give away lead-based paint, regardless of intended use, to the
24 general public, unless the container bears, in addition to all other material
25 required by law, the warning prescribed by this section.

26 (2) The following warning, in type sizes no smaller than indicated, shall
27 be prominently displayed on the container instruction panel:

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1 Warning! (18 point caps)

2 Contains Lead. (12 point caps)

3 Eating or chewing liquid or dried film may cause brain damage or
4 death. (12 point)

5 Read carefully cautions on instruction panel. (10 point)

6 If the container bears a principal display panel the prescribed warning
7 shall appear thereon.

8 (3) The following warning, in type sizes no smaller than indicated,
9 shall also be prominently displayed but need not appear on the principal display panel:
10

11 Keep out of the reach of children. (12 point caps)

12 Do not apply on interior or exterior surfaces of any dwelling,
13 facility, or related structure which may be used or occupied by
14 children; do not apply on toys, furniture, cooking, eating, or
15 drinking utensils, or other household items. (10 point)

16 (4) Where the container is too small to permit use of the minimum type
17 sizes prescribed by this section, a reduced size of type, consistent with
18 other labeling on the container, may be used; however, the type size shall not
19 be less than 6 point unless an exemption is granted under section 3 (c) of the
20 federal hazardous substances act, Public Law 86-613, as amended, and the regulations promulgated thereunder.
21

22 (5) In lieu of the warning statements prescribed by subsections (2) to
23 (5), cautionary labeling meeting the requirements of the federal hazardous
24 substances act, Public Law 86-613, as amended, may be provided.

25 Sec. 4. A person shall not sell, offer for sale, display for sale, hold
26 for sale, or give away lead-based paint, regardless of intended use, to other
27 than the general public, unless the container bears, in addition to all other
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1 material required by law, the following warning:

2 Warning! Contains lead compound — do not apply to toys, furniture,
3 or any other surfaces which might be chewed by children. Wash hands
4 thoroughly after using and before eating or smoking.

5 Sec. 5. (1) A person shall not sell, offer for sale, display for sale,
6 hold for sale, or give away lead-based paint intended or recommended on the
7 label for use on interior or exterior surfaces of a dwelling, dwelling unit,
8 or child care facility, on toys, furniture, cooking, eating, or drinking uten-
9 sils, or other household items, or as a general or all-purpose paint.

10 (2) A person shall not sell, offer for sale, display for sale, hold for
11 sale, or give away a toy, furniture, cooking, eating, or drinking utensil, or
12 other household item painted with lead-based paint.

13 Sec. 6. A person shall not apply or cause to be applied a lead-based
14 paint to:

15 (a) An interior or exterior surface of a dwelling, dwelling unit, or
16 child care facility; or

17 (b) A toy, furniture, cooking, eating, or drinking utensil, or other
18 household item.

19 Sec. 7. (1) For purposes of enforcing this act, the director of public
20 health or his designated representative may, upon presenting appropriate
21 credentials to the owner or occupants, operator, or agents in charge, inspect
22 any dwelling, dwelling unit, child care facility, or related structure, factory,
23 warehouse, or establishment selling or displaying paints and similar surface
24 coatings, toys, furniture, cooking, eating, or drinking utensils, or other
25 household items.

26 (2) In the course of inspections provided for by this section, the
27 director of public health or his designated representative may take samples of

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1 applied or unapplied paints or similar surface coatings. When the taking of
2 a sample causes significant economic loss, the party suffering that loss shall
3 be entitled to reasonable compensation.

4 Sec. 8. (1) An owner or agent shall not keep or maintain a dwelling,
5 dwelling unit, or child care facility in a condition where the presence in
6 or about the dwelling, dwelling unit, or child care facility of readily acces-
7 sible lead-based paint or any material containing lead in excess of 0.5%
8 by weight or 1 milligram per square centimeter measured by in situ analyzer
9 device presents a danger of lead poisoning to children who inhabit or habitur-
10 ally frequent the dwellings, dwelling units, or child care facilities.

11 (2) The director of public health or his designated representative shall
12 inform the occupants of a dwelling, dwelling unit, or child care facility of
13 violations of this section found on the premises thereof and shall inform the
14 occupants of the dangers such conditions represent to children and the services,
15 if any, provided by the department of public health or other agencies for test-
16 ing children for lead poisoning.

17 (3) If the director of public health or his designated representative
18 finds a violation of this section, he shall issue a notice to the owner of
19 record specifying the violation and ordering abatement within a reasonable time
20 from the date notice is issued.

21 (4) If the owner of record fails to comply with an abatement order issued
22 pursuant to this section, the director of public health or his designated
23 representative may issue notice to the owner to appear at a hearing before a
24 hearing officer, who shall be appointed by the director of public health, to
25 show cause why the department of public health should not take or cause to be
26 taken whatever actions are necessary to abate the violation, at the expense of
27 the owner.

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1 (5) Notice required by this section shall be in writing and shall be sent
2 by registered or certified mail to the last known address of the affected
3 owner, return receipt requested. The lack of a signed receipt for a notice
4 duly mailed shall not affect the validity of the proceedings taken hereunder.
5 Notice shall be posted upon a conspicuous part of the building or structure.
6 If the affected owner cannot be found after a diligent search, notice shall
7 be posted upon a conspicuous part of the building or structure and 10 days
8 thereafter shall be deemed received.

9 (6) The hearing officer shall take testimony of the director of public
10 health or his designated representative, the owner and any other
11 interested party. The hearing officer shall then render his decision either
12 dismissing the proceedings or authorizing the department of public health to
13 take or cause to be taken whatever actions are reasonably necessary to abate
14 the violation, at the expense of the owner.

15 (7) The entire cost of abatement actions taken or cause to be taken by
16 the department of public health pursuant to this section shall be recoverable
17 from each of the persons responsible for correcting violations of this section
18 by bringing an action in a court of competent jurisdiction.

19 Sec. 9. A person who violates this act shall be fined not more than
20 \$500.00 or imprisoned for not more than 90 days, or both.

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