

STATE OF NEW YORK

499--B

2019-2020 Regular Sessions

IN SENATE

(Prefiled)

January 9, 2019

Introduced by Sens. RIVERA, KENNEDY, MAY, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, the insurance law, the social services law, the public housing law and the executive law, in relation to elevated lead levels in children

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as "Dakota's Law".

§ 2. The public health law is amended by adding a new section 1370-f to read as follows:

§ 1370-f. Lead safe residential rental properties. 1. For the purposes of this section:

(a) "residential rental property" shall mean a dwelling which is either rented, leased, let or hired out, to be occupied, or is occupied as the home, residence or sleeping place of one or more persons other than the owner's family. Residential rental property shall not include short term rental properties during which guests do not stay in excess of twenty-eight days; and

(b) "lead safe" shall mean any residential rental property that: (i) has been determined through a lead-based paint inspection conducted in accordance with appropriate federal regulations not to contain lead-based paint; or (ii) meets the minimum standards set forth in regulations promulgated by the commissioner pursuant to this section.

2. The commissioner shall promulgate rules and regulations establishing minimum standards for the maintenance of lead safe residential rental properties. Such rules and regulations shall include:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 (a) Minimum standards for maintaining internal and external painted
2 surfaces that contain lead-based paint; and

3 (b) A schedule by which owners of residential rental property must
4 implement and comply with such minimum standards.

5 3. It shall be the responsibility of an owner of any residential
6 rental property to maintain such property in a lead safe condition in
7 accordance with rules and regulations promulgated by the commissioner
8 pursuant to this section.

9 4. All paint on any residential rental property on which the original
10 construction was completed prior to January first, nineteen hundred
11 seventy-eight, shall be presumed to be lead-based paint. This presump-
12 tion may be overcome by a certification issued by a federally certified
13 lead-based paint inspector or risk assessor that the property has been
14 determined not to contain lead-based paint, or by such other means as
15 may be prescribed by the rules and regulations adopted by the commis-
16 sioner pursuant to this section.

17 5. The commissioner, local health officer of a county and, in the city
18 of New York, the commissioner of the New York City department of health
19 and mental hygiene, may enter into an agreement or contract with a
20 municipal government regarding inspection of the lead conditions in
21 residential rental properties and such health department may designate
22 the local housing maintenance code enforcement agency in which the resi-
23 dential rental property is located as an agency authorized to administer
24 and ensure compliance with the provisions of this section and subsequent
25 regulations pursuant to subdivision one of section thirteen hundred
26 seventy-five of this title.

27 6. If the commissioner, or other officer having jurisdiction, deter-
28 mines that an owner of residential rental property is in violation of
29 this section or any rules or regulations promulgated pursuant to this
30 section, the commissioner or other officer having jurisdiction shall
31 have the authority to order the abatement of any lead condition present
32 at the residential rental property and assess fines not to exceed two
33 thousand dollars for each violation.

34 § 3. Paragraphs (c) and (d) of subdivision 2 of section 1370-a of the
35 public health law, paragraph (c) as amended by section 4 of part A of
36 chapter 58 of the laws of 2009, and paragraph (d) as added by chapter
37 485 of the laws of 1992, are amended and three new paragraphs (e), (f)
38 and (g) are added to read as follows:

39 (c) establish a statewide registry of lead levels of children provided
40 such information is maintained as confidential except for (i) disclosure
41 for medical treatment purposes; (ii) disclosure of non-identifying
42 epidemiological data; and (iii) disclosure of information from such
43 registry to the statewide immunization information system established by
44 section twenty-one hundred sixty-eight of this chapter; [and]

45 (d) develop and implement public education and community outreach
46 programs on lead exposure, detection and risk reduction[-];

47 (e) primary health care providers shall provide the parent or guardian
48 of each child under six years of age anticipatory guidance on lead
49 poisoning prevention as part of routine care, including but not limited
50 to their right to an inspection if the child is at risk of lead expo-
51 sure;

52 (f) primary health care providers shall screen or refer each child for
53 blood lead screening beginning at least six months and continuing until
54 the age of six at each routine well-child visit, or at least annually if
55 a child has not had routine well-child visits; and

(g) add a question to the lead exposure risk assessment questionnaire for children which shall include a question asking if the child has obtained a blood test for lead annually between the ages of twelve months old and six years old.

§ 4. Section 1373 of the public health law is amended by adding a new subdivision 6 to read as follows:

6. (a) The commissioner or their representative shall require the jurisdictional local or state health department to investigate cases of elevated lead levels, as defined in subdivision six of section thirteen hundred seventy of this title, that are reported by physicians to a local or state health officer pursuant to section thirteen hundred seventy-e of this title.

(b) A jurisdictional local health department may request assistance from the state department of health to investigate cases of elevated lead levels if such jurisdictional local health department does not have the capacity and/or resources to investigate such cases as required pursuant to paragraph (a) of this subdivision.

(c) For the purposes of this subdivision, "jurisdictional local or state health department" shall mean the local or state health department of the local or state health officer whom a physician has reported elevated lead levels to pursuant to section thirteen hundred seventy-e of this title.

§ 5. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 36 to read as follows:

(36) Screening for the detection of elevated lead levels covered under the policy shall not be subject to annual deductibles or coinsurance. For the purposes of this paragraph, "elevated lead levels" shall have the same meaning as set forth in subdivision six of section thirteen hundred seventy of the public health law.

§ 6. Subsection (k) of section 3221 of the insurance law is amended by adding a new paragraph 22 to read as follows:

(22) Screening for the detection of elevated lead levels covered under the policy shall not be subject to annual deductibles or coinsurance. For the purposes of this paragraph, "elevated lead levels" shall have the same meaning as set forth in subdivision six of section thirteen hundred seventy of the public health law.

§ 7. Section 4303 of the insurance law is amended by adding a new subsection (ss) to read as follows:

(ss) Screening for the detection of elevated lead levels covered under the policy shall not be subject to annual deductibles or coinsurance. For the purposes of this subsection, "elevated lead levels" shall have the same meaning as set forth in subdivision six of section thirteen hundred seventy of the public health law.

§ 8. Subdivision 2 of section 365-a of the social services law is amended by adding a new paragraph (gg) to read as follows:

(gg) screening and blood tests of children for elevated lead levels. For the purposes of this paragraph, elevated lead levels shall have the same definition as set forth in subdivision six of section thirteen hundred seventy of the public health law.

§ 9. Subdivision 4 of section 14 of the public housing law is amended by adding a new paragraph (e) to read as follows:

(e) the commissioner shall promulgate rules, regulations and policies which:

(i) set the action level for lead to the level defined as elevated lead levels in subdivision six of section thirteen hundred seventy of

1 the public health law when identifying elevated blood lead levels of
2 children occupying a dwelling in public housing; and

3 (ii) require projects to follow the federal department of housing and
4 urban development's guidance on lead safe housing rule pertaining to
5 elevated blood levels for the public housing, housing choice voucher,
6 and project-based voucher programs.

7 § 10. Subdivision 1 of section 383 of the executive law is amended by
8 adding a new paragraph d to read as follows:

9 d. The regulations promulgated by the commissioner of health pursuant
10 to subdivision two of section thirteen hundred seventy-f of the public
11 health law (i) shall not be superseded by the provisions of this arti-
12 cle, by the provisions of the uniform fire prevention and building code,
13 or by the provisions of the building and fire prevention codes in effect
14 in a city with a population of over one million; (ii) shall be applica-
15 ble in addition to, and not in substitution for or limitation of, the
16 provisions of the uniform fire prevention and building code and the
17 provisions of building and fire prevention codes in effect in cities
18 with a population of over one million; and (iii) shall be administered
19 and enforced by the commissioner of health, the local health officer of
20 a county, the commissioner of the New York city department of health and
21 mental hygiene, or a municipal government entering into an agreement or
22 contract authorized by subdivision five of section thirteen hundred
23 seventy-f of the public health law, in the manner provided in said
24 subdivision.

25 § 11. This act shall take effect immediately.