STATE OF NEW YORK

7687

2019-2020 Regular Sessions

IN ASSEMBLY

May 16, 2019

Introduced by M. of A. PEOPLES-STOKES -- read once and referred to the Committee on Health

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:

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

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

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

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

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

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

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

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

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

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

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

(f) primary health care providers shall screen or refer each child for blood lead screening beginning at least six months and continuing until the age of six at each routine well-child visit, or at least annually if 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 the public health law when identifying elevated blood lead levels of children occupying a dwelling in public housing; and

(ii) require projects to follow the federal department of housing and urban development's guidance on lead safe housing rule pertaining to

elevated blood levels for the public housing, housing choice voucher, and project-based voucher programs.

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

d. The regulations promulgated by the commissioner of health pursuant to subdivision two of section thirteen hundred seventy-f of the public health law (i) shall not be superseded by the provisions of this article, by the provisions of the uniform fire prevention and building code, or by the provisions of the building and fire prevention codes in effect in a city with a population of over one million; (ii) shall be applicable in addition to, and not in substitution for or limitation of, the provisions of the uniform fire prevention and building code and the provisions of building and fire prevention codes in effect in cities with a population of over one million; and (iii) shall be administered and enforced by the commissioner of health, the local health officer of a county, the commissioner of the New York city department of health and mental hygiene, or a municipal government entering into an agreement or contract authorized by subdivision five of section thirteen hundred seventy-f of the public health law, in the manner provided in said subdivision.

§ 11. This act shall take effect immediately.