STATE OF NEW YORK

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Cal. No. 1312

IN SENATE

January 4, 2024

Introduced by Sens. CLEARE, MANNION -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading -- reported favorably from said committee to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the environmental conservation law and the public health law, in relation to establishing air quality standards for lead in ambient air, soil-lead hazard standards for lead-contaminated soil, and dust-lead hazard standards and dust-lead clearance levels for floors and windows and window troughs

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

Section 1. Legislative findings. The legislature finds and declares that there is a present need to establish New York standards, in a manner that would be fully protective of human health, with respect to levels of lead in ambient air, levels of lead contamination in soils, dust-lead hazard levels and dust-lead clearance levels for floors, window sills and window troughs. The legislature finds that the current regulatory standards are inadequate to protect the general public and particularly children from the harmful effects of ingesting or inhaling lead dust and coming into contact with lead on exposed surfaces. Low levels of lead in children's blood can have an adverse effect on concentration and intellectual achievement and can have a long-term impact on health and quality of life. Lead from ambient air can contribute to lead in soil as well as contribute to other pathways that are a danger to public health and the environment. Hazardous levels of lead dust can be released from the peeling or chipping of lead-based paint, from plumbing fixtures, from the demolition of buildings and from the excavation of and construction of buildings on sites that contained lead-contaminated soil or factories that used lead in manufacturing proc-

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

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esses. The legislature declares that it shall be the responsibility of the commissioner of environmental conservation, in consultation with the commissioner of health, to adopt emission standards for lead in ambient air, soil-lead hazard standards for lead-contaminated soil, and dust-lead hazard standards and dust-lead clearance levels for floors and windows and window troughs, and in accordance with the procedures set forth in the environmental conservation law.

§ 2. Subdivision 1 of section 3-0301 of the environmental conservation law is amended by adding a new paragraph ii to read as follows:

ii. In consultation with the commissioner of health pursuant to subdivision thirty-two of section two hundred six of the public health law, and in accordance with paragraph a of subdivision two of this section, the commissioner shall adopt environmental standards and those rules having the force and effect of standards and criteria to carry out the purposes of such standards, which shall require:

(1) that a soil-lead hazard within the meaning of part 40 of the code of federal regulations section 745.65(c) for an area containing lead-contaminated soil shall be a level of lead contamination not greater than what is necessary to be fully protective of human health, provided that in no event shall such level for such purpose be greater than one hundred parts per million for bare soil on (i) residential property, (ii) the property of a child occupied facility and (iii) a children's play area as defined in part 40 of the code of federal regulations section 745.63; and in no event a level greater than two hundred parts per million for bare soil in the rest of the yard based on soil samples, and in no event a level greater than one thousand parts per million for areas zoned for commercial and/or industrial development.

(2) that a dust-lead hazard within the meaning of part 40 of the code of federal regulations section 745.65(b) shall be a level not greater than what is necessary to be fully protective of human health, and a level not greater than zero as analyzed by any laboratory recognized by the federal environmental protection agency's national lead laboratory accreditation program.

(3) that dust-lead clearance levels for these hazards, within the meaning of part 40 of the code of federal regulations section 745.223, shall be at a level not greater than what is necessary to be fully protective of human health and in no event at a level greater than three micrograms per square foot for floors, a level greater than twenty micrograms per square foot for window sills and a level greater than twenty-five micrograms per square foot for window troughs;

(4) that the average ambient air quality standard for lead, calculated as a rolling three-month average, shall not be greater than .075 micrograms per cubic meter.

§ 3. Section 206 of the public health law is amended by adding a new subdivision 32 to read as follows:

32. The commissioner, upon request of the commissioner of environmental conservation, shall consult with such commissioner on the creation and adoption of dust-lead hazard standards for lead concentrations in lead-contaminated soil, lead dust concentrations on floors and window sills and window troughs, dust-lead clearance levels and air quality standards for lead emissions in ambient air in a manner that would be fully protective of human health.

§ 4. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in

its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 5. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.