

SENATE No. 2055

The Commonwealth of Massachusetts

SENATE, May 3, 1984.

The committee on Health Care, to whom was referred the petition (accompanied by bill, Senate, No. 562) of Carol C. Amick, Lucile P. Hicks and other members of the House of Representatives for legislation to provide for the further prevention of lead poisoning, reports the accompanying bill (Senate, No. 2055).

For the Committee,

EDWARD L. BURKE

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-four.

AN ACT RELATIVE TO THE REGULATION AND PREVENTION OF LEAD POISONING.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 10 of chapter 28A as most recently amend-
2 ed by chapter 726 of the acts of 1981 is hereby further amend-
3 ed by striking the following sentence after clause (9) in sub-
4 section (c): — “In formulating the regulations pertinent to
5 family day care homes and family foster care, the office shall
6 give special attention to fire and safety precautions” and sub-
7 stituting in place thereof the following new sentence: —

8 “In formulating the regulations pertinent to family day care
9 homes and family foster care, the office shall give special at-
10 tention to fire and safety precautions and to the prevention of
11 lead poisoning in children under six years of age.”

1 SECTION 2. Section 10 of chapter 28A is hereby further
2 amended by adding after subsection (e) the following new sub-
3 section: —

4 (f) The office shall, after consultation with the department
5 of public health, promulgate regulations relative to the preven-
6 tion of lead poisoning in family day care homes. Said regula-
7 tions shall include but need be limited to the following provi-
8 tions: (1) no family day care home license shall be granted
9 or renewed for care of children under six years of age until
10 the department of public health has communicated to the of-
11 fice the results of a lead poisoning inspection in that home;
12 (2) when a dangerous level of lead is found in any family day
13 care home, the family day care provider shall immediately re-
14 port such finding, together with a description of the hazards
15 of lead poisoning, to each parent or legal guardian of each
16 child enrolled in the family day care home; and (3) when a
17 dangerous level of lead is found in any family day care home,
18 or the home of an applicant for a license to operate a family
19 day care home, the lead-containing material shall be removed

20 or covered so as to make it inaccessible to children under six
21 years of age.

22 The office shall promulgate the regulations required by this
23 section within 180 days after the effective date of this act, but
24 said regulations shall not become effective until after the com-
25 missioner of administration approves fees for the inspections
26 of family day care homes for lead pursuant to the require-
27 ments of section 194A of chapter 111.

1 SECTION 3. Section 192 of chapter 111 of the general laws as
2 inserted by chapter 1081 of the acts of 1971 is hereby amended
3 by adding before the word "teachers" in line four the follow-
4 ing phrase: —

5 "group day care center personnel and family day care pro-
6 viders."

1 SECTION 4. Chapter 111 of the general laws is hereby
2 amended by inserting after section 194 the following new sec-
3 tions: —

4 *Section 194A.* The director shall, in consultation with the
5 office for children, develop an inspection program to locate
6 lead-containing material in family day care homes and family
7 foster homes.

8 For the purposes of said program, the director may establish
9 an inspection crew composed of inspectors employed by or ap-
10 proved by the department. The department may impose a
11 fixed fee, subject to the approval of the commissioner of ad-
12 ministration, for inspections of family day care homes and
13 family foster homes. The department shall by regulation es-
14 tablish standards for the waiver of such fees upon a showing
15 of need. All fees charged for such inspections shall be collected
16 by the department and expended for the expenses of the in-
17 spection crew.

18 Pursuant to the program established by this section, for the
19 purposes of determining whether the paint, plaster or other
20 accessible material contains dangerous amounts of lead, the
21 inspectors may inspect family day care homes, family foster
22 homes, the home of any person who has applied for a license
23 to provide family day care, or the home of any person who has

24 applied to a placement agency for authorization to operate a
25 family foster home.

26 *Section 194B.* Subject to appropriation, the director shall
27 establish a program of financial assistance to remove or cover
28 material containing dangerous levels of lead found in family
29 day care homes, family foster homes and the homes of per-
30 sons who have applied to provide family day care or family
31 foster care. The department shall promulgate regulations to
32 govern eligibility for and the operation of said program.

33 *Section 194C.* Whenever a dangerous level of lead is found
34 in any family day care home or prospective family day care
35 home, said finding shall be communicated to the office for chil-
36 dren, the family day care provider or prospective provider,
37 and the owner of the home, if different from the provider.
38 The provider shall immediately notify each parent or legal
39 guardian of each child enrolled in the family day care home
40 of said finding. If any child under six years of age resides in
41 the family day care home where a dangerous level of lead
42 has been found, the owner's duties and liabilities shall be as
43 set forth in sections 197, 198, and 199 of chapter 111. If no
44 child under six years of age resides in the family day care
45 home in which a dangerous level of lead has been found: (1)
46 The provider shall be notified of his duty to, and shall, remove
47 or cover the lead-containing material so as to make it inac-
48 cessible to children under six years of age, as described in sec-
49 tion 197, in all portions of the home in which family day care
50 services are provided; and (2) if and only if the parents or
51 guardians of each enrolled child have been notified as required
52 above, the provider shall not be liable for any damages caused
53 by his failure to remove or cover the lead-containing material
54 until after the regulations promulgated pursuant to section
55 194B become effective or after five years, whichever time pe-
56 riod is greater.

57 *Section 194D.* There shall be an advisory committee to as-
58 sist the office for children and the department in writing the
59 regulations required by section 10(f) of chapter 28A and sec-
60 tions 194A and 194B of chapter 111. Said advisory committee
61 shall consist of the secretary of consumer affairs or his desig-
62 nee, the secretary of economic affairs or his designee, the
63 commissioner of public safety or his designee, the attorney

64 general or his designee, a member of the advisory council to
65 the office for children, and five members appointed by the sec-
66 retary of human services, one of whom shall be a pediatrician,
67 one of whom shall be a family day care provider, one of whom
68 shall be a foster parent, and two of whom shall be parents of
69 a child under six years of age, one of whom resides in an ur-
70 ban area. Said advisory committee shall consider, among other
71 things, the advisability of the screening of children for the
72 presence of lead poisoning prior to their enrollment in a family
73 day care home or their placement in family foster care. The
74 members of the advisory committee appointed by the secre-
75 tary of human services shall not be paid for their services, but
76 they may be reimbursed for travel and other expenses neces-
77 sary for the performance of their duties.

