

# HOUSE BILL No. 4132

January 25, 2007, Introduced by Rep. Gaffney and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
(MCL 333.1101 to 333.25211) by adding part 54B.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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PART 54B. LEAD-BEARING SUBSTANCES

SEC. 5481. AS USED IN THIS PART:

(A) "CHILD CARE FACILITY" MEANS A STRUCTURE USED BY A CHILD CARE ORGANIZATION LICENSED UNDER 1973 PA 116, MCL 722.111 TO 722.128, OR A PUBLIC SCHOOL BUILDING FREQUENTED BY CHILDREN 6 YEARS OF AGE OR YOUNGER.

(B) "CONSUMER" MEANS THAT TERM AS USED IN THE CONSUMER PRODUCT SAFETY ACT, 15 USC 2051 TO 2085.

(C) "DWELLING" MEANS A STRUCTURE ALL OR PART OF WHICH IS

1 DESIGNED OR USED FOR HUMAN HABITATION.

2 (D) "LEAD-BEARING SUBSTANCE" MEANS AN ITEM OR SUBSTANCE THAT  
3 CONTAINS OR AN ITEM THAT IS COATED WITH LEAD SO THAT THE LEAD  
4 CONTENT IS MORE THAN 0.06% OF THE TOTAL WEIGHT. LEAD-BEARING  
5 SUBSTANCE DOES NOT INCLUDE FIREARM AMMUNITION OR COMPONENTS OF  
6 FIREARM AMMUNITION.

7 (E) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,  
8 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

9 (F) "RESIDENTIAL BUILDING" MEANS A ROOM, GROUP OF ROOMS, OR  
10 OTHER INTERIOR AREA OF A STRUCTURE DESIGNED OR USED FOR HUMAN  
11 HABITATION, COMMON AREAS ACCESSIBLE BY INHABITANTS, AND THE  
12 SURROUNDING PROPERTY OR STRUCTURES.

13 SEC. 5482. A PERSON SHALL NOT USE OR APPLY A LEAD-BEARING  
14 SUBSTANCE IN OR ON ANY ITEMS, INCLUDING, BUT NOT LIMITED TO,  
15 CLOTHING, ACCESSORIES, JEWELRY, DECORATIVE OBJECTS, EDIBLE ITEMS,  
16 CANDY, FOOD, DIETARY SUPPLEMENTS, TOYS, FURNITURE, OR OTHER  
17 ARTICLES USED BY OR INTENDED TO BE CHEWABLE BY CHILDREN.

18 SEC. 5483. A PERSON SHALL NOT SELL, POSSESS, OFFER FOR SALE,  
19 OR TRANSFER TOYS, FURNITURE, CLOTHING, ACCESSORIES, JEWELRY,  
20 DECORATIVE OBJECTS, EDIBLE ITEMS, CANDY, FOOD, DIETARY SUPPLEMENTS,  
21 OR OTHER ARTICLES USED BY OR INTENDED TO BE CHEWABLE BY CHILDREN  
22 THAT CONTAIN A LEAD BEARING SUBSTANCE.

23 SEC. 5484. A PERSON SHALL NOT SELL OR TRANSFER OR OFFER FOR  
24 SALE OR TRANSFER A FIXTURE OR OTHER OBJECT THAT IS INTENDED TO BE  
25 USED, INSTALLED, OR LOCATED IN OR ON A SURFACE OF A DWELLING,  
26 RESIDENTIAL BUILDING, OR CHILD CARE FACILITY, THAT CONTAINS A LEAD  
27 BEARING SUBSTANCE, AND THAT, IN THE ORDINARY COURSE OF USE, IS

1 ACCESSIBLE TO OR CHEWABLE BY A CHILD.

2 SEC. 5485. (1) A PERSON SHALL NOT POSSESS, OFFER FOR SALE,  
3 SELL, OR GIVE AWAY A LEAD-BEARING SUBSTANCE THAT MAY BE USED BY THE  
4 GENERAL PUBLIC UNLESS THE LEAD-BEARING SUBSTANCE BEARS A WARNING  
5 STATEMENT FOR A LEAD-BEARING SUBSTANCE AS REQUIRED BY FEDERAL  
6 REGULATION. IF A WARNING STATEMENT FOR A LEAD-BEARING SUBSTANCE IS  
7 NOT REQUIRED BY FEDERAL REGULATION, THE LEAD-BEARING SUBSTANCE  
8 SHALL BEAR 1 OF THE FOLLOWING WARNING STATEMENTS, AS APPLICABLE:

9 (A) IF THE LEAD-BEARING SUBSTANCE IS A LEAD-BASED PAINT OR  
10 SURFACE COATING, "WARNING--CONTAINS LEAD. DRIED FILM OF THIS  
11 SUBSTANCE MAY BE HARMFUL IF EATEN OR CHEWED. SEE OTHER CAUTIONS ON  
12 (SIDE OR BACK) PANEL. DO NOT APPLY ON TOYS OR OTHER CHILDREN'S  
13 ARTICLES, FURNITURE, OR INTERIOR OR EXTERIOR EXPOSED SURFACES OF A  
14 RESIDENTIAL BUILDING OR CHILD CARE FACILITY. KEEP OUT OF THE REACH  
15 OF CHILDREN.".

16 (B) IF THE LEAD-BEARING SUBSTANCE CONTAINS LEAD-BASED PAINT OR  
17 A FORM OF LEAD OTHER THAN LEAD-BASED PAINT, "WARNING--CONTAINS  
18 LEAD. MAY BE HARMFUL IF EATEN OR CHEWED. MAY GENERATE DUST  
19 CONTAINING LEAD. KEEP OUT OF THE REACH OF CHILDREN.".

20 (2) THE GENERIC TERM FOR A PRODUCT, SUCH AS "PAINT", MAY BE  
21 SUBSTITUTED FOR THE WORD "SUBSTANCE" IN A WARNING STATEMENT  
22 REQUIRED BY THIS SECTION.

23 (3) THE PLACEMENT AND CONSPICUOUSNESS, INCLUDING TYPE STYLE  
24 AND SIZE AND CONTRAST, OF A WARNING STATEMENT REQUIRED BY THIS  
25 SECTION SHALL BE IN ACCORDANCE WITH 16 CFR 1500.121.

26 SEC. 5486. A PERSON WHO VIOLATES THIS PART IS SUBJECT TO THE  
27 FOLLOWING:

1           (A) IF THE PERSON IS AN INDIVIDUAL CONSUMER OR IF THE PERSON  
2 IS NOT AN INDIVIDUAL CONSUMER AND THE VIOLATION IS THE PERSON'S  
3 FIRST OFFENSE UNDER THIS PART, THE COMPLETION OF A PROGRAM DESIGNED  
4 BY THE DEPARTMENT TO EDUCATE ABOUT THE HAZARDS OF LEAD-BEARING  
5 SUBSTANCES.

6           (B) IF THE PERSON IS NOT AN INDIVIDUAL CONSUMER AND THE  
7 VIOLATION IS THE PERSON'S SECOND OFFENSE UNDER THIS PART, A CIVIL  
8 FINE OF NOT MORE THAN \$5,000.00.

9           (C) IF THE PERSON IS NOT AN INDIVIDUAL CONSUMER AND THE  
10 VIOLATION IS THE PERSON'S THIRD OR SUBSEQUENT OFFENSE UNDER THIS  
11 PART, A CIVIL FINE OF NOT MORE THAN \$10,000.00.