

116TH CONGRESS
1ST SESSION

S. 1143

To amend title 10, United States Code, to improve testing and inspections for lead on military installations, in Department of Defense housing and schools, and in military dependent children, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 11, 2019

Ms. DUCKWORTH (for herself and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to improve testing and inspections for lead on military installations, in Department of Defense housing and schools, and in military dependent children, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Get the Lead Out of
5 Military Housing Act”.

1 **SEC. 2. DEPARTMENT OF DEFENSE POLICY ON LEAD TEST-**
2 **ING ON MILITARY INSTALLATIONS.**

3 (a) **POLICY REQUIRED.**—Not later than 180 days
4 after the date of the enactment of this Act, the Secretary
5 of Defense shall establish a policy under which—

6 (1) a qualified individual may access a military
7 installation for the purpose of conducting lead test-
8 ing on the installation, subject to the approval of the
9 Secretary; and

10 (2) the results of any lead testing conducted on
11 a military installation shall be transmitted—

12 (A) in the case of a military installation lo-
13 cated inside the United States, to relevant Fed-
14 eral, State, and local agencies; and

15 (B) in the case of a military installation lo-
16 cated outside the United States, to the Centers
17 for Disease Control and Prevention.

18 (b) **PENALTIES.**—As part of the policy established
19 under subsection (a), the Secretary shall prescribe pen-
20 alties for any member of the Armed Forces—

21 (1) who is responsible for transmitting the re-
22 sults of lead testing on a military installation to
23 Federal, State, and local agencies or to the Centers
24 for Disease Control and Prevention pursuant to the
25 policy, and who does not so transmit such results; or

1 (2) who impedes or obstructs the conduct of
 2 lead testing on a military installation by a qualified
 3 individual approved to conduct such testing pursuant
 4 to the policy.

5 (c) DEFINITIONS.—In this section:

6 (1) The term “United States” has the meaning
 7 given such term section 101(a)(1) of title 10, United
 8 States Code.

9 (2) The term “qualified individual” means an
 10 individual who is certified by the Environmental
 11 Protection Agency or by a State as—

12 (A) a lead-based paint inspector; or

13 (B) a lead-based paint risk assessor.

14 **SEC. 3. LEAD TESTING IN DEPARTMENT OF DEFENSE EDU-**
 15 **CATION ACTIVITY SCHOOLS.**

16 (a) LEAD-BASED PAINT AND LEAD IN DRINKING
 17 WATER.—

18 (1) TESTING REQUIRED.—The Secretary of De-
 19 fense shall ensure that all covered schools are tested
 20 for—

21 (A) the presence of lead-based paint; and

22 (B) the presence of lead in drinking water.

23 (2) STANDARDS.—In carrying out paragraph
 24 (1), the Secretary shall ensure that tests are per-

1 formed in accordance with regulations of the Envi-
2 ronmental Protection Agency.

3 (3) NOTIFICATION.—Not later than one day
4 after a test carried out pursuant to this subsection
5 detects the presence of lead-based paint in, or lead
6 in the drinking water of, a covered school, the Sec-
7 retary shall notify of such result—

8 (A) the parents or legal guardians of stu-
9 dents attending such covered school; and

10 (B) the employees of such covered school.

11 (b) LEAD MITIGATION.—

12 (1) ACTIVITIES REQUIRED.—The Secretary
13 shall undertake activities necessary to mitigate the
14 presence of lead in a covered school in which lead is
15 detected as a result of a test performed pursuant to
16 subsection (a).

17 (2) STANDARDS.—In carrying out paragraph
18 (1), the Secretary shall ensure mitigation is under-
19 taken in accordance with regulations of the Environ-
20 mental Protection Agency and the Department of
21 Housing and Urban Development.

22 (c) TIMING.—The Secretary shall complete all actions
23 required pursuant to subsections (a) and (b) not later than
24 two years after the date of the enactment of this Act.

1 (d) REPORT.—Not later than one year after the date
2 of the enactment of this Act, the Secretary shall submit
3 to the congressional defense committees a report con-
4 taining information on activities carried out under this
5 section, including—

6 (1) the number of covered schools tested for
7 lead-based paint;

8 (2) the number of covered schools tested for
9 lead in drinking water;

10 (3) for each covered school at which testing was
11 performed, the results of the testing;

12 (4) for each covered school at which testing was
13 not performed, an explanation for the failure to per-
14 form the testing; and

15 (5) for each covered school in which lead was
16 detected, the activities undertaken to mitigate the
17 presence of lead.

18 (e) COVERED SCHOOL DEFINED.—In this section,
19 the term “covered school” means the following:

20 (1) A school owned or operated by the Depart-
21 ment of Defense Education Activity.

22 (2) A school with which the Secretary has en-
23 tered into a contract or otherwise entered into an ar-
24 rangement to provide educational programs under—

1 (A) section 2164 of title 10, United States
2 Code; or

3 (B) section 1402 of the Defense Depend-
4 ents' Education Act of 1978 (20 U.S.C. 921).

5 **SEC. 4. PROHIBITION ON DISCOURAGING LEAD INSPEC-**
6 **TIONS IN MILITARY HOUSING.**

7 (a) IN GENERAL.—The Secretary concerned may not
8 discourage the inspection of covered housing for lead-
9 based paint or sources of lead.

10 (b) TESTING AUTHORIZED.—The Secretary con-
11 cerned may authorize testing for lead in covered housing
12 when such testing is not required by Federal, State, or
13 local regulations or laws.

14 (c) DEFINITIONS.—In this section:

15 (1) The term “Secretary concerned” has the
16 meaning given that term in section 101(a)(9) of title
17 10, United States Code.

18 (2) The term “covered housing” means military
19 owned and government controlled family housing
20 and privately leased or rented housing.

21 **SEC. 5. LEAD LEVEL SCREENINGS AND TESTINGS FOR**
22 **CHILDREN.**

23 (a) TRICARE.—

1 (1) WELL-BABY CARE.—Section 1077 of title
2 10, United States Code, is amended by adding at
3 the end the following new subsection:

4 “(i)(1) Beginning January 1, 2020, in furnishing
5 well-baby care under subsection (a)(8), the Secretary shall
6 ensure that such care includes the following:

7 “(A) With respect to a child who lives in hous-
8 ing built before 1978 at any time during the first 24
9 months of the life of the child—

10 “(i) the first testing of the child for the
11 level of lead in the blood of the child at approxi-
12 mately the age of 12 months; and

13 “(ii) the second such test at approximately
14 the age of 24 months.

15 “(B) With respect to a child not covered by
16 subparagraph (A) whose parent or guardian, at any
17 time during the first 24 months of the life of the
18 child, has a military occupational specialty that the
19 Secretary determines poses an elevated risk of lead
20 exposure—

21 “(i) the first testing of the child for the
22 level of lead in the blood of the child at approxi-
23 mately the age of 12 months; and

24 “(ii) the second such test at approximately
25 the age of 24 months.

1 “(C) With respect to a child not covered by
2 subparagraph (A) or (B)—

3 “(i) the first screening of the child for an
4 elevated risk of lead exposure at approximately
5 the age of 12 months; and

6 “(ii) the second such screening at approxi-
7 mately the age of 24 months.

8 “(D) With respect to a child covered by sub-
9 paragraph (C) whose screening indicates an elevated
10 risk of lead exposure, testing of the child for the
11 level of lead in the blood of the child.

12 “(2) The Secretary shall ensure that any care pro-
13 vided to a child pursuant to this chapter for lead poisoning
14 shall be carried out in accordance with applicable advice
15 from the Centers for Disease Control and Prevention.

16 “(3)(A) With respect to a child who receives a test
17 under paragraph (1), the Secretary shall provide the re-
18 sults of the test to the parent or guardian of the child.

19 “(B) With respect to a child who receives a test under
20 paragraph (1), the Secretary shall provide the results of
21 the test and the address at which the child resides to—

22 “(i) the relevant health department of the State
23 in which the child resides if the child resides in the
24 United States; or

1 “(ii) the Centers for Disease Control and Pre-
2 vention if the child resides outside the United
3 States.

4 “(C) In providing information regarding a child to
5 a State or the Centers for Disease Control and Prevention
6 under subparagraph (B), the Secretary may not provide
7 any identifying information or health information of the
8 child that is not specifically authorized in such subpara-
9 graph.

10 “(D) In this paragraph, the term ‘State’ means each
11 of the several States, the District of Columbia, the Com-
12 monwealth of Puerto Rico, and any territory or possession
13 of the United States.”.

14 (2) CONFORMING AMENDMENT.—Subsection
15 (a)(8) of such section is amended by striking “in-
16 cluding well-baby care that includes one screening of
17 an infant for the level of lead in the blood of the in-
18 fant” and inserting “including well baby care that
19 includes screenings and testings in accordance with
20 subsection (i) for lead exposure and lead poisoning”.

21 (3) STUDY.—Not later than January 1, 2021,
22 the Secretary of Defense shall submit to the con-
23 gressional defense committees a report detailing the
24 following:

1 (A) The number of children who were test-
2 ed for the level of lead in the blood of the child
3 pursuant to subparagraph (A) of subsection
4 (i)(1) of section 1077 of title 10, United States
5 Code, as added by subsection (a), and of such
6 number, the number who were found to have
7 elevated blood lead levels.

8 (B) The number of children who were test-
9 ed for the level of lead in the blood of the child
10 pursuant to subparagraph (B) of such sub-
11 section (i)(1), and of such number, the number
12 who were found to have lead poisoning.

13 (C) The number of children who were
14 screened for an elevated risk of lead exposure
15 pursuant to subparagraph (C) of such sub-
16 section (i)(1).

17 (D) The number of children who were test-
18 ed for the level of lead in the blood of the child
19 pursuant to subparagraph (D) of such sub-
20 section (i)(1), and of such number, the number
21 who were found to have elevated blood lead lev-
22 els.

23 (E) The treatment provided to children
24 pursuant to chapter 55 of title 10, United
25 States Code, for lead poisoning.

1 (4) GAO REPORT.—Not later than January 1,
2 2022, the Comptroller General of the United States
3 shall submit to the congressional defense committees
4 a report on the effectiveness of screening, testing,
5 and treating children for lead exposure and lead poi-
6 soning pursuant to chapter 55 of title 10, United
7 States Code.

8 (b) NOTIFICATION ON HOUSING.—Section 403 of
9 title 37, United States Code, is amended by adding at the
10 end the following new subsection:

11 “(p) RECORDS REGARDING HOUSING AND LEAD-
12 BASED PAINT.—(1) The Secretary concerned shall keep
13 a record of whether the following housing was built before,
14 during, or after 1978:

15 “(A) Quarters of the United States under the
16 jurisdiction of that Secretary concerned.

17 “(B) A housing facility under the jurisdiction of
18 that Secretary concerned.

19 “(C) Other housing in which a member of the
20 uniformed service of that Secretary concerned re-
21 sides.

22 “(2) As a condition of receipt of a basic allowance
23 for housing under this section, a member of the uniformed
24 services shall notify the Secretary concerned whether the

1 housing in which that member resides was built before,
2 during, or after 1978.”.

3 **SEC. 6. ANNUAL CERTIFICATION AND REPORTING ON**
4 **LEAD-BASED PAINT IN MILITARY HOUSING.**

5 (a) ANNUAL CERTIFICATION.—

6 (1) IN GENERAL.—Each Secretary concerned
7 shall submit a certification in writing to the Sec-
8 retary of Defense and the Secretary of Housing and
9 Urban Development indicating whether the military
10 housing under the jurisdiction of the Secretary con-
11 cerned is in compliance with the requirements re-
12 specting lead-based paint, lead-based paint activities,
13 and lead-based paint hazards described in section
14 408 of the Toxic Substances Control Act (15 U.S.C.
15 2688).

16 (2) SUBMISSION DATES.—Each Secretary con-
17 cerned shall submit the certification under para-
18 graph (1) not later than July 31 of each year begin-
19 ning in 2020.

20 (3) CONTENTS.—Each certification under para-
21 graph (1) shall state, with regards to the preceding
22 calendar year—

23 (A) the total number of military housing
24 units under the jurisdiction of the Secretary
25 concerned that were inspected for lead-based

1 paint in accordance with the requirements de-
2 scribed in paragraph (1);

3 (B) the total number of military housing
4 units that were found to contain lead-based
5 paint in the course of inspections described in
6 subparagraph (A);

7 (C) any abatement efforts conducted re-
8 garding military housing units described in sub-
9 paragraph (B); and

10 (D) the total number of military housing
11 units under the jurisdiction of the Secretary
12 concerned that were not inspected for lead-
13 based paint.

14 (b) ANNUAL REPORTS.—Not later than August 31
15 of each year beginning in 2020, the Secretary of Defense
16 shall publish (including on a website of the Department
17 of Defense) and submit to the congressional defense com-
18 mittees a report that sets forth the following:

19 (1) Each military department that has failed to
20 submit a certification required under subsection (a)
21 with respect to the preceding calendar year.

22 (2) A detailed summary of the data, broken
23 down by military department, contained in the cer-
24 tifications under subsection (a) for such calendar
25 year.

1 (c) NONCOMPLIANCE PENALTIES.—In each of fiscal
2 years 2020 through 2023, each political appointee of a
3 military department that has failed to certify compliance
4 under subsection (a) for the last calendar year ending be-
5 fore the year in which such fiscal year begins may not
6 receive bonus pay, excluding overtime pay, until the Sec-
7 retary concerned certifies such compliance.

8 (d) DEFINITIONS.—In this section, the terms “Sec-
9 retary concerned” and “military department” have the
10 meanings given those terms in section 101 of title 10,
11 United States Code.

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