

110TH CONGRESS
1ST SESSION

S. 1811

To amend the Toxic Substances Control Act to assess and reduce the levels of lead found in child-occupied facilities in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 18 (legislative day, JULY 17), 2007

Mr. OBAMA (for himself, Mr. SCHUMER, and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Toxic Substances Control Act to assess and reduce the levels of lead found in child-occupied facilities in the United States, 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 “Lead Poisoning Reduc-

5 tion Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the number of children suffering from lead

9 poisoning remains unacceptably high;

1 (2) children younger than 6 years of age are
 2 much more likely to suffer the devastating effects of
 3 lead poisoning;

4 (3) the health of children may be impacted at
 5 lower levels of lead exposure than previously
 6 thought;

7 (4) lead poisoning can lead to organ damage, as
 8 well as serious developmental, learning, and behav-
 9 ioral problems in children;

10 (5) owners and managers of childcare and pre-
 11 school facilities constructed before 1978 need guid-
 12 ance with respect to protecting children of the
 13 United States from exposure to lead; and

14 (6) the Administrator of the Environmental
 15 Protection Agency has the authority, but, as of the
 16 date of enactment of this Act, has elected not, to
 17 promulgate regulations pursuant to section 402 of
 18 the Toxic Substances Control Act (15 U.S.C. 2682)
 19 to reduce lead exposure in child-occupied facilities.

20 **SEC. 3. LEAD ASSESSMENT IN CHILD-OCCUPIED FACILI-**
 21 **TIES.**

22 Section 402 of the Toxic Substances Control Act (15
 23 U.S.C. 2682) is amended by adding at the end the fol-
 24 lowing:

25 “(d) CHILD-OCCUPIED FACILITIES.—

1 “(1) DEFINITIONS.—In this subsection:

2 “(A) CHILD-OCCUPIED FACILITY.—

3 “(i) IN GENERAL.—The term ‘child-
4 occupied facility’ means a facility described
5 in clause (ii) that was constructed before
6 January 1, 1978, and that is visited regu-
7 larly by a child of not more than 6 years
8 old for at least 2 days within any week for
9 not less than—

10 “(I) 3 hours each visit;

11 “(II) 6 hours each week; and

12 “(III) 60 hours each calendar
13 year.

14 “(ii) DESCRIPTION OF FACILITY.—A
15 facility referred to in clause (i) is—

16 “(I) a childcare center;

17 “(II) a pre-school or kinder-
18 garten classroom; or

19 “(III) except as provided in
20 clause (iii), any other facility (includ-
21 ing a facility used for a Head Start
22 program or a similar program) at
23 which a childcare provider receives
24 compensation or a subsidy for services
25 provided.

1 “(iii) EXCLUSION.—The term ‘child-
 2 occupied facility’ does not include a home-
 3 based childcare facility.

4 “(B) EXPOSURE PATHWAY.—The term ‘ex-
 5 posure pathway’ includes, with respect to
 6 lead—

7 “(i) lead-based paint and lead-based
 8 paint hazards; and

9 “(ii) lead contained in—

10 “(I) drinking water plumbing
 11 and fixtures;

12 “(II) furniture, fixtures, and
 13 playground equipment; and

14 “(III) products used by or for
 15 children.

16 “(C) HOME-BASED CHILDCARE FACIL-
 17 ITY.—The term ‘home-based childcare facility’
 18 means an owner-occupied or rental housing
 19 unit—

20 “(i) at which 1 or more individuals re-
 21 side; and

22 “(ii) that meets the requirements
 23 under clauses (i) and (ii) of subparagraph
 24 (A) for a child-occupied facility.

1 “(D) SELECT GROUP.—The term ‘Select
2 Group’ means the Select Group on Lead Expo-
3 sure established by paragraph (2)(A).

4 “(2) SELECT GROUP ON LEAD EXPOSURE.—

5 “(A) ESTABLISHMENT.—There is estab-
6 lished a Select Group on Lead Exposure, to be
7 composed of—

8 “(i) the Secretary of Education (or a
9 designee);

10 “(ii) the Director of the Centers for
11 Disease Control and Prevention (or a des-
12 ignee);

13 “(iii) the Director of the National In-
14 stitute of Environmental Health Science
15 (or a designee);

16 “(iv) the Assistant Secretary of the
17 Administration for Children and Families
18 (or a designee);

19 “(v) the Director of the National In-
20 stitute of Child Health and Human Devel-
21 opment (or a designee); and

22 “(vi) the head of any other Federal
23 agency (or a designee), as the Adminis-
24 trator determines to be appropriate.

1 “(B) DUTIES.—The Select Group shall ad-
 2 vise the Administrator on actions necessary to
 3 carry out this subsection and related activities.

4 “(C) COMPENSATION OF MEMBERS.—A
 5 member of the Select Group shall serve without
 6 compensation.

7 “(D) TRAVEL EXPENSES.—A member of
 8 the Select Group shall be allowed travel ex-
 9 penses, including per diem in lieu of subsist-
 10 ence, at rates authorized for an employee of an
 11 agency under subchapter I of chapter 57 of title
 12 5, United States Code, while away from the
 13 home or regular place of business of the mem-
 14 ber in the performance of the duties of the Se-
 15 lect Group.

16 “(3) BASELINE STANDARDS AND MODEL PRO-
 17 GRAM.—

18 “(A) STUDY.—Not later than 180 days
 19 after the date of enactment of this subsection,
 20 the Select Group shall conduct a study of State,
 21 tribal, and local programs the purpose of which
 22 is to protect children from exposure to lead at
 23 child-occupied facilities.

24 “(B) STANDARDS AND PROGRAM.—

“(i) DEVELOPMENT.—Not later than 1 year after the date of enactment of this subsection, the Select Group shall develop—

“(I) baseline standards with which a State, tribal, or local program described in subparagraph (A) shall comply to be eligible to receive a grant under paragraph (4); and

“(II) a model program to protect children from exposure to lead at child-occupied facilities that can be adopted for use by State, tribal, and local governments.

“(ii) FACTORS FOR CONSIDERATION.—In developing the baseline standards and model program under clause (i), the Select Group shall take into consideration—

“(I) the results of the study under subparagraph (A);

“(II) regulations promulgated pursuant to subsection (a) (including the process of promulgating the regulations); and

“(III) guidance for childcare providers produced by agencies and other groups, including—

“(aa) any member of the Select Group;

“(bb) the American Academy of Pediatrics;

“(cc) the American Public Health Association; and

“(dd) the National Center for Healthy Housing.

“(iii) REQUIREMENTS.—

“(I) BASELINE STANDARDS.—

The baseline standards developed under clause (i)(I) shall include guidelines for—

“(aa) assessing child-occupied facilities for the identification and remediation of exposure pathways; and

“(bb) informing children and families that visit child-occupied facilities of the exposure pathways and related hazards.

1 “(II) MODEL PROGRAM.—The
2 model program developed under clause
3 (i)(II) shall meet or exceed such appli-
4 cable standards (including the base-
5 line standards under clause (i)(I)) as
6 the Administrator may establish with
7 respect to grant programs carried out
8 by the Administrator, including stand-
9 ards requiring that—

10 “(aa) each appropriate
11 child-occupied facility shall be
12 provided a notice as soon as
13 practicable after a child served by
14 the child-occupied facility is diag-
15 nosed with lead poisoning, sub-
16 ject to such guidelines as the Se-
17 lect Group determines to be nec-
18 essary to ensure the protection of
19 privileged medical information;
20 and

21 “(bb) on receiving a notifica-
22 tion under item (aa), a child-oc-
23 cupied facility that has not been
24 tested for the presence of lead in

1 exposure pathways shall be so
2 tested.

3 “(4) GRANT PROGRAM.—

4 “(A) DEFINITION OF ELIGIBLE FACIL-
5 ITY.—

6 “(i) IN GENERAL.—In this paragraph,
7 the term ‘eligible facility’ means a child-oc-
8 cupied facility that participates in a State,
9 tribal, or local program—

10 “(I) the purpose of which is to
11 protect children from exposure to lead
12 at child-occupied facilities; and

13 “(II) that—

14 “(aa) is based on the model
15 program developed under para-
16 graph (3)(B)(i)(II); or

17 “(bb) otherwise meets the
18 baseline standards developed
19 under paragraph (3)(B)(i)(I).

20 “(ii) EXCLUSION.—The term ‘eligible
21 facility’ does not include a home-based
22 childcare facility.

23 “(B) ESTABLISHMENT.—Not later than 1
24 year after, but in no case before, the date of de-
25 velopment of baseline standards and the model

1 program under paragraph (3), the Adminis-
2 trator, in consultation with the Select Group,
3 shall establish a program under which the Ad-
4 ministrator shall provide grants to eligible fa-
5 cilities to assist the eligible facilities in carrying
6 out activities to protect children from exposure
7 to lead at eligible facilities.

8 “(C) APPLICATION.—To be eligible to re-
9 ceive a grant under this paragraph, an eligible
10 facility shall submit to the Administrator an ap-
11 plication at such time, in such manner, and
12 containing such information as the Adminis-
13 trator, in consultation with the Select Group,
14 may require.

15 “(D) COST SHARING.—

16 “(i) IN GENERAL.—The non-Federal
17 share of the cost of an activity funded by
18 a grant under this paragraph shall be 20
19 percent.

20 “(ii) PROVISION.—The non-Federal
21 share under clause (i)—

22 “(I) may be provided using State,
23 tribal, and local government funds
24 and private funds; and

1 “(II) shall not be provided using
2 funds appropriated pursuant to any
3 Federal program.

4 “(E) AUTHORIZATION OF APPROPRIA-
5 TIONS.—There is authorized to be appropriated
6 to carry out this paragraph \$42,600,000 for the
7 period of fiscal years 2008 through 2012.

8 “(5) REGULATIONS.—

9 “(A) TESTING.—Not later than 18 months
10 after the date of enactment of this subsection,
11 the Administrator shall promulgate regulations
12 requiring that—

13 “(i) child-occupied facilities placed
14 into service after that date shall test each
15 applicable exposure pathway for the pres-
16 ence of lead; and

17 “(ii) no State or Indian tribe shall
18 issue to a child-occupied facility described
19 in clause (i) a license until—

20 “(I) the testing required under
21 clause (i) is completed; and

22 “(II) the exposure to lead, if any,
23 in each applicable exposure pathway is
24 eliminated.

25 “(B) ELIMINATION OF RISK.—

1 “(i) IN GENERAL.—Not later than 3
 2 years after the date of enactment of this
 3 subsection, the Administrator shall promul-
 4 gate proposed regulations requiring all
 5 child-occupied facilities to eliminate the
 6 risk of exposure to lead through applicable
 7 exposure pathways.

8 “(ii) FINALIZATION AND EFFECTIVE
 9 DATE.—The proposed regulations under
 10 clause (i)—

11 “(I) shall be finalized by the Ad-
 12 ministrator not later than 4 years
 13 after the date of enactment of this
 14 subsection; and

15 “(II) shall take effect not later
 16 than 5 years after the date of enact-
 17 ment of this subsection.

18 “(6) CONTRACTORS ENGAGED IN RENOVATION,
 19 REMODELING, AND PAINTING OF CHILD-OCCUPIED
 20 FACILITIES.—Not later than 18 months after the
 21 date of enactment of this subsection, the Adminis-
 22 trator, in consultation with the Select Group, shall—

23 “(A) apply regulations promulgated pursu-
 24 ant to subsection (c)(3) to contractors and
 25 other workers engaged in the renovation, re-

1 modeling, or painting of child-occupied facili-
2 ties; and

3 “(B) establish a program to provide infor-
4 mation, training, and materials concerning
5 those activities to the contractors and workers.

6 “(7) REPORT TO CONGRESS.—Not later than 3
7 years after the date of enactment of this subsection,
8 the Administrator, in consultation with the Select
9 Group, shall submit to Congress a report con-
10 taining—

11 “(A) a list of States and Indian tribes car-
12 rying out programs to protect children from ex-
13 posure to lead at child-occupied facilities that
14 meet the baseline standards developed under
15 paragraph (3)(B)(i)(I) (including by adopting
16 the model program developed under paragraph
17 (3)(B)(i)(II));

18 “(B) the number of child-occupied facilities
19 that received grants under paragraph (4) dur-
20 ing the preceding 3-year period; and

21 “(C) recommendations for additional Fed-
22 eral funds and resources, if any, required to en-
23 sure the protection of children from exposure to
24 lead at child-occupied facilities.”.

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