SPONSOR: Rep. Jaques & Sen. Hansen & Sen. Townsend
Reps. Brady, Heffernan, Kowalko, Osienski; Sens. Bonini, Bushweller, Cloutier, Delcollo, Ennis, Henry, Hocker, Lavelle, Lawson, Lopez, Marshall, McBride, McDowell, Pettyjohn, Poore, Richardson, Simpson, Sokola, Walsh

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 456

AN ACT TO AMEND TITLES 14, 16, 17, 26, AND 29 OF THE DELAWARE CODE RELATING TO THE USE OF LEAD PAINTS ON OUTDOOR STRUCTURES.

WHEREAS, paints containing lead have historically been used and may continue to be used on outdoor structures such as bridges, water towers, playground equipment, highways, parking lots, and utility towers and poles;

WHEREAS, lead as found in paints used on outdoor structures can pose public health risks because lead is a neurotoxin with irreversible side effects;

WHEREAS, lead as found in paints used on outdoor structures pose public health risks to workers and the general public because lead causes neurological damage, behavioral and learning disabilities among children, as well as anemia, high blood pressure, kidney damage and reproductive effects (including miscarriage, still births and premature births), and there is no safe levels of exposure to lead and no way to reverse the damage caused by lead exposure;

WHEREAS, the use, maintenance and removal of paints containing lead on outdoor structures creates lead exposure pathways that are hazardous to workers, contaminate the environment, and expose children and adults who live, work, and play in proximity to these structures;

WHEREAS, restrictions on lead paints have been in place for residential structures, there are no restrictions lead paints on outdoor structures;

NOW, THEREFORE: to protect public health and welfare of the citizens of Delaware

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 3001M. Purpose.

The purpose of this Chapter is to reduce risks to public health and welfare by banning the use of lead paints on outdoor structures in Delaware.

§ 3002M. Definitions.

For purposes of this Chapter, the following terms shall have the meanings defined in this section:

(a) “Lead Paint” means paint containing lead or lead compounds and in which the lead is in excess of 90 parts per million (ppm) by weight of the total nonvolatile content of the paint or the weight of the dried paint film.

(b) “Outdoor structure” means any man-made permanent or semi-permanent structure or assemblage of parts, some or all of the surface of which is exposed to rain, snow, sunlight, humidity, or other outdoor forces of nature. Outdoor structures include bridges, water towers, pipes, playground equipment, highways, parking lots, guard rails, and poles or towers used in the transmission of telephone, internet, or electric power.

(c) “Paint” means varnishes, lacquers, enamels, glazes, primers, or other surface-coating materials used for any purpose; and is typically a mixture of resins, pigments, fillers, solvents, and other additives that constitute a finished product.

(d) “Person” means an individual, partnership, corporation, association, non-profit, or governmental entity.

§ 3003M. Prohibition on Use of Lead Paints on Outdoor Structures.

The use by any person of lead paints on outdoor structures, whether applied to new outdoor structures or already existing outdoor structures, shall be prohibited after the effective dates in this Chapter.

§ 3004M. Penalties and Enforcement.

(a) The Secretary of Department of Health and Social Services, or the Director of the Division of Public Health, or their designee shall enforce this Chapter.

(b) Whoever violates this chapter or any rule or regulation duly promulgated thereunder, shall be punishable as follows by an administrative penalty imposed of not more than $10,000.00 per day for each completed violation. Each day of continued violation shall be considered as a separate violation.

§ 3005M. Effective Date.

The prohibition in this Chapter for any new use or application of lead-based paints, pigments, and coatings shall become effective January 1, 2020. The prohibition in this Chapter for any use or application of lead-based paints, pigments, and coatings that occurred prior to January 1, 2020 shall become effective on January 1, 2024.

Section 2. By January 1, 2020, the Department of Health and Social Services shall develop regulations governing the ban of the application of lead paints from outdoor structures in the State of Delaware consistent with the prohibitions set forth in this Act. Such regulations shall be designed to minimize public health risks from the application of lead paints and the potential future weathering and removal of lead paints. The Department of Health and Social Services and the Department of Natural Resources and Environmental Control shall coordinate efforts wherever feasible in the implementation of this Act.

Section 3. By January 1, 2020, the Department of Natural Resources and Environmental Control shall develop regulations governing the removal of lead paints from outdoor structures in the State of Delaware consistent with the prohibitions set forth in this Act. Such regulations shall be designed to minimize public health risks from such removal activities.

Section 4. By January 1, 2020, the State of Delaware Office of Management and Budget shall develop procedures to conform with the terms in this Act. Such procedures shall be designed to eliminate the use of lead paints from state-funded projects, including Department of Education projects, to simplify the implementation of the Act for Delaware's School Districts.

Section 5. Amend Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 4400. All provisions of this Title must comply with the Title 16 Code Chapter 30M.

Section 6. Amend Title 17 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 2000. All provisions of this Title must comply with the Title 16 Code Chapter 30M.

Section 7. Amend Title 26 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1600. All provisions of this Title must comply with the Title 16 Code Chapter 30M.

Section 8. Amend Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 6400B. All provisions of this Title must comply with the Title 16 Code Chapter 30M.

SYNOPSIS

This Act amends Titles 14, 16, 17, 26, and 29 of the Delaware Code to prohibit the use of lead paints on outdoor structures such as bridges, water towers, playground equipment, highways, parking lots, and utility towers and poles, in order to protect public health from the dangers of such paints.

More specifically, Section 1 of this Act substantively amends Title 16 to add a new Chapter 30M setting forth the general prohibition of use of lead paints on outdoor structures after specified effective dates. Section 2 of this Act amends Titles 17, 26, and 29 to reference back to the new Title 16 Chapter 30M prohibitions. Section 3 requires the Department of Natural Resources and Environmental Control to develop regulations governing the removal of lead paint from outdoor structures consistent with this Act.