

Amendment to SB 247-FN-A

1 Amend the title of the bill by replacing it with the following:

2  
3 AN ACT preventing childhood lead poisoning from paint and water.  
4

5 1 Lead Paint Poisoning Prevention; Parental Notification. Amend RSA 130-A:6-b to read as  
6 follows:

7 130-A:6-b Parent Notification. The department shall send materials to the parents of any child  
8 with a blood lead level of [5]3 micrograms per deciliter or higher. Such materials shall inform  
9 parents who are tenants to work with the property owner and advise against engaging in  
10 renovation, repair, or painting activities themselves. Such materials shall inform parents who own  
11 and occupy the house in which the child resides of resources for identifying and eliminating lead  
12 hazards, including the Renovation, Repair and Painting Program.

13 2 Lead Paint Poisoning Prevention; Property Owner Notification. Amend RSA 130-A:6-a, I to  
14 read as follows:

15 I. The department shall notify in writing the owner or registered agent of an owner of a  
16 dwelling or dwelling unit where the child resides if a [venous] blood [test] lead level of [5]3 to 9.9  
17 micrograms per deciliter is found in the child's blood. Such notice to the property owner shall  
18 specify that it is neither a finding that a lead exposure hazard exists in the property nor is it an  
19 order for lead hazard reduction. Such notice shall include information about the health hazards of  
20 lead poisoning, standards for identifying and eliminating lead hazards, and the federal Renovation,  
21 Repair, and Painting Program.

22 3 Lead Paint Poisoning Prevention and Control, Testing for Blood Levels. Amend RSA 130-A:5-  
23 a to read as follows:

24 130-A:5-a **Universal Testing; Health Care Providers; Not Liable.** All health care providers  
25 who provide primary medical care shall ~~[ensure that parents and guardians of children 6 years of~~  
26 ~~age or younger are advised of the availability and advisability of screening and testing their~~  
27 ~~children for lead in accordance with this chapter]~~ **conduct blood testing of all one and 2-year**  
28 **old patients to determine a blood lead level.** A health care provider shall not be liable for not  
29 performing a ~~[screening or confirmation]~~ test for blood lead level when a parent or guardian has  
30 been informed of the ~~[availability and advisability of screening]~~ **blood test requirement** and has  
31 refused to consent or has failed to follow through in response to a referral for a ~~[screening or~~  
32 ~~confirmation]~~ test. **Nothing in this section shall prevent a health care provider from**

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***recommending blood testing for children younger than one year or older than 2 years should circumstances, including potential lead hazard exposures, warrant such testing.***

4 New Sections; Lead Paint Poisoning Prevention and Control; Blood Lead Testing. Amend RSA 130-A by inserting after section 5-b the following new sections:

130-A:5-c Blood Lead Testing. All parents or legal guardians shall have their children who are residing in this state tested for blood lead level at the ages of one and 2. A child shall be exempt from this required blood lead level testing if a parent or legal guardian objects to such testing and provides a statement to such effect or if a physician licensed under RSA 329, or a physician exempted under RSA 329:21, III, certifies that blood lead level testing may be detrimental to the child's health. The latter exemption shall exist only for the length of time that, in the opinion of the physician, testing would be detrimental to the child. The commissioner shall develop an opt out form for the purposes of this section and shall make such form available to health care facilities. The form shall include simple opt out language in a font and size easily readable by the average adult reader.

130-A:5-d Sale and Rental of Property. After July 1, 2024, the following shall require certification of lead safety pursuant to this chapter prior to being used as either a residential rental unit or as a day care facility:

I. Newly-constructed rental units within buildings erected prior to January 1, 1978. For the purposes of this section "newly-constructed rental units" means rental units being converted from a use other than residential rental housing.

II. Newly-licensed day care facilities within buildings erected prior to January 1, 1978.

5 Lead Paint Poisoning Prevention; Parental Notification. Amend the introductory paragraph of RSA 130-A:5, I to read as follows:

I. The commissioner shall investigate cases of lead poisoning in children reported under RSA 141-A whose blood lead level meets or exceeds [40] **7.5** micrograms per deciliter of whole venous blood, as reported on 2 separate tests except that a blood lead level may be designated as elevated by the health care provider when the level reported meets or exceeds [40] **7.5** micrograms per deciliter on the first venous test. With such a declaration, a second test shall not be required. The commissioner may also conduct investigations when there is reason to believe that a lead exposure hazard, as defined in RSA 130-A:1, XVI(b) and (d), for a child exists. Such investigations shall include, but not be limited to:

6 Lead Paint Poisoning Prevention; Parental Notification. Amend the introductory paragraph of RSA 130-A:5, I to read as follows:

I. The commissioner shall investigate cases of lead poisoning in children reported under RSA 141-A whose blood lead level meets or exceeds [7-5] **5** micrograms per deciliter of whole venous blood, as reported on 2 separate tests except that a blood lead level may be designated as elevated by the health care provider when the level reported meets or exceeds [7-5] **5** micrograms per

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1 deciliter on the first venous test. With such a declaration, a second test shall not be required. The  
2 commissioner may also conduct investigations when there is reason to believe that a lead exposure  
3 hazard, as defined in RSA 130-A:1, XVI(b) and (d), for a child exists. Such investigations shall  
4 include, but not be limited to:

5 7 New Section; Loans for Lead Hazard Remediation Projects. Amend RSA 130-A by inserting  
6 after section 15 the following new section:

7 130-A:15-a Loans for Lead Hazard Remediation Projects.

8 I. Upon governor and council approval, the department may, in consultation with the state  
9 treasurer, authorize a state guarantee of the principal of, interest on, and reasonable collection  
10 expenses related to loans for the lead hazard remediation projects as specified in subparagraphs  
11 II(a), (b), and (c). Such guarantee shall not at any time exceed 80 percent of the maximum principal  
12 amount that may be borrowed under the terms of the loan, plus interest and related reasonable  
13 collection expenses with respect to such loan. However, in no event shall the state guarantee for an  
14 individual project related to rental units exceed \$10,000 per unit or a total of \$200,000 per building,  
15 and in no event shall the state guarantee for an individual project related to a private home exceed  
16 \$100,000. The full faith and credit of the state shall be pledged for any such guarantee, but the  
17 total outstanding amount of principal guaranteed by the state under this section shall not exceed, in  
18 the aggregate at any time, \$6,000,000.

19 II. The department shall ensure that all projects for which loans are granted are completed  
20 within 2 years of the issuance of the loan. The department shall be responsible for issuing  
21 completion standards and disseminating these standards to prospective loan applicants. If the  
22 project is not completed within the 2-year period, the landlord or owner shall pay to the state the  
23 difference between the lender's interest rate for a personal unsecured loan and the rate for the  
24 project, plus a \$500 penalty.

25 (a)(1) Landlords may qualify for loans of up to 40 percent of the cost of lead base  
26 substance abatement, or up to 30 percent of the cost of making a property or rental unit lead safe  
27 through interim controls. The cost of periodic inspections and maintenance activities related to  
28 interim controls shall not be eligible for loans. When determining projects eligible for participation  
29 in the loan program, the department shall give priority to rental units that meet one or more of the  
30 following criteria:

31 (A) Are occupied by at least one child age 6 or under with an elevated blood lead  
32 level of at least 5 micrograms per deciliter.

33 (B) Are under mitigation orders issued by the department.

34 (2) In order to qualify for priority status, the landlord must also assure in writing as  
35 part of the application process an intent to continue to rent to families with children for not less  
36 than 5 years once the abatement work is completed.

37 (b) Owners of child care facilities may qualify for loans of up to 40 percent of the cost of

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1 lead base substance abatement, or up to 30 percent of the cost of making a facility lead safe through  
2 interim controls. The cost of periodic inspections and maintenance activities related to interim  
3 controls shall not be eligible for loans. When determining projects eligible for participation in the  
4 loan program, the department shall give priority to facilities that meet one or more of the following  
5 criteria:

6 (1) Have been verified by a licensed lead inspector to have a lead safety risk;

7 (2) Are under mitigation orders issued by the department.

8 (c) The owners of private homes may qualify for loans of up to 100 percent of lead base  
9 substance abatement, or up to 75 percent of the cost of interim controls, provided that a child 6  
10 years or younger or a pregnant woman resides in the home. The cost of periodic inspections and  
11 maintenance activities shall not be eligible for loans. When determining projects eligible for  
12 participation in the loan program, the department shall give priority to homes that meet one or  
13 more of the following criteria:

14 (1) Were built prior to 1978;

15 (2) Are occupied by a child with an elevated blood lead level of at least 5 micrograms  
16 per deciliter;

17 (3) Are occupied by a family with income below 200 percent of the federal poverty  
18 level, as adjusted annually for inflation;

19 (4) Have been verified by a licensed lead inspector to have lead safety risk.

20 III. Beginning on or before October 1, 2018, the department shall report annually to the  
21 fiscal committee of the general court and the governor and council on the status of the loan program  
22 established in this section. Such report shall include:

23 (a) A quantification of demand for the program among landlords, homeowners, and  
24 owners of licensed child care facilities;

25 (b) The dollar amount of the \$6,000,000 aggregate limit that is guaranteed by the state  
26 at the time of the report, and the amount of guarantee remaining; and

27 (c) The dollar amount, if any, that the state has paid to loan issuers to cover the cost of  
28 default.

29 IV. The department is authorized to adopt rules pursuant to RSA 541-A to establish the  
30 eligibility criteria, application process, and maximum loan amounts pursuant to this section.

31 8 Lead Paint Poisoning Prevention and Control; Inspections. Amend RSA 130-A:6, I to read as  
32 follows:

33 I. The commissioner may, as part of an investigation conducted under RSA 130-A:5,  
34 conduct an inspection of any leased or rented dwelling or dwelling unit during business hours, or at  
35 a time mutually agreed upon with the owner or the owner's agent, for the purposes of identifying  
36 the presence of lead base substances. The commissioner shall provide the findings of the inspection  
37 to the occupant and to the owner or the owner's agent. If the leased or rented dwelling has multiple

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units, and if a lead exposure hazard is determined to exist during an investigation conducted under RSA 130-A:5, the commissioner ~~shall~~ **may** conduct inspections of all other dwelling units of the leased or rented dwelling with the owner or owner's agent for the purposes of identifying the presence of lead base substances. The commissioner shall provide the findings of the inspection to the occupant and the owner or the owner's agent. When a lead exposure hazard is determined to exist per RSA 130-A:1, XVI(a), (b), or (c), the commissioner ~~shall~~ **may** issue an order in accordance with RSA 130-A:7 requiring lead hazard reduction to the owner and, if appropriate, to the owner's agent. When a lead exposure hazard is determined to exist per RSA 130-A:1, XVI(d), the commissioner may issue an order in accordance with RSA 130-A:7 requiring lead hazard reduction to the owner and, if appropriate, to the owner's agent. The commissioner shall provide a copy of the order to the owner or owner's agent and to the occupant of the dwelling unit. The commissioner shall notify all tenants of the dwelling of lead exposure hazard findings in common areas. Upon request, the owner or owner's agent shall provide a copy of the order to the occupants of any dwellings or dwelling units located within the same lot at no charge.

9 Child Day Care Licensing; License or Permit Suspension, Revocation, or Denial. Amend RSA 170-E:12, XII and XIII to read as follows:

XII. Fails to comply with the corrective action plan submitted by the child day care agency and approved by the department; ~~or~~

XIII. Loses health, safety or zoning approval; **or**

**XIV. Fails to comply with applicable public health laws and regulations concerning lead.**

10 New Paragraph; Residential Care and Child-Placing Agency Licensing; License or Permit Suspension, Revocation, or Denial. Amend RSA 170-E:35 by inserting after paragraph XV the following new paragraph:

XVI. Fails to comply with applicable public health laws and regulations concerning lead.

11 New Section; Coverage for Blood Lead Testing; Individual. Amend RSA 415 by inserting after section 6-u the following new section:

415:6-v Coverage for Blood Lead Testing. Each insurer that issues or renews any individual policy, plan, or contract of accident or health insurance providing benefits for medical or hospital expenses shall provide to persons covered by such insurance who are residents of this state coverage for the costs of blood lead testing conducted pursuant to RSA 130-A:5-a. Benefits provided under this section shall not be subject to any greater co-payment, deductible, or coinsurance than any other similar benefits provided by the insurer.

12 New Section; Coverage for Blood Lead Testing; Group. Amend RSA 415 by inserting after section 18-z the following new section:

415:18-aa Coverage for Blood Lead Testing. Each insurer that issues or renews any policy of group or blanket accident or health insurance providing benefits for medical or hospital expenses

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1 shall provide to each group, or to the portion of each group comprised of certificate holders of such  
2 insurance who are residents of this state, coverage for the costs of blood lead testing conducted  
3 pursuant to RSA 130-A:5-a. Benefits provided under this section shall not be subject to any greater  
4 co-payment, deductible, or coinsurance than any other similar benefits provided by the insurer.

5 13 Health Services Corporations; Applicable Statutes. Amend RSA 420-A:2 to read as follows:

6 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this  
7 chapter and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the  
8 provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6,  
9 II(4), RSA 415:6-g, RSA 415:6-k, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-t, RSA 415:6-u,  
10 ***RSA 415:6-v***, RSA 415:18, V, RSA 415:18, XVI and XVII, RSA 415:18, VII-a, RSA 415:18-a,  
11 RSA 415:18-j, RSA 415:18-o, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-  
12 w, RSA 415:18-y, RSA 415:18-z, ***RSA 415:18-aa***, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and  
13 all applicable provisions of title XXXVII wherein such corporations are specifically included. Every  
14 health service corporation and its agents shall be subject to the fees prescribed for health service  
15 corporations under RSA 400-A:29, VII.

16 14 Health Services Corporations; Applicable Statutes; Effective January 1, 2021. Amend RSA  
17 420-A:2 to read as follows:

18 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this  
19 chapter and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the  
20 provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6,  
21 II(4), RSA 415:6-g, RSA 415:6-k, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-u, ***RSA 415:6-***  
22 ***v***, RSA 415:18, V, RSA 415:18, XVI and XVII, RSA 415:18, VII-a, RSA 415:18-a, RSA 415:18-j,  
23 RSA 415:18-o, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w,  
24 RSA 415:18-z, ***RSA 415:18-aa***, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable  
25 provisions of title XXXVII wherein such corporations are specifically included. Every health service  
26 corporation and its agents shall be subject to the fees prescribed for health service corporations  
27 under RSA 400-A:29, VII.

28 15 Health Maintenance Organizations; Statutory Construction. Amend RSA 420-B:20, III to  
29 read as follows:

30 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,  
31 RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-t, RSA 415:6-u, ***RSA 415:6-v***, RSA 415:18, VII-  
32 a, RSA 415:18, XVI and XVII, RSA 415:18-j, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u,  
33 RSA 415:18-v, RSA 415:18-w, RSA 415:18-y, RSA 415:18-z, ***RSA 415:18-aa***, RSA 415-A, RSA 415-F,  
34 RSA 420-G, and RSA 420-J shall apply to health maintenance organizations.

35 16 Health Maintenance Organizations; Statutory Construction; Effective January 1, 2021.  
36 Amend RSA 420-B:20, III to read as follows:

37 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,

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1 RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-u, **RSA 415:6-v**, RSA 415:18, VII-a, RSA 415:18,  
2 XVI and XVII, RSA 415:18-j, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-  
3 w, RSA 415:18-z, **RSA 415:18-aa**, RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to  
4 health maintenance organizations.

5 17 Realty Conveyances and Interests; Notification Required; Lead. Amend the section heading  
6 and paragraph I of RSA 477:4-a to read as follows:

7 477:4-a Notification Required; Radon, Arsenic, and Lead [~~Paint~~].

8 I. Prior to the execution of any contract for the purchase and sale of any interest in real  
9 property which includes a building, the seller, or seller's agent, shall provide the following  
10 notification to the buyer. The buyer shall acknowledge receipt of this notification by signing a copy  
11 of such notification:

12 "Radon: Radon, the product of decay of radioactive materials in rock, may be found in some  
13 areas of New Hampshire. Radon gas may pass into a structure through the ground or through  
14 water from a deep well. Testing of the air by a professional certified in radon testing and testing of  
15 the water by an accredited laboratory can establish radon's presence and equipment is available to  
16 remove it from the air or water."

17 "Arsenic: Arsenic is a common groundwater contaminant in New Hampshire that occurs at  
18 unhealthy levels in well water in many areas of the state. Tests are available to determine whether  
19 arsenic is present at unsafe levels, and equipment is available to remove it from water. The buyer  
20 is encouraged to consult the New Hampshire department of environmental services private well  
21 testing recommendations ([www.des.nh.gov](http://www.des.nh.gov)) to ensure a safe water supply if the subject property is  
22 served by a private well."

23 "Lead [~~Paint~~]: Before [~~1977~~] **1978**, paint containing lead may have been used in structures.  
24 ***Exposure to lead from the presence of flaking, chalking, chipping lead paint or lead paint***  
25 ***dust from friction surfaces, or from the disturbance of intact surfaces containing lead***  
26 ***paint through unsafe renovation, repair or painting practices, or from soils in close***  
27 ***proximity to the building***, can present a serious health hazard, especially to young children and  
28 pregnant women. ***Lead may also be present in drinking water as a result of lead in service***  
29 ***lines, plumbing and fixtures***. Tests are available to determine whether lead is present ***in paint***  
30 ***or drinking water***."

31 18 New Section; Lead in Drinking Water in School and Licensed Child Care Facilities. Amend  
32 RSA 485 by inserting after section 17 the following new section:

33 485:17-a Lead in Drinking Water in Schools and Licensed Child Care Facilities.

34 I. No later than 180 days after the effective date of this section, and within every 5-year  
35 period thereafter, public and private schools and licensed and license-exempt child care that have  
36 not sampled in the prior 2 years shall test for the presence of lead in drinking water at all locations  
37 at the facility that is available for consumption by children. Such testing shall be in accordance

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1 with guidance from the department of environmental services. If test results demonstrate the  
2 presence of lead in a concentration that exceeds the applicable standard established by the  
3 Environmental Protection Agency, the school or licensed child care facility shall, within 5 business  
4 days, notify parents and guardians and shall, as an interim measure, ensure that the children are  
5 provided only drinking water that meets the standard. The school or licensed child care facility  
6 shall also implement a remediation plan, as approved by the department within 30 days of  
7 notification of parents or, in consultation with the department, as soon as practicable. The  
8 department shall review the plan and any associated submittals within 30 days of receiving them.  
9 If 3 consecutive rounds of sampling performed every 5 years are below the standard, further testing  
10 shall not be required.

11 II. Any time the applicable federal standard for lead in drinking water is changed, public  
12 and private schools and licensed child care facilities shall within 30 days compare the results of  
13 their most recent testing with such new standard and, in the event any such results exceed the new  
14 standard, proceed with the requirements of paragraph I relative to notice, remediation, and interim  
15 measures.

16 19 New Section; Safe Drinking Water Act; Identification and Disclosure of Lead in Public  
17 Water Systems. Amend RSA 485 by inserting after section 23-a the following new section:

18 485:23-b Identification and Disclosure of Lead in Public Water Systems. By January 1, 2019,  
19 all public water systems and privately owned redistribution systems shall make reasonable efforts  
20 to identify and publicly disclose all lead components that are in contact with drinking water  
21 supplied to customers from their systems and shall make reasonable efforts to prevent elevated lead  
22 levels in their systems. These efforts shall include, at a minimum: reviewing applicable system and  
23 public records; consulting with system staff; requesting information from customers whose drinking  
24 water may be affected; and documenting any new information about lead in their systems. This  
25 section shall not require any system to perform excavation or conduct inspections on all customer  
26 premises to identify lead components. Subject to the availability of funds, portions of the costs of  
27 eliminating lead pipes may be eligible for funding from the drinking water and groundwater trust  
28 fund established in RSA 6-D:1.

29 20 New Section; Testing for Presence of Lead Prior to Leasing Unit Required. Amend RSA 540-  
30 A by inserting after section 3 the following new section:

31 540-A:3-a Testing for Presence of Lead in Drinking Water. Any time a child tests positive for  
32 lead the department of health and human services shall test the water in the unit for lead. If the  
33 presence of lead in the drinking water exceeds the action level established by the Environmental  
34 Protection Agency, the landlord shall notify the tenant or prospective tenant and, shall install on  
35 the kitchen faucet a filtering device certified to reduce lead by NSF International/American  
36 National Standards Institute and follow all standards for the replacement of the filtering device and  
37 cartridges. The landlord shall not be required to maintain or install water filters where the source

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1 of the lead has been removed and the water tests below the action level established by the  
2 Environmental Protection Agency, as verified by the department of health and human services.

3 21 Effective Date.

4 I. Section 5 of this act shall take effect July 1, 2019.

5 II. Section 6 of this act shall take effect July 1, 2021.

6 III. Sections 11, 12, 13, and 15 of this act shall take effect upon its passage.

7 IV. Sections 14 and 16 of this act shall take effect January 1, 2021 at 12:02 a.m.

8 V. The remainder of this act shall take effect 60 days after its passage.

2017-2500h

**AMENDED ANALYSIS**

This bill makes various changes in the laws regarding lead. Some of the changes are as follows:

- I. Changes the blood levels for parental notifications and property owners relative to blood lead levels in children.
- II. Requires testing for blood lead levels in children at the age of one and 2.
- III. Establishes a program for loans for lead hazard remediation projects.
- IV. Requires insurance coverage for blood lead level testing.
- V. Requires certain notification regarding lead for the purchase and sale of certain real estate.
- VI. Requires testing for lead in drinking water in child care facilities and schools.