

## Response to Committee Questions on H.736

1. *How are pre-1978 homeowners subject to the regulations?*

A homeowner performing work on their private home would not be subject to the training, certification, and licensing requirements, pursuant to Section 1759 of H.736. The homeowner is prohibited from using unsafe work practices, pursuant to Section 1760. This existing provision is intended to protect children from toxic exposure to lead wherever they may be.

Section 1760 would only be enforced based on a complaint or incidence of poisoning. One reason the Health Department is seeking the changes outlined in H.736 is to gain the resources and ability to conduct additional outreach and education for homeowners.

2. *In Section 1764, “The Commissioner ~~may~~ shall require that a licensee or an applicant for a license under subsection 1752(d) of this title provide evidence of ability to properly indemnify properly a person who suffers damage from lead-based paint activities...” Why the change from “may” to “shall”?*

The Health Department requested the advice of the Risk Manager for the State of Vermont. Based upon his recommendation along with the Department’s concerns the word was changed from may to shall. The intent is to ensure that licensees have insurance coverage to protect against any lead hazards that are created through their work and as a result may cause harm to the occupants of the property.

3. *In Section 1762(b), “A person who holds legal title to rental target housing or a child care facility demonstrates that in that fiduciary capacity the person does not have either the legal authority or the financial resources to fund capital or major property rehabilitation necessary to conduct ~~essential maintenance practices~~ RRPM activities shall not be personally liable as an owner for injury or loss...” How does this section work? Who determines if financial resources are or aren’t sufficient?*

This section does not require that the Commissioner make determination concerning financial resources, rather it provides the an affirmative defense if they are personally named in a lawsuit. A court would determine if the claim of no financial resources was accurate.

4. *Regarding disclosure at transfer of ownership (Section 1767), does it require an inspection? What forms are used?*

The legislation does not require a lead-based paint inspection, but rather a disclosure of the results of any inspections that have taken place previously.

- For pre-1978 housing, HUD requires disclosure (see 24 CFR Part 35) via the HUD Lead Disclosure Form: [https://www.hud.gov/sites/documents/DOC\\_12345.PDF](https://www.hud.gov/sites/documents/DOC_12345.PDF).
- For pre-1978 rental housing, the Vermont Department of Health provides the following form for when an owner has been out of compliance with the lead law in the past. Otherwise the owner only need to provide assurance that they have filed compliance statements and been in compliance with the law.  
[http://www.healthvermont.gov/sites/default/files/documents/2016/11/ENV\\_AL\\_Rental\\_Disclosure\\_Form.pdf](http://www.healthvermont.gov/sites/default/files/documents/2016/11/ENV_AL_Rental_Disclosure_Form.pdf)

The Health Department website has clear sets of information and forms for rental property owners that can be found here: <http://www.healthvermont.gov/health-environment/asbestos-lead-buildings/lead-property-owners>

5. *How much money from fees will be brought to the state when EPA's authority is transferred to VT?*
- Lead-Safe RRPM Training Course Accreditation – approximately \$6,720.00 per 4-year renewal cycle
  - Lead-safe RRPM Firm Licenses – approximately \$180,000 per 5-year renewal cycle
  - Lead Safe RRPM Supervisor Licenses – approximately \$150,000 per year
  - Lead Lead-safe Renovation Project Permit Fees – approximately \$5,000 per year

6. *Are there more lead poisoning cases in rural or metro settings?*

Approximately 70% of homes in Vermont were built before 1978, the year lead in house paint was banned, which makes lead poisoning a statewide problem.

The attached map titled Lead Risk Housing Stock Age displays the percent of housing stock by town. The top bar graph in the attached map titled Elevated Lead By Community Type, shows there are approximately the same number of lead poisoned children in urban areas as compared to rural areas. The bottom bar graph in the same document shows the total number of residential units is much less in urban areas as compared to rural areas.

7. *Can a family opt not to have their child's blood tested? Does the pediatrician just have to offer the test, or is it required that the pediatrician administer the test?*

Yes, a family can refuse to have their child's blood tested for lead. This is a general principal of medical care. The general concept of a right to refuse treatment, is memorialized in 18 VSA Sec. 1852(5), which provides that hospitalized patients have the right to refuse treatment. The physician fulfills the obligation imposed by the "shall" by asking the parent for permission to perform the test.

8. *In Section 1757, if a child <6 has confirmed BBL >10, if resources permit, the Commissioner provides an inspection of the dwelling, and other associated activities. Do resources at Dept. of Health typically permit?*

Yes, the resources historically have always permitted. The Health Department offers a cost-free, voluntary house inspection for every child < 6 years old with a confirmed blood lead level greater than or equal to 10 ug/dL.

9. *Does the new legislation apply to barns? Commercial barns?*

The existing state law regarding unsafe work practices (Section 1760) applies to barns. The EPA rules around lead-safe work practices being adopted (RRPM Section 19759) does not apply to barns unless the barn is being used as a residential building (people are living in it).

10. What is the average blood lead level for all kids tested?

The Health Department does not calculate average levels because the majority of children tested have either less than 5 ug/dL or less than the detection limit so the average would be misleading. The table below, taken from the 2016 legislative report, breaks out the numbers from 2016. There were more than 600 kids poisoned by lead in Vermont in 2016 and almost 100 of them had levels greater than or equal to 10 ug/dL. More than 6% of kids tested for lead are poisoned.

*Vermont Department of Health*

**Appendix A: Blood Lead Tests and Results for Vermont Children ages 0-<6 years, 2016\***

Age	Population	# of Tests	% Tested	# <5 µg/dL	% < 5 µg/dL	# 5-9 µg/dL	% 5-9 µg/dL	# ≥10 µg/dL	% ≥10 µg/dL
Under 1	6011	205	3.4%	190	92.7%	10	4.9%	*	*
1	6076	4763	78.4%	4443	93.3%	269	5.6%	51	1.1%
2	6123	4169	68.1%	3944	94.6%	196	4.7%	29	0.7%
3	6117	353	5.8%	315	89.2%	32	9.1%	6	1.7%
4	6107	195	3.2%	170	87.2%	19	9.7%	6	3.1%
5	6299	99	1.6%	89	89.9%	9	9.1%	*	*

Notes:

\* Indicates fewer than 6 cases in a category that year; when counts and percentages are based on only a few cases, it is impossible to distinguish random fluctuation from true changes in data. Small numbers are also suppressed to prevent identification of individuals.

Ages: < 1 year: <11 months, 1 year: 11-22.99 months, 2 years: 23-34.99 months, 3 years: 35-46.99 months, 4 years: 47-58.99 months, 5 years: 59-70.99 months.

Population is the average of census estimates or counts from the 3 previous years (2014, 2015, 2016).

Data include one blood lead test per child by age; the highest venous test result or if there is no venous test, then the capillary test result. This may result in a child having two tests per calendar year. For example, a child may be born in December 2015, have their one-year old test in January 2016, and then have their two-year old test in December 2016.