Legislation Details (With Text)

File #:	Int 0864-2018 **Version:** A	**Name:**	Lead Package - Investigations by the department of health and mental hygiene in connection with lead poisoning incidents.
Type:	Introduction	**Status:**	Enacted
		In control:	Committee on Health
On agenda:	5/9/2018		
Enactment date:	4/18/2021	**Enactment #:**	2021/039

Title: A Local Law to amend the administrative code of the city of New York, in relation to investigations by the department of health and mental hygiene in connection with lead poisoning incidents

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Indexes:

Attachments: 1. Summary of Int. No. 864-A, 2. Summary of Int. No. 864, 3. Int. No. 864, 4. May 9, 2018 - Stated Meeting Agenda with Links to Files, 5. Hearing Transcript - Stated Meeting 05-09-18, 6. Minutes of the Stated Meeting - May 9, 2018, 7. Committee Report 9/27/18, 8. Hearing Testimony 9/27/18, 9. Hearing Testimony 9/27/18 (Con't), 10. Hearing Transcript 9/27/18, 11. Proposed Int. No. 864-A - 3/11/21, 12. Committee Report 3/18/21, 13. Hearing Transcript 3/18/21, 14. March 18, 2021 - Stated Meeting Agenda with Links to Files, 15. Hearing Transcript - Stated Meeting 3-18-21, 16. Minutes of the Stated Meeting - March 18, 2021, 17. Int. No. 864-A (FINAL), 18. Fiscal Impact Statement, 19. Legislative Documents - Letter to the Mayor, 20. Local Law 39

Date	Ver.	Action By	Action	Result
5/9/2018	*	City Council	Introduced by Council	
5/9/2018	*	City Council	Referred to Comm by Council	Pass
9/27/2018	*	Committee on Health	Hearing Held by Committee	
9/27/2018	*	Committee on Health	Laid Over by Committee	
9/27/2018	*	Committee on Housing and Buildings	Hearing Held by Committee	
9/27/2018	*	Committee on Housing and Buildings	Laid Over by Committee	
9/27/2018	*	Committee on Environmental Protection	Hearing Held by Committee	
9/27/2018	*	Committee on Environmental Protection	Laid Over by Committee	
3/18/2021	*	Committee on Health	Hearing Held by Committee	
3/18/2021	*	Committee on Health	Amendment Proposed by Comm	
3/18/2021	*	Committee on Health	Amended by Committee	
3/18/2021	A	Committee on Health	Approved by Committee	Pass

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3/18/2021	A	City Council	Approved by Council	Pass
3/18/2021	A	City Council	Sent to Mayor by Council	
4/18/2021	A	Administration	City Charter Rule Adopted	
4/19/2021	A	City Council	Returned Unsigned by Mayor	

Int. No. 864-A

By The Speaker (Council Member Johnson) and Council Members Holden, Cumbo, Kallos, Powers, Rose, Brannan, Levine, Rivera, Constantinides, Miller, Ayala, Koo, the Public Advocate (Mr. Williams), Rodriguez, Dromm, Cabrera, Salamanca, Grodenchik, Yeger, Van Bramer, Gibson, Reynoso, Vallone, Rosenthal, Moya, Koslowitz, Deutsch, Treyger, Lander, Ampry-Samuel, Eugene, Adams, Levin, Chin, Menchaca, Maisel, Barron, Cornegy, Louis, Perkins and Ulrich

A Local Law to amend the administrative code of the city of New York, in relation to investigations by the department of health and mental hygiene in connection with lead poisoning incidents

Be it enacted by the Council as follows:

Section 1. Section 17-911 of the administrative code of the city of New York, as amended by local law number 30 for the year 2020, is amended to read as follows:

§ 17-911 Required investigation. a. In addition to or as part of any investigation required pursuant to section 27-2056.14, whenever a report has been made to the department of a person under 18 years of age with an elevated blood lead level that is at or above the blood lead reference level established pursuant to this subchapter, the department shall conduct such investigation as may be necessary to identify potential sources of such elevated blood lead level, including, but not limited to, [an inspection of any] inspecting the following areas:

1. Any dwelling unit in which the department determines such person is routinely present for 10 or more hours per week; and

2. Where a lead-based paint hazard is found in such a dwelling unit, any other dwelling unit in the same building in which a child under the age of one year resides, except that the department shall not be required to inspect any such dwelling unit that is required to be inspected by another agency or governmental entity; and

3. Any covered facility, as such term is defined in section 17-920, where the department determines the person with such elevated blood lead level is routinely present for 10 or more hours per week; and

4. Any park, playground or other area that is covered in bare soil where a risk assessment conducted by the department indicates that such bare soil presents a potential source of lead exposure contributing to such person's elevated blood lead level, except that the department of parks and recreation shall inspect any such park, playground or other area under its jurisdiction.

b. Whenever a report has been made to the department of a pregnant person with an elevated blood lead level, the department shall (i) conduct such investigation as may be necessary to identify potential sources of such elevated blood lead level, and (ii) after the birth of a child by such pregnant person, screen such child for elevated blood lead levels and assess whether the dwelling unit where such child resides contains a lead-based paint hazard or unsafe lead paint.

c. The department shall conduct outreach to any new parent or person imminently expecting to become a parent regarding the availability of inspections conducted pursuant to section 27-2056.9. Such outreach shall include information about blood lead testing for children, unsafe construction or renovation work practices and the availability of inspections for such practices.

d. Wherever the department is required to conduct an inspection pursuant to subdivision a of this section, such inspection shall include:

1. An inspection of the dwelling unit for lead-based paint hazards or unsafe lead paint, as applicable, including analysis by an x-ray fluorescence analyzer, in accordance with subdivision (7) of section 27-2056.2, of all friction surfaces, chewable surfaces, peeling paint, deteriorated subsurfaces and impact surfaces as such terms are defined in section 27-2056.2;

2. For a dwelling unit described in paragraph 1 of subdivision a of this section, assisting with the ordering of a free test kit supplied by the department of environmental protection to enable testing of drinking or cooking water for lead and conducting outreach, as needed, to promote the return of such test kit for testing; and

3. Lead testing of soil from any area on the property that (i) is covered in bare soil and (ii) presents a

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potential source of lead exposure contributing to the person's elevated blood lead level, as determined by the department's investigation.

e. In the event an inspection by the department pursuant to paragraph 1 of subdivision d of this section finds any lead-based paint hazards or unsafe lead paint on any surfaces, it shall order the correction of such conditions pursuant to the requirements of the New York city health code.

f. Nothing in this section shall require the department to analyze any area with an x-ray fluorescence analyzer more than once in any three-month period where no visual evidence of peeling paint or any deteriorated subsurface is observed.

§ 2. Section 17-179 of the administrative code of the city of New York is amended by adding new subdivisions c, d and e to read as follows:

c. As part of the investigation required by section 17-911, the department shall provide to the parent or guardian of any child under the age of 18 determined to have an elevated blood lead level information regarding special education services available from the department of education.

d. Whenever a lead-based paint hazard or unsafe lead paint is identified in a dwelling unit pursuant to an investigation required by section 17-911, the department shall post in a common area accessible to all occupants of the dwelling in which the dwelling unit is located a notice regarding lead-based paint hazards, the availability of inspections pursuant to subdivision a of section 27-2056.9 and a copy of the pamphlet described in subdivision b of this section.

e. Whenever a lead-based paint hazard or unsafe lead paint is identified in a covered facility, such covered facility shall provide notice to the parent or guardian of every child attending the covered facility that a lead-based paint hazard has been identified in the covered facility. Such notice shall be provided in the same form that the results of the annual survey of lead-based paint hazards are reported to such parent or guardian, as described in section 17-924.

§ 3. Paragraph (c) of subdivision (7) of section 27-2056.2 of the administrative code of the city of New

York, as added by local law number 66 for the year 2019, is amended to read as follows:

(c) Before and until the effective date of the rule described in paragraph (b) of this subdivision, for the purposes of the department of health and mental hygiene finding unsafe lead paint in a dwelling unit or a covered facility, as defined in section 17-920, and issuing an order to abate a condition in a dwelling unit where a child of applicable age with an elevated blood lead level resides or to abate or remediate a condition in a covered facility where a child of applicable age with an elevated blood lead level is routinely present for 10 or more hours per week, pursuant to section 173.13 <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCrules/0-0-0-48195> of the health code, nothing in this article shall prevent the board of health from determining that unsafe lead paint may include paint with a concentration of lead content that is less than the concentration of lead content in paint set forth in paragraph (a) of this subdivision. Such a determination of unsafe lead paint may include paint with a concentration of lead content no less than 0.5 milligrams of lead per square centimeter, as determined by laboratory analysis, or by an x-ray fluorescence analyzer. X-ray fluorescence readings shall be classified as positive or negative in accordance with the manufacturer's instructions. If laboratory analysis is used to determine lead content, results shall be reported in milligrams of lead per square centimeter. Where the surface area of a paint chip sample cannot be accurately measured or if an accurately measured paint chip sample cannot be removed, a laboratory analysis may be reported in percent by weight. For such purposes, such concentration determined by the board of health pursuant to this paragraph shall be no less than 0.25 percent of metallic lead, based on the non-volatile content of the paint or other similar surface-coating material.

§ 4. Subdivision a-1 of section 27-2056.4 of the administrative code of the city of New York, as added by local law number 31 for the year 2020, is amended to read as follows:

a-1. Within the earliest of five years of the effective date of this subdivision, [or within] one year after a child of applicable age comes to reside in a dwelling unit subject to the requirements of subdivision a of this section, [whichever is sooner,] or the issuance of an order by the department of health and mental hygiene as required by such order, one investigation for the presence of lead-based paint undertaken pursuant to subdivision a of this section shall be performed by a person who (i) is not the owner or the agent of the owner or any contractor hired to perform work related to the remediation of lead-based paint hazards, and (ii) is certified as an inspector or risk assessor pursuant to section 745.226 of title 40 of the code of federal regulations. Such inspection shall consist of the use of an x-ray fluorescence analyzer on all types of surfaces in accordance with the procedures described in chapter 7 of the United States department of housing and urban development guidelines for the evaluation and control of lead-based paint hazards in housing, including on chewable surfaces, friction surfaces, and impact surfaces, to determine whether lead-based paint is present, and where such paint is located, in such dwelling unit. Provided, however, that the investigation specified by this

subdivision shall not be required if an investigation that complies with the requirements of this subdivision was previously completed and the owner retains records of such investigation, or if the dwelling unit has an exemption from the presumption of lead paint, as provided in subdivision b of section 27-2056.5 of this article.

§ 5. Subdivision a of section 27-2056.7 of the administrative code of the city of New York, as amended by local law number 28 for the year 2020, is amended to read as follows:

a. When the department of health and mental hygiene issues a commissioner's order to abate pursuant to section 173.13 of the New York city health code or a successor rule that addresses lead-based paint hazards or unsafe lead paint in a specific dwelling unit in a multiple dwelling, the department, within 15 days of the receipt of such order, shall notify the owner of the multiple dwelling where the dwelling unit is located that the owner shall, within 45 days of the department's notice, provide to the department all records required to be maintained under this article. Upon the department's receipt of those records and a determination that there may exist uncorrected lead-based paint hazards in dwelling units where a child of applicable age resides, the department within 10 days of the end of the record order production period, shall attempt to inspect units where a child of applicable age resides to determine whether there are any violations of sections 27-2056.6 or 27-2056.8. <u>At the first such attempt, the department shall post a notice in a conspicuous manner in the building lobby of the multiple dwelling, advising occupants of the date the department will return to attempt to inspect dwelling units the department was unable to inspect during the first attempt, and the building owner shall post such notice on each floor within 10 feet of the elevator, or, in a building where there is no elevator, within 10 feet of or in the main stairwell on such floor. When the department is unable to inspect a dwelling unit pursuant to this section, the department shall leave at such unit the pamphlet described in subdivision b of section 17-179 and a notice that provides a contact number for occupants to call to reschedule the inspection. Any notice required by this subdivision shall be available in any designated citywide language as defined in section 23-1101.</u>

§ 6. Section 27-2056.7 of the administrative code of the city of New York is amended by adding a new

subdivision e to read as follows:

e. When the department of health and mental hygiene issues a commissioner's order to abate pursuant to section 173.13 of the New York city health code or a successor rule that addresses lead-based paint hazards or unsafe lead paint in a specific dwelling unit in a multiple dwelling, such order shall require the owner of the multiple dwelling to, within 60 days, cause an investigation of such unit to be conducted pursuant to subdivision a-1 of section 27-2056.4, unless such an investigation has previously been conducted, and to provide a copy of any report received or generated by such investigation regardless of when such investigation occurred. The owner shall also provide a copy of such report to the current occupant of the dwelling unit subject to such commissioner's order, even if the results of such investigation have previously been provided to such occupant.

§ 7. This local law takes effect 18 months after it becomes law.

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