



Legislation Text

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Int. No. 559

By Council Members Moskowitz, Addabbo, Fidler, Foster, Gennaro, Gerson, Jackson, Liu, Recchia, Seabrook, Sears, Stewart, Vann, Yassky and Reyna

A Local Law to amend the administrative code of the city of New York, in relation to requiring the Department of Education to test children in kindergarten and pre-kindergarten who are at high risk for lead poisoning.

Be it enacted by the Council as follows:

Section 1. Legislative findings. The Council finds that lead poisoning in children under the age of 6 years is a serious but preventable health problem affecting thousands of children in New York City. Children with blood lead levels of twenty micrograms per deciliter or more (or between fifteen to twenty micrograms per deciliter for a period of three months or more) are considered to have lead poisoning. Fortunately, advances in preventing and treating lead poisoning have significantly reduced the number of children with elevated lead poisoning in the City. Thus, according to Dr. Thomas Frieden, Commissioner of the New York City Department of Health and Mental Hygiene, the number of children with lead poisoning has dropped from 21,575 in 1995 to just 4,576 in 2002. The majority of these children live in West Queens, Jamaica, Washington Heights/Inwood, East New York, Bedford-Stuyvesant/Crown Heights, East Flatbush and Williamsburg/Bushwick.

§ 2. Chapter one of title 17 of the administrative code of the city of New York is hereby amended by adding thereto a new section 17-185 to read as follows:

§17-185 Lead poisoning testing for high risk children. a. For purposes of this section, the term “high lead risk neighborhood” shall mean the neighborhoods of West Queens, Jamaica, Washington Heights/Inwood, East New York, Bedford-Stuyvesant/Crown Heights, East Flatbush and Williamsburg/Bushwick.

b. Every student who lives in a high lead risk neighborhood and who is entering or enrolling in (a) kindergarten or pre-kindergarten classes in any public school located within the city of New York or (b) any publicly-funded educational program at the kindergarten or pre-kindergarten level located within the city of New York, shall be tested for lead poisoning pursuant to this section. Such testing shall consist of any generally and medically accepted test that is capable of determining with precision whether the subject’s blood lead level equals or exceeds 20 micrograms per deciliter.

c. The test required by subdivision b of this section shall be performed by a competent medical professional including a private physician, a person employed by a government agency, or a person employed by the department of education, and the test results shall contain sufficient information to enable the department of education to verify such results with the person who performed the test. If testing is performed by the department of education, the department of education shall provide the results of the test in writing to the student's parents or legal guardians.

d. The test required by subdivision b of this section shall be performed no later ninety days from the enactment of this local law or thirty days from the student's first day each school year attending a kindergarten or pre-kindergarten program or a publicly-funded kindergarten or pre-kindergarten educational program, whichever is later, provided that the results of any blood lead test performed during the one hundred eighty days preceding the student's first day attending such programs shall be accepted as proof of testing for the remainder of the current school year, and provided further that such test results appear regular on their face and contain sufficient information to enable the department of education to verify the test results with the person who performed the test.

e. If a student fails to obtain the test required by this section, the department of education shall notify in writing the student's parents or legal guardians, explaining such testing requirement and identifying any facilities, including department of education facilities, that can provide appropriate testing. The department of education shall resend such notice every thirty days thereafter until it receives a test result for such student.

f. If the results of a student's blood lead test indicate that a student's blood lead level equals or exceeds twenty micrograms per deciliter, the department of education shall within two business days (i) notify in writing the parents or legal guardians of such student, using documentation prepared by the department that sets forth available treatment options and the parents or legal guardians' right to have their dwelling place tested for lead paint and, if lead paint is found, abated, (ii) contact the parents or legal guardians of the student within ten business days of sending written notification to ascertain whether such notice was received and, if not received, resend such notice, and (iii) immediately notify the department in writing of the name, address, telephone number and age of such student and his or her parents or guardians, and the results of the test.

g. The department shall develop documentation for the department of education to use to notify parents and legal guardians pursuant to subparagraph (i) of subdivision f of this section. Such documentation shall include, but not be limited to, the information contained in subparagraph (i) of subdivision f of this section and shall conform generally to the requirements of any generally applicable lead paint or lead poisoning abatement laws in effect within the city of New York.

§ 3. If any subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such

unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this section, which remaining portions shall remain in full force and effect.

§ 4. This local law shall take effect immediately, except that the department of education and department of health and mental hygiene shall take steps to prepare for implementation of this local law prior to its effective date.

MHG
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