

112TH CONGRESS
2D SESSION

H. R. 5911

To amend the Toxic Substances Control Act relating to lead-based paint renovation and remodeling activities.

IN THE HOUSE OF REPRESENTATIVES

JUNE 7, 2012

Mr. SULLIVAN (for himself, Mr. MURPHY of Pennsylvania, Mr. LONG, Mrs. NOEM, Mr. SCHOCK, Mr. BOREN, Mr. LUCAS, Mr. COLE, Mr. LANKFORD, and Mr. BOSWELL) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Toxic Substances Control Act relating to lead-based paint renovation and remodeling activities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Lead Exposure Reduc-
5 tion Amendments Act of 2012”.

6 **SEC. 2. DEFINITIONS.**

7 Section 401 of the Toxic Substances Control Act (15
8 U.S.C. 2681) is amended—

9 (1) in paragraph (1)—

1 (A) by redesignating subparagraphs (A)
2 and (B) as clauses (i) and (ii), respectively, and
3 indenting the clauses appropriately;

4 (B) in the first sentence, by striking “The
5 term” and inserting the following:

6 “(A) IN GENERAL.—The term”;

7 (C) by striking “Such term includes—”
8 and inserting the following:

9 “(B) INCLUSIONS.—The term ‘abatement’
10 includes—”; and

11 (D) by adding at the end the following:

12 “(C) EXCLUSIONS.—The term ‘abatement’
13 does not include any renovation, remodeling, or
14 other activity—

15 “(i) the primary purpose of which is
16 to repair, restore, or remodel target hous-
17 ing, public buildings constructed before
18 1978, or commercial buildings; and

19 “(ii) that incidentally results in a re-
20 duction or elimination of lead-based paint
21 hazards.”;

22 (2) by redesignating—

23 (A) paragraphs (4) through (12) as para-
24 graphs (5) through (13);

1 (B) paragraph (13) as paragraph (15);

2 and

3 (C) paragraphs (14) through (17) and

4 paragraphs (18) through (21), respectively;

5 (3) by inserting after paragraph (3) the fol-

6 lowing:

7 “(4) EMERGENCY RENOVATION.—The term
8 ‘emergency renovation’ means a renovation or re-
9 modeling activity that is carried out in response to
10 an event—

11 “(A) that is an act of God, as that term
12 is defined in section 101(1) of the Comprehen-
13 sive Environmental Response, Compensation,
14 and Liability Act of 1980; or

15 “(B) that if not attended to as soon as is
16 practicable—

17 “(i) presents a risk to the public
18 health or safety; or

19 “(ii) threatens to cause significant
20 damage to equipment or property.”;

21 (4) by striking paragraph (10) (as redesignated
22 by paragraph (2)) and inserting the following:

23 “(10) LEAD-BASED PAINT.—

1 “(A) IN GENERAL.—The term ‘lead-based
2 paint’ means paint or other surface coatings
3 that contain lead in excess of—

4 “(i) 1.0 milligrams per centimeter
5 squared; or

6 “(ii) 0.5 percent by weight.

7 “(B) TARGET HOUSING.—With respect to
8 paint or other surface coatings on target hous-
9 ing, the term ‘lead-based paint’ means paint or
10 other surface coatings that contain lead in ex-
11 cess of the lower of—

12 “(i) the level described in subpara-
13 graph (A); or

14 “(ii) a level established by the Sec-
15 retary of Housing and Urban Development
16 under section 302(c) of the Lead-Based
17 Paint Poisoning Prevention Act.”;

18 (5) by inserting after paragraph (13) (as redes-
19 igned by paragraph (2)) the following:

20 “(14) POSTABATEMENT CLEARANCE TEST-
21 ING.—The term ‘postabatement clearance testing’
22 means testing that—

23 “(A) is carried out upon the completion of
24 any lead-based paint activity to ensure that—

25 “(i) the reduction is complete; and

1 “(ii) no lead-based paint hazards re-
2 main in the area in which the lead-based
3 paint activity occurs; and

4 “(B) includes a visual assessment and the
5 collection and analysis of environmental sam-
6 ples from an area in which lead-based paint ac-
7 tivities occur.”; and

8 (6) by inserting after paragraph (15) (as redes-
9 ignated by paragraph (2)) the following:

10 “(16) RENOVATION.—The term ‘renovation’
11 has the meaning given such term in section 745.83
12 of title 40, Code of Federal Regulations, as in effect
13 on the date of enactment of this paragraph.

14 “(17) RENOVATION AND REMODELING REGULA-
15 TION.—The term ‘renovation and remodeling regula-
16 tion’ means a regulation promulgated under section
17 402(a) and revised pursuant to section 402(c)(3)(A),
18 as such regulation is applied to renovation or remod-
19 eling activities in target housing, public buildings
20 constructed before 1978, and commercial build-
21 ings.”.

22 **SEC. 3. LEAD-BASED PAINT ACTIVITIES TRAINING AND**
23 **CERTIFICATION.**

24 Section 402(c) of the Toxic Substances Control Act
25 (15 U.S.C. 2682(c)) is amended—

1 (1) by striking paragraph (2) and inserting the
2 following:

3 “(2) STUDY OF CERTIFICATION.—

4 “(A) IN GENERAL.—Not later than 1 year
5 prior to proposing any renovation and remodel-
6 eling regulation after the date of enactment of
7 the Lead Exposure Reduction Amendments Act
8 of 2012, the Administrator shall conduct, sub-
9 mit to the Congress, and make available for
10 public comment (after peer review) the results
11 of, a study of the extent to which persons en-
12 gaged in various types of renovation and remodel-
13 eling activities in target housing, public build-
14 ings constructed before 1978, or commercial
15 buildings—

16 “(i) are exposed to lead in the conduct
17 of such activities; and

18 “(ii) disturb lead and create a lead-
19 based paint hazard on a regular or occa-
20 sional basis in the conduct of such activi-
21 ties.

22 “(B) SCOPE AND COVERAGE.—Each study
23 conducted under subparagraph (A) shall con-
24 sider the risks described in clauses (i) and (ii)
25 of such subparagraph with respect to each sepa-

1 rate building type described in such subpara-
2 graph, as the regulation to be proposed would
3 apply to each such building type.”;

4 (2) in paragraph (3)—

5 (A) in the first sentence by striking “With-
6 in 4 years” and inserting the following:

7 “(A) IN GENERAL.—Not later than 4
8 years”; and

9 (B) by adding at the end the following:

10 “(B) EXEMPTION.—An emergency renova-
11 tion shall be exempt from any renovation and
12 remodeling regulation, and a person carrying
13 out an emergency renovation shall be exempt
14 from any regulation promulgated under section
15 406(b) with respect to the emergency renova-
16 tion.

17 “(C) PROHIBITION ON POSTABATEMENT
18 CLEARANCE REQUIREMENT.—No renovation
19 and remodeling regulation may require
20 postabatement clearance testing.”; and

21 (3) by adding at the end the following:

22 “(4) TARGET HOUSING OWNERS.—

23 “(A) IN GENERAL.—Not later than 60
24 days after the date of enactment of this para-
25 graph, and subject to subparagraph (B), the

1 Administrator shall promulgate regulations to
2 permit an owner of a residential dwelling that
3 is target housing, who resides in such residen-
4 tial dwelling, to authorize a contractor to forgo
5 compliance with the requirements of a renova-
6 tion and remodeling regulation with respect to
7 such residential dwelling.

8 “(B) WRITTEN CERTIFICATION.—The reg-
9 ulations promulgated under subparagraph (A)
10 shall require that an owner of a residential
11 dwelling that is target housing, who resides in
12 such residential dwelling, may only authorize a
13 contractor to forgo compliance with the require-
14 ments of a renovation and remodeling regula-
15 tion if the owner submits to such contractor a
16 written certification stating that—

17 “(i) the renovation or remodeling
18 project is to be carried out at the residen-
19 tial dwelling in which the owner resides;

20 “(ii) no pregnant woman or child
21 under the age of 6 resides in the residen-
22 tial dwelling as of the date on which the
23 renovation or remodeling project com-
24 mences, or will reside in the residential

1 dwelling for the duration of such project;
2 and

3 “(iii) the owner acknowledges that, in
4 carrying out the project, such contractor
5 will be exempt from the requirements of a
6 renovation and remodeling regulation.

7 “(C) RESTRICTION.—A contractor may not
8 forgo compliance with the requirements of a
9 renovation and remodeling regulation pursuant
10 to a written certification submitted under sub-
11 paragraph (B) if such contractor has actual
12 knowledge of a pregnant woman or child under
13 the age of 6 residing in the residential dwelling
14 as of the date on which the renovation or re-
15 modeling commences (and for the duration of
16 such project).

17 “(D) LIMITATION OF CONTRACTOR LIABIL-
18 ITY.—The Administrator may not hold a con-
19 tractor responsible for a misrepresentation
20 made by the owner of a residential dwelling in
21 a written certification submitted under subpara-
22 graph (B), unless the contractor has actual
23 knowledge of such a misrepresentation.

24 “(5) TEST KITS.—

25 “(A) IN GENERAL.—

1 “(i) RECOGNITION.—The Adminis-
2 trator shall recognize for use under this
3 title a qualifying test kit, and publish in
4 the Federal Register notice of such rec-
5 ognition.

6 “(ii) SUSPENSION OF ENFORCEMENT
7 OF CERTAIN REGULATIONS.—If, not later
8 than 1 year after the date of enactment of
9 this paragraph, the Administrator does not
10 recognize a qualifying test kit under clause
11 (i), the Administrator—

12 “(I) shall publish in the Federal
13 Register notice of such failure to rec-
14 ognize a qualifying test kit; and

15 “(II) except as provided in clause
16 (iii), may not enforce any post-1960
17 building renovation and remodeling
18 regulation, with respect to a period
19 beginning on the date that is 1 year
20 after the date of enactment of this
21 paragraph and ending on the date
22 that is 6 months after the date on
23 which the Administrator—

1 “(aa) recognizes for use
2 under this title a qualifying test
3 kit; and

4 “(bb) publishes in the Fed-
5 eral Register notice of such rec-
6 ognition and of the date on which
7 enforcement of the post-1960
8 building renovation and remodel-
9 ing regulations will resume.

10 “(iii) APPLICABILITY OF SUSPEN-
11 SION.—The Administrator shall not sus-
12 pend enforcement of any post-1960 build-
13 ing renovation and remodeling regulation
14 for the period described in clause (ii)(II)
15 with respect to a residential dwelling in
16 which a pregnant woman or child under
17 the age of 6 resides.

18 “(B) QUALIFYING TEST KIT.—In this sub-
19 section, the term ‘qualifying test kit’ means a
20 chemical test that—

21 “(i) can determine the presence of
22 lead-based paint, as defined in section
23 401(10)(A);

24 “(ii) has a false positive response rate
25 of 10 percent or less;

1 “(iii) has a false negative response
2 rate of 5 percent or less;

3 “(iv) does not require the use of off-
4 site laboratory analysis to obtain results;

5 “(v) is inexpensively and commercially
6 available; and

7 “(vi) does not require special training
8 to use.

9 “(C) POST-1960 BUILDING RENOVATION
10 AND REMODELING REGULATION.—In this sub-
11 section, the term ‘post-1960 building renovation
12 and remodeling regulation’ means a renovation
13 and remodeling regulation, as it applies to—

14 “(i) target housing constructed after
15 January 1, 1960;

16 “(ii) public buildings constructed be-
17 tween January 1, 1960 and January 1,
18 1978; and

19 “(iii) commercial buildings con-
20 structed after January 1, 1960.

21 “(6) APPLICABILITY OF CERTAIN PENALTIES.—
22 Any renovation and remodeling regulation requiring
23 the submission of documentation to the Adminis-
24 trator shall provide—

1 “(A) an exemption from an applicable pen-
2 alty for failure to comply with such requirement
3 for a person who—

4 “(i) is submitting the required docu-
5 mentation for the first time; and

6 “(ii) submits documentation that con-
7 tains only de minimus or typographical er-
8 rors, as determined by the Administrator;
9 and

10 “(B) a process by which a person described
11 in subparagraph (A) may resubmit the required
12 documentation.

13 “(7) ACCREDITATION OF RECERTIFICATION
14 COURSES.—The hands-on training requirements re-
15 quired by subsection (a)(2)(D) shall not apply to any
16 recertification course accredited by the Environ-
17 mental Protection Agency that is otherwise required
18 to be completed under this title by a person that is
19 certified to engage in renovation and remodeling ac-
20 tivities.”.

○