

SENATE BILL No. 185

February 13, 2003, Introduced by Senator THOMAS and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding part 55A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 55A. TOXIC MOLD

Sec. 5551. This part shall be known and may be cited as the
"toxic mold protection act".

Sec. 5553. As used in this part:

(a) "Affect" means to cause a condition by the presence of
mold in the dwelling unit, building, appurtenant structure,
common wall, heating system, or ventilating and air-conditioning
system that affects the indoor air quality of a dwelling unit or
building.

(b) "Authoritative body" means a recognized national or
international entity with expertise on public health, mold

1 identification and remediation, or environmental health,
2 including, but not limited to, another state, the United States
3 environmental protection agency, the world health organization,
4 the American conference of governmental industrial hygienists,
5 the New York City department of health, the centers for disease
6 control and prevention, and the American industrial hygiene
7 association.

8 (c) "Certified industrial hygienist" means a person who has
9 met the education, experience, and examination requirements of a
10 national industrial hygiene certification organization approved
11 by the department.

12 (d) "Code enforcement officer" means a local official
13 responsible for enforcing housing and building codes and
14 maintaining public safety in buildings using an interdepartmental
15 approach at the local government level.

16 (e) "Department" means the department of community health.

17 (f) "Indoor environments" means an affected dwelling unit or
18 an affected commercial or industrial building.

19 (g) "Mold" means any form of multicellular fungi that live on
20 plant or animal matter and in indoor environments. Types of mold
21 include, but are not limited to, cladosporium, penicillium,
22 alternaria, aspergillus, fuarim, trichoderma, memnoniella, mucor,
23 and stachybotrys chartarum, often found in water-damaged building
24 materials.

25 (h) "Person" means that term as defined in section 1106, but
26 includes a governmental entity.

27 (i) "Local health officer" means that term as defined in

1 section 1105.

2 Sec. 5555. (1) Within 90 days after the effective date of
3 the amendatory act that added this part, the department shall
4 convene a task force that shall advise the department on the
5 development of standards and guidelines pursuant to sections
6 5559, 5563, 5565, 5569, and 5581. The task force shall be
7 comprised of representatives of all of the following:

- 8 (a) Local health officers.
- 9 (b) Environmental health officers.
- 10 (c) Code enforcement officers.
- 11 (d) Experts on the health effects of molds.
- 12 (e) Medical experts.
- 13 (f) Certified industrial hygienists.
- 14 (g) Mold abatement experts.
- 15 (h) Representatives of government-sponsored enterprises.
- 16 (i) Representatives from school districts or county officers
17 of education.
- 18 (j) Representatives of employees and representatives of
19 employers.
- 20 (k) Affected consumers, which include, but are not limited
21 to:
 - 22 (i) Residential, commercial, and industrial tenants.
 - 23 (ii) Homeowners.
 - 24 (iii) Environmental groups.
 - 25 (iv) Attorneys.
- 26 (l) Affected industries, which include, but are not limited
27 to:

1 (i) Residential.

2 (ii) Commercial and industrial building proprietors.

3 (iii) Managers or landlords.

4 (iv) Builders.

5 (v) Realtors.

6 (vi) Suppliers of building materials and suppliers of
7 furnishings.

8 (vii) Insurers.

9 (2) Task force members shall serve on a voluntary basis and
10 are responsible for any costs associated with their participation
11 in the task force. The department is not responsible for travel
12 costs incurred by task force members or otherwise compensating
13 task force members for costs associated with their participation
14 in the task force.

15 Sec. 5557. The department shall adopt permissible exposure
16 limits to mold in indoor environments.

17 Sec. 5559. (1) The department, in consultation with the
18 task force convened pursuant to section 5555, shall do all of the
19 following:

20 (a) Adopt permissible exposure limits to mold for indoor
21 environments that avoid adverse effects on health, and avoid any
22 significant risk to public health.

23 (b) Utilize and include the latest scientific data or
24 existing standards adopted by authoritative bodies.

25 (c) Develop permissible exposure limits that target the
26 general population.

27 (2) The department shall consider all of the following

1 criteria when it adopts permissible exposure limits for molds in
2 indoor environments:

3 (a) The adverse health effects of exposure to molds on the
4 general population, including specific effects on members of
5 subgroups that comprise a meaningful portion of the general
6 population, including, but not limited to, infants, children age
7 6 years and under, pregnant women, the elderly, asthmatics,
8 allergic individuals, immune compromised individuals, and other
9 subgroups that are identifiable as being at greater risk of
10 adverse health effects than the general population when exposed
11 to molds.

12 (b) The standards for molds, if any, adopted by authoritative
13 bodies.

14 (c) Toxicological studies and any scientific evidence as it
15 relates to mold.

16 (3) The department may develop alternative permissible
17 exposure limits applicable for facilities, which may include, but
18 are not limited to, hospitals, child care facilities, and nursing
19 homes, whose primary business is to serve members of subgroups
20 that comprise a meaningful portion of the general population and
21 are at greater risk of adverse health effects from molds than the
22 general population. These subgroups may include, but are not
23 limited to, infants, children age 6 years and under, pregnant
24 women, the elderly, asthmatics, allergic individuals, or immune
25 compromised individuals.

26 (4) The department shall report to the legislature on its
27 progress in developing permissible exposure limits for molds

1 pursuant to subsections (1) to (3) by July 1, 2004.

2 Sec. 5561. (1) The department shall, at the time it
3 commences preparation of the permissible exposure limits to mold
4 under section 5559, provide notice electronically by posting on
5 its internet website a notice that informs interested persons
6 that the department has initiated work on the permissible
7 exposure limits to mold.

8 (2) The notice required under subsection (1) shall also
9 include a brief description or a bibliography of the technical
10 documents or other information the department has identified to
11 date as relevant to the preparation of the permissible exposure
12 limits.

13 (3) The notice shall inform persons who wish to submit
14 information concerning exposure to molds of the name and address
15 of the person in the department to whom the information may be
16 sent, the date by which the information must be received in order
17 for the department to consider it in the preparation of the
18 permissible exposure limits, and that all information submitted
19 will be made available to any member of the public who makes the
20 request.

21 (4) The department may amend the permissible exposure limits
22 to molds to make the limits less stringent if the department
23 shows clear and convincing evidence that the permissible exposure
24 limits to molds should be made less stringent and the amendment
25 is made consistent with section 5559.

26 (5) The department may review and consider adopting by
27 reference any information prepared by or on behalf of the United

1 States environmental protection agency or other authoritative
2 bodies for the purpose of adopting national permissible exposure
3 limits to molds.

4 (6) At least once every 5 years, after adoption of the
5 initial permissible exposure limits to molds under this part, the
6 department shall review the adopted limits and shall, consistent
7 with the criteria set forth in section 5559(1) and (2), amend the
8 permissible exposure limits if 1 or more of the following occur:

9 (a) Changes in technology or treatment techniques that permit
10 a materially greater protection of public health.

11 (b) New scientific evidence that indicates that molds may
12 present a materially different risk to public health than was
13 previously determined.

14 Sec. 5563. (1) The department, in consultation with the
15 task force convened pursuant to section 5555, shall adopt
16 practical standards to assess the health threat posed by the
17 presence of mold, both visible and invisible or hidden, in an
18 indoor environment.

19 (2) The department shall adopt assessment standards for molds
20 that do all of the following:

21 (a) Protect the public health.

22 (b) Utilize and include the latest scientific data or
23 existing standards for the assessment of molds adopted by
24 authoritative bodies.

25 (c) Develop assessment standards that target the general
26 population.

27 (d) Ensure that air or surface testing is not required to

1 determine whether the presence of mold constitutes a health
2 threat posed by the presence of mold, both visible and invisible
3 or hidden, in an indoor environment.

4 (3) The department shall consider all of the following
5 criteria when it adopts standards for the assessment of molds in
6 indoor environments:

7 (a) The adverse health effects of exposure to molds on the
8 general population, including specific effects on members of
9 subgroups that comprise a meaningful portion of the general
10 population, including, but not limited to, infants, children age
11 6 years and under, pregnant women, the elderly, asthmatics,
12 allergic individuals, immune compromised individuals, and other
13 subgroups that are identifiable as being at greater risk of
14 adverse health effects than the general population when exposed
15 to molds.

16 (b) The standards for assessment of molds, if any, adopted by
17 authoritative bodies.

18 (c) Any toxicological studies or additional scientific
19 evidence.

20 (4) The department shall file a written report with the
21 legislature on its progress in developing the assessment
22 standards for molds under this section by July 1, 2004.

23 Sec. 5565. The department may develop alternative
24 assessment standards for molds applicable for facilities, which
25 may include, but are not limited to, hospitals, child care
26 facilities, and nursing homes, whose primary business is to serve
27 members of subgroups that comprise a meaningful portion of the

1 general population and are at greater risk of adverse health
2 effects to molds than the general population. These subgroups
3 may include, but are not limited to, infants, children age 6
4 years and under, pregnant women, the elderly, asthmatics,
5 allergic individuals, or immune compromised individuals.

6 Sec. 5567. (1) The department shall, at the time it
7 commences preparation of standards for the assessment of molds,
8 provide notice electronically by posting on the internet website
9 maintained and operated by the department a notice that informs
10 interested persons that the department has initiated work on the
11 assessment standards for molds.

12 (2) The notice required under subsection (1) shall also
13 include a brief description, or a bibliography, of the technical
14 documents or other information the department has identified to
15 date as relevant to the preparation of the assessment standards
16 for molds.

17 (3) The notice required under subsection (1) shall inform
18 persons who wish to submit information concerning the assessment
19 of molds in indoor environments of the name and address of the
20 person in the department to whom the information may be sent, the
21 date by which the information must be received in order for the
22 department to consider it in the preparation of the assessment
23 standards, and that all information submitted will be made
24 available to any member of the public who makes the request.

25 (4) The department may review, and consider adopting by
26 reference, any information prepared by or on behalf of the United
27 States environmental protection agency or other authoritative

1 bodies for the purpose of adopting national assessment standards
2 for molds.

3 (5) At least once every 5 years, after the initial adoption
4 of assessment standards for molds under this part, the department
5 shall review the adopted standards and shall, consistent with the
6 criteria set forth in section 5563(1) to (3), amend the standards
7 if 1 or more of the following occur:

8 (a) Changes in technology or treatment techniques that permit
9 a materially greater protection of public health.

10 (b) New scientific evidence that indicates that molds may
11 present a materially different risk to public health than was
12 previously determined.

13 Sec. 5569. The department, in consultation with the task
14 force convened pursuant to section 5555, shall adopt mold
15 identification guidelines for the recognition of mold, water
16 damage, or microbial volatile organic compounds in indoor
17 environments.

18 Sec. 5571. Identification guidelines described in section
19 5569 shall include scientifically valid methods to identify the
20 presence of mold including elements for collection of air,
21 surface and bulk samples, visual identification, olfactory
22 identification, laboratory analysis, measurements of amount of
23 moisture, and presence of mold and other recognized analytical
24 methods used for the identification of molds.

25 Sec. 5573. (1) The department shall assure that the
26 identification guidelines developed by the department under
27 section 5571 do all of the following:

1 (a) Avoid adverse effects on the health of the general
2 population and avoid any significant risk to public health.

3 (b) Utilize and include the latest scientific data or
4 existing standards for the assessment of molds adopted by
5 authoritative bodies.

6 (2) The department shall consider all of the following
7 criteria when it develops identification guidelines for mold:

8 (a) Permissible exposure limits to molds developed by the
9 department pursuant to section 5559(1) and (2) or what
10 constitutes a health threat posed by the presence of mold, both
11 visible and invisible or hidden, in an indoor environment,
12 according to the department's standards as developed pursuant to
13 section 5563.

14 (b) Standards for mold identification, if any, adopted by
15 authoritative bodies.

16 (c) Professional judgment and practicality.

17 (d) Toxicological reports or additional scientific evidence.

18 (3) The department shall develop a reporting form for
19 building inspection that may be used to document the presence of
20 mold.

21 (4) The department shall file a written report with the
22 legislature on its progress in developing identification
23 guidelines for mold under this section by July 1, 2004.

24 Sec. 5575. The department may review, and consider adopting
25 by reference, any information prepared by or on behalf of the
26 United States environmental protection agency or other
27 authoritative bodies for the purpose of adopting national

1 identification standards for molds.

2 Sec. 5577. (1) The department shall, at the time it
3 commences preparation of identification guidelines for mold,
4 electronically post on the internet website maintained and
5 operated by the department a notice that informs interested
6 persons that it has initiated work on the identification
7 guidelines for mold.

8 (2) The notice required under subsection (1) shall include a
9 brief description, or a bibliography, of the technical documents
10 or other information the department has identified to date as
11 relevant to the preparation of the identification guidelines for
12 mold.

13 (3) The notice required under subsection (1) shall inform
14 persons who wish to submit mold identification information of the
15 name and address of the person in the office to whom the
16 information may be sent, the date by which the information must
17 be received for the department to consider it in the preparation
18 of the identification guidelines, and that all information
19 submitted will be made available to any member of the public who
20 makes the request.

21 Sec. 5579. The department shall review all identification
22 guidelines for mold published by the department at least once
23 every 5 years. The department shall revise the identification
24 guidelines for mold, as necessary, based upon the availability of
25 new scientific data or information on effective mold
26 identification.

27 Sec. 5581. The department, in consultation with the task

1 force convened pursuant to section 5555, shall develop and
2 disseminate remediation guidelines for molds in indoor
3 environments.

4 Sec. 5583. (1) The department shall develop remediation
5 guidelines for mold that do all of the following:

6 (a) Provide practical guidance for the removal of mold and
7 abatement of the underlying cause of mold and associated water
8 intrusion and water damage in indoor environments.

9 (b) Protect the public health.

10 (c) Notwithstanding subdivision (b), balance the protection
11 of public health with technological and economic feasibility.

12 (d) Utilize and include toxicological reports, the latest
13 scientific data, or existing standards for the remediation of
14 molds adopted by authoritative bodies.

15 (e) Provide practical guidance for the removal or cleaning of
16 contaminated materials in a manner that protects the health of
17 the person performing the abatement.

18 (f) Include criteria for personal protective equipment.

19 (g) Not require a landlord, owner, seller, or transferor of
20 real estate to be specially trained or certified or utilize the
21 services of a specially qualified professional to conduct mold
22 remediation.

23 (2) The department shall consider all of the following
24 criteria when it develops remediation guidelines for mold:

25 (a) Permissible exposure limits to molds developed by the
26 department pursuant to section 5559(1) and (2), or what
27 constitutes a health threat posed by the presence of mold, both

1 visible and invisible or hidden, in an indoor environment,
2 according to the department's guidelines as developed pursuant to
3 section 5563.

4 (b) Guidelines for mold remediation, if any, adopted by
5 authoritative bodies.

6 (c) Professional judgment and practicality.

7 (3) The department shall file a written report with the
8 legislature on its progress in developing remediation standards
9 for mold by July 1, 2004.

10 Sec. 5585. (1) The department shall, at the time it
11 commences preparation of remediation guidelines for mold,
12 electronically post on the internet website maintained and
13 operated by the department a notice that informs interested
14 persons that it has initiated work on the remediation standards
15 for mold.

16 (2) The notice required under subsection (1) shall also
17 include a brief description, or a bibliography, of the technical
18 documents or other information the department has identified to
19 date in the preparation of remediation guidelines for mold.

20 (3) The notice required under subsection (1) shall inform
21 persons who wish to submit information concerning mold
22 remediation of the name and the address of the person in the
23 office to whom the information may be sent, the date by which the
24 information must be received in order for the department to
25 consider it in the preparation of remediation standards, and that
26 all information submitted will be made available to any member of
27 the public who makes the request.

1 Sec. 5587. The department may review, and consider adopting
2 by reference, any information prepared by or on behalf of the
3 United States environmental protection agency or other
4 authoritative bodies for the purpose of adopting national
5 remediation standards for molds.

6 Sec. 5589. (1) The department shall make available to the
7 public upon request, information about contracting for the
8 removal of mold in a building or surrounding environment,
9 including all of the following:

10 (a) Recommended steps to take when contracting with a company
11 to remove mold.

12 (b) Existing laws, regulations, and guidelines developed by
13 the department pertaining to permissible exposure limits to mold
14 infestation, mold identification, and mold remediation.

15 (c) Basic health information as contained in existing mold
16 publications.

17 (2) The department shall review all mold remediation
18 guidelines published by the department at least once every 5
19 years. The department shall revise the guidelines, as necessary,
20 based upon the availability of new scientific data.

21 (3) The department shall develop public education materials
22 and resources to inform the public about the health effects of
23 molds, methods to prevent, identify, and remediate mold growth,
24 resources to obtain information about molds, and contact
25 information for individuals, organizations, or government
26 entities to assist with public concerns about molds.

27 (4) The department shall make its public education materials

1 developed under subsection (3) available to public health
2 officers, environmental health officers, commercial and
3 residential landlord organizations, homeowners' organizations,
4 and tenants' organizations. The department shall also make the
5 materials readily available to the general public.

6 (5) The department shall assure that the public education
7 materials developed under subsection (3) are comprehensible by
8 the general public.

9 (6) The department shall print the public education materials
10 developed under subsection (3) in languages other than English to
11 accommodate the diverse multicultural population of this state.

12 (7) The department shall make the public education materials
13 developed under subsection (3) available on the internet website
14 maintained and operated by the department.