

ASSEMBLY, No. 3539

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED APRIL 4, 2016

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SYNOPSIS

Requires public and nonpublic schools to test for and remediate lead in drinking water, and disclose test results.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 12/20/2016)

1 AN ACT concerning lead in drinking water at public and nonpublic
2 schools and supplementing Title 18A of the New Jersey Statutes
3 and Title 58 of the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. As used in sections 1 through 4 of P.L. , c. (C.)
9 (pending before the Legislature as this bill):

10 “Commissioner” means the Commissioner of Environmental
11 Protection.

12 “Department” means the Department of Environmental
13 Protection.

14 “Drinking water outlet” means any water fountain, faucet, or tap
15 regularly used for drinking or food preparation, including ice-
16 making and hot drink machines.

17 “Elevated lead level” means a lead concentration in drinking
18 water that exceeds the standard therefor established by the United
19 States Environmental Protection Agency or the department in the
20 technical guidance.

21 “Local health agency” means the same as that term is defined in
22 section 3 of P.L.1975, c.329 (C.26:3A2-3).

23 “Public water system” means the same as that term is defined in
24 section 3 of P.L.1977, c.224 (C.58:12A-3).

25 “Technical guidance” means any technical guidance for reducing
26 lead in drinking water at schools issued by the United States
27 Environmental Protection Agency, or by the department pursuant to
28 subsection b. of section 6 of P.L. , c. (C.) (pending
29 before the Legislature as this bill).

30
31 2. a. Each school district, charter school, and nonpublic school
32 shall undertake periodic testing of each drinking water outlet in
33 each school for the presence of lead. Each test for lead shall be
34 conducted by a laboratory certified for this purpose by the
35 commissioner, in accordance with the sampling and testing methods
36 specified in the technical guidance. The initial test for lead shall be
37 conducted no later than 90 days after the effective date of P.L. ,
38 c. (C.) (pending before the Legislature as this bill), and
39 subsequent testing shall be conducted every five years thereafter,
40 unless the commissioner determines, on a case-by-case basis, that a
41 greater or lesser frequency of testing is necessary or sufficient to
42 ensure the public health.

43 b. The commissioner may, upon application by a school
44 district, charter school, or nonpublic school, as the case may be,
45 exempt a school from the requirement to conduct initial testing if
46 the school demonstrates that it has conducted testing that
47 substantially complies with the technical guidance within two years
48 prior to the effective date of P.L. , c. (C.) (pending

1 before the Legislature as this bill), and any drinking water outlet
2 that was found to have an elevated lead level has either been
3 removed from service or has been remediated.

4 c. A school district, charter school, or nonpublic school may
5 seek the assistance of a local health agency or public water system
6 to help ensure the school's compliance with the provisions of this
7 section.

8 d. Nothing in this section shall prevent a school district, charter
9 school, or nonpublic school from conducting more frequent testing
10 than required pursuant to subsection a. of this section.

11 e. A school district, charter school, or nonpublic school that is
12 a public water system and that meets the standards for lead in
13 drinking water adopted by the department shall not be required to
14 comply with the provisions of this section.

15

16 3. If testing conducted pursuant to section 2 of P.L. ,
17 c. (C.) (pending before the Legislature as this bill) reveals
18 an elevated lead level at a drinking water outlet, the school district,
19 charter school, or nonpublic school shall immediately close off
20 access to that outlet and report the test results to the department.
21 The school district, charter school, or nonpublic school, in
22 consultation with the department, shall conduct follow-up testing,
23 as provided in the technical guidance, to determine the source of the
24 lead, and take appropriate remedial measures to ensure that students
25 are not exposed to water with an elevated lead level and have access
26 to free, fresh, and clean drinking water at the school. Such remedial
27 measures may include, but need not be limited to: permanently
28 shutting or closing off access to the drinking water outlet; providing
29 an alternative source of water; manual or automatic flushing of the
30 drinking water outlet; installing and maintaining a filter at the
31 drinking water outlet; and repairing or replacing the drinking water
32 outlet, plumbing, or service line contributing to the elevated lead
33 level.

34

35 4. a. Each school district, charter school, and nonpublic school
36 shall:

37 (1) submit to the Department of Environmental Protection, the
38 Department of Education, and the Department of Health, as soon as
39 practicable, information on testing activities conducted pursuant to
40 section 2 of P.L. , c. (C.) (pending before the Legislature
41 as this bill), including, but not limited to, the date the testing was
42 completed, the location and type of each drinking water outlet
43 tested, the complete results of each test, and any measures being
44 taken pursuant to section 3 of P.L. , c. (C.) (pending
45 before the Legislature as this bill) to remediate a drinking water
46 outlet found to have an elevated lead level;

47 (2) maintain copies of the information submitted pursuant to
48 paragraph (1) of this subsection in a suitable location for inspection

1 by the public, and on the Internet website of the school district,
2 charter school, or nonpublic school;

3 (3) notify parent, teacher, and employee organizations of the
4 availability of the information submitted pursuant to paragraph (1)
5 of this subsection; and

6 (4) designate a person to serve as the contact person for
7 communications with the department and the public regarding the
8 lead testing and remediation activities.

9 b. If testing conducted pursuant to section 2 of P.L. , c. (C.)
10 (pending before the Legislature as this bill) reveals an elevated lead
11 level at a drinking water outlet, the school district, charter school,
12 or nonpublic school shall, within one business day, notify teachers,
13 other school personnel, and parents directly, through written notice,
14 electronic mail, or other means approved by the department. Such
15 notification shall include, but need not be limited to:

16 (1) a summary of the results of the testing conducted pursuant to
17 section 2 of P.L. , c. (C.) (pending before the Legislature
18 as this bill), and information on the availability of the complete test
19 results for public inspection at a suitable location and on the
20 Internet website of the school district, charter school, or nonpublic
21 school;

22 (2) a description of any remedial measures being taken pursuant
23 to section 3 of P.L. , c. (C.) (pending before the
24 Legislature as this bill);

25 (3) general information on the public health effects and risks
26 posed by lead in drinking water, and information on the availability
27 of additional resources concerning lead in drinking water, as
28 outlined in the technical guidance;

29 (4) the name and contact information of the person designated
30 pursuant to paragraph (4) of subsection a. of this section to
31 communicate with the public; and

32 (5) if determined necessary by the department, information on
33 how and where individuals may seek blood testing for lead.

34

35 5. The Department of Environmental Protection, in
36 consultation with the Department of Education, shall, within 30
37 days after the effective date of P.L. , c. (C.) (pending
38 before the Legislature as this bill), provide to each school district,
39 charter school, and nonpublic school, the technical guidance for
40 reducing lead in drinking water at schools issued by the United
41 States Environmental Protection Agency, a summary of the
42 sampling and testing methods contained in the technical guidance, a
43 list of each laboratory in the State certified to conduct lead testing,
44 and any other information deemed appropriate by the department.

45

46 6. a. Notwithstanding the provisions of the “Administrative
47 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to the
48 contrary, the Department of Environmental Protection, in

1 consultation with the Department of Education and the Department
2 of Health, may adopt, after notice, interim rules and regulations
3 necessary to implement the provisions of P.L. , c. (C.)
4 (pending before the Legislature as this bill). The rules and
5 regulations shall be effective as regulations immediately upon filing
6 with the Office of Administrative Law and shall be effective for a
7 period not to exceed 18 months, and may, thereafter, be amended,
8 adopted, or readopted by the department in accordance with the
9 provisions of the “Administrative Procedure Act.”

10 b. The department may issue its own technical guidance,
11 provided the guidance is at least as protective of the public health as
12 the technical guidance for reducing lead in drinking water at
13 schools issued by the United States Environmental Protection
14 Agency.

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16 7. This act shall take effect immediately.

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18

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STATEMENT

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21 This bill would require public and nonpublic schools to test for
22 and remediate lead in drinking water, and disclose their test results.

23 Specifically, under the bill, each school district, charter school,
24 and nonpublic school would be required to undertake periodic
25 testing of each drinking water outlet in each school for the presence
26 of lead. The tests would be conducted by a certified laboratory in
27 accordance with the sampling and testing methods specified in the
28 United States Environmental Protection Agency’s (EPA) technical
29 guidance for reducing lead in drinking water at schools, or more
30 protective guidance issued by the Department of Environmental
31 Protection (DEP). The initial tests would be conducted no later
32 than 90 days after the effective date of the bill, and subsequent tests
33 would be conducted every five years thereafter, unless the DEP
34 determines, on a case-by-case basis, that more or less frequent
35 testing is necessary or sufficient to protect the public health.

36 A school district, charter school, or nonpublic school may obtain
37 an exemption from the requirement to conduct initial testing if it
38 demonstrates to the DEP that it has conducted testing that
39 substantially complies with the technical guidance within two years
40 prior to the effective date of the bill, and any drinking water outlet
41 that was found to have an elevated lead level has either been
42 removed from service or remediated. Under the bill, a school
43 district, charter school, or nonpublic school may seek the assistance
44 of a local health agency or public water system to help ensure
45 compliance with the bill. Nothing in the bill would prevent a
46 school district, charter school, or nonpublic school from conducting
47 more frequent testing than required by the bill. The testing
48 requirements would not apply to a school district, charter school, or

1 nonpublic school that is considered a public water system under
2 federal law and meets the applicable standards for lead in drinking
3 water.

4 If testing conducted pursuant to the bill reveals an elevated lead
5 level at a drinking water outlet, the school district, charter school,
6 or nonpublic school would be required to immediately close off
7 access to that outlet and report the test results to the DEP. The
8 school district, charter school, or nonpublic school, in consultation
9 with the DEP, would be required to conduct follow-up testing to
10 determine the source of the lead, and take appropriate remedial
11 measures to ensure that students are not exposed to water with an
12 elevated lead level and have access to free, fresh, and clean
13 drinking water. Remedial measures may include permanently
14 shutting or closing off access to the drinking water outlet, providing
15 an alternative source of water, manual or automatic flushing,
16 installing and maintaining a filter, and replacing outlets, plumbing,
17 or service lines contributing to the elevated lead level.

18 Under the bill, each school district, charter school, and nonpublic
19 school would be required to submit to the DEP, the Department of
20 Education, and the Department of Health information on its testing
21 activities, including the date the testing was completed, the location
22 and type of each drinking water outlet tested, the results of each
23 test, and any measures being taken to remediate a drinking water
24 outlet found to have an elevated lead level. School districts, charter
25 schools, and nonpublic schools would be required to maintain
26 copies of this information in a suitable location and on their Internet
27 websites, and notify relevant parent, teacher, and employee
28 organizations of the availability of the information. School
29 districts, charter schools, and nonpublic schools would also be
30 required to designate a person to serve as the contact person for
31 communications with the DEP and the public. If test results reveal
32 an elevated lead level at a drinking water outlet, the school would
33 be required to immediately notify teachers, other school personnel,
34 and parents directly.

35 The bill would require the DEP, within 30 days after the
36 effective date of the bill, to provide to each school district, charter
37 school, and nonpublic school with the EPA's technical guidance for
38 reducing lead in drinking water at schools, a summary of the
39 sampling and testing methods contained in the technical guidance, a
40 list of each laboratory in the State certified to conduct lead testing,
41 and any other information the DEP deems relevant.