

ASSEMBLY, No. 2460

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

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District 14 (Mercer and Middlesex)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Requires child care centers to test for and remediate lead in drinking water, and disclose test results.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/13/2020)

1 **AN ACT** concerning lead in drinking water at child care centers and
2 supplementing P.L.1983, c.492 (C.30:5B-1 et seq.).

3

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

6

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

9 “Child care center” means the same as that term is defined in
10 section 3 of P.L.1983, c.492 (C.30:5B-3).

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

14 “Elevated lead level” means a lead concentration in drinking
15 water that exceeds the standard therefor established by the United
16 States Environmental Protection Agency or the Department of
17 Environmental Protection in the technical guidance, whichever is
18 more stringent.

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

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

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

28

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

43 b. The commissioner may, upon application by a child care
44 center, exempt the child care center from the requirement to
45 conduct initial testing if the child care center demonstrates that it
46 has conducted testing that substantially complies with the
47 requirements of subsection a. of this section within two years prior
48 to the effective date of P.L. , c. (C.) (pending before the

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

4 c. A child care center that is a public water system and that
5 meets the standards for lead in drinking water for public water
6 systems adopted by the Department of Environmental Protection
7 shall not be required to comply with the provisions of this section.

8 d. A child care center may seek the assistance of a local health
9 agency or public water system to help ensure the child care center's
10 compliance with the provisions of this section.

11 e. Nothing in this section shall prevent a child care center from
12 conducting more frequent testing than required pursuant to
13 subsection a. of this section.

14

15 3. If testing conducted pursuant to section 2 of P.L. , c. (C.)
16 (pending before the Legislature as this bill) reveals an elevated lead
17 level at a drinking water outlet, the child care center shall
18 immediately shut or close off access to that outlet and report the test
19 results to the Department of Environmental Protection. The child
20 care center and the owner of the building in which the child care
21 center is located, in consultation with the Department of
22 Environmental Protection, shall conduct follow-up testing, as
23 provided in the technical guidance, to determine the source of the
24 lead and take appropriate remedial measures to ensure that children
25 are not exposed to water with an elevated lead level and have access
26 to clean drinking water at the child care center. 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 child care center shall:

36 (1) maintain, in a suitable location for inspection by the
37 department and parents and guardians, the complete results of the
38 testing conducted pursuant to section 2 of P.L. , c. (C.)
39 (pending before the Legislature as this bill), and information on any
40 measures being taken pursuant to section 3 of P.L. , c. (C.)
41 (pending before the Legislature as this bill) to remediate a drinking
42 water outlet found to have an elevated lead level;

43 (2) post, in a conspicuous location near the entrance of the child
44 care center, a summary of the information maintained pursuant to
45 paragraph (1) of this subsection, in a form and manner as
46 determined by the department; and

1 (3) notify parents and guardians and employees of the child care
2 center of the availability of the information required to be
3 maintained pursuant to paragraph (1) of this subsection.

4 b. The department shall have the authority to inspect the
5 information required to be maintained by the child care center
6 pursuant to paragraph (1) of subsection a. of this section during
7 normal business hours, and without prior notice to the child care
8 center.

9 c. 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 child care center shall
12 immediately notify parents and child care center employees
13 directly, through written notice, electronic mail, or other means
14 approved by the Department of Environmental Protection. 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;

20 (2) a description of any remedial measures that are being taken,
21 or will be taken, pursuant to section 3 of P.L. , c. (C.)
22 (pending before the Legislature as this bill);

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

27 (4) if determined necessary by the Department of Environmental
28 Protection, information on how and where individuals may seek
29 blood testing for lead.

30

31 5. The Department of Environmental Protection, in
32 consultation with the Department of Children and Families, shall,
33 within 30 days after the effective date of P.L. , c. (C.)
34 (pending before the Legislature as this bill), provide to each child
35 care center the technical guidance for reducing lead in drinking
36 water at child care centers issued by the United States
37 Environmental Protection Agency, a summary of the sampling and
38 testing methods contained in the technical guidance, a list of each
39 laboratory in the State certified to conduct lead testing, and any
40 other information deemed appropriate by the departments.

41

42 6. a. Notwithstanding the provisions of the “Administrative
43 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
44 contrary, the Department of Environmental Protection, in
45 consultation with the Department of Children and Families and the
46 Department of Health, may adopt, after notice, interim rules and
47 regulations necessary to implement the provisions of P.L. , c. (C.)
48 (pending before the Legislature as this bill). The rules and

1 regulations shall be effective as regulations immediately upon filing
2 with the Office of Administrative Law and shall be effective for a
3 period not to exceed 18 months, and may, thereafter, be amended,
4 adopted, or readopted by the Department of Environmental
5 Protection in accordance with the provisions of the “Administrative
6 Procedure Act.”

7 b. The Department of Environmental Protection may issue its
8 own technical guidance, provided the guidance is at least as
9 protective of the public health as the technical guidance for
10 reducing lead in drinking water at child care centers issued by the
11 United States Environmental Protection Agency.

12
13 7. This act shall take effect immediately.
14
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16 STATEMENT

17
18 This bill would require child care centers to test for and
19 remediate lead in drinking water, and disclose their test results.

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

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

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

15 Under the bill, each child care center would be required to
16 maintain the complete results of the testing conducted under the
17 bill, and information on any measures being taken to remediate a
18 drinking water outlet found to have an elevated lead level. The
19 DEP would have the authority to inspect this information during
20 regular business hours and without prior notice. Child care centers
21 would also be required to post a summary of this information in a
22 conspicuous location near the entrance of the child care center, and
23 notify parents (including guardians) and employees of the child care
24 center of the availability of the information. If test results reveal an
25 elevated lead level at a drinking water outlet, the child care center
26 would be required to immediately notify parents and child care
27 center employees directly.

28 The bill would require the DEP, within 30 days after the
29 effective date of the bill, to provide to each child care center with
30 the EPA's technical guidance for reducing lead in drinking water at
31 child care centers, a summary of the sampling and testing methods
32 contained in the technical guidance, a list of each laboratory in the
33 State certified to conduct lead testing, and any other information the
34 DEP deems relevant.