



February 16, 2023

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## HOUSE BILL No. 1138

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DIGEST OF HB 1138 (Updated February 15, 2023 3:53 pm - DI 150)

**Citations Affected:** IC 16-41.

**Synopsis:** Preschool and child care facility drinking water. Requires the individual or entity having authority over a child care facility or preschool to test the drinking water in the child care facility or preschool before January 1, 2025, to determine whether lead is present in the drinking water. Identifies exceptions to testing before January 1, 2025. Requires action to reduce lead concentration that equals or exceeds the action level for lead. Requires the environmental rules board to adopt rules, including emergency rules, that conform with the forthcoming Lead and Copper Rule Improvements being promulgated by the EPA.

**Effective:** July 1, 2023.

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**Jackson, Aylesworth, Errington,  
Garcia Wilburn**

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January 10, 2023, read first time and referred to Committee on Environmental Affairs.  
February 16, 2023, amended, reported — Do Pass.

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HB 1138—LS 6223/DI 150





February 16, 2023

First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

## HOUSE BILL No. 1138

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 16-41-21.2 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2023]:

4 **Chapter 21.2. Water in Child Care Facilities and Preschools**

5 **Sec. 1. As used in this chapter, "action level for lead" means the**  
6 **concentration of lead in water of fifteen (15) parts per billion, or**  
7 **fifteen-thousandths (0.015) milligrams of lead per liter of water.**

8 **Sec. 2. As used in this chapter, "child care facility" means any**  
9 **of the following:**

10 (1) A child care center (as defined in IC 12-7-2-28.4).

11 (2) A child care home (as defined in IC 12-7-2-28.6).

12 **Sec. 3. As used in this chapter, "preschool" has the meaning set**  
13 **forth in IC 12-7-2-143.5.**

14 **Sec. 4. (a) Except as provided in subsection (c), the individual or**  
15 **entity having authority over a child care facility or preschool shall**  
16 **test the drinking water in the child care facility or preschool before**  
17 **January 1, 2025, to determine whether lead is present in the**

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1       drinking water in a concentration that equals or exceeds the action  
2       level for lead.

3       (b) Drinking water testing required by this section must be  
4       performed in accordance with the lead sampling program for  
5       school buildings and child care facilities conducted by the Indiana  
6       finance authority.

7       (c) If the drinking water in a child care facility or preschool was  
8       tested through the lead sampling program for school buildings and  
9       child care facilities conducted by the Indiana finance authority in  
10      2019 and 2020, the drinking water of the child care facility or  
11      preschool is not required to be tested before January 1, 2025, as  
12      described in subsection (a).

13      (d) If any testing of drinking water in a child care facility or  
14      preschool under subsection (a) or (c) indicates that the presence of  
15      lead in the drinking water equals or exceeds the action level for  
16      lead, the individual or entity having authority over the child care  
17      facility or preschool shall take action to reduce the concentration  
18      of lead in the drinking water to below the action level for lead.

19      (e) The environmental rules board shall, under IC 4-22-2 and  
20      IC 13-14-9, adopt rules, including emergency rules adopted in the  
21      manner provided by IC 4-22-2-37.1, concerning the lead action  
22      level. Rules adopted by the environmental rules board shall  
23      conform with the forthcoming Lead and Copper Rule  
24      Improvements (LCRI) being promulgated by the United States  
25      Environmental Protection Agency. Notwithstanding  
26      IC 4-22-2-37.1(g), the emergency rules that are adopted under this  
27      subsection and in the manner provided by IC 4-22-2-37.1 expire on  
28      the date on which rules that supersede the emergency rules are  
29      adopted by the board under this subsection and IC 4-22-2-24  
30      through IC 4-22-2-36.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1138, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 6, delete "one (1) part" and insert "**fifteen (15) parts**".

Page 1, line 6, after "or" delete "one" and insert "**fifteen-thousandths (0.015) milligrams of lead per liter of water.**".

Page 1, delete line 7.

Page 1, delete lines 12 through 14.

Page 2, after line 21, begin a new paragraph and insert:

**"(e) The environmental rules board shall, under IC 4-22-2 and IC 13-14-9, adopt rules, including emergency rules adopted in the manner provided by IC 4-22-2-37.1, concerning the lead action level. Rules adopted by the environmental rules board shall conform with the forthcoming Lead and Copper Rule Improvements (LCRI) being promulgated by the United States Environmental Protection Agency. Notwithstanding IC 4-22-2-37.1(g), the emergency rules that are adopted under this subsection and in the manner provided by IC 4-22-2-37.1 expire on the date on which rules that supersede the emergency rules are adopted by the board under this subsection and IC 4-22-2-24 through IC 4-22-2-36."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1138 as introduced.)

MORRISON

Committee Vote: yeas 12, nays 0.

