



March 29, 2023

ENGROSSED HOUSE BILL No. 1138

DIGEST OF HB 1138 (Updated March 27, 2023 3:56 pm - DI 55)

Citations Affected: IC 5-1.2; IC 16-41.

Synopsis: Preschool and child care facility drinking water. Requires the public finance director to prepare an annual report to the general assembly that provides information on the programs of the Indiana finance authority under which the drinking water in schools, preschools, and child care facilities is tested for the presence of lead. Requires the owner or operator having authority over a child care facility or a preschool to test the drinking water in the child care facility or preschool before January 1, 2026, unless the drinking water in the child care facility or preschool has already been tested through a lead sampling program conducted by the Indiana finance authority. Provides that if the testing of the drinking water in a child care facility or
(Continued next page)

Effective: July 1, 2023.

Jackson, Aylesworth, Errington, Garcia Wilburn

(SENATE SPONSORS — NIEMEYER, RANDOLPH LONNIE M, YODER,
DERNULC)

January 10, 2023, read first time and referred to Committee on Environmental Affairs.
February 16, 2023, amended, reported — Do Pass.
February 21, 2023, read second time, amended, ordered engrossed.
February 22, 2023, engrossed. Read third time, passed. Yeas 92, nays 0.

SENATE ACTION

March 6, 2023, read first time and referred to Committee on Environmental Affairs.
March 28, 2023, amended, reported favorably — Do Pass.

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Digest Continued

preschool indicates that the presence of lead in the drinking water equals or exceeds the action level for lead (15 parts per billion), the owner or operator of the child care facility or preschool shall take action to: (1) eliminate the source of the lead in the drinking water; or (2) install a water filtration system. Establishes requirements applying to a water filtration system installed in a child care facility or preschool. Requires the environmental rules board to adopt rules, including emergency rules, that conform with the Lead and Copper Rule Improvements proposed rule that is being developed by the U.S. Environmental Protection Agency.

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March 29, 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.

ENGROSSED 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 5-1.2-4-37.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2023]: **Sec. 37.5. (a) The public finance**
4 **director shall prepare an annual report that provides information**
5 **on the programs of the authority under which the drinking water**
6 **in schools, preschools, and child care facilities is tested for the**
7 **presence of lead.**
8 **(b) The report required by this section:**
9 **(1) must provide information on:**
10 **(A) the number of schools, preschools, and child care**
11 **facilities in which the drinking water has been tested for**
12 **the presence of lead under a program of the authority;**
13 **(B) the actions taken through a program of the authority**
14 **to eliminate the danger of lead contamination in the**
15 **drinking water of schools, preschools, and child care**
16 **facilities; and**
17 **(C) the funds available to the authority to conduct further**

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- 1 drinking water testing and remediation actions under the
2 programs; and
- 3 **(2) may include other information and recommendations**
4 **concerning remediation of the exposure of children to lead in**
5 **drinking water.**
- 6 **(b) The report required by this section must be submitted to the**
7 **general assembly in an electronic format under IC 5-14-6.**
- 8 SECTION 2. IC 16-41-21.2 IS ADDED TO THE INDIANA CODE
9 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2023]:
- 11 **Chapter 21.2. Water in Child Care Facilities and Preschools**
- 12 **Sec. 1. As used in this chapter, "action level for lead" means the**
13 **concentration of lead in water of fifteen (15) parts per billion, or**
14 **fifteen-thousandths (0.015) milligram of lead per liter of water.**
- 15 **Sec. 2. As used in this chapter, "child care facility" means any**
16 **of the following:**
- 17 **(1) A child care center (as defined in IC 12-7-2-28.4).**
18 **(2) A child care home (as defined in IC 12-7-2-28.6).**
- 19 **Sec. 3. As used in this chapter, "preschool" has the meaning set**
20 **forth in IC 12-7-2-143.5.**
- 21 **Sec. 4. (a) Except as provided in subsection (c), the owner or**
22 **operator having authority over a child care facility or preschool**
23 **shall test the drinking water in the child care facility or preschool**
24 **before January 1, 2026, to determine whether lead is present in the**
25 **drinking water in a concentration that equals or exceeds the action**
26 **level for lead.**
- 27 **(b) Drinking water testing required by this section must be**
28 **performed in accordance with the lead sampling program for**
29 **school buildings and child care facilities conducted by the Indiana**
30 **finance authority.**
- 31 **(c) If the drinking water in a child care facility or preschool has**
32 **been tested through a lead sampling program conducted by the**
33 **Indiana finance authority, the owner or operator having authority**
34 **over the child care facility or preschool is not required to test the**
35 **drinking water in the child care facility or preschool before**
36 **January 1, 2026, under subsection (a).**
- 37 **(d) If the testing of the drinking water in a child care facility or**
38 **preschool under this section indicates that the presence of lead in**
39 **the drinking water equals or exceeds the action level for lead, the**
40 **owner or operator having authority over the child care facility or**
41 **preschool shall take action to reduce the concentration of lead in**
42 **the drinking water to a level below the action level for lead by:**



- 1 (1) eliminating the source of the lead in the drinking water; or
 2 (2) installing a water filtration system that will reduce the
 3 level of lead in the drinking water to a level below the action
 4 level for lead.
- 5 (e) A water filtration system installed under subsection (d)(2)
 6 must meet the following conditions, as applicable:
- 7 (1) If the system is a point-of-use water filtration system, it
 8 must be certified by a certifying body accredited by a
 9 signatory to the International Accreditation Forum
 10 Multilateral Recognition Arrangement (IAFMIA), such as the
 11 American National Accreditation Board (ANAB), for drinking
 12 water treatment units for lead reduction.
- 13 (2) If the system is a water treatment system on a drinking
 14 water outlet, it must be third party certified:
- 15 (A) under NSF/ANSI 53 for lead reduction;
 16 (B) under NSF/ANSI 42 for particulate reduction (Class 1);
 17 or
 18 (C) under NSF/ANSI 58 for lead reduction.
- 19 (f) If the owner or operator of a child care facility or preschool
 20 installs a water filtration system under subsection (d)(2), the owner
 21 or operator shall:
- 22 (1) follow the manufacturer's instructions for the installation,
 23 use, and maintenance of the water filtration system; and
 24 (2) create and follow a maintenance schedule that identifies
 25 the person responsible for the installation and maintenance of
 26 the water filtration system.
- 27 (g) The environmental rules board shall, under IC 4-22-2 and
 28 IC 13-14-9, adopt rules, including emergency rules adopted in the
 29 manner provided by IC 4-22-2-37.1, concerning the lead action
 30 level. Rules adopted by the environmental rules board shall
 31 conform with the forthcoming Lead and Copper Rule
 32 Improvements (LCRI) being promulgated by the United States
 33 Environmental Protection Agency. Notwithstanding
 34 IC 4-22-2-37.1(g), the emergency rules that are adopted under this
 35 subsection and in the manner provided by IC 4-22-2-37.1 expire on
 36 the date on which rules that supersede the emergency rules are
 37 adopted by the board under this subsection and IC 4-22-2-24
 38 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.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1138 be amended to read as follows:

Page 1, line 14, delete "individual or" and insert "**owner or operator**".

Page 1, line 15, delete "entity".

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Page 2, line 16, delete "individual or entity" and insert "**owner or operator**".

(Reference is to HB 1138 as printed February 16, 2023.)

JACKSON

COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred House Bill No. 1138, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-1.2-4-37.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 37.5. (a) The public finance director shall prepare an annual report that provides information on the programs of the authority under which the drinking water in schools, preschools, and child care facilities is tested for the presence of lead.**

(b) The report required by this section:

(1) must provide information on:

(A) the number of schools, preschools, and child care facilities in which the drinking water has been tested for the presence of lead under a program of the authority;

(B) the actions taken through a program of the authority to eliminate the danger of lead contamination in the drinking water of schools, preschools, and child care facilities; and

(C) the funds available to the authority to conduct further drinking water testing and remediation actions under the programs; and

(2) may include other information and recommendations concerning remediation of the exposure of children to lead in drinking water.

(b) The report required by this section must be submitted to the general assembly in an electronic format under IC 5-14-6."

Page 1, line 7, delete "milligrams" and insert "**milligram**".

Page 1, line 17, delete "2025," and insert "**2026,**".

Page 2, line 7, delete "was" and insert "**has been tested through a**



lead sampling program conducted by the Indiana finance authority, the owner or operator having authority over the child care facility or preschool is not required to test the drinking water in the child care facility or preschool before January 1, 2026, under subsection (a).

(d) If the testing of the drinking water in a child care facility or preschool under this section indicates that the presence of lead in the drinking water equals or exceeds the action level for lead, the owner or operator having authority over the child care facility or preschool shall take action to reduce the concentration of lead in the drinking water to a level below the action level for lead by:

- (1) eliminating the source of the lead in the drinking water; or
- (2) installing a water filtration system that will reduce the level of lead in the drinking water to a level below the action level for lead.

(e) A water filtration system installed under subsection (d)(2) must meet the following conditions, as applicable:

- (1) If the system is a point-of-use water filtration system, it must be certified by a certifying body accredited by a signatory to the International Accreditation Forum Multilateral Recognition Arrangement (IAFMIA), such as the American National Accreditation Board (ANAB), for drinking water treatment units for lead reduction.
- (2) If the system is a water treatment system on a drinking water outlet, it must be third party certified:
 - (A) under NSF/ANSI 53 for lead reduction;
 - (B) under NSF/ANSI 42 for particulate reduction (Class 1);
 - or
 - (C) under NSF/ANSI 58 for lead reduction.

(f) If the owner or operator of a child care facility or preschool installs a water filtration system under subsection (d)(2), the owner or operator shall:

- (1) follow the manufacturer's instructions for the installation, use, and maintenance of the water filtration system; and
- (2) create and follow a maintenance schedule that identifies the person responsible for the installation and maintenance of the water filtration system."

Page 2, delete lines 8 through 18.

Page 2, line 19, delete "(e)" and insert "(g)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.



(Reference is to HB 1138 as reprinted February 22, 2023.)

NIEMEYER, Chairperson

Committee Vote: Yeas 9, Nays 0.

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