

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 ENROLLED ACT No. 1138

AN ACT to amend the Indiana Code concerning health.

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

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.

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

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

Chapter 21.2. Water in Child Care Facilities and Preschools

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

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

- (1) A child care center (as defined in IC 12-7-2-28.4).**
- (2) A child care home (as defined in IC 12-7-2-28.6).**

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

Sec. 4. (a) Except as provided in subsection (c), the owner or operator having authority over a child care facility or preschool shall test the drinking water in the child care facility or preschool before January 1, 2026, to determine whether lead is present in the drinking water in a concentration that equals or exceeds the action level for lead.

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

(c) If the drinking water in a child care facility or preschool 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 (IAFMLA), 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.

(g) 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.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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