

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 1075

AN ACT

To amend chapter 160, RSMo, by adding thereto one new section relating to drinking water in schools.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 160, RSMo, is amended by adding thereto one new section, to be known as section 160.077, to read as follows:

160.077. 1. This section shall be known and may be cited as the "Get the Lead Out of School Drinking Water Act".

2. As used in this section, the following terms mean:

(1) "Commission", the safe drinking water commission established under section 640.105;

(2) "Disadvantaged school district", any school district that serves students from a county in which at least twenty-five percent of the households in such county are below the federal poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. Section 9902(2), as amended, or any school district in which more than seventy percent of students in the district qualify for a free or reduced price lunch under the federal Richard B. Russell National School Lunch Act, 42 U.S.C. Section 1751 et seq.;

(3) "Drinking water outlet", a potable water fixture that is used for drinking or food preparation. "Drinking water outlet" includes, but is not limited to:

(a) A water fountain, faucet, or tap that is used or potentially used for drinking or food preparation; and

(b) Ice-making and hot drink machines;

(4) "First draw", a two-hundred-fifty-milliliter sample immediately collected from a drinking water outlet that has been turned on after a stagnation period of at least eight hours;

(5) "NSF/ANSI 53-2017", the standard for drinking water treatment systems that are designed to reduce specific health-related contaminants in water supplies that is published by NSF International/ANSI with the title "Drinking Water Treatment Units - Health Effects", or any more stringent subsequent standard;

(6) "Parent", a parent, guardian, or other person having control or custody of a child;

(7) "Private school", the same definition as in section 166.700;

(8) "Public school", the same definition as in section 160.011;

(9) "Remediation", decreasing the lead concentration in water from a drinking water outlet to less than one part per billion without relying solely on flushing practices, or using methods such as the replacement of lead-containing pipes, solder, fittings, or fixtures with lead-free components. Flushing as a stand alone action shall not be considered remediation;

(10) "School", any public school, private school, or provider of an early childhood education program that receives state funding.

3. Beginning in the 2023-2024 school year and for each subsequent school year, each school shall provide drinking water with a lead concentration level below the American Academy of Pediatrics' recommended maximum level for schools of one part per billion in sufficient amounts to meet the drinking water needs of all students and staff as provided in this section.

4. (1) Before January 1, 2024, each school shall:

(a) Conduct an inventory of all drinking water outlets and nonpotable water fixtures in each of the school's buildings;

(b) Remove any drinking watercoolers that the United States Environmental Protection Agency has determined are not lead-free under the federal Lead Contamination Control Act of 1988, as amended;

(c) Install a filter that reduces lead in drinking water on each drinking water outlet, maintain such filters to ensure that lead concentration levels are below one part per billion, and replace such filters at least as frequently as provided for in the manufacturer's instructions. This paragraph shall apply only to schools with drinking water determined to have a lead concentration level above the American Academy of Pediatrics' recommended maximum level for schools of one part per billion; and

(d) Upon request, provide general information on the health effects of lead contamination and additional informational resources for employees and parents of children at each school.

(2) Each school shall make buildings housing early childhood education programs, kindergartens, and elementary schools the priority when complying with paragraphs (a) to (c) of subdivision (1) of this subsection.

(3) Filters described in paragraph (c) of subdivision (1) of this subsection and any replacement filters shall be certified as compliant with NSF/ANSI 53-2017 and shall incorporate an integral performance indication device as specified in section 6.1 of NSF/ANSI 53-2017.

(4) Each school shall provide sufficient filtered water to meet the drinking water needs of all students and staff.

(5) Within sixty days after filters are installed as required under paragraph (c) of subdivision (1) of this subsection and annually thereafter, each school shall conduct testing for lead by first-draw and follow-up flush samples of a random sampling of at least twenty-five percent of remediated drinking water outlets until all remediated sources have been tested as recommended by the 2018 version of the United States Environmental Protection Agency's "Training, Testing, and Taking Action" program. The testing shall be conducted and the results analyzed for both types of tests by an entity or entities approved by the department.

(6) Within two weeks after receiving test results, each school shall make all testing results and any lead remediation plans available on the school's website.

(7) School districts shall submit such annual testing results to the commission.

(8) This subsection shall not be construed to prevent a school from conducting more frequent testing than required under this section.

5. (1) If a first draw sample shows a lead concentration of one part per billion or greater, the affected school shall:

(a) Within one business day after receiving the test result, shut off the drinking water outlet;

(b) Provide bottled water if there is not enough water to meet the drinking water needs of the students, teachers, and staff; and

(c) Within thirty days after receiving the test result, determine interim remediation steps to implement to address the elevated lead concentration level. Such steps shall be posted to the school website.

(2) If a pipe, solder, fitting, or fixture is replaced as part of remediation, the replacement shall be lead-free, as such term is defined in 40 CFR 143.12, as amended.

(3) If a test result exceeds one part per billion, the affected school shall contact parents and staff via written notification within seven business days after receiving the test result. The notification shall include at least:

(a) The test results and a summary that explains such results;

(b) A description of any remedial steps taken; and

(c) A description of general health effects of lead contamination and community specific resources.

(4) If, in the ten years prior to the 2023-2024 school year a fixture tested above one part per billion for lead, such fixture does not need to be repeat tested for lead, but instead remediation shall begin on such fixture.

6. (1) In addition to the apportionments payable to a school district under chapter 163, the department of natural resources is hereby authorized to apportion to any school additional funding for the filtration, testing, and other remediation of drinking water systems required under this section, subject to appropriation.

(2) To the extent permitted by federal law, a school district may seek reimbursement or other funds for compliance incurred under this section under any applicable federal law including, but not limited to, America's Water Infrastructure Act of 2018 and the Water Infrastructure Finance and Innovation Act of 2014, 33 U.S.C. Section 3901 et seq.

(3) Disadvantaged school districts shall receive funding priority under this subsection.

7. The commission, in conjunction with the department of elementary and secondary education, shall publish a

report biennially based on the findings from the water testing conducted under this section. Such report shall be sent to the governor and the joint committee on education and shall be made available on the website of the commission.

8. The commission shall:

(1) On or before July 1, 2023, provide guidance to schools regarding the maintenance of filters and filtration systems and the development and implementation of flushing plans. Such guidance shall include recommendations for flushing after stagnant times including, but not limited to, the morning of each school day and after weekends, school holidays, and summer break. Flushing plans shall include details for flushing the incoming water line and the filter; and

(2) On or before July 1, 2023, create an online program to provide training for custodial staff on the maintenance of filters and filtration systems and on the implementation of flushing plans, emphasizing that proper maintenance is critical to improved drinking water quality and safety.

9. (1) For public schools, the commission shall ensure compliance with this section. Each school district shall be responsible for ensuring compliance within each school within the school district's jurisdiction.

(2) The commission shall have the authority to enter a school building governed by this section to determine compliance with this section.

10. No school building constructed after January 4, 2014, as provided in the federal Reduction of Lead in Drinking Water Act (42 U.S.C. Section 300g-6), as amended, shall be required to install, maintain, or replace filters under paragraph (c) of subdivision (1) of subsection 4 of this section.

11. A school that tests and does not find a drinking water source with a lead concentration above the acceptable level as defined in subsection 3 of this section shall be required to test only every five years.

12. The commission may promulgate all necessary rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2022, shall be invalid and void.