
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1125 Session of
2022

INTRODUCED BY PITTMAN, FONTANA, KANE, HUGHES, CAPPELLETTI,
COSTA, SCHWANK, AUMENT, MARTIN, YAW, BREWSTER AND J. WARD,
MARCH 9, 2022

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MARCH 9, 2022

AN ACT

1 Amending Titles 27 (Environmental Resources) and 35 (Health and
2 Safety) of the Pennsylvania Consolidated Statutes, providing
3 for Legionnaires' disease risk management in public water
4 systems; establishing the Legionnaires' Disease Drinking
5 Water Risk Management Restricted Account; and providing for
6 Legionnaires' disease prevention.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Title 27 of the Pennsylvania Consolidated
10 Statutes is amended by adding a chapter to read:

11 CHAPTER 67

12 LEGIONNAIRES' DISEASE RISK MANAGEMENT IN PUBLIC WATER SYSTEMS

13 Sec.

14 6701. Scope.

15 6702. Legislative findings.

16 6703. Definitions.

17 6704. Powers and duties.

18 6705. Legionnaires' Disease Drinking Water Risk Management

19 Restricted Account.

1 6706. Report.

2 6707. Violations.

3 § 6701. Scope.

4 This chapter provides for Legionnaires' disease risk
5 management through the adoption of mandatory water management
6 plans for minimizing growth and transmission of *Legionella*
7 *pneumophila* in public water systems.

8 § 6702. Legislative findings.

9 The General Assembly finds and declares as follows:

10 (1) This Commonwealth has more than 8,300 public water
11 systems that serve drinking water to more than 11.3 million
12 people, or 89% of this Commonwealth's population.

13 (2) The Public Water System Supervision Program is a
14 delegated program from the Environmental Protection Agency.

15 (3) The Commonwealth currently has primary enforcement
16 authority for the program under section 1413 of the Public
17 Health Service Act (58 Stat. 682, 42 U.S.C. § 300g-2),
18 otherwise known as the Safe Drinking Water Act (Public Law
19 93-523, 21 U.S.C. § 349 and 42 U.S.C. §§ 201 and 300f et
20 seq.), the mission of which is public health protection.

21 (4) Public water systems and the customers they serve
22 rely on the Department of Environmental Protection's Bureau
23 of Safe Drinking Water to ensure that all applicable Federal
24 and State requirements are met and that the water is safe to
25 drink and that the air, which contains small water droplets,
26 is safe to breathe.

27 (5) Safe drinking water is vital to maintaining healthy
28 and sustainable communities.

29 (6) Proactively avoiding incidents such as waterborne
30 disease outbreaks, including Legionnaires' disease, can

1 prevent loss of life, reduce the incidents of illness and
2 reduce health care costs.

3 (7) Proper investment in water infrastructure,
4 operations and water management plans that detect and control
5 the presence of *Legionella pneumophila* helps ensure a
6 continuous supply of safe public drinking water and enable
7 communities to plan and build future capacity for economic
8 growth and ensure their long-term sustainability.

9 (8) *Legionella pneumophila* can grow and multiply in
10 public water systems, making its way into buildings and
11 spreading through small aerosol droplets, which, when
12 inhaled, can cause Legionnaires' disease or Pontiac Fever.

13 (9) According to the Centers for Disease Control and
14 Prevention, the incidence of Legionellosis has increased by
15 more than 600% since 2000 and is now the most reported cause
16 of drinking-waterborne disease outbreaks.

17 (10) The Department of Health reported exceptionally
18 high Legionellosis case counts in years 2017, 2018 and 2019.

19 (11) Ensuring safe water quality, including the
20 detection and mitigation of *Legionella pneumophila*, is a
21 shared responsibility between public water systems that are
22 responsible for delivering water that meets safe drinking
23 water standards and building owners and operators who are
24 responsible for maintaining safe water quality through the
25 proper design, construction, operation and maintenance of
26 plumbing on the premises.

27 (12) To safeguard the health and safety of the residents
28 of this Commonwealth, the General Assembly finds and declares
29 that addressing the underlying causes of *Legionella*
30 *pneumophila* growth, including, but not limited to, water age

1 and stagnation, and routine *Legionella pneumophila* testing
2 through a public water system's development and
3 implementation of a water management plan, is necessary to
4 mitigate the overall risk of Legionnaires' disease outbreaks.

5 § 6703. Definitions.

6 The following words and phrases when used in this chapter
7 shall have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Account." The Legionnaires' Disease Drinking Water Risk
10 Management Restricted Account established under section 6705
11 (relating to Legionnaires' Disease Drinking Water Risk
12 Management Restricted Account).

13 "Board." The Environmental Quality Board established under
14 section 1920-A of the act of April 9, 1929 (P.L.177, No.175),
15 known as The Administrative Code of 1929.

16 "Department." The Department of Environmental Protection of
17 the Commonwealth.

18 "*Legionella* culture." The quantification of culturable
19 *Legionella pneumophila* bacteria from a water sample.

20 "Legionnaires' disease." A severe pneumonia caused by the
21 *Legionella pneumophila* bacterium.

22 "Public water system." A system for the provision to the
23 public of water for human consumption which has at least 15
24 service connections or regularly serves an average of at least
25 25 individuals daily at least 60 days out of the year. The term
26 includes:

27 (1) The collection, treatment, storage and distribution
28 facilities under control of the operator of the system and
29 used in connection with the system.

30 (2) Collection or pretreatment storage facilities not

1 under control which are used in connection with the system.

2 (3) A system which provides water for bottling or bulk
3 hauling for human consumption.

4 § 6704. Powers and duties.

5 (a) Temporary regulations.--The board, in consultation with
6 the department, shall promulgate temporary regulations in
7 accordance with the act of May 1, 1984 (P.L.206, No.43), known
8 as the Pennsylvania Safe Drinking Water Act, to prevent and
9 mitigate *Legionella pneumophila* in public water systems.

10 Temporary regulations promulgated under this subsection shall
11 expire upon the promulgation of final-form regulations or two
12 years following the effective date of this section, whichever is
13 earlier.

14 (b) Requirements.--The board, in consultation with the
15 department, shall address the following issues in the temporary
16 and final-form regulations required under this section:

17 (1) Assessing current testing performed and the risk of
18 *Legionella pneumophila* in public water systems that do not
19 test.

20 (2) Implementing a *Legionella pneumophila* water
21 management plan that includes routine sampling and testing of
22 public water systems for the presence of *Legionella*
23 *pneumophila* bacteria.

24 (3) Requiring all sampling and testing to be performed,
25 including *Legionella pneumophila* culture analysis, by a
26 laboratory that is certified by the department's
27 Environmental Laboratory Accreditation Program.

28 (4) Mandating the implementation of necessary mitigation
29 measures, including, but not limited to, the determination of
30 appropriate water system disinfectant, flushing or other

1 department requirements.

2 (5) Initiating a study of the root causes and historical
3 prevalence of *Legionella pneumophila* in public water systems,
4 which shall be reported to the General Assembly within one
5 year of the effective date of this section.

6 (c) Exemptions.--The temporary rules and regulations shall
7 not be subject to the following:

8 (1) Sections 201, 202, 203, 204 and 205 of the act of
9 July 31, 1968 (P.L.769, No.240), referred to as the
10 Commonwealth Documents Law.

11 (2) Sections 204(b) and 301(10) of the act of October
12 15, 1980 (P.L.950, No.164), known as the Commonwealth
13 Attorneys Act.

14 (3) The act of June 25, 1982 (P.L.633, No.181), known as
15 the Regulatory Review Act.

16 (d) Applicability.--Rules and regulations promulgated under
17 this section shall apply to each public water system in this
18 Commonwealth, except a public water system which:

19 (1) Consists only of distribution and storage facilities
20 and which does not have any collection and treatment
21 facilities.

22 (2) Obtains all of its water from, but is not owned or
23 operated by, a public water system to which standards, rules
24 and regulations apply.

25 (3) Does not sell water to any person.

26 (4) Does not provide water for potable purposes to a
27 carrier which conveys passengers in interstate commerce.

28 § 6705. Legionnaires' Disease Drinking Water Risk Management
29 Restricted Account.

30 (a) Establishment.--The Legionnaires' Disease Drinking Water

1 Risk Management Restricted Account is established as a
2 restricted account within the General Fund. The money in the
3 restricted account is appropriated to the department on a
4 continuing basis for the purposes of this section and 35 Pa.C.S.
5 Ch. 53A (relating to Legionnaires' disease prevention).

6 (b) Administration.--The department shall:

7 (1) Administer the account.

8 (2) Act as the fiscal agent for the grant program under
9 subsection (c).

10 (3) Be responsible for receiving and reviewing all grant
11 applications.

12 (4) Award grants.

13 (c) Grant program.--The department shall establish a grant
14 program and funding guidelines to assist owners and operators
15 of:

16 (1) Public water systems with *Legionella pneumophila*
17 water management plans and mitigation efforts required under
18 this chapter.

19 (2) Covered buildings, as defined in 35 Pa.C.S. § 53A03
20 (relating to definitions) to assist owners and operators of
21 covered buildings with *Legionella pneumophila* water
22 management plans that shall include *Legionella pneumophila*
23 testing and mitigation efforts to comply with 35 Pa.C.S. Ch.
24 53A.

25 (d) Awards.--Grant awards shall be at the discretion of the
26 department and shall be limited to amounts annually allocated to
27 the department for the grant program.

28 (e) Sources of revenue.--The following apply:

29 (1) From the amount received by the Commonwealth from
30 the Federal Government under the American Rescue Plan Act of

1 2021 (Public Law 117-2, 135 Stat. 4), \$20,000,000 shall be
2 transferred into the account.

3 (2) Other Federal appropriations may be deposited in the
4 account.

5 (3) The sum of \$5,000,000 shall be transferred from the
6 Clean Water State Revolving Fund into the account.

7 (4) The sum of \$5,000,000 shall be transferred from the
8 Drinking Water State Revolving Fund into the account.

9 (5) Other State appropriations may be deposited in the
10 account.

11 (6) Fines assessed for violations under this chapter may
12 be deposited in the account.

13 (7) Interest earned on money in the account shall be
14 deposited in the account.

15 (8) Money in the account shall not lapse or be
16 transferred to any other account or fund.

17 § 6706. Report.

18 By December 31, 2022, and each year thereafter, the
19 department shall submit to the chairperson and minority
20 chairperson of the Appropriations Committee of the Senate, the
21 chairperson and minority chairperson of the Appropriations
22 Committee of the House of Representatives, the chairperson and
23 minority chairperson of the Environmental Resources and Energy
24 Committee of the Senate and the chairperson and minority
25 chairperson of the Environmental Resources and Energy Committee
26 of the House of Representatives a report detailing account
27 revenues and expenditures in the prior fiscal year and
28 describing activities, programs and projects undertaken by
29 public water systems that received grant money from the account
30 to prevent and mitigate the presence of *Legionella pneumophila*.

1 § 6707. Violations.

2 A violation of this chapter shall be deemed a violation of
3 the act of May 1, 1984 (P.L.206, No.43), known as the
4 Pennsylvania Safe Drinking Water Act.

5 Section 2. Title 35 is amended by adding a chapter to read:

6 CHAPTER 53A

7 LEGIONNAIRES' DISEASE PREVENTION

8 Sec.

9 53A01. Scope.

10 53A02. Legislative findings.

11 53A03. Definitions.

12 53A04. Water management plan procedures.

13 53A05. Regulations.

14 53A06. Owner and operator liability.

15 53A07. Penalties, prosecutions and fines.

16 § 53A01. Scope.

17 This chapter provides for Legionnaires' disease prevention
18 and the adoption of mandatory water management plans for
19 minimizing growth and transmission of *Legionella pneumophila* in
20 covered buildings.

21 § 53A02. Legislative findings.

22 The General Assembly finds and declares as follows:

23 (1) *Legionella* was discovered after an outbreak in 1976
24 among people who went to a Philadelphia convention of the
25 American Legion and developed an unrecognized respiratory
26 infection.

27 (2) Legionnaires' disease is a severe, often lethal,
28 form of pneumonia that is caused by the bacterium *Legionella*
29 *pneumophila* found in both potable and nonpotable water
30 systems.

1 (3) Legionella pneumophila grows and multiplies in
2 building water systems and is spread through small aerosol
3 droplets, which can cause Legionnaires' disease or Pontiac
4 Fever when inhaled.

5 (4) While there are more than 60 Legionella species,
6 Legionella pneumophila is the most virulent strain, causing
7 most infections.

8 (5) According to the Centers for Disease Control and
9 Prevention, the incidence of Legionellosis-caused infection
10 has increased by more than 600% since 2000, and is now the
11 most reported cause of drinking-waterborne disease outbreaks.

12 (6) The Department of Health reported exceptionally high
13 Legionellosis case counts in years 2017, 2018 and 2019.

14 (7) There are no vaccines that can prevent Legionnaires'
15 disease, and the disease is not spread from person to person.

16 (8) Improper management of covered building water
17 systems may cause or contribute to the proliferation of
18 Legionella pneumophila and can result in adverse and long-
19 lasting health effects and potentially lethal disease in at-
20 risk populations.

21 (9) Individuals who have recovered from COVID-19 are at
22 high risk for contracting Legionnaires' disease, and covered
23 buildings that have not been properly maintained during the
24 COVID-19 disaster emergency could further increase the cases
25 of Legionnaires' disease, which has prompted the Centers for
26 Disease Control and Prevention, Environmental Health
27 Services, to issue "Guidance for Reopening Buildings After
28 Prolonged Shutdown or Reduced Operation."

29 (10) The Centers for Disease Control and Prevention's
30 guidance urges building owners and operators to develop a

1 comprehensive water management plan for their water systems
2 and all devices that use water.

3 (11) The prevention of Legionnaires' disease is
4 contingent on owners and operators of covered building water
5 systems' adoption of *Legionella pneumophila* risk management
6 programs consistent with the most recent version of ASHRAE-
7 188.

8 (12) ASHRAE 188 and ASHRAE Guideline 12:2020 are
9 voluntary, nationally recognized standards and guidance that
10 establish minimum Legionellosis risk management requirements
11 for targeted buildings with complex water systems to
12 implement effective risk management programs.

13 (13) Ensuring safe water quality, including the
14 detection and mitigation of *Legionella pneumophila*, is a
15 shared responsibility between public water systems that are
16 responsible for delivering water that meets safe drinking
17 water standards and building owners and operators who are
18 responsible for maintaining safe water quality through the
19 proper design, construction, operation and maintenance of
20 plumbing on the premises.

21 (14) To safeguard the health and safety of the residents
22 of this Commonwealth, the General Assembly finds and declares
23 it necessary to provide for *Legionella pneumophila* risk water
24 management plans that shall include testing and sampling
25 requirements for covered buildings with complex water systems
26 in this Commonwealth.

27 § 53A03. Definitions.

28 The following words and phrases when used in this chapter
29 shall have the meanings given to them in this section unless the
30 context clearly indicates otherwise:

1 "ASHRAE-188." The American Society of Heating, Refrigerating
2 and Air-Conditioning Engineers' industry standard that
3 establishes minimum risk management requirements for buildings
4 with complex water systems.

5 "Covered building." A building or facility that:
6 (1) meets the criteria described in ASHRAE-188; or
7 (2) is subject to regulation by the Centers for Medicare
8 and Medicaid Services.

9 "COVID-19 disaster emergency." The duration of the
10 proclamation of disaster emergency issued by the Governor on
11 March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020) and
12 any renewal of the state of disaster emergency.

13 "Department." The Department of Health of the Commonwealth.

14 "Legionella culture." The quantification of culturable
15 *Legionella pneumophila* bacteria in a water sample.

16 "Legionnaires' disease." A severe pneumonia caused by the
17 *Legionella pneumophila* bacterium.

18 "Local board or department of health." The board of health
19 or the department of public health of a city, borough,
20 incorporated town or township of the first class, or a county
21 department of health or joint county department of health.

22 "Local health officer." The head of a local department of
23 health.

24 "Municipality." A city, borough, incorporated town or
25 township.

26 § 53A04. Water management plan procedures.

27 (a) Plan required.--The department shall require owners and
28 operators of covered buildings to establish and operate water
29 management plans by December 30, 2022.

30 (b) Sampling and validation testing.--The following shall

1 apply:

2 (1) Water management plans shall include *Legionella*
3 *pneumophila* testing and subsequent validation testing of
4 water to ensure successful control of the growth and
5 transmission of *Legionella pneumophila* in the covered
6 building's water system consistent with the most recent
7 version of ASHRAE-188.

8 (2) In addition to the water sampling and *Legionella*
9 *pneumophila* testing required as part of a water management
10 plan implemented in accordance with subsection (a), an owner
11 or operator of a covered building shall conduct *Legionella*
12 *pneumophila* culture sampling and analysis of the covered
13 building's water system in a time frame to be determined by
14 the department if:

15 (i) The department and the Department of Human
16 Services suspects or concludes that one or more cases of
17 Legionnaires' disease are, or may be, associated with the
18 covered building.

19 (ii) Any other conditions specified in the
20 regulations promulgated by the department under section
21 53A05 (relating to regulations).

22 (3) Nothing in this section shall be construed to
23 abrogate the requirements issued by the Centers for Medicaid
24 and Medicare Services or prohibit the owner or operator of a
25 covered building from performing *Legionella* species testing
26 and culture analysis, in addition to testing for *Legionella*
27 *pneumophila*, as a component of the water management plan.

28 (c) Remediation efforts.--If construction or other work
29 performed on the covered building's water system is likely to
30 create or elevate the presence of *Legionella pneumophila*

1 bacteria, the department shall require the owner or operator of
2 the covered building's water system to undertake appropriate
3 infection control, prevention and remediation measures to ensure
4 public safety.

5 (d) Retention and inspection of water management plans.--
6 Owners and operators of covered buildings shall:

7 (1) Retain a copy of the water sampling and management
8 plan, including all *Legionella pneumophila* sampling results
9 for a minimum period of three years.

10 (2) Provide the department with a copy of their water
11 management plan and *Legionella pneumophila* sampling results.

12 (3) Make all water management plans implemented under
13 subsection (a) available for inspection upon request by any
14 department or agency with licensing or inspection authority
15 over the covered building.

16 (e) Certificate of compliance.--The department shall issue a
17 certificate of compliance to each owner or operator of a covered
18 building upon receipt of a water management plan and sampling
19 results that comply with the provisions of this section and
20 regulations promulgated under section 53A05 (relating to
21 regulations).

22 (f) Laboratory accreditation.--Owners and operators of a
23 covered building shall ensure that any *Legionella pneumophila*
24 culture analysis is performed by a laboratory that is certified
25 by the Department of Environmental Protection's Environmental
26 Laboratory Accreditation Program.
27 § 53A05. Regulations.

28 (a) Temporary regulations.--The department shall promulgate
29 temporary regulations in accordance with the act of April
30 23, 1956 (1955 P.L.1510, No.500), known as the Disease

1 Prevention and Control Law of 1955. Temporary regulations
2 promulgated under this subsection shall expire upon the
3 promulgation of final-form regulations or two years following
4 the effective date of this section, whichever is earlier.

5 (b) Requirements.--The department shall address the
6 following issues in the temporary and final-form regulations
7 required under this section:

8 (1) An assessment of the current and historical risk of
9 *Legionella pneumophila* in covered buildings as defined by
10 ASHRAE-188 that is published on the department's publicly
11 accessible Internet website.

12 (2) The required implementation of a *Legionella*
13 *pneumophila* water management plan by covered building owners
14 and operators that includes routine sampling and testing to
15 detect the presence of *Legionella pneumophila* bacteria.

16 (3) The establishment of time lines for owners and
17 operators of covered buildings to remediate confirmed
18 *Legionella pneumophila* presence.

19 (4) The creation of a searchable online repository of
20 certificates granted and persons determined to be in
21 violation of this chapter.

22 (5) Descriptions of effective and cost-efficient
23 mitigation measures that can be implemented to reduce risk of
24 *Legionella pneumophila* infection.

25 (6) Public notification of Legionnaires' disease
26 diagnosis and outbreaks.

27 (7) The development of a process to review water
28 management plans and issue certificates of compliance.

29 (8) The length of time a certificate of compliance
30 remains in effect and renewal options.

1 (c) Exemptions.--The temporary rules and regulations shall
2 not be subject to the following:

3 (1) Sections 201, 202, 203, 204 and 205 of the act of
4 July 31, 1968 (P.L.769, No.240), referred to as the
5 Commonwealth Documents Law.

6 (2) Sections 204(b) and 301(10) of the act of October
7 15, 1980 (P.L.950, No.164), known as the Commonwealth
8 Attorneys Act.

9 (3) The act of June 25, 1982 (P.L.633, No.181), known as
10 the Regulatory Review Act.

11 § 53A06. Owner and operator liability.

12 (a) Limited liability.--Notwithstanding any other provision
13 of law, an owner or operator of a covered building that has
14 implemented a water management plan in accordance with ASHRAE-
15 188 and the provisions of this chapter shall not be civilly
16 liable for damages or personal injury relating to an actual or
17 alleged exposure to Legionnaires' disease absent a showing, by
18 clear and convincing evidence, of gross negligence,
19 recklessness, willful misconduct or intentional infliction of
20 harm.

21 (b) Compliance with directives.--An act or omission in
22 compliance with, or in a good-faith belief that the act or
23 omission is in compliance with, Legionnaires' public health
24 directives shall not be considered gross negligence,
25 recklessness, willful misconduct or intentional infliction of
26 harm.

27 § 53A07. Penalties, prosecutions and fines.

28 (a) Violations.--An owner or operator of a covered building
29 who violates any provision of this chapter or a regulation
30 promulgated under this chapter shall, for each offense, upon

1 conviction of the offense in a summary proceeding before a
2 magisterial district judge in the county in which the offense
3 was committed, be sentenced to pay a fine of not less than \$100
4 nor more than \$1,000, together with costs, and in default of
5 payment of the fine and costs, to be imprisoned in the county
6 jail for a period not to exceed 30 days.

7 (b) Prosecutions.--Prosecutions may be initiated by the
8 department, a local board or department of health, local health
9 official, municipality or a person having knowledge of a
10 violation of any provisions of this chapter or any regulation
11 promulgated under this chapter.

12 (c) Imposition of fines.--A fine imposed for a violation
13 occurring in a municipality which has its own local board or
14 department of health shall be paid to the municipality. A fine
15 imposed for a violation occurring in a municipality served by a
16 county department of health shall be paid to the county in which
17 the offense was committed. All other fines shall be paid into
18 the Legionnaires' Disease Drinking Water Risk Management
19 Restricted Account. Disposition of fines under this section
20 shall be controlling regardless of the party instituting the
21 prosecution.

22 Section 3. This act shall take effect in 90 days.