
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 571 Session of
2023

INTRODUCED BY AUMENT, FONTANA, HUGHES, BREWSTER, VOGEL, MILLER,
CULVER, COSTA, KANE AND SCHWANK, MAY 17, 2023

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MAY 17, 2023

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; providing for
6 Legionnaires' disease prevention; and imposing penalties.

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

13 IN PUBLIC WATER SYSTEMS

14 Sec.

15 6701. Scope of chapter.

16 6702. Legislative findings.

17 6703. Definitions.

18 6704. Powers and duties.

19 6705. Legionnaires' Disease Drinking Water Risk Management

20 Restricted Account.

1 6706. Report.

2 6707. Violations.

3 § 6701. Scope of chapter.

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 42 U.S.C. Ch. 6A Subch. XII (relating to safety
17 of public water systems), the mission of which is public
18 health protection under 42 U.S.C. § 300g-2 (relating to State
19 primary enforcement responsibility).

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

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

28 (6) Proactively avoiding incidents such as waterborne
29 disease outbreaks, including Legionnaires' disease, can
30 prevent loss of life, reduce the incidents of illness and

1 reduce health care costs.

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

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

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

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

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

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

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

4 § 6703. Definitions.

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

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

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

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

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

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

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

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

29 (2) Collection or pretreatment storage facilities not
30 under control which are used in connection with the system.

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

3 § 6704. Powers and duties.

4 (a) Temporary regulations.--The board, in consultation with
5 the department, shall promulgate temporary regulations in
6 accordance with the act of May 1, 1984 (P.L.206, No.43), known
7 as the Pennsylvania Safe Drinking Water Act, to prevent and
8 mitigate *Legionella pneumophila* in public water systems.
9 Temporary regulations promulgated under this subsection shall
10 expire upon the promulgation of final-form regulations or two
11 years following the effective date of this section, whichever is
12 earlier.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 § 6705. Legionnaires' Disease Drinking Water Risk Management
28 Restricted Account.

29 (a) Establishment.--The Legionnaires' Disease Drinking Water
30 Risk Management Restricted Account is established as a

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

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

6 (1) Administer the account.

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

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

11 (4) Award grants.

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

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

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

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

27 (e) Sources of revenue.--

28 (1) From the amount received by the Commonwealth from
29 the Federal Government under the American Rescue Plan Act of
30 2021 (Public Law 117-2, 135 Stat. 4), \$20,000,000 shall be

1 transferred into the account.

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

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

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

8 (5) Other State appropriations may be deposited into the
9 account.

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

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

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

16 § 6706. Report.

17 By December 31, 2024, and each year thereafter, the
18 department shall submit to the chairperson and minority
19 chairperson of the Appropriations Committee of the Senate, the
20 chairperson and minority chairperson of the Appropriations
21 Committee of the House of Representatives, the chairperson and
22 minority chairperson of the Environmental Resources and Energy
23 Committee of the Senate and the chairperson and minority
24 chairperson of the Environmental Resources and Energy Committee
25 of the House of Representatives a report detailing account
26 revenues and expenditures in the prior fiscal year and
27 describing activities, programs and projects undertaken by
28 public water systems that received grant money from the account
29 to prevent and mitigate the presence of *Legionella pneumophila*.

30 § 6707. Violations.

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

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

5 CHAPTER 53A

6 LEGIONNAIRES' DISEASE PREVENTION

7 Sec.

8 53A01. Scope of chapter.

9 53A02. Legislative findings.

10 53A03. Definitions.

11 53A04. Water management plan procedures.

12 53A05. Regulations.

13 53A06. Owner and operator liability.

14 53A07. Penalties, prosecutions and fines.

15 § 53A01. Scope of chapter.

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

20 § 53A02. Legislative findings.

21 The General Assembly finds and declares as follows:

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

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

30 (3) *Legionella pneumophila* grows and multiplies in

1 building water systems and is spread through small aerosol
2 droplets, which can cause Legionnaires' disease or Pontiac
3 Fever when inhaled.

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

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

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

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

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

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

28 (10) The Centers for Disease Control and Prevention's
29 guidance urges building owners and operators to develop a
30 comprehensive water management plan for their water systems

1 and all devices that use water.

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

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

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

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

26 § 53A03. Definitions.

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

30 "ASHRAE-188." The American Society of Heating, Refrigerating

1 and Air-Conditioning Engineers' industry standard that
2 establishes minimum risk management requirements for buildings
3 with complex water systems.

4 "Covered building." A building or facility that:

5 (1) meets the criteria described in ASHRAE-188; or

6 (2) is subject to regulation by the Centers for Medicare
7 and Medicaid Services.

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

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

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

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

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

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

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

25 § 53A04. Water management plan procedures.

26 (a) Plan required.--The department shall require owners and
27 operators of covered buildings to establish and operate water
28 management plans by December 30, 2024.

29 (b) Sampling and validation testing.--

30 (1) Water management plans shall include *Legionella*

1 pneumophila testing and subsequent validation testing of
2 water to ensure successful control of the growth and
3 transmission of Legionella pneumophila in the covered
4 building's water system consistent with the most recent
5 version of ASHRAE-188.

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

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

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

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

26 (c) Remediation efforts.--If construction or other work
27 performed on the covered building's water system is likely to
28 create or elevate the presence of Legionella pneumophila
29 bacteria, the department shall require the owner or operator of
30 the covered building's water system to undertake appropriate

1 infection control, prevention and remediation measures to ensure
2 public safety.

3 (d) Retention and inspection of water management plans.--

4 Owners and operators of covered buildings shall:

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

8 (2) Provide the department with a copy of their water
9 management plan and *Legionella pneumophilia* sampling results.

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

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

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

25 § 53A05. Regulations.

26 (a) Temporary regulations.--The department shall promulgate
27 temporary regulations in accordance with the act of April 23,
28 1956 (1955 P.L.1510, No.500), known as the Disease Prevention
29 and Control Law of 1955. Temporary regulations promulgated under
30 this subsection shall expire upon the promulgation of final-form

1 regulations or two years following the effective date of this
2 subsection, whichever is earlier.

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

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

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

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

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

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

23 (6) Public notification of Legionnaires' disease
24 diagnosis and outbreaks.

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

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

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

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

4 (2) Sections 204(b) and 301(10) of the act of October
5 15, 1980 (P.L.950, No.164), known as the Commonwealth
6 Attorneys Act.

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

9 § 53A06. Owner and operator liability.

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

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

25 § 53A07. Penalties, prosecutions and fines.

26 (a) Violations.--An owner or operator of a covered building
27 who violates any provision of this chapter or a regulation
28 promulgated under this chapter shall, for each offense, upon
29 conviction of the offense in a summary proceeding before a
30 magisterial district judge in the county in which the offense

1 was committed, be sentenced to pay a fine of not less than \$100
2 nor more than \$1,000, together with costs, and in default of
3 payment of the fine and costs, to be imprisoned in the county
4 jail for a period not to exceed 30 days.

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

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

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