
HOUSE BILL 1842

State of Washington

65th Legislature

2017 Regular Session

By Representative Pollet

1 AN ACT Relating to taking action to address lead in drinking
2 water at facilities frequented by children; and adding a new chapter
3 to Title 70 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires
7 otherwise.

8 (1) "Department" means the department of health.

9 (2) "Director" means the director of the department of health.

10 (3) "Drinking water outlet" means any water fountain, faucet, or
11 tap regularly used for drinking or food preparation, including but
12 not limited to ice-making and hot drink machines.

13 (4) "Early childhood program" means any child care facility or
14 preschool, including but not limited to a child day care center as
15 defined in RCW 43.215.010, a family day care provider as defined in
16 RCW 43.215.010, or any education program for children three to five
17 years old who have not yet entered kindergarten.

18 (5) "Elevated lead level" means a lead concentration in drinking
19 water that exceeds one part per billion.

20 (6) "Lead free" means:

1 (a) Not containing more than 0.2 percent lead when used with
2 respect to solder and flux; and

3 (b) Not more than a weighted average of 0.25 percent lead when
4 used with respect to the wetted surfaces of pipes, pipe fittings,
5 plumbing fittings, and fixtures.

6 (7) "Lead service line" means a pipe and its fittings, or both,
7 that:

8 (a) Connect a drinking water main to a building inlet; and

9 (b) Are not lead free as determined using a calculation
10 consistent with the requirements of 42 U.S.C. Sec. 300g-6(d)(2), as
11 of the effective date of this section.

12 (8) "NSF certified filters" means filters certified by the
13 national sanitation foundation to remove lead from drinking water.

14 (9) "Outlet" means any tap, faucet, fountain, or other end-point
15 for delivery of water.

16 (10) "School" means a public school, a private school, or a
17 charter school regulated under Title 28A RCW or chapter 72.40 RCW.

18 (11) "Technical guidance" means the technical guidance for
19 detecting and remediating lead in drinking water at schools issued by
20 the department pursuant to section 5(2) of this act.

21 NEW SECTION. **Sec. 2.** (1) By January 1, 2018, each school and
22 early childhood program shall develop and adopt a plan of action to
23 prevent elevated lead levels in all water used for drinking or
24 cooking. The plan of action must include:

25 (a) Installing and maintaining NSF certified filters at all
26 faucets, fountains, or other outlets designated for drinking or
27 cooking within eighteen months of the effective date of this section.
28 A school or early childhood program may, consistent with other
29 obligations in law, remove some outlets from operation instead of
30 installing filters on those outlets, as long as every child has
31 reasonable access to free, safe drinking water;

32 (b) The creation of an inventory of lead-bearing parts within its
33 water delivery system, including but not limited to fixtures and
34 plumbing with lead soldering. By July 1, 2019, a school or early
35 childhood program must replace all lead-bearing parts identified in
36 the inventory under this subsection (1)(b), to the extent feasible
37 and cost-effective; and

1 (c) Any other measures to reduce lead contamination of water,
2 consistent with the department's technical guidance in section 5 of
3 this act.

4 (2) Nothing in this section prevents a school or early childhood
5 program from adjusting its plan of action in response to public input
6 or to be consistent with the department's technical guidance.
7 However, the requirements of subsection (1)(a) of this section may
8 not be amended in response to department technical guidance or public
9 input.

10 (3) A school or early childhood program may seek the assistance
11 of a local health jurisdiction or the department to help ensure its
12 compliance with the provisions of this section.

13 (4) Nothing in this section supersedes requirements for more
14 timely remediation in the event that a test shows outlets with
15 elevated lead levels, as provided in section 3(3) of this act.

16 NEW SECTION. **Sec. 3.** (1) Each school and early childhood
17 program shall periodically test each outlet used for drinking water
18 or cooking in each school or early childhood program facility for the
19 presence of lead. Each test for lead must be conducted by a
20 laboratory certified for this purpose by the director, in accordance
21 with the sampling and testing methods specified in the technical
22 guidance. By October 1, 2017, each school and early childhood program
23 must have conducted at least one test for lead in an outlet in each
24 school or early childhood program facility. By January 1, 2018, each
25 school and early childhood program must have tested for lead in each
26 outlet in each school or early childhood program facility in its
27 control. Beginning January 1, 2018, each school and early childhood
28 program must test each outlet for lead at least once per year, unless
29 the director determines, on a case-by-case basis, that a greater or
30 lesser frequency of testing is necessary or sufficient to ensure the
31 public health, including but not limited to requirements for timely
32 testing after the replacement of lead service lines.

33 (2) Nothing in this section prevents a school or early childhood
34 program from conducting more frequent testing than required pursuant
35 to subsection (3) of this section.

36 (3)(a) If testing reveals an elevated lead level at a water
37 outlet used for drinking or cooking, within twenty-four hours the
38 school or early childhood program must close off access to the outlet
39 and report the test results to the department. Additionally, within

1 thirty days of receiving test results showing one or more outlets
2 with elevated levels of lead, the school or early childhood program
3 must either:

4 (i) Permanently shut or close off access to the water outlet or
5 outlets in question and provide an alternative source of safe water
6 without elevated lead levels; or

7 (ii) Install and maintain NSF certified filter or filters at the
8 outlet or outlets in question.

9 (b) Schools or early childhood programs must take additional
10 measures if necessary to eliminate elevated lead levels at the outlet
11 or outlets in question, consistent with the technical guidance.

12 NEW SECTION. **Sec. 4.** (1) Each school and early childhood
13 program shall:

14 (a) Submit to the department and the office of the superintendent
15 of public instruction, as soon as practicable:

16 (i) Its plan of action for preventing lead contamination of
17 water, pursuant to section 2 of this act; and

18 (ii) Information on testing activities conducted pursuant to
19 section 3 of this act including, but not limited to, the date the
20 testing was completed, the location and type of each drinking water
21 outlet tested, the complete results of each test, and any measures
22 being taken pursuant to section 3(3) of this act to remediate a
23 drinking water outlet found to have an elevated lead level;

24 (b) Maintain copies of the information submitted pursuant to (a)
25 of this subsection in a suitable location for inspection by the
26 public, and on the internet web site of the school or early childhood
27 program;

28 (c) Notify parent, teacher, and employee organizations of the
29 availability of the information submitted pursuant to (a) of this
30 subsection; and

31 (d) Designate a person to serve as the contact person for
32 communications with the department and the public regarding lead
33 testing and remediation activities.

34 (2) If testing conducted pursuant to section 3 of this act
35 reveals an elevated lead level at a drinking water outlet, within one
36 business day the school or early childhood program shall directly
37 notify teachers, other school personnel, and parents. Notification
38 may be accomplished through written notice, electronic mail, or other

1 means approved by the department. The notification must include, but
2 is not limited to:

3 (a) A summary of the results of the testing conducted and
4 information on the availability of the complete test results for
5 public inspection at a suitable location and on the internet web site
6 of the school or early childhood program;

7 (b) A description of any remedial measures being taken pursuant
8 to section 3(3) of this act;

9 (c) General information on the public health effects and risks
10 posed by lead in drinking water and information on the availability
11 of additional resources concerning lead in drinking water, as
12 outlined in the technical guidance; and

13 (d) The name and contact information of the person designated
14 pursuant to subsection (1)(d) of this section to communicate with the
15 public.

16 (3) At each outlet used for drinking or cooking, the school or
17 early childhood program shall post an electronic code that, when
18 electronically scanned, provides a person with access to information
19 on testing and remediation for that outlet. The information available
20 via the electronic code must include the maintenance schedule and log
21 for installed NSF certified filters, unless the outlet is equipped
22 with a clearly visible indicator for filter replacement.

23 NEW SECTION. **Sec. 5.** (1) The department, in consultation with
24 the office of the superintendent of public instruction and the
25 department of ecology, must adopt emergency rules under chapter 34.05
26 RCW to implement this chapter. Emergency rules adopted under this
27 section may remain in effect for up to eighteen months from the date
28 of adoption.

29 (2) The department shall issue technical guidance that is at
30 least as protective of the public health as the technical guidance
31 for reducing lead in drinking water at schools issued by the United
32 States environmental protection agency. Provisions of the technical
33 guidance related to testing to determine the presence and levels of
34 lead in water, as opposed to testing to identify sources of lead for
35 remediation, must be designed to maximize detection of lead in water,
36 and therefore prohibit sampling or testing methods that tend to mask
37 lead contamination, including prestagnation flushing and removal of
38 aerators prior to sampling. By September 1, 2017, the department must
39 provide the technical guidance, a list of laboratories certified to

1 conduct lead testing, and any other information the department deems
2 appropriate to each school and early childhood program, and post the
3 technical guidance on the department's web site.

4 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act
5 constitute a new chapter in Title 70 RCW, to be codified immediately
6 after chapter 70.119A RCW.

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