
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1860

State of Washington

66th Legislature

2020 Regular Session

By House Appropriations (originally sponsored by Representatives Pollet, Stanford, Riccelli, Robinson, Wylie, Gregerson, Lovick, Peterson, Ryu, Shewmake, Valdez, Jinkins, Goodman, Tarleton, Fitzgibbon, Leavitt, Doglio, and Macri)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to taking action to address lead in drinking
2 water in schools; adding a new section to chapter 28A.210 RCW; adding
3 new sections to chapter 43.70 RCW; adding a new section to chapter
4 28A.195 RCW; creating new sections; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that the
7 United States environmental protection agency and centers for disease
8 control and prevention acknowledge that there is no known safe level
9 of lead in a child's blood. Even low levels of lead exposure can
10 cause permanent cognitive, academic, and behavioral difficulties in
11 children. The American academy of pediatrics recommends government
12 action to ensure that the lead concentration in drinking water at
13 schools does not exceed one part per billion.

14 (2) The legislature finds that, according to department of health
15 testing in 2017 and 2018, out of the two hundred thirty schools
16 tested, ninety-seven percent had lead contamination of over one part
17 per billion in one or more drinking water outlets and forty-nine
18 percent had lead contamination of twenty parts per billion in one or
19 more drinking water outlets.

20 (3) The legislature acknowledges that the department of health
21 was appropriated one million dollars in the 2019-21 biennium to

1 continue the testing for lead contamination in school drinking water
2 and will not require additional funding for this purpose until fiscal
3 year 2022. The legislature also finds that the office of the
4 superintendent of public instruction was appropriated funds to
5 distribute grants to school districts for remediation of elevated
6 lead levels in drinking water. The legislature encourages districts
7 to apply for these grants when lead test results reveal elevated lead
8 levels, which are lead levels above nine parts per billion.

9 (4) The legislature intends to require that drinking water
10 outlets in elementary and secondary school buildings built, or
11 renovated with drinking water lines and outlets replaced, before 2016
12 be tested for the presence and level of lead contamination by June
13 30, 2025, and every five years thereafter. The legislature also
14 intends to require that schools notify the school community of lead
15 test results and develop action plans for remediation if test results
16 exceed nine parts per billion.

17 (5) This act is named for the director of the Washington public
18 interest research group who developed and advocated for this
19 legislation before dying of cancer in 2019 and may be known as the
20 Bruce Speight protect children from being exposed to lead in school
21 drinking water act.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.210
23 RCW to read as follows:

24 (1) This section applies to schools with buildings built, or
25 renovated with drinking water lines and outlets replaced, before
26 2016.

27 (2) With respect to lead testing at drinking water outlets, a
28 school shall either:

29 (a) Cooperate with the department so that the department can
30 conduct lead testing as required under section 3 of this act; or

31 (b) Contract for lead testing that meets the requirements of
32 section 3 of this act and submit the results of the testing to the
33 department according to a procedure and deadlines determined by the
34 department. A contract for lead testing that requires school staff to
35 collect and handle drinking water samples meets the requirements of
36 this subsection (2)(b) if the sampling procedures used meet the
37 technical requirements described in the technical guidance.

38 (3) Beginning September 1, 2020, a school shall make available on
39 a public web page the most recent results of testing for lead

1 contamination at drinking water outlets in buildings that meet the
2 requirements of subsection (1) of this section. New test results must
3 be made available on the web page within thirty days after receipt.

4 (4) Annually, beginning September 1, 2020, preferably at the
5 beginning of the school year, a school shall communicate with
6 students' families and staff about lead contamination in drinking
7 water. The school shall consult with the department or a local health
8 agency on the contents of the communication, which must include: The
9 health effects of lead exposure and that there is no safe level of
10 lead in drinking water; the address of the lead test results web
11 page; information about, and a comparison of test results with,
12 federal and state thresholds; and the American academy of pediatrics
13 recommended threshold for remedial action to reduce lead
14 contamination in drinking water.

15 (5)(a) For a lead test result that reveals an elevated lead
16 level, as defined in subsection (7) of this section, at a drinking
17 water outlet, the school's governing body shall develop and adopt a
18 school action plan in compliance with the requirements of this
19 subsection.

20 (b) The school action plan must:

21 (i) Be developed in consultation with the department or a local
22 health agency;

23 (ii) Include remediation activities that adhere to the technical
24 guidance; and

25 (iii) Include confirmatory retesting.

26 (c) The school's governing body must provide the public with
27 notice and opportunity to comment on the school action plan before it
28 is adopted.

29 (d) The school action plan adoption deadlines are as follows:

30 (i) For test results received between July 1, 2014, and the
31 effective date of this section, for which a school did not take
32 remedial action or for which retesting has not confirmed that the
33 elevated lead level has been reduced to below nine parts per billion,
34 the school's governing body shall provide notice of elevated lead
35 levels in the communication required under subsection (4) of this
36 section and adopt an action plan by November 1, 2020; and

37 (ii) For test results received after the effective date of this
38 section, the school's governing body shall adopt an action plan
39 within three months of receipt.

1 (6) Unless and until a school receives a state or federal grant
2 to conduct remediation activities, the school may not conduct
3 remediation activities that exceed two thousand dollars per school
4 building. A school with a school action plan and incomplete
5 remediation activities must apply for grant funding to complete the
6 remediation activities when grants are available for this purpose
7 through the department or the office of the superintendent of public
8 instruction.

9 (7) The definitions in this subsection apply throughout this
10 section unless the context clearly requires otherwise.

11 (a) "Department" means the department of health.

12 (b) "Drinking water" means any water that students have access to
13 where it is reasonably foreseeable that the water may be used for
14 drinking, cooking, or food preparation.

15 (c) "Drinking water outlet" means any end point for delivery of
16 drinking water, for example a tap, faucet, or fountain.

17 (d) "Elevated lead level" means a lead concentration in drinking
18 water that exceeds nine parts per billion, unless a lower
19 concentration is specified by the department in rule.

20 (e) "School" means a school district and the common schools, as
21 defined in RCW 28A.150.020, within the district; a charter public
22 school authorized under chapter 28A.710 RCW; or the state school for
23 the blind or the state school for the deaf established under RCW
24 72.40.010.

25 (f) "Technical guidance" means the technical guidance for
26 reducing lead in drinking water at schools issued by the United
27 States environmental protection agency until the department complies
28 with section 6 of this act when the term means the technical guidance
29 for testing and remediating lead contamination in drinking water at
30 schools described in section 6 of this act.

31 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.70
32 RCW to read as follows:

33 (1) The department shall conduct lead testing at drinking water
34 outlets in school buildings built, or renovated with drinking water
35 lines and outlets replaced, before 2016 as specified in this section.
36 The department meets the requirements of this section when a school
37 contracts for lead testing that meets the requirements of this
38 section and section 2(2)(b) of this act and submits the results of

1 the testing to the department according to a procedure and deadlines
2 prescribed by the department.

3 (2) Testing for the presence and level of lead in drinking water
4 conducted as required by this section must meet the technical
5 requirements described in the technical guidance.

6 (3)(a) Initial testing for lead contamination in drinking water
7 must be conducted between July 1, 2014, and June 30, 2025; and

8 (b) Retesting for lead contamination in drinking water must be
9 conducted no less than every five years beginning July 1, 2025.

10 (4) The definitions in section 2 of this act apply throughout
11 this section unless the context clearly requires otherwise.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.70
13 RCW to read as follows:

14 The department shall allow schools that are the subject of a
15 state-tribal education compact as authorized under chapter 28A.715
16 RCW to opt into lead testing of drinking water outlets in school
17 buildings built, or renovated with drinking water lines and outlets
18 replaced, before 2016 pursuant to section 3 of this act.

19 NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.195
20 RCW to read as follows:

21 (1) A private school shall contract for lead testing in drinking
22 water outlets, as defined in section 2 of this act, in school
23 buildings built, or renovated with drinking water lines and outlets
24 replaced, before 2016 as required by this section.

25 (2) Collection and handling of drinking water samples, and
26 testing for the presence and level of lead in drinking water, must
27 meet the technical requirements described in the technical guidance,
28 as defined in section 2 of this act.

29 (3) Deadlines for initial testing and retesting are as provided
30 in section 3 of this act.

31 (4) Except for section 2(6) of this act related to expenditure
32 limits on, and application for grant funding for, conducting
33 remediation activities, a private school shall meet the requirements
34 provided in section 2 of this act related to communicating with
35 students' families and staff about lead contamination in drinking
36 water, making lead test results available on a public web site, and
37 developing and adopting a school action plan.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.70
2 RCW to read as follows:

3 The department shall develop and make available technical
4 guidance for reducing lead contamination in drinking water at schools
5 that is at least as protective of student health as any technical
6 guidance on this topic issued by the United States environmental
7 protection agency. The technical guidance must include the technical
8 requirements for sampling, processing, and analysis, including that
9 analysis must be conducted by a laboratory accredited by the
10 department of ecology. The technical guidance must describe best
11 practices for remediating elevated lead levels at drinking water
12 outlets in schools. Provisions of the technical guidance related to
13 testing for the presence and level of lead in drinking water, as
14 opposed to testing to identify sources of lead for remediation, must
15 be designed to maximize detection of lead in water, and therefore
16 must prohibit sampling or analytical methods that tend to mask lead
17 contamination, including prestagnation flushing and removal of
18 aerators prior to sampling.

19 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.70
20 RCW to read as follows:

21 After July 1, 2030, the department may, by rule, define "elevated
22 lead level" at a concentration less than nine parts per billion if
23 scientific evidence supports a lower concentration as having the
24 potential for further reducing the health effects of lead
25 contamination in drinking water.

26 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.70
27 RCW to read as follows:

28 The department is designated as the lead or principal agency in
29 regard to lead tests and actions at public and private elementary and
30 secondary schools if and when necessary to meet the requirements of a
31 federal environmental protection agency lead rule adopted after the
32 effective date of this section.

33 NEW SECTION. **Sec. 9.** (1) During fiscal years 2020 and 2021, the
34 department of health shall conduct lead testing as required in
35 section 2 of this act using funds provided solely for testing of lead
36 in public schools under section 221(49), chapter 415, Laws of 2019.

37 (2) This section expires June 30, 2022.

1 NEW SECTION. **Sec. 10.** This act may be known and cited as the
2 Bruce Speight protect children from being exposed to lead in school
3 drinking water act.

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