AN ACT Relating to taking action to address lead in drinking water in schools; and adding a new chapter to Title 28A RCW.

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

NEW SECTION, Sec. 1. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

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

(3) "Elevated lead level" means a lead concentration in drinking water that exceeds five parts per billion.

(4) "Lead free" means:

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

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

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

(a) Connect a drinking water main to a building inlet; and
(b) Are not lead free as determined using a calculation consistent with the requirements of 42 U.S.C. Sec. 300g-6(d)(2), as of the effective date of this section.

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

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

(8) "School" means a public school, a private school, or a charter school regulated under this title or chapter 72.40 RCW.

(9) "Secretary" means the secretary of the department of health.

(10) "Superintendent" means the office of the superintendent of public instruction.

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

NEW SECTION. Sec. 2. (1) By January 1, 2020, each school shall develop and adopt a plan of action to prevent elevated lead levels in all water used for drinking or cooking. The plan of action must include:

(a) Installing and maintaining NSF certified filters at all faucets, fountains, or other outlets designated for drinking or cooking, at which elevated levels of lead have been identified, within eighteen months of the effective date of this section. A school may, consistent with other obligations in law, remove some outlets from operation instead of installing filters on those outlets, as long as every child has reasonable access to free, safe drinking water;

(b) The creation of an inventory of lead-bearing parts within its water delivery system, including but not limited to fixtures and plumbing with lead soldering. By July 1, 2021, a school must replace all lead-bearing parts identified in the inventory under this subsection (1)(b), to the extent feasible and cost-effective, except that nothing in this subsection (1)(b) shall be interpreted to require a school to undertake structural modifications to a building; and

(c) Any other measures to reduce lead contamination of water, consistent with the technical guidance issued by the office of the superintendent of public instruction in section 5 of this act.
(2) Nothing in this section prevents a school from adjusting its plan of action in response to public input or to be consistent with the technical guidance issued by the superintendent. However, the requirements of subsection (1)(a) of this section may not be amended in response to department technical guidance or public input.

(3) A school may seek the assistance of a local health jurisdiction, the department, or the superintendent to help ensure its compliance with the provisions of this section.

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

NEW SECTION. Sec. 3. (1) No less frequently than once every three years, starting with the 2019-20 school year, each school shall test each outlet used for drinking water or cooking in each school facility built before 2000 for the presence of lead. School districts may test one-third of the buildings required to be tested pursuant to this section in 2019, one-third in 2020, and one-third in 2021. Each test for lead must be conducted by a laboratory certified for this purpose by the secretary, in accordance with the sampling and testing methods specified in the technical guidance issued by the office of the superintendent of public instruction. Concluding with the fiscal year ending June 30, 2025, each school conducting testing pursuant to this section may be reimbursed for its testing costs by the superintendent from funds appropriated for this purpose.

(2) Nothing in this section prevents a school from conducting more frequent testing than required pursuant to subsection (1) of this section.

(3) If testing reveals a lead level of one part per billion or higher at a water outlet used for drinking or cooking, within ten business days the school must provide notice of the results of the test as specified in section 4(2) of this act.

(4)(a) If testing reveals a lead level of five parts per billion or higher at a water outlet used for drinking or cooking, within twenty-four hours the school must close off access to the outlet and report the test results to the department and to the superintendent. Additionally, within thirty days of receiving test results showing one or more outlets with lead levels of five parts per billion or higher, the school shall either:
(i) Permanently shut or close off access to the water outlet or outlets in question and provide an alternative source of safe water without elevated lead levels; or

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

(b) Schools must take additional measures if necessary to eliminate elevated lead levels at the outlet or outlets in question, consistent with the technical guidance issued by the superintendent.

NEW SECTION. Sec. 4. (1) Each school shall:

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

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

(ii) Information on testing activities conducted pursuant to section 3 of this act including, but not limited to, the date the testing was completed, the location and type of each drinking water outlet tested, the complete results of each test, and any measures being taken pursuant to section 3(4) of this act to remediate a drinking water outlet found to have a lead level greater than five parts per billion;

(b) Maintain copies of the information submitted pursuant to (a) of this subsection in a suitable location for inspection by the public, and on the internet web site of the school;

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

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

(2) If testing conducted pursuant to section 3 of this act reveals a lead level of one part per billion or higher at a drinking water outlet, within ten business days the school shall directly notify teachers, other school personnel, and parents. Notification may be accomplished through written notice, email, or other means approved by the department. The notification must include, but is not limited to:

(a) A summary of the results of the testing conducted and information on the availability of the complete test results for
public inspection at a suitable location and on the internet web site of the school;

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

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

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

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

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

(2) The superintendent, in consultation with the department, shall issue technical guidance that is at least as protective of the public health as the technical guidance for reducing lead in drinking water at schools issued by the United States environmental protection agency. Provisions of the technical guidance related to testing to determine the presence and levels of lead in water, as opposed to testing to identify sources of lead for remediation, must be designed to maximize detection of lead in water, and therefore must prohibit sampling or testing methods that tend to mask lead contamination, including prestagnation flushing and removal of aerators prior to sampling. By September 1, 2019, the superintendent shall provide the technical guidance, a list of laboratories certified to conduct lead testing, and any other information the superintendent deems appropriate to each school, and post the technical guidance on the office of the superintendent of public instruction’s web site.
NEW SECTION.  Sec. 6. Sections 1 through 5 of this act constitute a new chapter in Title 28A RCW.

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