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**HOUSE BILL 1139**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Representatives Pollet, Callan, Berg, Dolan, Ryu, Leavitt, Bronoske, Ramel, Ramos, Lekanoff, Stonier, Ortiz-Self, Frame, Goodman, Rule, Bergquist, Berry, Wylie, J. Johnson, Taylor, and Valdez

Read first time 01/12/21. Referred to Committee on Education.

1 AN ACT Relating to taking action to address lead in school  
2 drinking water; 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; and creating new sections.

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 the department of health sampled  
15 and tested drinking water outlets in 551 elementary schools between  
16 2017 and 2020. 82 percent of these schools had lead contamination of  
17 five or more parts per billion in one or more drinking water outlets  
18 and 49 percent of these schools had lead contamination of 15 or more  
19 parts per billion in one or more drinking water outlets.

20 (3) The legislature acknowledges that the department of health  
21 was appropriated \$1,000,000 in the fiscal 2019-2021 biennium to

1 continue the testing for lead contamination in school drinking water.  
2 The legislature also finds that the office of the superintendent of  
3 public instruction was appropriated funds in the 2019-2021 fiscal  
4 biennium for the healthy kids/healthy schools initiative. Part of  
5 these funds are for the purpose of distributing grants to school  
6 districts for remediation of elevated lead levels in drinking water.  
7 The legislature encourages districts to apply for these grants when  
8 lead test results reveal elevated lead levels, which are lead levels  
9 above five parts per billion.

10 (4) The legislature acknowledges the historically inequitable  
11 distribution of lead exposure for communities of color and of low  
12 socioeconomic status and plans to make a priority the protection of  
13 children from the dangers of lead exposure through school drinking  
14 water. The legislature, therefore, intends to require that drinking  
15 water outlets in elementary and secondary school buildings built, or  
16 with all plumbing replaced, before 2016 be tested for the presence  
17 and level of lead contamination by June 30, 2026, and every five  
18 years thereafter. The legislature also intends to require that  
19 schools notify the school community of lead test results and develop  
20 action plans for remediation if test results exceed the health-based  
21 standard of five parts per billion.

22 (5) The legislature recognizes that the youngest children are the  
23 most vulnerable to lead exposure and that many of these children  
24 spend significant amounts of time at child care facilities.  
25 Therefore, it is the intent of the legislature that the department of  
26 health and the board of health regularly review scientific evidence  
27 of the effects of lead contamination in drinking water at child care  
28 facilities and consider adopting lead testing and remediation rules  
29 that are more protective than the federal rules.

30 (6) This act is named for the director of the Washington public  
31 interest research group who developed and advocated for this  
32 legislation before dying of cancer in 2019 and may be known as the  
33 Bruce Speight protect children from being exposed to lead in school  
34 drinking water act.

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

37 (1) This section applies to schools with buildings built, or with  
38 all plumbing replaced, before 2016.

1 (2) With respect to sampling and testing for lead contamination  
2 at drinking water outlets, a school shall either:

3 (a) Cooperate with the department so that the department can  
4 conduct sampling and testing as required under section 3 of this act;  
5 or

6 (b) Contract for sampling and testing that meets the requirements  
7 of section 3 of this act and submit the test results to the  
8 department according to a procedure and deadlines determined by the  
9 department.

10 (3) Beginning January 1, 2022, a school shall make available on a  
11 public website the most recent results of testing for lead  
12 contamination at drinking water outlets in buildings that meet the  
13 requirements of subsection (1) of this section. New test results must  
14 be made available on the website within 30 days after receipt.

15 (4) Annually, beginning September 1, 2021, preferably at the  
16 beginning of the school year, a school shall communicate with  
17 students' families and staff about lead contamination in drinking  
18 water. The school shall consult with the department or a local health  
19 agency on the contents of the communication, which must include: The  
20 health effects of lead exposure and that there is no safe level of  
21 lead in drinking water; the website address of the lead test results;  
22 and information about, and a comparison of lead test results with the  
23 federal threshold, the state threshold, and the American academy of  
24 pediatrics recommended threshold for remedial action to reduce lead  
25 contamination in drinking water.

26 (5)(a) For a lead test result that reveals an elevated lead  
27 level, as defined in subsection (6) of this section, at a drinking  
28 water outlet, the school's governing body shall develop and adopt a  
29 school action plan in compliance with the requirements of this  
30 subsection.

31 (b) The school action plan must:

32 (i) Be developed in consultation with the department or a local  
33 health agency regarding the technical guidance, and with the office  
34 of the superintendent of public instruction regarding funding for  
35 remediation activities;

36 (ii) Include remediation activities that adhere to the technical  
37 guidance; and

38 (iii) Include confirmatory retesting.

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

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

5 (i) For lead test results received between July 1, 2014, and the  
6 effective date of this section, for which a school did not take  
7 remedial action or for which retesting has not confirmed that the  
8 elevated lead level has been reduced to below five parts per billion,  
9 the school's governing body shall provide notice of elevated lead  
10 levels in the communication required under subsection (4) of this  
11 section and adopt an action plan by November 1, 2021; and

12 (ii) For lead test results received after the effective date of  
13 this section, the school's governing body shall adopt an action plan  
14 within six months of receipt.

15 (6) The definitions in this subsection apply throughout this  
16 section unless the context clearly requires otherwise.

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

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

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

23 (d) "Elevated lead level" means a lead concentration in drinking  
24 water that exceeds five parts per billion, unless a lower  
25 concentration is specified by the department in rule.

26 (e) "School" means a school district and the common schools, as  
27 defined in RCW 28A.150.020, within the district; a charter school  
28 established under chapter 28A.710 RCW; or the state school for the  
29 blind or the state school for the deaf established under RCW  
30 72.40.010.

31 (f) "Technical guidance" means the technical guidance for  
32 reducing lead in drinking water at schools issued by the United  
33 States environmental protection agency until the department complies  
34 with section 6 of this act when the term means the technical guidance  
35 developed by the department.

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

38 (1) The department shall conduct sampling and testing for lead  
39 contamination at drinking water outlets in school buildings built, or

1 with all plumbing replaced, before 2016 as specified in this section.  
2 The department meets the requirements of this section when a school  
3 contracts for sampling and testing that meets the requirements of  
4 this section and submits the test results to the department according  
5 to a procedure and deadlines determined by the department.

6 (2) Sampling and testing for the presence and level of lead in  
7 drinking water must meet the technical requirements described in the  
8 technical guidance.

9 (3)(a) Initial testing for lead contamination in drinking water  
10 must be conducted between July 1, 2014, and June 30, 2026.

11 (b) Retesting for lead contamination in drinking water must be  
12 conducted no less than every five years beginning July 1, 2026.

13 (4) The department shall enter a data-sharing agreement with the  
14 office of the superintendent of public instruction for the purpose of  
15 compiling a list of school buildings built, or with all plumbing  
16 replaced, before 2016.

17 (5) The definitions in section 2 of this act apply throughout  
18 this section unless the context clearly requires otherwise.

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

21 The department shall allow state-tribal compact schools  
22 established under chapter 28A.715 RCW to opt into sampling and  
23 testing for lead contamination at drinking water outlets in school  
24 buildings built, or with all plumbing replaced, before 2016 pursuant  
25 to section 3 of this act.

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

28 (1) A private school shall contract for sampling and testing for  
29 lead contamination at drinking water outlets, as defined in section 2  
30 of this act, in school buildings built, or with all plumbing  
31 replaced, before 2016 as required by this section.

32 (2) Sampling and testing for the presence and level of lead in  
33 drinking water must meet the technical requirements described in the  
34 technical guidance, as defined in section 2 of this act.

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

37 (4) A private school shall meet the requirements provided in  
38 section 2 of this act related to communicating with students'

1 families and staff about lead contamination in drinking water, making  
2 lead test results available on a public website, and developing and  
3 adopting a school action plan.

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

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

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

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

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

31 (1) To the fullest extent permitted by federal law, the  
32 department, rather than community water systems, is designated as the  
33 lead or principal agency in regard to lead in drinking water  
34 sampling, testing, notification, remediation, public education, and  
35 other actions at public and private elementary and secondary schools  
36 as required by the federal lead and copper rule, 40 C.F.R. Part 141.

1           (2) The department must issue a written waiver that exempts  
2 community water systems that serve schools from the sampling and  
3 testing requirements of 40 C.F.R. Part 141.92 related to schools if  
4 the department determines that the mandatory requirements for  
5 sampling and testing for, and remediation of, lead contamination in  
6 drinking water outlets at elementary and secondary schools under this  
7 act are consistent with the requirements in 40 C.F.R. Part 141.92 of  
8 the federal lead and copper rule.

9           NEW SECTION.   **Sec. 9.** This act may be known and cited as the  
10 Bruce Speight protect children from being exposed to lead in school  
11 drinking water act.

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