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**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1860**

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**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)

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

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

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

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

(3) The legislature acknowledges that the department of health was appropriated one million dollars in the 2019-21 biennium to continue the testing for lead contamination in school drinking water and will not require additional funding for this purpose until fiscal year 2022. The legislature also finds that the office of the superintendent of public instruction was appropriated funds to distribute grants to school districts for remediation of elevated lead levels in drinking water. The legislature encourages districts to apply for these grants when lead test results reveal elevated lead levels, which are lead levels above nine parts per billion.

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

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

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

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

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

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

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

(3) Beginning September 1, 2020, a school shall make available on a public web page the most recent results of testing for lead contamination at drinking water outlets in buildings that meet the requirements of subsection (1) of this section. New test results must be made available on the web page within thirty days after receipt.

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

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

(b) The school action plan must:

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

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

(iii) Include confirmatory retesting.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The department shall conduct lead testing at drinking water outlets in school buildings built, or renovated with drinking water lines and outlets replaced, before 2016 as specified in this section. The department meets the requirements of this section when a school contracts for lead testing that meets the requirements of this section and section 2(2)(b) of this act and submits the results of the testing to the department according to a procedure and deadlines prescribed by the department.

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

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

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

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

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

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

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

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

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

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

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

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

The department shall develop and make available technical guidance for reducing lead contamination in drinking water at schools that is at least as protective of student health as any technical guidance on this topic issued by the United States environmental protection agency. The technical guidance must include the technical requirements for sampling, processing, and analysis, including that analysis must be conducted by a laboratory accredited by the department of ecology. The technical guidance must describe best practices for remediating elevated lead levels at drinking water outlets in schools. Provisions of the technical guidance related to testing for the presence and level of lead in drinking 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 analytical methods that tend to mask lead contamination, including prestagnation flushing and removal of aerators prior to sampling.

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

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

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

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

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

(2) This section expires June 30, 2022.

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

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