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**HOUSE BILL 1842**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Pollet, Orwall, Stanford, Tarleton, Kilduff, and Farrell

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

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

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

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

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

(3) "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.

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

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

(6) "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.

(7) "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.

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

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

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

(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.**  (1) By January 1, 2018, each school and early childhood program 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 within eighteen months of the effective date of this section. A school or early childhood program 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, 2019, a school or early childhood program must replace all lead-bearing parts identified in the inventory under this subsection (1)(b), to the extent feasible and cost-effective; and

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

(2) Nothing in this section prevents a school or early childhood program from adjusting its plan of action in response to public input or to be consistent with the department's technical guidance. 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 or early childhood program may seek the assistance of a local health jurisdiction or the department 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(3) of this act.

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

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

(3)(a) If testing reveals an elevated lead level at a water outlet used for drinking or cooking, within twenty-four hours the school or early childhood program must close off access to the outlet and report the test results to the department. Additionally, within thirty days of receiving test results showing one or more outlets with elevated levels of lead, the school or early childhood program must 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 NSF certified filter or filters at the outlet or outlets in question.

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

NEW SECTION. **Sec.**  (1) Each school and early childhood program 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(3) of this act to remediate a drinking water outlet found to have an elevated lead level;

(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 or early childhood program;

(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 an elevated lead level at a drinking water outlet, within one business day the school or early childhood program shall directly notify teachers, other school personnel, and parents. Notification may be accomplished through written notice, electronic mail, 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 or early childhood program;

(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 or early childhood program 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.**  (1) The department, in consultation with the office of the superintendent of public instruction 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 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 prohibit sampling or testing methods that tend to mask lead contamination, including prestagnation flushing and removal of aerators prior to sampling. By September 1, 2017, the department must provide the technical guidance, a list of laboratories certified to conduct lead testing, and any other information the department deems appropriate to each school and early childhood program, and post the technical guidance on the department's web site.

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

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