
Environment Committee

HB 1925

Brief Description: Taking action to address lead in drinking water in schools.

Sponsors: Representatives Pollet, Tarleton, Kilduff, Orwall, Muri and Stanford.

Brief Summary of Bill

- Requires schools to develop a plan of action by January 1, 2018 to prevent lead levels above 1 part per billion in water used for drinking or cooking.
- Requires schools to periodically test fixtures used for drinking water or cooking for the presence of lead, including annual testing of each water fixture in schools beginning January 1, 2018.
- Requires schools to provide certain information to state agencies and persons affiliated with the school regarding lead testing activities.

Hearing Date: 2/13/17

Staff: Jacob Lipson (786-7196).

Background:

Public Water System Regulation.

Established in 1974, the Safe Drinking Water Act (SDWA) is the federal law that ensures the quality of drinking water supplied by public water systems serving at least 15 connections or 25 individuals. Under the SDWA, the Environmental Protection Agency (EPA) identifies the universe of drinking water contaminants to be regulated, sets standards for drinking water quality, and oversees the states, localities, and water suppliers who implement those standards. The SDWA requires water systems to take actions to protect drinking water sources, deliver water that meets maximum contaminant levels established by EPA regulation, and undertake other measures as needed to ensure that water delivered to customer taps does not contain high levels of certain contaminants, including lead.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Under the SDWA, state regulatory agencies, rather than the EPA, are the regulators generally responsible for implementing drinking water standards, and for direct oversight of the operation of public water systems. Any state-adopted drinking water regulations must be no less stringent than the federal drinking water regulations adopted by the EPA. The Department of Health (DOH) implements the state's drinking water program mandated by the federal SDWA and parallel state laws.

Federal regulations to minimize exposure to lead and copper (Lead and Copper Rule) and related state standards do not include the establishment of maximum contaminant level for lead in drinking water sources. Instead, public water systems regulated under the SDWA are required to take certain corrosion-reduction actions to minimize the disturbance of lead during the delivery of water to customers' taps. Failing these corrosion-minimization precautions, when a water system's water quality monitoring results indicate that 10 percent of customer taps exceed 15 parts per billion (ppb) of lead (Lead Action Level), the federal rule requires the water system to take corrective action to reduce lead levels in the water delivered to the taps. Finally, the SDWA and the lead rule also prohibit water systems from installing new plumbing fixtures with high lead content, with certain exceptions for connections that will not be used for drinking water consumption.

Drinking Water Testing at Schools.

The federal Lead and Copper Rule requires schools to test for lead only if the school operates its own public water system. However, schools that are customers of public water systems operated by other entities are not required to do their own lead testing of drinking water.

In 2009, the State Board of Health (BOH) adopted, but has not yet implemented, a rule that will require schools to establish drinking water testing programs and adopt other environmental and safety measures. This rule (2009 Rule) establishes water quality testing requirements, indoor air quality improvement measures, playground safety requirements, and other new regulations related to the environmental health and safety standards in schools. In particular, the lead-specific water quality requirements established by the 2009 Rule include:

- Using specified sampling procedures, schools must test the lead content in water from plumbing fixtures that are used regularly for drinking or cooking.
- School districts must adhere to a set timeline for the initial collection of samples from plumbing fixtures across each school or school district.
- School districts must repeat water quality testing for lead every five years after initial lead testing is completed.
- When lead is found in a plumbing fixture at levels exceeding 20 ppb, the tested plumbing fixtures must be immediately shut off or rendered inoperable. If test results from a plumbing fixture exceed 20 ppb lead, schools must also undertake one of several corrective action options for plumbing fixtures of a similar age or type. These options include providing bottled water, instituting a monitored regime of manual or automatic flushing of water through the plumbing fixtures, instituting a lead treatment process, or replacing the plumbing fixtures.
- School staff, parents, students, and local health officers must be notified within five business days if any water quality sampling results exceed 20 ppb of lead.

Via a series of provisos in each successive operating budget enacted since 2009, the Legislature has precluded the DOH from beginning to implement the 2009 Rule.

2016 Executive Directive and Report.

On May 2, 2016, Governor Inslee issued a seven-part directive to the DOH and the BOH related to reducing lead exposure, including directing the BOH to review and update the 2009 Rule, including the preparation of a 2009 Rule implementation decision package, with an emphasis necessary, on implementation of the portion of rules related to lead exposure. In a report issued in response to the executive directive, in October 2016 the DOH did not recommend that the suspended rules be implemented, but did recommend that local health jurisdictions perform inspections of schools every three years, and that drinking water in all schools be tested over a six-year period, with highest priority given to elementary schools without recent tests.

Summary of Bill:

Department of Health Guidance.

The Department of Health (DOH) must develop technical guidance by September 1, 2017, and post the guidance on its website, along with a list of laboratories certified to conduct lead testing. The DOH's guidance must be at least as protective of public health as drinking water guidance issued by the Environmental Protection Agency (EPA) for reducing lead in drinking water at schools, and must be designed to maximize detection of lead in water.

School Drinking Water Infrastructure Plans.

By January 1, 2018, each public, private, and charter school must adopt a plan of action to prevent elevated lead levels in water used for drinking and cooking. The plan of action must include:

- installing and maintaining filters certified by the National Sanitation Foundation (NSF) at all faucets, fountains, or other drinking or cooking outlets, or else removing unfiltered outlets from operation, within 18 months of the act's effective date;
- inventorying lead-bearing parts in water delivery systems, and to the extent feasible and cost-effective, replacing those parts by July 1, 2019; and
- other actions to reduce lead contamination of water, consistent with the DOH technical guidance.

School plans of action, except for NSF certified filter installation requirements, may be amended in response to public input or to be consistent with DOH technical guidance. Schools may seek local health jurisdiction or DOH assistance in complying with these requirements.

School Drinking Water Testing.

Public, private, and charter schools must periodically use a testing laboratory certified by the DOH to test for lead in each drinking water or cooking outlet. Testing requirements that schools must meet include:

- test at least one outlet in each school facility by October 1, 2017;
- test for lead in each outlet in a school by January 1, 2018; and

- annually test each outlet once per year beginning January 1, 2018, unless the DOH determines on a case-by-case basis that testing frequency can be increased or decreased.

When test results reveal a lead level of 1 part per billion, the school must close off access to the outlet and report the test results to DOH within 24 hours, as well as notifying teachers, students, and employees. In addition, within 30 days, the outlet must either be permanently decommissioned or have NSF certified filters installed.

Other Requirements.

As soon as practicable, each school must submit its action plan and testing results to DOH, post lead testing and action plan information on the school's website, designate a contact person for lead reduction activities, and notify student, parent, and employee organizations.

Each water outlet used for drinking or cooking must be equipped with an electronic code that, when scanned, provides access to testing information and filter status related to that drinking water outlet.

The DOH, in consultation with the Office of the Superintendent of Public Institution (OSPI) and the Department of Ecology (ECY), must adopt emergency rules, which may remain in effect for up to 18 months.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.