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**SUBSTITUTE HOUSE BILL 1860**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** House Education (originally sponsored by Representatives Pollet, Stanford, Riccelli, Robinson, Wylie, Gregerson, Lovick, Peterson, Ryu, Shewmake, Valdez, Jenkins, Goodman, Tarleton, Fitzgibbon, Leavitt, Doglio, and Macri)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to taking action to address lead in drinking  
2 water in schools; 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; creating new sections; and providing an expiration date.

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, according to department of health  
15 testing in 2017 and 2018, out of the two hundred thirty schools  
16 tested, ninety-seven percent had lead contamination of over one part  
17 per billion in one or more drinking water outlets and forty-nine  
18 percent had lead contamination of twenty parts per billion in one or  
19 more drinking water outlets.

20 (3) The legislature acknowledges that the department of health  
21 was appropriated one million dollars in the 2019-21 biennium to

1 continue the testing for lead contamination in school drinking water  
2 and will not require additional funding for this purpose until fiscal  
3 year 2022. The legislature also finds that the office of the  
4 superintendent of public instruction was appropriated funds to  
5 distribute grants to school districts for remediation of elevated  
6 lead levels in drinking water. The legislature encourages districts  
7 to apply for these grants when lead test results reveal elevated lead  
8 levels, which are lead levels above five parts per billion.

9 (4) The legislature intends to require that drinking water  
10 outlets in elementary and postsecondary school buildings built, or  
11 renovated with drinking water lines and outlets replaced, before 2016  
12 be tested for the presence and level of lead contamination by June  
13 30, 2024, and every three years thereafter. The legislature also  
14 intends to require that schools notify the school community of lead  
15 test results and develop action plans for remediation if test results  
16 exceed five parts per billion.

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

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

24 (1) This section applies to schools with buildings built, or  
25 renovated with drinking water lines and outlets replaced, before  
26 2016.

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

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

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

38 (3) Beginning September 1, 2020, a school shall make available on  
39 a public web page the most recent results of testing for lead

1 contamination at drinking water outlets in buildings that meet the  
2 requirements of subsection (1) of this section. New test results must  
3 be made available on the web page within thirty days after receipt.

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

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

20 (b) The school action plan must:

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

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

25 (iii) Include confirmatory retesting.

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

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

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

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

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

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

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

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

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

12 (e) "School" means a school district and the common schools, as  
13 defined in RCW 28A.150.020, within the district; a charter public  
14 school authorized under chapter 28A.710 RCW; or the state school for  
15 the blind or the state school for the deaf established under RCW  
16 72.40.010.

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (4) A private school shall meet the requirements provided in  
23 section 2 of this act related to communicating with students'  
24 families and staff about lead contamination in drinking water, making  
25 lead test results available on a public web site, and developing and  
26 adopting a school action plan.

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

29 The department shall develop and make available technical  
30 guidance for reducing lead contamination in drinking water at schools  
31 that is at least as protective of student health as any technical  
32 guidance on this topic issued by the United States environmental  
33 protection agency. The technical guidance must include the technical  
34 requirements for sampling, processing, and analysis, including that  
35 analysis must be conducted by a laboratory accredited by the  
36 department of ecology. The technical guidance must describe best  
37 practices for remediating elevated lead levels at drinking water

1 outlets in schools. Provisions of the technical guidance related to  
2 testing for the presence and level of lead in drinking water, as  
3 opposed to testing to identify sources of lead for remediation, must  
4 be designed to maximize detection of lead in water, and therefore  
5 must prohibit sampling or analytical methods that tend to mask lead  
6 contamination, including prestagnation flushing and removal of  
7 aerators prior to sampling.

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

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

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

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

22 NEW SECTION. **Sec. 9.** (1) During fiscal years 2020 and 2021, the  
23 department of health shall conduct lead testing as required in  
24 section 2 of this act using funds provided solely for testing of lead  
25 in public schools under section 221(49), chapter 415, Laws of 2019.

26 (2) This section expires June 30, 2022.

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

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