STATE OF NEW YORK

4439

2017-2018 Regular Sessions

IN SENATE

February 15, 2017

Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to expanding lead testing to day care facilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 1110 of the public health law, as added by chapter 296 of the laws of 2016, is amended to read as follows:

§ 1110. School **and day care** potable water testing and standards. 1. **For the purposes of this section, "day care facilities" shall mean a child day care center, group family day care home, or a family day care home licensed or registered with the office of children and family services. The provisions of this section do not apply to child day care centers, group family day care homes, family day care homes, school-age child care programs and small day care centers that hold a permit issued by the New York City department of health and mental hygiene.**

2. In addition to school districts already classified as a public water system under parts 141 and 142 of title 40 of the code of federal regulations, as such regulations may, from time to time, be amended, every school district [~~and~~], board of cooperative educational services**, and day care facility** shall conduct periodic first-drawn tap testing of potable water systems to monitor for lead contamination in each occupied school building under its jurisdiction as required by regulations promulgated pursuant to this section. The testing shall be conducted and the results analyzed by an entity or entities approved by the commissioner.

[~~2.~~] **3.** Where a finding of lead contamination is made, the affected school district **or day care facility** shall: (a) continue first-drawn tap water testing pursuant to regulations promulgated pursuant to this section; (b) provide [~~school~~] occupants with an adequate supply of safe, potable water for drinking as required by rules and regulations of the

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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department until future tests indicate lead levels pursuant to regulations promulgated pursuant to this section; and (c) provide parents or persons in parental relation to a child attending said school **or day care facility** with written notification of test results as well as posting such test results on the school district's website.

[~~3.~~] **4.** First-drawn tap testing shall not be required for school **or day care facility** buildings that have been deemed "lead-free" as defined by section 1417 of the federal safe drinking water act.

[~~4.~~] **5.** The commissioner, in consultation with the commissioner of education **and the commissioner of children and family services**, shall promulgate regulations to carry out the provisions of this section. Notwithstanding any other provision of law to the contrary, the regulations promulgated with regard to lead levels shall be consistent with the requirements for those school districts **or day care facilities** classified as a public water system under parts 141 and 142 of title 40 of the code of federal regulations as such regulations may, from time to time, be amended.

[~~5.~~] **6.** The commissioner **in consultation with the commissioner of children and family services,** may grant a waiver from the testing requirements of this section for certain school buildings, provided that, the school district **or day care facility** has substantially complied with the testing requirements and has been found to be below lead levels as determined by regulations promulgated pursuant to this section for such buildings.

[~~6.~~] **7.** Each school district [~~and~~]**,** board of cooperative educational services**, and day care facility** conducting testing pursuant to subdivision one of this section and each school district classified as a public water system under parts 141 and 142 of title 40 of the code of federal regulations, as such regulations may, from time to time, be amended, shall make a copy of the results of all such testing and any lead remediation plans available to the public on its website and any additional means as chosen by such **school** district **or day care facility**. A copy of the results of all testing shall also be immediately transmitted to the department [~~and~~]**,** state education department**, and office of children and family services** in a format to be determined by the commissioner and to the county department of health in the local jurisdiction of the school building. The commissioner of education **and the commissioner of children and family services**, in conjunction with the commissioner, shall publish a report biennially based on the findings from the tap water testing conducted according to the provisions of this section. Such report shall be sent to the commissioner, the governor, the temporary president of the senate, and the speaker of the assembly and shall be made available on the department's [~~and~~]**,** state education department's **and office of children and family services'** websites.

8. Subject to appropriation, the commissioner may provide financial assistance to assist day care facilities with compliance with this section when such compliance imposes an unreasonable financial hardship on the day care facility and such day care facilities are not eligible for building aid under sections nineteen fifty or thirty-six hundred two of the education law.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.