

# STATE OF NEW YORK

842--A

2019-2020 Regular Sessions

## IN SENATE

January 9, 2019

Introduced by Sens. MONTGOMERY, GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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, licensed 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,

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

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1 potable water for drinking as required by rules and regulations of the  
2 department until future tests indicate lead levels pursuant to regu-  
3 lations promulgated pursuant to this section; and (c) provide parents or  
4 persons in parental relation to a child attending said school or day  
5 care facility with written notification of test results as well as post-  
6 ing such test results on the school district's website.

7 ~~[3-]~~ 4. First-drawn tap testing shall not be required for school or  
8 day care facility buildings that have been deemed "lead-free" as defined  
9 by section 1417 of the federal safe drinking water act.

10 ~~[4-]~~ 5. The commissioner, in consultation with the commissioner of  
11 education and the commissioner of children and family services, shall  
12 promulgate regulations to carry out the provisions of this section.  
13 Notwithstanding any other provision of law to the contrary, the regu-  
14 lations promulgated with regard to lead levels shall be consistent with  
15 the requirements for those school districts or day care facilities clas-  
16 sified as a public water system under parts 141 and 142 of title 40 of  
17 the code of federal regulations as such regulations may, from time to  
18 time, be amended.

19 ~~[5-]~~ 6. The commissioner in consultation with the commissioner of  
20 children and family services, may grant a waiver from the testing  
21 requirements of this section for certain school buildings, provided  
22 that, the school district or day care facility has substantially  
23 complied with the testing requirements and has been found to be below  
24 lead levels as determined by regulations promulgated pursuant to this  
25 section for such buildings.

26 ~~[6-]~~ 7. Each school district ~~[and]~~, board of cooperative educational  
27 services, and day care facility conducting testing pursuant to subdivi-  
28 sion one of this section and each school district classified as a public  
29 water system under parts 141 and 142 of title 40 of the code of federal  
30 regulations, as such regulations may, from time to time, be amended,  
31 shall make a copy of the results of all such testing and any lead reme-  
32 diation plans available to the public on its website and any additional  
33 means as chosen by such school district or day care facility. A copy of  
34 the results of all testing shall also be immediately transmitted to the  
35 department ~~[and]~~, state education department, and office of children and  
36 family services in a format to be determined by the commissioner and to  
37 the county department of health in the local jurisdiction of the school  
38 building. The commissioner of education and the commissioner of children  
39 and family services, in conjunction with the commissioner, shall publish  
40 a report biennially based on the findings from the tap water testing  
41 conducted according to the provisions of this section. Such report shall  
42 be sent to the commissioner, the governor, the temporary president of  
43 the senate, and the speaker of the assembly and shall be made available  
44 on the department's ~~[and]~~, state education department's and office of  
45 children and family services' websites.

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

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