

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.