

STATE OF NEW YORK

160--A

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. GOTTFRIED, DINOWITZ, MAGNARELLI, SIMON, ABINANTI, EPSTEIN, DE LA ROSA, SEAWRIGHT, THIELE, WILLIAMS, COLTON, CYMBROWITZ, TAYLOR, ABBATE, BARRON, STECK, L. ROSENTHAL, JACOBSON, ASHBY, McDONOUGH, GALEF, GRIFFIN, LUPARDO, WEPRIN, ZEBROWSKI, BRONSON, FAHY, BURDICK, CLARK, PAULIN, PERRY, HEVESI, ROZIC, McMAHON, BARNWELL, McDONALD, QUART, OTIS, O'DONNELL, REYES, STERN, GONZALEZ-ROJAS -- Multi-Sponsored by -- M. of A. ENGLEBRIGHT -- read once and referred to the Committee on Health -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the education law, in relation to school potable water testing

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

1 Section 1. Section 1110 of the public health law, as added by chapter
2 296 of the laws of 2016, is amended to read as follows:
3 § 1110. School potable water testing and standards. 1. In addition to
4 school districts already classified as a public water system under parts
5 141 and 142 of title 40 of the code of federal regulations, as such
6 regulations may, from time to time, be amended, every school district
7 and board of cooperative educational services shall conduct [~~periodic~~
8 triennial] first-drawn tap testing of potable water systems to monitor
9 for lead contamination in each occupied school building under its juris-
10 diction as required by regulations promulgated pursuant to this section.
11 The testing shall be conducted and the results analyzed by an entity or
12 entities approved by the commissioner.
13 2. Where a finding of lead contamination is made, the affected school
14 district shall: (a) continue first-drawn tap water testing pursuant to
15 regulations promulgated pursuant to this section; (b) provide school
16 occupants with an adequate supply of safe, free to the school occupants,

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

LBD00523-02-1

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 with writ-
5 ten notification of test results [~~as well as posting such test results~~
6 ~~on the school district's website~~].

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

10 4.] The commissioner, in consultation with the commissioner of educa-
11 tion, shall promulgate regulations to carry out the provisions of this
12 section. Notwithstanding any other provision of law to the contrary, the
13 regulations promulgated with regard to lead levels shall be consistent
14 with the requirements for those school districts classified as a public
15 water system under parts 141 and 142 of title 40 of the code of federal
16 regulations as such regulations may, from time to time, be amended;
17 provided, however, that the lead action level is exceeded if the concen-
18 tration of lead is greater than 0.005 milligrams per liter.

19 [~~5. The commissioner may grant a waiver from the testing requirements~~
20 ~~of this section for certain school buildings, provided that, the school~~
21 ~~district has substantially complied with the testing requirements and~~
22 ~~has been found to be below lead levels as determined by regulations~~
23 ~~promulgated pursuant to this section for such buildings.~~

24 6.] 4. Each school district and board of cooperative educational
25 services conducting testing pursuant to subdivision one of this section
26 and each school district classified as a public water system under parts
27 141 and 142 of title 40 of the code of federal regulations, as such
28 regulations may, from time to time, be amended, shall make a copy of the
29 results of all such testing, including laboratory reports, and any lead
30 remediation plans available to the public on its website and any addi-
31 tional means as chosen by such district. A copy of the results of all
32 testing shall also be immediately transmitted to the department and
33 state education department in a format to be determined by the commis-
34 sioner and to the county department of health in the local jurisdiction
35 of the school building. The commissioner of education, in conjunction
36 with the commissioner, shall publish a report [~~biennially~~] triennially
37 based on the findings from the tap water testing conducted according to
38 the provisions of this section. Such report shall be sent to the commis-
39 sioner, the governor, the temporary president of the senate, and the
40 speaker of the assembly and shall be made available on the department's
41 and state education department's websites.

42 § 2. Subdivision 6-h of section 3602 of the education law, as amended
43 by section 52-d of part YYY of chapter 59 of the laws of 2019, is
44 amended to read as follows:

45 6-h. Building aid for testing and filtering of potable water systems
46 for lead contamination. In addition to the apportionments payable to a
47 school district pursuant to subdivision six of this section, the commis-
48 sioner is hereby authorized to apportion to any school district addi-
49 tional building aid pursuant to this subdivision for its approved
50 expenditures, otherwise ineligible for building aid, in the base year
51 for the testing of potable water systems required pursuant to section
52 eleven hundred ten of the public health law and for the installation of
53 filters and/or other effective remedial measures for immediate remedi-
54 ation in cases where a finding of lead contamination is made pursuant to
55 such section and verified by confirmatory sampling, provided that the
56 cost of installation of such filters and/or other effective remedial

1 measures shall be deemed an approved expenditure only if [~~(i)~~] such
2 installation and/or other effective remedial measures have been approved
3 or reviewed by a professional with expertise in the field of water qual-
4 ity and remediation [~~and (ii) such cost is incurred prior to July first,~~
5 ~~two thousand nineteen~~]. Such aid shall equal the product of the building
6 aid ratio defined pursuant to paragraph c of subdivision six of this
7 section and the actual approved expenditures incurred in the base year
8 pursuant to this subdivision. Commencing in the two thousand nineteen--
9 two thousand twenty school year and every year thereafter, additional
10 building aid pursuant to this subdivision shall include approved
11 expenses for testing of potable water systems for lead contamination
12 pursuant to section eleven hundred ten of the public health law.

13 § 3. This act shall take effect one year after it shall have become a
14 law. Effective immediately the commissioner of health may make regu-
15 lations and take other actions necessary to implement this act.