

1 TO THE HONORABLE SENATE:

2 The Committee on Education to which was referred Senate Bill No. 40
3 entitled “An act relating to testing and remediation of lead in the drinking
4 water of schools and child care facilities” respectfully reports that it has
5 considered the same and recommends that the bill be amended by striking out
6 all after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 10 V.S.A. chapter 56A is added to read:

8 CHAPTER 56A. LEAD IN DRINKING WATER OF SCHOOLS AND
9 CHILD CARE FACILITIES

10 § 1691. PURPOSE

11 The purpose of this chapter is to require all schools and child care facilities
12 in Vermont to:

13 (1) test drinking water for lead contamination; and

14 (2) develop and implement an appropriate response or lead remediation
15 plan when sampling indicates unsafe lead levels in drinking water at the school
16 or child care facility.

17 § 1692. DEFINITIONS

18 As used in this chapter:

19 (1) “Action level” means one part per billion (ppb) of lead.

20 (2) “Agency” means the Agency of Natural Resources.

1 (3) “Building” means any structure, facility, addition, or wing of a
2 school that may be occupied or used by children or students. “Building” shall
3 not include any structure, facility, addition, or wing of a school that is lead
4 free, as defined in section 1417 of the Federal Safe Drinking Water Act.

5 (4) “Child care facility” has the same meaning as in 33 V.S.A. § 3511.

6 (5) “Commissioner” means the Commissioner of Health.

7 (6) “Department” means the Department of Health.

8 (7) “Drinking water” has the same meaning as in subdivision 1671(1) of
9 this title.

10 (8) “First-draw sample” means a 250 milliliter sample of drinking water
11 that has been standing in plumbing pipes at least six hours and that is collected
12 without flushing the tap.

13 (9) “Independent school” has the same meaning as in 16 V.S.A. § 11.

14 (10) “Outlet” means a drinking water fixture currently or potentially
15 used for drinking or cooking purposes, including a drinking fountain or a
16 faucet.

17 (11) “Public school” has the same meaning as in 16 V.S.A. § 11.

18 (12) “School” means any public school or independent school in the
19 State.

20 (13) “Secretary” means the Secretary of Natural Resources.

21 § 1693. TESTING OF DRINKING WATER

1 (a) Scope of testing.

2 (1) Schools in the State shall test drinking water for lead contamination
3 as required under this chapter.

4 (2) Child care facilities in the State shall test drinking water for lead
5 contamination as required under this chapter, unless otherwise required to test
6 for lead in drinking water under State law.

7 (b) Initial sampling. On or before January 1, 2020, each school or child
8 care facility in the State shall collect a first draw sample from each outlet in
9 each building of the school or child care facility. Sampling shall be conducted
10 according to standard U.S. Environmental Protection Agency methodologies
11 for the testing of drinking water for lead.

12 (c) Continued sampling. After January 1, 2020, each school or child care
13 facility in the State shall sample each outlet in each building of the school or
14 child care facility for lead according to a schedule adopted by the Agency of
15 Natural Resources by rule under section 1697 of this title.

16 (d) Laboratory analysis. All first-draw samples required under this section
17 shall be sent to a laboratory approved by the Commissioner of Health to
18 conduct analyses of drinking water under this chapter.

19 (e) Record keeping. A school or child care facility shall retain all records
20 of test results, laboratory analyses, lead remediation plans, determinations that
21 a building is lead free, and waiver requests for 10 years following the creation

1 of the record. Records produced or acquired under this chapter are public
2 records subject to inspection or copying under the Public Records Act.

3 § 1694. RESPONSE TO ACTIONABLE LEVEL; NOTICE; REPORTING

4 If laboratory analyses of a sample of drinking water from an outlet at a
5 school or child care facility exceeds the action level, the school or child care
6 facility shall:

7 (1) prohibit use of the outlet until a lead remediation plan or other
8 remediation approved by the Secretary is implemented to mitigate the lead
9 level of the outlet and subsequent test results indicate that the lead levels are at
10 or below the action level;

11 (2) provide occupants of the school or child care facility an adequate
12 supply of potable water for drinking and cooking until remediation is
13 performed;

14 (3) report the results of the laboratory analyses to the Agency and to the
15 Department within one business day of receiving the laboratory report; and

16 (4) notify all staff and all parents or guardians of students of the test
17 results, in writing or by electronic means, within 10 business days after receipt
18 of the laboratory report.

19 § 1695. PUBLIC NOTIFICATION; AGENCY WEBSITE

20 On or before March 1, 2020, the Secretary shall publish on the Agency's
21 website a list of all schools and child care facilities that reported an outlet that

1 exceeded the action level within the previous two years of reported samples.

2 The Secretary shall publish on the Agency’s website a report of an outlet that
3 exceeds the action level within two weeks of receipt of the report under section
4 1694 of this title.

5 § 1696. LEAD REMEDIATION PLAN; RESPONSE

6 (a) Consultation. When a laboratory analyses of a sample of drinking
7 water from an outlet at a school or child care facility exceeds the action level,
8 the school or child care facility shall consult with the Secretary and the
9 Commissioner regarding the development of a lead remediation plan or other
10 necessary response.

11 (b) Model plan. The Secretary, after consultation with the Commissioner,
12 shall publish a model lead remediation plan to inform and assist schools and
13 child care facilities of the potential requirements for response to a sample of
14 drinking water from an outlet that exceeds the action level.

15 § 1697. RULEMAKING

16 On or before November 1, 2020, the Secretary, after consultation with the
17 Commissioner, shall adopt rules regarding the implementation of the
18 requirements of this chapter. The rules shall include:

19 (1) requirements or guidance for taking samples of drinking water from
20 outlets in buildings of schools and child care facilities;

1 (2) the frequency of sampling required, including additional sampling
2 requirements for schools that report an exceedance of the action level;

3 (3) requirements or guidance for sending samples to laboratories;

4 (4) requirements for approval of a laboratory to conduct sampling under
5 this chapter;

6 (5) the method or form for reporting an exceedance of the action level to
7 the Secretary;

8 (6) requirements for implementation of a lead mitigation plan or other
9 necessary response to a reported exceedance of the action level;

10 (7) conditions or criteria for the waiver of sampling required under this
11 chapter; and

12 (8) any other requirements that the Secretary deems necessary for the
13 implementation of the requirements of this chapter.

14 § 1698. PENALTIES

15 A violation of the requirements of this chapter shall be subject to a civil

16 penalty under section 8019 of this title of up to \$500.00 per violation.

17 Sec. 2. 10 V.S.A. § 8003 is amended to read:

18 § 8003. APPLICABILITY

19 (a) The Secretary may take action under this chapter to enforce the

20 following statutes and rules, permits, assurances, or orders implementing the

1 following statutes, and the Board may take such action with respect to
2 subdivision (10) of this subsection:

3 * * *

4 (28) 30 V.S.A. § 255, relating to regional coordination to reduce
5 greenhouse gases; ~~and~~

6 (29) 10 V.S.A. § 1420, relating to abandoned vessels; and

7 (30) 10 V.S.A. chapter 56A, relating to testing of drinking water in
8 school and child care facilities for lead.

9 * * *

10 Sec. 3. 10 V.S.A. § 8503 is amended to read:

11 § 8503. APPLICABILITY

12 (a) This chapter shall govern all appeals of an act or decision of the
13 Secretary, excluding enforcement actions under chapters 201 and 211 of this
14 title and rulemaking, under the following authorities and under the rules
15 adopted under those authorities:

16 (1) The following provisions of this title:

17 * * *

18 (U) chapter 168 (product stewardship for primary batteries and
19 rechargeable batteries);

20 (V) chapter 56A (testing of drinking water in school and child care
21 facilities for lead).

1 (2) 29 V.S.A. chapter 11 (management of lakes and ponds).

2 (3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).

3 * * *

4 **Sec. 4. APPROPRIATIONS; SAMPLING OF DRINKING WATER**

5 **OUTLETS IN SCHOOLS**

6 In addition to any other funds appropriated to the Agency of Natural
7 Resources (Agency) in fiscal year 2019, \$1,000,000.00 is appropriated to the
8 Agency in fiscal year 2019 for the purpose of paying for or reimbursing
9 schools for the costs of sampling drinking water outlets under the requirements
10 of 10 V.S.A. § 1693.

11 Sec. 5. EFFECTIVE DATE

12 This act shall take effect on passage.

13
14
15
16
17

18 (Committee vote: _____)

19 _____

20 Senator _____

21 FOR THE COMMITTEE