

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 three 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 **eight** hours and that is
12 collected 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 **consumption** or cooking purposes, including a drinking fountain, **ice**
16 **machine**, or a faucet.

17 (11) “Potable water” means water sufficient for consumption and free
18 from impurities in amounts sufficient to cause disease or harmful physiological
19 effects with the bacteriological, chemical, physical, or radiological quality
20 conforming to applicable rules or standards adopted by the Agency of Natural
21 Resources and the Department of Health.

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

2 (13) “School” means any public school or independent school in the
3 State.

4 (14) “Secretary” means the Secretary of Natural Resources.

5 § 1693. TESTING OF DRINKING WATER

6 (a) Scope of testing.

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

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

12 (b) Initial sampling. On or before January 1, 2020, each school or child
13 care facility in the State shall collect a first draw sample from each outlet in
14 each building of the school or child care facility. Sampling shall be conducted
15 according to the methodology provided for under the U.S. Environmental
16 Protection Agency’s 3Ts for Reducing Lead in Drinking Water in Schools.

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

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

4 (e) Record keeping. A school or child care facility shall retain all records
5 of test results, laboratory analyses, lead remediation plans, determinations that
6 a building is lead free, and waiver requests for 10 years following the creation
7 of the record. Records produced or acquired under this chapter are public
8 records subject to inspection or copying under the Public Records Act.

9 § 1694. RESPONSE TO ACTIONABLE LEVEL; NOTICE; REPORTING

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

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

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

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

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

4 § 1695. PUBLIC NOTIFICATION; AGENCY WEBSITE

5 On or before March 1, 2020, the Secretary shall publish on the Agency’s
6 website a list of all schools and child care facilities that reported an outlet that
7 exceeded the action level within the previous two years of reported samples.
8 The Secretary shall publish on the Agency’s website a report of an outlet that
9 exceeds the action level within two weeks of receipt of the report under section
10 1694 of this title.

11 § 1696. LEAD REMEDIATION PLAN; RESPONSE

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

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

1 model plan, the Secretary shall reference the U.S. Environmental Protection
2 Agency's 3Ts for Reducing Lead in Drinking Water in Schools.

3 § 1697. RULEMAKING

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

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

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

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

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

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

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

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

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

1 § 1698. PENALTIES

2 A violation of the requirements of this chapter shall be subject to a civil
3 penalty under section 8019 of this title of up to \$500.00 per violation.

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

5 § 8003. APPLICABILITY

6 (a) The Secretary may take action under this chapter to enforce the
7 following statutes and rules, permits, assurances, or orders implementing the
8 following statutes, and the Board may take such action with respect to
9 subdivision (10) of this subsection:

10 * * *

11 (28) 30 V.S.A. § 255, relating to regional coordination to reduce
12 greenhouse gases; ~~and~~

13 (29) 10 V.S.A. § 1420, relating to abandoned vessels; and

14 (30) 10 V.S.A. chapter 56A, relating to testing of drinking water in
15 school and child care facilities for lead.

16 * * *

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

18 § 8503. APPLICABILITY

19 (a) This chapter shall govern all appeals of an act or decision of the
20 Secretary, excluding enforcement actions under chapters 201 and 211 of this

1 title and rulemaking, under the following authorities and under the rules
2 adopted under those authorities:

3 (1) The following provisions of this title:

4 * * *

5 (U) chapter 168 (product stewardship for primary batteries and
6 rechargeable batteries);

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

9 (2) 29 V.S.A. chapter 11 (management of lakes and ponds).

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

11 * * *

12 Sec. 4. APPROPRIATIONS; SAMPLING OF DRINKING WATER
13 OUTLETS IN SCHOOLS

14 In addition to any other funds appropriated to the Agency of Natural
15 Resources (Agency) in fiscal year 2019, \$1,000,000.00 is appropriated to the
16 Agency in fiscal year 2019 for the purpose of paying for or reimbursing
17 schools for the costs of sampling drinking water outlets, implementing
18 remediation, and retesting drinking water outlets under the requirements of 10
19 V.S.A. §§ 1693 and 1694.

20 Sec. 5. EFFECTIVE DATE

21 This act shall take effect on passage.

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(Committee vote: _____)

Senator _____

FOR THE COMMITTEE