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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO HEALTH AND SAFETY -- LEAD POISONING PREVENTION ACT

Introduced By: Representatives McLaughlin, McNamara, Corvese, and Azzinaro

Date Introduced: March 10, 2017

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 23-24.6 of the General Laws entitled "Lead Poisoning Prevention
2 Act" is hereby amended by adding thereto the following section:

3 **23-24.6-17.1. Safe drinking water at school.**

4 (a) Definitions. As used in this section, the following words shall have the following
5 meanings unless the context clearly requires otherwise:

6 (1) "Department" means the department of environmental management.

7 (2) "Director" means the director of department of environmental management.

8 (3) "Drinking water outlet" means any water fountain, faucet, tap other end-point for
9 delivery of water regularly used for drinking or food preparation, including ice-making and hot
10 drink machines.

11 (4) "Early childhood program" means a center-based child care facility.

12 (5) "Elevated lead level" means a lead concentration in drinking water that exceeds one
13 part per billion (1 ppb).

14 (6) "Lead service line" means a pipe and its fittings, which are not "lead free" as defined
15 under §1417 of the Federal Safe Drinking Water Act (42 U.S.C. 300g-6) that connect a drinking
16 water main to a building inlet.

17 (7) "Local board of health" means any city or town board of health.

18 (8) "NSF certified filters" means any filter certified by the National Sanitation
19 Foundation ("NSF") to remove lead from drinking water.

1 (9) "School" means any facility operating for the development and education of children,
2 from pre-school through high school, whether operated by a school district, charter, or nonpublic
3 entity.

4 (10) "Technical guidance" means the technical guidance for detecting and remediating
5 lead in drinking water at schools issued by the department pursuant to subsection (f) of this
6 section.

7 (b) Lead service line replacement.

8 (1) Public water systems shall fully replace lead service lines at every school district,
9 charter school, nonpublic school, and early childhood program they serve within three (3) years
10 of the effective date of this act. Said replacement shall be paid for by the public water system,
11 regardless of ownership of any portion of the service line, and shall be performed in coordination
12 with the relevant municipality and school or early childhood center, and in conformity with the
13 department's technical guidance.

14 (2) Each public water system shall provide every school district, charter school,
15 nonpublic school, and early childhood program it serves with the information in its possession
16 relating to the location of lead service lines within thirty (30) days of the effective date of this act.
17 Each school district, charter school, nonpublic school and early childhood program shall
18 determine which of its buildings receive drinking water through lead service lines and report the
19 same to the department within sixty (60) days of the effective date of this act. Within ninety (90)
20 days of the effective date of this act, the department shall issue an enforceable order to each
21 public water system to replace all lead services lines at schools and early childhood programs.

22 (3) Lead service lines shall be disposed of in accord with hazardous waste laws, and shall
23 not be landfilled or incinerated.

24 (c) Preventing lead contamination. Each school and early childhood program with one or
25 more tests showing elevated lead levels in water from any drinking water outlet under subsection
26 (d) of this section shall:

27 (1) Immediately shut off the drinking water outlet(s) in question until measures are
28 undertaken to ensure that the water from the drinking water outlet(s) will no longer have elevated
29 lead levels

30 (2) Within six (6) months of receiving a test showing elevated lead levels, develop and
31 adopt a plan of action to prevent elevated lead levels in all water used for drinking or cooking.
32 Said plan of action shall include:

33 (i) Installing and maintaining NSF certified filters at all faucets, fountains, or other
34 drinking water outlets within eighteen (18) months of the effective date of this act. A school or

1 early childhood program may, consistent with other obligations in law, remove select drinking
2 water outlets from operation in lieu of installing filters on those drinking water outlets, so long as
3 every child has reasonable access to free, safe drinking water;

4 (ii) Replacing lead-bearing fixtures and plumbing with lead soldering where feasible and
5 cost-effective, within two (2) years of receiving elevated lead level test results;

6 (iii) May also include other measures to reduce lead contamination of water, consistent
7 with the department's technical guidance in subsection (f)(2) of this section.

8 (3) Aside from the requirement to install and maintain NSF filters at all drinking water
9 outlets in subsection (c)(2)(i) of this section, nothing in this section shall prevent a school or early
10 childhood program from adjusting its plan of action, especially in response to public input,
11 consistent with the department's technical guidance.

12 (4) A school or early childhood program may seek the assistance of the department of
13 health, public water system, or the department to help ensure its compliance with the provisions
14 of this section.

15 (5) Nothing in this section contravenes requirements for more timely remediation when
16 tests show drinking water outlets with elevated lead levels, as provided in subsection (c)(2) of this
17 section.

18 (d) Testing and immediate remediation.

19 (1) Each school and early childhood program shall undertake annual testing of each
20 drinking water outlet in each school for the presence of lead. Each test for lead shall be conducted
21 by a laboratory certified for this purpose by the director, in accordance with the sampling and
22 testing methods specified in the department's technical guidance. If a school or childhood
23 education program has not tested its drinking water outlets for lead, it shall conduct initial tests
24 for lead at each drinking water outlet no later than ninety (90) days after the effective date of this
25 act.

26 Unless the commissioner determines, on a case-by-case basis, that a greater or lesser
27 frequency of testing is necessary or sufficient to ensure the public health, including, but not
28 limited to, timely testing after replacement of lead service lines.

29 (2) Nothing in this section shall prevent a school district, charter school, or nonpublic
30 school from conducting more frequent testing than required pursuant to subsection (d)(1) of this
31 section.

32 (e) Transparency and public right to know.

33 (1) Each school and early childhood program shall:

34 (i) Submit to the department of environmental management, the department of education,

1 and the department of health, as soon as practicable:

2 (A) Its plan of action for preventing lead contamination of water, pursuant to subsection
3 (c)(2) of this section, and modifications thereto;

4 (B) Progress on implementing its plan of action;

5 (C) Information on tests conducted pursuant to subsection (d) of this section, including,
6 but not limited to, the date the testing was completed, the location and type of each drinking
7 water outlet tested, the complete results of each test, and any immediate measures being taken in
8 response to tests showing drinking water outlet(s) with elevated lead levels.

9 (ii) Maintain copies of the information submitted pursuant to subsection (e)(1)(i) of this
10 section in a suitable location for inspection by the public, and on the Internet website of the
11 school or early childhood program;

12 (iii) Notify parent, teacher, and employee organizations of the availability of the
13 information submitted pursuant to subsection (e)(1)(i) of this section;

14 (iv) Designate a person to serve as the contact person for communications with the
15 department and the public regarding the lead testing and remediation activities;

16 (v) If testing conducted pursuant to subsection (d) of this section reveals an elevated lead
17 level at a drinking water outlet, the school or early childhood program shall, within one business
18 day, notify teachers, other school personnel, and parents directly, through written notice,
19 electronic mail, or other means approved by the department. Such notification shall include, but
20 need not be limited to:

21 (A) A summary of the results of the testing conducted, and information on the availability
22 of the complete test results for public inspection at a suitable location and on the Internet website
23 of the school or early childhood program;

24 (B) A description of any remedial measures being taken pursuant to sections (c) and (d)
25 of this section;

26 (C) General information on the public health effects and risks posed by lead in drinking
27 water, and information on the availability of additional resources concerning lead in drinking
28 water, as outlined in the technical guidance; and

29 (D) The name and contact information of the person designated pursuant to subsection
30 (e)(1)(iv) of this section to communicate with the public;

31 (vi) At each drinking water outlet, the school or early childhood program shall post an
32 electronic QR code with access to information on testing and remediation for that drinking water
33 outlet. Said information shall include the maintenance schedule and log for installed NSF filters,
34 unless the drinking water outlet is equipped with a clearly visible indicator for filter replacement.

1 (f) Regulations.

2 (1) The department of environmental management, in consultation with the department of
3 education and the department of health, is authorized to promulgate rules and regulations
4 necessary to implement the provisions of this section.

5 (2) The department shall issue technical guidance that is at least as protective of the
6 public health as the technical guidance for reducing lead in drinking water at schools issued by
7 the United States Environmental Protection Agency. Provisions of the technical guidance related
8 to testing to determine the presence and levels of lead in water shall be designed to maximize
9 detection of lead in water, and therefore prohibit sampling or testing methods that tend to mask
10 lead contamination, including pre-stagnation flushing and removal of aerators prior to sampling.
11 The department shall provide the technical guidance, a list of laboratories certified to conduct
12 lead testing, and any other information the department deems appropriate, to each school district,
13 charter school, and nonpublic school and early childhood program, and post the same on the
14 department's website, within forty-five (45) days of the effective date of this bill.

15 (g) Hardship waiver.

16 (1) If a school district or early childhood program is unable to comply with some or all of
17 the requirements of this section, the superintendent of the school district, the administration of a
18 private day or residential school, or the board of trustees of a charter school, may request a
19 hardship waiver of some or all of the requirements from the director. No less than thirty (30) days
20 prior to requesting a hardship waiver, a public school district or early childhood program shall
21 notify parents and hold at least one public meeting to present the proposed waiver in detail,
22 disclose health risks of lead in water, and allow meaningful public input on the decision to
23 request a waiver.

24 The department, in consultation with the department of health and the department of
25 education, shall make available to public schools and childhood education programs a list of
26 funding sources that a public school or childhood education program may access to facilitate
27 compliance with all the necessary requirements.

28 (2) Nothing in this section shall be construed to place additional requirements on a school
29 or early childhood program that, prior to the effective date of this act, has already taken measures
30 which, in the judgment of the department, permanently eliminate the risk of elevated lead levels
31 in its water at all drinking water outlets.

32 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO HEALTH AND SAFETY -- LEAD POISONING PREVENTION ACT

- 1 This act would implement procedures and regulations to test for elevated lead levels in
- 2 water from any drinking water outlet at any school or early childhood program. The act would
- 3 include measures to reduce and eliminate lead contamination of water.
- 4 This act would take effect upon passage.

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