

Chapter 386

(House Bill 270)

AN ACT concerning

Environment – Testing for Lead in Drinking Water – Public and Nonpublic Schools

FOR the purpose of requiring the Department of the Environment, in consultation with the State Department of Education, the Department of General Services, and Maryland Occupational Safety and Health, to adopt certain regulations, ~~on or before a certain date~~ under certain circumstances, to require periodic testing for the presence of lead in each drinking water outlet located in an occupied public or nonpublic school building; requiring the Department of the Environment, before adopting certain regulations, to gather information about certain testing processes, protocols, and efforts to establish safe and lead-free school environments; authorizing the Department of the Environment, in consultation with the State Department of Education, to provide a waiver from certain testing requirements under certain circumstances; requiring the Department of the Environment and the State Department of Education jointly to submit a report to the Governor and the General Assembly on or before a certain date each year, beginning on or before a certain date; requiring the Department of the Environment to establish a certain stakeholder group to provide advice and make recommendations regarding the development of certain regulations; providing for the application of this Act; defining certain terms; and generally relating to testing for lead in drinking water in public and nonpublic schools.

BY adding to

Article – Environment

Section 6–1501 and 6–1502 to be under the new subtitle “Subtitle 15. Lead in Drinking Water”

Annotated Code of Maryland

(2013 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Environment**SUBTITLE 15. LEAD IN DRINKING WATER.****6–1501.**

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) “DRINKING WATER OUTLET” MEANS A POTABLE WATER FIXTURE THAT IS USED ~~OR POTENTIALLY USED~~ FOR DRINKING OR FOOD PREPARATION.

(2) “DRINKING WATER OUTLET” INCLUDES:

(I) A WATER FOUNTAIN, FAUCET, OR TAP THAT IS USED OR POTENTIALLY USED FOR DRINKING OR FOOD PREPARATION; AND

(II) ICE-MAKING AND HOT DRINK MACHINES.

(C) “ELEVATED LEVEL OF LEAD” MEANS A LEAD CONCENTRATION IN DRINKING WATER THAT EXCEEDS THE STANDARD RECOMMENDED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY IN TECHNICAL GUIDANCE.

(D) “PUBLIC WATER SYSTEM” HAS THE MEANING STATED IN § 9-401 OF THIS ARTICLE.

(E) (1) “TECHNICAL GUIDANCE” MEANS THE MOST RECENT TECHNICAL GUIDANCE ISSUED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY FOR REDUCING LEAD IN DRINKING WATER IN SCHOOLS.

(2) “TECHNICAL GUIDANCE” INCLUDES:

(I) 3TS FOR REDUCING LEAD IN DRINKING WATER IN SCHOOLS (2006); AND

(II) ANY SUBSEQUENT TECHNICAL GUIDANCE ISSUED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY FOR REDUCING LEAD IN DRINKING WATER IN SCHOOLS.

6-1502.

(A) THIS SECTION DOES NOT APPLY TO A PUBLIC OR NONPUBLIC SCHOOL THAT IS CLASSIFIED AS A PUBLIC WATER SYSTEM.

(B) (1) ~~ON OR BEFORE OCTOBER 1, 2017~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT, IN CONSULTATION WITH THE STATE DEPARTMENT OF EDUCATION, THE DEPARTMENT OF GENERAL SERVICES, AND MARYLAND OCCUPATIONAL SAFETY AND HEALTH, SHALL ADOPT REGULATIONS TO REQUIRE PERIODIC TESTING FOR THE PRESENCE OF LEAD IN EACH DRINKING WATER OUTLET LOCATED IN AN OCCUPIED PUBLIC OR NONPUBLIC SCHOOL BUILDING.

(2) BEFORE ADOPTING THE REGULATIONS REQUIRED UNDER THIS SECTION, THE DEPARTMENT SHALL GATHER INFORMATION ABOUT THE TESTING PROCESSES, PROTOCOLS, AND EFFORTS BEING UNDERTAKEN BY EACH COUNTY SCHOOL SYSTEM AND PRIVATE SCHOOL TO ESTABLISH A SAFE AND LEAD-FREE ENVIRONMENT, INCLUDING WHETHER THE SCHOOL SYSTEM OR SCHOOL HAS A PLAN FOR TESTING AND, IF APPROPRIATE, REMEDIAL MEASURES.

(c) REGULATIONS ADOPTED UNDER THIS SECTION SHALL:

(1) REQUIRE INITIAL TESTING TO BE CONDUCTED ON OR BEFORE ~~JANUARY~~ JULY 1, 2018;

(2) PHASE IN THE IMPLEMENTATION OF THE REQUIRED TESTING BEGINNING WITH:

(i) SCHOOL BUILDINGS CONSTRUCTED BEFORE 1988; AND

(ii) SCHOOL BUILDINGS SERVING STUDENTS IN A PREKINDERGARTEN PROGRAM OR ANY GRADE FROM KINDERGARTEN THROUGH GRADE 5;

~~(2)~~ (3) ESTABLISH A SAMPLING METHOD FOR THE REQUIRED TESTING THAT IS CONSISTENT WITH TECHNICAL GUIDANCE;

~~(3)~~ (4) ESTABLISH THE FREQUENCY FOR THE REQUIRED TESTING;

(5) ADDRESS BEST PRACTICES AND COST-EFFECTIVE TESTING;

~~(4)~~ (6) REQUIRE TEST SAMPLES FROM DRINKING WATER OUTLETS TO BE ANALYZED BY AN ENTITY APPROVED BY THE DEPARTMENT; AND

~~(5) PROVIDE AN EXEMPTION FOR SCHOOLS CONSTRUCTED WITH PLUMBING MATERIALS THAT MEET THE DEFINITION OF "LEAD-FREE" UNDER THE FEDERAL SAFE DRINKING WATER ACT; AND~~

~~(6)~~ (7) IF AN ANALYSIS OF A TEST SAMPLE INDICATES AN ELEVATED LEVEL OF LEAD IN A DRINKING WATER OUTLET, REQUIRE THAT:

(i) THE RESULTS OF THE ANALYSIS BE REPORTED TO THE DEPARTMENT, THE STATE DEPARTMENT OF EDUCATION, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, AND THE APPROPRIATE LOCAL HEALTH DEPARTMENT;

(ii) ACCESS TO THE DRINKING WATER OUTLET BE CLOSED;

(III) AN ADEQUATE SUPPLY OF SAFE DRINKING WATER BE PROVIDED TO SCHOOL OCCUPANTS;

(IV) THE SCHOOL TAKE APPROPRIATE REMEDIAL MEASURES, INCLUDING:

1. PERMANENTLY SHUTTING OR CLOSING OFF ACCESS TO THE DRINKING WATER OUTLET;

2. MANUAL OR AUTOMATIC FLUSHING OF THE DRINKING WATER OUTLET;

3. INSTALLING AND MAINTAINING A FILTER AT THE DRINKING WATER OUTLET; ~~AND~~ OR

4. REPAIRING OR REPLACING THE DRINKING WATER OUTLET, PLUMBING, OR SERVICE LINE CONTRIBUTING TO THE ELEVATED LEVEL OF LEAD;

(V) THE SCHOOL CONDUCT FOLLOW-UP TESTING; AND

(VI) NOTICE OF THE ELEVATED LEVEL OF LEAD BE:

1. PROVIDED TO THE PARENT OR LEGAL GUARDIAN OF EACH STUDENT ATTENDING THE SCHOOL; AND

2. POSTED ON THE WEB SITE OF THE SCHOOL.

(D) THE DEPARTMENT, IN CONSULTATION WITH THE STATE DEPARTMENT OF EDUCATION, MAY GRANT A WAIVER FROM THE TESTING REQUIRED UNDER THIS SECTION IF:

(1) (I) THE DRINKING WATER OUTLETS IN THE SCHOOL BUILDING HAVE BEEN TESTED FOR THE PRESENCE OF LEAD IN A MANNER THAT SUBSTANTIALLY COMPLIES WITH REGULATIONS ISSUED UNDER THIS SECTION; AND

~~(2)~~ (II) THE TEST RESULTS INDICATE NO ELEVATED LEVELS OF LEAD IN ANY OF THE DRINKING WATER OUTLETS IN THE SCHOOL BUILDING;

(2) (I) STUDENTS IN THE SCHOOL BUILDING DO NOT HAVE ACCESS TO ANY DRINKING WATER OUTLET; AND

(II) BOTTLED WATER IS THE ONLY SOURCE OF WATER FOR DRINKING OR FOOD PREPARATION IN THE SCHOOL BUILDING;

(3) A PLAN IS IN PLACE FOR TESTING THE DRINKING WATER OUTLETS AND ADDRESSING ANY ELEVATED LEVEL OF LEAD IN A DRINKING WATER OUTLET IN THE SCHOOL BUILDING IN A MANNER THAT SUBSTANTIALLY COMPLIES WITH THE REGULATIONS REQUIRED UNDER THIS SECTION; OR

(4) THE LOCAL SCHOOL SYSTEM HAS:

(I) COMPLETED COMPREHENSIVE LEAD TESTING OF THE DRINKING WATER FROM PLUMBING FIXTURES; AND

(II) A COMPREHENSIVE MONITORING PROGRAM TO ENSURE SAFE DRINKING WATER IN ITS SCHOOLS.

(E) ON OR BEFORE DECEMBER 1, 2018, AND ON OR BEFORE DECEMBER 1 EACH YEAR THEREAFTER, THE DEPARTMENT AND THE STATE DEPARTMENT OF EDUCATION JOINTLY SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE FINDINGS OF THE TESTING REQUIRED UNDER THIS SECTION, INCLUDING:

(1) THE NAME AND ADDRESS OF EACH SCHOOL FOUND TO HAVE ELEVATED LEVELS OF LEAD IN ITS DRINKING WATER; AND

(2) THE TYPE, LOCATION IN THE BUILDING, AND USE OF EACH DRINKING WATER OUTLET WITH AN ELEVATED LEVEL OF LEAD.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Department of the Environment shall establish a stakeholder group to provide advice and make recommendations regarding the development of the regulations required under § 6-1502 of the Environment Article, as enacted by Section 1 of this Act.

(b) The stakeholder group established under subsection (a) of this section shall include representatives of:

(1) advocates;

(2) county school systems;

(3) private schools;

(4) the Maryland Association of Boards of Education;

- (5) the Public School Superintendents of Maryland; and
- (6) other State agencies.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017.

Approved by the Governor, May 4, 2017.