

Chapter 557

(House Bill 1253)

AN ACT concerning

**~~Environment~~ — Drinking Water Outlets in School Buildings — ~~Elevated Level of~~
Lead Testing and Reporting Requirements and Grant ~~Program~~ Programs**

FOR the purpose of ~~altering the definition of “elevated level of lead” for purposes of certain provisions of law relating to the testing for the presence of lead in certain drinking water outlets in certain school buildings; specifying that the issues to which the Interagency Commission on School Construction is required to give priority in awarding grants from the Healthy School Facility Fund include the presence of lead in drinking water outlets in school buildings; requiring the Interagency Commission on School Construction, in consultation with the Department of the Environment, to establish certain application procedures; making a certain finding and establishing a certain intent; requiring a school to report the results of a certain analysis to certain departments under certain circumstances; requiring the Department of the Environment to include certain information in a certain report, beginning with the report due on a certain date; requiring the Department of the Environment, in consultation with the State Department of Education, to establish and administer a certain grant program to assist local school systems with certain costs associated with implementing certain remedial measures; requiring the Department of the Environment, in consultation with the State Department of Education, to establish certain application procedures and award certain grants in a certain manner; requiring certain federal funding received by the Department of the Environment or the State Department of Education to be made available to award certain grants; authorizing the Governor to include in the annual budget bill an appropriation for the grant program specifying other sources of funding for the grant program; authorizing the Department of the Environment, in consultation with the State Department of Education, to adopt certain regulations; providing for the retroactive application of a certain provision of this Act; declaring the intent of the General Assembly; providing for a delayed effective date for certain provisions of this Act;~~ and generally relating to the testing for the presence of lead in drinking water outlets in school buildings.

~~BY repealing and reenacting, without amendments,
Article — Environment
Section 6 — 1501(a)
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article — Environment
Section 6 — 1501(e)
Annotated Code of Maryland~~

~~(2013 Replacement Volume and 2018 Supplement)~~

BY repealing and reenacting, without amendments,

Article – Education

Section 5–322(a)

Annotated Code of Maryland

(2018 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – Education

Section 5–322(j) and (k)

Annotated Code of Maryland

(2018 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,

Article – Environment

Section 6–1501(a) through (c)

Annotated Code of Maryland

(2013 Replacement Volume and 2018 Supplement)

BY adding to

Article – Environment

Section ~~6–1501.1~~ and 6–1503

Annotated Code of Maryland

(2013 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 6–1502(c) and (e)

Annotated Code of Maryland

(2013 Replacement Volume and 2018 Supplement)

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

~~Article – Environment~~

~~6–1501.~~

~~(a) In this subtitle the following words have the meanings indicated.~~

~~(e) “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] 5 PARTS PER BILLION.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

Article – Education

5-322.

(a) In this section, “Fund” means the Healthy School Facility Fund.

(j) (1) In each of fiscal years 2020 and 2021, the Governor shall appropriate at least \$30,000,000 to the Fund.

(2) (i) Subject to subparagraphs (ii) and (iii) of this paragraph, the Interagency Commission on School Construction shall give priority in awarding grants to schools based on the severity of issues in the school, including:

1. Air conditioning;

2. Heating;

3. Indoor air quality;

4. Mold remediation;

5. Temperature regulation;

6. Plumbing, INCLUDING THE PRESENCE OF LEAD IN DRINKING WATER OUTLETS IN SCHOOL BUILDINGS; and

7. Windows.

(ii) No jurisdiction may receive more than a total of \$15,000,000 in a fiscal year.

(iii) The amount of the grant is not required to cover the full cost of the project.

(k) (1) Subject to [paragraph] PARAGRAPHS (2) AND (3) of this subsection, the Interagency Commission on School Construction shall establish application procedures for school systems to request funds under this section.

(2) The Interagency Commission on School Construction shall establish award procedures to make awards distributed from the Fund not more than 45 days after receiving an application.

(3) (I) THE INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION, IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT, SHALL ESTABLISH APPLICATION PROCEDURES FOR SCHOOL SYSTEMS TO REQUEST FUNDS UNDER THIS SECTION TO ASSIST WITH THE COSTS OF IMPLEMENTING REMEDIAL MEASURES TO ADDRESS THE PRESENCE OF LEAD IN DRINKING WATER OUTLETS IN SCHOOL BUILDINGS.

(II) THE APPLICATION PROCEDURES ESTABLISHED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE PROCEDURES FOR PRIORITIZING APPLICATIONS, WITH PRIORITY FIRST GIVEN TO APPLICATIONS REQUESTING FUNDS FOR WATER FOUNTAINS OR BUBBLERS, AND THEN TO APPLICATIONS REQUESTING FUNDS FOR:

- 1. FAUCETS OR TAPS THAT ARE USED OR POTENTIALLY USED FOR DRINKING OR FOOD PREPARATION;**
- 2. ICE MAKERS; OR**
- 3. HOT DRINK MACHINES.**

Article – Environment

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 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.

6-1501.1.

(A) THE GENERAL ASSEMBLY FINDS THAT ANY EXPOSURE TO LEAD IN DRINKING WATER IS DANGEROUS TO THE HEALTH AND DEVELOPMENT OF CHILDREN.

(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT SCHOOLS WORK PROACTIVELY TO REDUCE THE CONCENTRATION OF LEAD IN DRINKING WATER OUTLETS TO A LEVEL BELOW 5 PARTS PER BILLION AND THAT STATE AND FEDERAL FUNDS BE MADE AVAILABLE TO SCHOOLS FOR THAT PURPOSE.

6-1502.

(c) Regulations adopted under this section shall:

(1) Require initial testing to be conducted on or before 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;

(3) Establish a sampling method for the required testing that is consistent with technical guidance;

(4) Establish the frequency for the required testing;

(5) Address best practices and cost-effective testing;

(6) Require test samples from drinking water outlets to be analyzed by an entity approved by the Department; [and]

(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 Maryland Department of Health, 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; 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; AND

(8) IF AN ANALYSIS OF A TEST SAMPLE INDICATES A CONCENTRATION OF LEAD THAT IS MORE THAN 5 PARTS PER BILLION BUT LESS THAN THE STANDARD FOR AN ELEVATED LEVEL OF LEAD, REQUIRE THAT THE RESULTS OF THE ANALYSIS BE REPORTED TO THE DEPARTMENT, THE STATE DEPARTMENT OF EDUCATION, THE MARYLAND DEPARTMENT OF HEALTH, AND THE APPROPRIATE LOCAL HEALTH DEPARTMENT.

(e) (1) 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)] (I) The name and address of each school found to have elevated levels of lead in its drinking water; and

[(2)] (II) The type, location in the building, and use of each drinking water outlet with an elevated level of lead.

(2) BEGINNING WITH THE REPORT DUE DECEMBER 1, 2019, THE REPORT REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE, IN ADDITION TO THE INFORMATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE NAME AND ADDRESS OF EACH SCHOOL FOUND TO HAVE A LEAD CONCENTRATION THAT IS MORE THAN 5 PARTS PER BILLION BUT LESS THAN THE STANDARD FOR AN ELEVATED LEVEL OF LEAD; AND

(II) THE TYPE, LOCATION IN THE BUILDING, AND USE OF EACH DRINKING WATER OUTLET WITH A LEAD CONCENTRATION THAT IS MORE THAN 5

PARTS PER BILLION BUT LESS THAN THE STANDARD FOR AN ELEVATED LEVEL OF LEAD.

6-1503.

(A) THE DEPARTMENT, IN CONSULTATION WITH THE STATE DEPARTMENT OF EDUCATION, SHALL ESTABLISH AND ADMINISTER A GRANT PROGRAM TO PROVIDE GRANTS TO LOCAL SCHOOL SYSTEMS TO ASSIST WITH THE COSTS ASSOCIATED WITH IMPLEMENTING REMEDIAL MEASURES TO:

(1) ADDRESS ANY FINDINGS OF ELEVATED LEVELS OF LEAD IN DRINKING WATER OUTLETS IN SCHOOL BUILDINGS; ~~OR~~

~~(2) UPGRADE DRINKING WATER SYSTEMS IN SCHOOL BUILDINGS THAT DO NOT HAVE FUNCTIONING DRINKING WATER OUTLETS.~~

(2) ADDRESS ANY FINDINGS OF LEAD CONCENTRATIONS IN DRINKING WATER OUTLETS IN SCHOOL BUILDINGS THAT EXCEED 5 PARTS PER BILLION BEFORE THAT STANDARD TAKES EFFECT ON JUNE 1, 2020;

(3) INSTALL DRINKING WATER OUTLETS IN SCHOOL BUILDINGS THAT DO NOT HAVE FUNCTIONING DRINKING WATER OUTLETS DUE TO ~~ELEVATED LEVELS~~ THE PRESENCE OF LEAD; OR

(4) REPAIR, RECONFIGURE, OR REPLACE THE OUTLET PLUMBING OR PREMISES PLUMBING CONTRIBUTING TO ~~ELEVATED LEVELS~~ THE PRESENCE OF LEAD IN DRINKING WATER.

(B) THE DEPARTMENT, IN CONSULTATION WITH THE STATE DEPARTMENT OF EDUCATION, SHALL:

(1) ESTABLISH APPLICATION PROCEDURES FOR THE GRANT PROGRAM;

(2) REQUIRE EACH APPLICATION TO INCLUDE A PLAN FOR IMPLEMENTING REMEDIAL MEASURES, INCLUDING ~~COSTS~~;

(I) WHETHER THE LOCATION OF THE LEAD AFFECTING THE DRINKING WATER OUTLET IS IN THE SERVICE LINE, PREMISES PLUMBING, OUTLET PLUMBING, OR OUTLET; AND

(II) COSTS ASSOCIATED WITH THE PLAN;

(3) AWARD GRANTS ON A COMPETITIVE BASIS AND BASED ON THE AVAILABILITY OF FUNDING TO EACH LOCAL SCHOOL SYSTEM THAT:

(I) APPLIES FOR A GRANT IN ACCORDANCE WITH THIS SECTION; AND

(II) DEMONSTRATES THAT THE LOCAL SCHOOL SYSTEM HAS COMPLETED COMPREHENSIVE TESTING FOR THE PRESENCE OF LEAD IN DRINKING WATER OUTLETS IN SCHOOL BUILDINGS IN ACCORDANCE WITH § 6-1502 OF THIS SUBTITLE; AND

~~(4) PRIORITIZE APPLICATIONS THAT DEMONSTRATE THE HIGHEST LEVEL OF NEED AND HIGHEST NUMBER OF DRINKING WATER OUTLETS THAT REQUIRE REMEDIATION; AND~~

~~(5) AFTER PRIORITY IS GIVEN UNDER ITEM (4) OF THIS SUBSECTION, PRIORITIZE APPLICATIONS THAT PROPOSE THE MOST COST-EFFECTIVE CONSISTENT WITH ANY APPLICABLE FEDERAL LAW OR REQUIREMENT, PRIORITIZE APPLICATIONS BASED ON FACTORS DETERMINED BY THE DEPARTMENT, INCLUDING:~~

~~(I) THE APPLICANT'S LEVEL OF FINANCIAL NEED;~~

~~(II) THE PERCENTAGE OF DRINKING WATER OUTLETS THAT REQUIRE REMEDIATION; AND~~

~~(III) THE COST-EFFECTIVENESS OF THE PROPOSED REMEDIAL MEASURES, WITH PREFERENCE GIVEN TO PROPOSALS FOR REMEDIAL MEASURES THAT REQUIRE MINIMAL UPKEEP, INCLUDING THE INSTALLATION OF WATER FILLING STATIONS.~~

(c) (1) IF THE DEPARTMENT OR THE STATE DEPARTMENT OF EDUCATION RECEIVES ANY FEDERAL FUNDING FOR ADDRESSING THE PRESENCE OF LEAD IN DRINKING WATER OUTLETS IN SCHOOL BUILDINGS, THE FUNDING SHALL BE MADE AVAILABLE TO AWARD GRANTS IN ACCORDANCE WITH THIS SECTION.

(2) IN ADDITION TO ANY FUNDING PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, ~~THE GOVERNOR MAY INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION FOR THE GRANT PROGRAM~~ FUNDING FOR THE GRANT PROGRAM CONSISTS OF:

(I) MONEY APPROPRIATED IN THE STATE BUDGET FOR THE GRANT PROGRAM; AND

(II) ANY ADDITIONAL MONEY MADE AVAILABLE TO THE GRANT PROGRAM FROM ANY PUBLIC OR PRIVATE SOURCE.

(D) THE DEPARTMENT, IN CONSULTATION WITH THE STATE DEPARTMENT OF EDUCATION, MAY ADOPT REGULATIONS TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION.

~~SECTION 2. AND BE IT FURTHER ENACTED, That the modified definition of “elevated level of lead” under § 6-1501 of the Environment Article as enacted under Section 1 of this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any regulation adopted under § 6-1502 of the Environment Article that requires follow-up procedures for test results that indicate an elevated level of lead in any drinking water outlet in an occupied public or nonpublic school building whether the test was conducted before or after the effective date of Section 1 of this Act. *the reporting requirements established under § 6-1502(c)(8) of the Environment Article as enacted under Section 1 of this Act shall be construed to apply retroactively to require the reporting of the results of an analysis of a sample taken on or after June 1, 2017, if it indicates a concentration of lead that is more than 5 parts per billion.*~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that a local school system is eligible for a grant award from the Healthy School Facility Fund or from the grant program established under § 6-1503 of the Environment Article, as enacted by ~~Section 2~~ *Section 1* of this Act, to implement remedial measures to address any finding of a lead concentration in drinking water outlets in a school building that exceeds 5 parts per billion ~~before that standard takes effect under § 6-1501 of the Environment Article, as enacted by Section 1 of this Act.~~~~

~~SECTION 5. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect June 1, 2020.~~

~~SECTION 6. 4. AND BE IT FURTHER ENACTED, That, ~~except as provided in Section 5 of this Act,~~ this Act shall take effect June 1, 2019.~~

Approved by the Governor, May 13, 2019.