

Chapter 237

(House Bill 636)

AN ACT concerning

**School Buildings – Drinking Water Outlets – Elevated Level of Lead
(Safe School Drinking Water Act)**

FOR the purpose of altering the definition of “elevated level of lead” for purposes of certain provisions of law requiring certain testing for the presence of lead in certain drinking water outlets in certain occupied public and nonpublic school buildings; requiring a school to take certain measures to remediate a certain drinking water outlet on or before a certain date; making conforming changes; providing for the construction of this Act; and generally relating to the presence of lead in drinking water outlets in occupied public and nonpublic school buildings.

BY repealing and reenacting, without amendments,
Article – Environment
Section 6–1501(a) and (b)
Annotated Code of Maryland
(2013 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 6–1501(c), 6–1502, and 6–1503(a)
Annotated Code of Maryland
(2013 Replacement Volume and 2020 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.

(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] **5 PARTS PER BILLION**.

6–1502.

(a) This section does not apply to a public or nonpublic school that is classified as a public water system.

(b) (1) 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 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] SUBJECT TO SUBSECTION (F) OF THIS SECTION, 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 website 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].

(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

(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) **[(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 § 2-1257 of the State Government Article, the General Assembly on the findings of the testing required under this section, including:

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

[(ii)] (2) 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.]

(F) (1) THIS SUBSECTION APPLIES ONLY TO A DRINKING WATER OUTLET FOR WHICH A TEST SAMPLE ANALYZED ON OR BEFORE JUNE 1, 2021, INDICATED A CONCENTRATION OF LEAD THAT WAS MORE THAN 5 PARTS PER BILLION BUT LESS THAN 20 PARTS PER BILLION.

(2) ON OR BEFORE AUGUST 1, 2022, A SCHOOL SHALL TAKE APPROPRIATE MEASURES IN ACCORDANCE WITH SUBSECTION (C)(7)(IV) OF THIS SECTION TO REMEDIATE AN OUTLET DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

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;

(2) [Address any findings of lead concentrations in drinking water outlets in school buildings that exceed 5 parts per billion;

(3)] Install drinking water outlets in school buildings that do not have functioning drinking water outlets due to the presence of lead; or

[(4)] (3) Repair, reconfigure, or replace the outlet plumbing or premises plumbing contributing to the presence of lead in drinking water.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to alter the priority in awarding grants under the Healthy School Facility Fund established under § 5-322 of the Education Article.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2021.

Approved by the Governor, May 18, 2021.