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HOUSE BILL 1123

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State of Washington

59th Legislature

2005 Regular Session

**By** Representatives Kenney, Dickerson, McIntire, Morrell, Santos, Cody, Upthegrove, Hasegawa, Moeller, Kagi, Ormsby, Chase, Williams, O'Brien, Green, P. Sullivan, Schual-Berke, Sells, Wallace, B. Sullivan and McDermott

Read first time 01/17/2005. Referred to Committee on Health Care.

1 AN ACT Relating to safe drinking water in schools; adding a new  
2 chapter to Title 70 RCW; prescribing penalties; and declaring an  
3 emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that the  
6 provision of safe drinking water for Washington's school children is of  
7 great importance because young children are especially vulnerable to  
8 drinking water contaminants like lead, which can cause learning  
9 disabilities, decreased growth, hyperactivity, impaired hearing, and  
10 abnormal brain development. The legislature finds that although water  
11 delivered from the community's public water system must meet federal  
12 and state standards for lead and other contaminants, a school building  
13 may still have unacceptable drinking water contamination levels due to  
14 pipes, plumbing materials, and water use patterns within the school  
15 facility. The legislature finds that the best way to ensure that  
16 drinking water is safe in a particular school building is to test  
17 drinking and cooking water outlets such as taps, bubblers, and  
18 fountains, and to promptly correct problems where contaminant  
19 concentrations are found to exceed safe levels.

1        NEW SECTION.    **Sec. 2.**    The definitions in this section apply  
2 throughout this chapter unless the context clearly requires otherwise.

3        (1) "Board" means the state board of health.

4        (2) "Department" means the department of health.

5        (3) "School" means common schools under RCW 28A.150.020 and  
6 approved private schools under chapter 28A.195 RCW.

7        (4) "Secretary" means the secretary of the department of health.

8        NEW SECTION.    **Sec. 3.**    (1) The board shall adopt, by rule, drinking  
9 water quality standards for lead, copper, cadmium, and corrosion within  
10 school facilities. The board may adopt, by rule, school drinking water  
11 quality standards for other contaminants if the board determines that:

12        (a) The presence of such contaminants is not due to insufficient  
13 implementation of public water system standards or corrosion treatment  
14 protocols; and (b) setting school drinking water standards for such  
15 contaminants is necessary to protect public health and safety.

16        (2) In adopting school drinking water standards, the board shall be  
17 guided by, but not limited to, the rules for controlling these  
18 contaminants in drinking water as contained in 40 C.F.R. Sec. 141 and  
19 EPA guidance promulgated thereunder. The standards shall provide  
20 reasonable margins of safety.

21        (3) The board shall adopt emergency rules establishing interim  
22 maximum contaminant levels and testing protocols by April 1, 2006. The  
23 board shall adopt final maximum contaminant level standards and  
24 protocols by April 1, 2007. The rules must include: (a) Drinking  
25 water testing protocols, which shall be consistent with analytical  
26 techniques and testing protocols specified by 40 C.F.R. Sec. 141, and  
27 EPA guidance promulgated thereunder; (b) deadlines for school districts  
28 to complete water quality testing; (c) requirements and deadlines for  
29 providing test results to the department; (d) requirements and  
30 deadlines for providing notice to students, parents, and school staff  
31 when test results exceed school water quality standards; (e) facility  
32 inspection protocols to ascertain causes of water quality problems; (f)  
33 protocols to guide school districts in planning and implementing  
34 actions to respond to the exceedances; and (g) requirements for  
35 monitoring and reporting to the department following implementation of  
36 corrective actions.

1 (4) Analysis of drinking water samples must be performed by a state  
2 accredited drinking water laboratory.

3 (5) The board shall report to the legislature by December 1, 2006,  
4 on the interim maximum contaminant levels and the board's initial  
5 findings on the extent of school drinking water contamination and any  
6 other contaminants in schools that may affect the health of children.

7 (6) The department shall adopt standards, consistent with  
8 applicable federal standards, for lead plumbing and solders, or other  
9 potential sources of lead contamination of drinking water.

10 (7) No local government may establish drinking water standards for  
11 schools that are less protective than the standards or methods  
12 established under this section.

13 NEW SECTION. **Sec. 4.** (1) It is the intent of this chapter that  
14 the exclusive responsibility for undertaking corrective actions to  
15 respond to exceedances of drinking water standards in schools remains  
16 with the governing entities of the school institutions, but to ensure  
17 that sufficient testing of drinking water is conducted to identify  
18 where such exceedances are occurring and that test results are widely  
19 accessible to parents, students, staff, and to local and state health  
20 departments. It is further the intent of this chapter that compliance  
21 enforcement by the state is unnecessary where full disclosure is  
22 provided. Therefore, it is the intent of this chapter not to provide  
23 additional corrective action authority to the board or the department,  
24 but to require a report by the department of the status of the testing  
25 and reporting program as required by subsection (2) of this section,  
26 and for the legislature to determine upon consideration of the report  
27 at that time whether the board or department should be granted  
28 additional corrective action enforcement authority.

29 (2) The department shall post on its web site the results of  
30 testing received under the standards established in section 3 of this  
31 act, as well as corrective action and monitoring reports provided.  
32 Each school or school district that maintains a web site shall also  
33 post such test results and reports.

34 (3) The department shall examine compliance with adopted standards  
35 and rules and provide a report to the appropriate committees of the  
36 legislature biennially, beginning December 1, 2007. In the report due  
37 December 1, 2011, the department shall report on the status of testing,

1 disclosure of test results, and corrective actions taken at school  
2 facilities across the state. This report shall include any  
3 recommendations, in bill form, for legislation that would improve  
4 compliance with, or facilitate the enforcement or achievement of,  
5 school safe drinking water standards established under this chapter,  
6 including any needed compliance enforcement authority to be added to  
7 this chapter.

8 NEW SECTION. **Sec. 5.** Within available funds, the department shall  
9 provide technical assistance to school administrators in conducting  
10 water quality testing and corrective actions pursuant to this chapter.  
11 The department and the board shall cooperate with local health  
12 jurisdictions in establishing the standards under section 3 of this act  
13 and in providing the technical assistance under this section.

14 NEW SECTION. **Sec. 6.** This chapter is supplemental to and does not  
15 replace or diminish the authority of the board or department granted by  
16 other laws to ensure the provision of safe drinking water within  
17 schools.

18 NEW SECTION. **Sec. 7.** This chapter does not apply to schools that  
19 are regulated as nontransient noncommunity systems under chapter 246-  
20 290 WAC.

21 NEW SECTION. **Sec. 8.** This act is necessary for the immediate  
22 preservation of the public peace, health, or safety, or support of the  
23 state government and its existing public institutions, and takes effect  
24 immediately.

25 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act constitute  
26 a new chapter in Title 70 RCW.

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