

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2695

STATE OF NEW JERSEY
220th LEGISLATURE

ADOPTED MARCH 2, 2023

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

Co-Sponsored by:

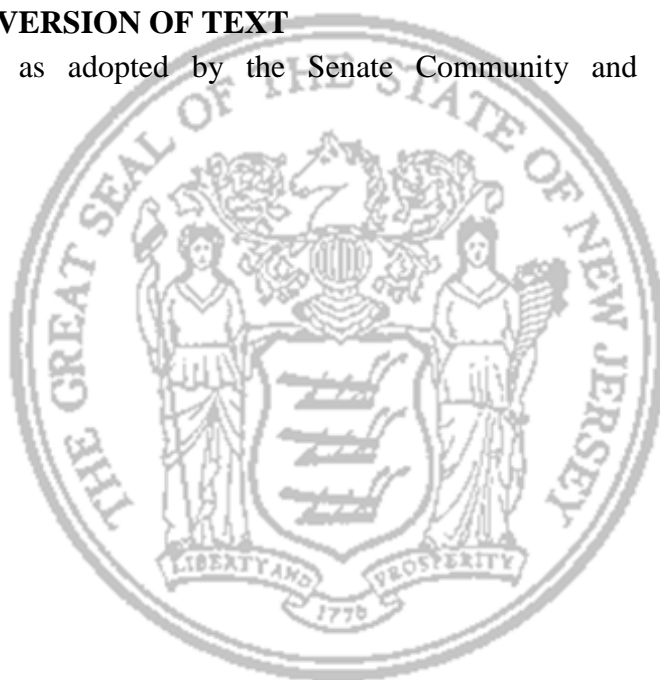
Senators Gopal and Singleton

SYNOPSIS

Requires disclosure of lead drinking water hazards to tenants of residential units; prohibits landlords from obstructing replacement of lead service lines; concerns testing of residential rental units for lead drinking water hazards.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Community and Urban Affairs Committee.



(Sponsorship Updated As Of: 3/6/2023)

1 **AN ACT** concerning the presence of lead in drinking water in certain
2 residential properties, supplementing Title 58 of the Revised
3 Statutes, and amending P.L.2021, c.183.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. (New section) As used in P.L. , c. (C.) (pending
9 before the Legislature as this bill):

10 "Certified point-of-use water filter" means a filter that is
11 installed at the point where water is dispensed from an outlet, and
12 which is certified by a body accredited by the American National
13 Standards Institute National Accreditation Board as satisfying the
14 NSF/ANSI 53-2019 standard for lead reduction or any subsequently
15 adopted standard that is equivalent to, or more stringent than, the
16 NSF/ANSI 53-2019 standard for lead reduction.

17 "Customer" means a residential customer of record and any
18 residential tenant where the landlord of that residence is the
19 customer of record.

20 "Lead action level" means the standard for lead in drinking water
21 established by the United States Environmental Protection Agency,
22 or a more stringent standard adopted by the department pursuant to
23 the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et
24 seq.).

25 "Lead-safe service line" means a service line that does not
26 contain lead, as determined by a public community water system
27 pursuant to P.L.2021, c.183 (C.58:12A-40 et seq.).

28 "Lead service line" means the same as the term is defined in
29 section 2 of P.L.2021, c.183 (C.58:12A-41).

30 "Public community water system" means the same as the term is
31 defined in section 2 of P.L.2021, c.183 (C.58:12A-41).

32 "Seasonal rental unit" means a residential rental unit that is
33 leased for a duration of fewer than six months each year.

34 "Service line" means the same as the term is defined in section 2
35 of P.L.2021, c.183 (C.58:12A-41).

36
37 2. (New section) a. Within six months of the effective date of
38 P.L. , c. (C.) (pending before the Legislature as this bill),
39 the Department of Health, in consultation with the Department of
40 Environmental Protection and the Department of Community
41 Affairs, shall develop a notice that provides consumers information
42 concerning the health risks associated with lead in drinking water,
43 including protective measures for minimizing exposure to lead in
44 drinking water. These measures may include, but not be limited to,
45 instructions for flushing water before drinking, using only cold tap

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 water for drinking water, installation and use of certified point-of-
2 use water filters, and the availability of water testing. The notice
3 shall be updated from time to time as deemed necessary by the
4 Commissioner of Health.

5 b. Within five days of developing or updating the educational
6 materials, the Department of Health shall:

7 (1) publish the notice in the New Jersey Register;

8 (2) make the notice available to the public on the official
9 Internet website of the Department of Health; and

10 (3) transmit the notice to the Commissioner of Community
11 Affairs, who shall also make the notice available to the public on
12 the official Internet website of the Department of Community
13 Affairs.

14
15 3. (New section) a. Except as otherwise provided in subsection
16 b. of this section, within 90 days of the publication of the notice
17 developed pursuant to section 2 of P.L. , c. (C.) (pending
18 before the Legislature as this bill) and the publication of the model
19 disclosure statement established pursuant to subsection c. of this
20 section, a landlord shall provide a "Lead In Drinking Water
21 Disclosure" statement to each prospective or current tenant before
22 entering into a lease or renewal agreement with the tenant. The
23 disclosure shall include:

24 (1) an acknowledgment that the residential rental property is
25 serviced by a lead service line or service line of unknown
26 composition, if the landlord received such notification from a public
27 community water system pursuant to section 4 of P.L.2021, c.183
28 (C.58:12A-43) or any other requirement of law or regulation;

29 (2) a statement containing the date that the residential rental
30 property was constructed, and that housing built before 1986 may
31 be serviced by a lead service line or contain interior lead plumbing;

32 (3) a copy of any formal notice received by the landlord within
33 the previous three years indicating that a lead action level
34 exceedance was detected within the service area in which the
35 residential rental property is located, unless the notice of lead action
36 level exceedance was received more than 12 months prior to lease
37 signing or renewal and the exceedance was subsequently corrected
38 by the public community water system;

39 (4) a copy of any citation for a violation of P.L. , c. (C.)
40 (pending before the Legislature as this bill) that resulted in the
41 issuance of a penalty against the landlord that was issued in the 12
42 months prior to lease signing or renewal; and

43 (5) a copy of, or instructions for accessing, the notice
44 established pursuant to section 2 of P.L. , c. (C.) (pending
45 before the Legislature as this bill), concerning the health risks
46 associated with lead in drinking water.

- 1 b. A landlord shall not be required to comply with the
2 requirements of subsection a. of this section related to a lease or
3 renewal agreement for a residential rental unit that is:
- 4 (1) located in a residential rental property that was constructed
5 after 1986;
- 6 (2) located in a residential rental property that is serviced by a
7 lead-safe service line; or
- 8 (3) a seasonal rental unit.
- 9 c. Within six months of the effective date of P.L. , ,
10 c. (C.) (pending before the Legislature as this bill), the
11 Department of Community Affairs shall prepare a model "Lead In
12 Drinking Water Disclosure" statement that may be used by
13 landlords to satisfy the requirements of this section.
- 14 d. Within five days of developing or updating the model "Lead
15 In Drinking Water Disclosure" statement, the Department of
16 Community Affairs shall:
- 17 (1) publish the notice in the New Jersey Register;
- 18 (2) make the notice available to the public on the official
19 Internet website of the Department of Community Affairs; and
- 20 (3) transmit the notice to the Department of Health, who shall
21 also make the notice available to the public on the official Internet
22 website of the Department of Health.
- 23 e. If a lease is oral, the landlord shall provide the "Lead in
24 Drinking Water Disclosure" statement to the tenant, or prospective
25 tenant, as a separate notice utilizing the model notice established
26 pursuant to subsection c. of this section. If the lease or the renewal
27 lease is in writing, the landlord shall provide the "Lead in Drinking
28 Water Disclosure" statement required pursuant to this section either
29 as a separate notice utilizing the model notice established pursuant
30 to subsection c. of this section, or the "Lead In Drinking Water
31 Disclosure" statement may be included in the written lease or the
32 written renewal lease, provided that the notice is a separate rider,
33 individually signed or otherwise acknowledged by the tenant and
34 landlord, and written in not less than 12-point typeface.
- 35
- 36 4. (New section) a. (1) A public community water system
37 shall, upon request by a residential customer, test the customer's
38 drinking water for the presence of lead using a laboratory certified
39 for that purpose by the Department of Environmental Protection. A
40 community water system shall be required to provide only one test
41 each year, upon such request by a residential customer, unless a test
42 shows that the lead action level was exceeded. If a test shows that
43 the lead action level was exceeded, the public community water
44 system shall, upon request by a customer, test the customer's
45 drinking water every 60 days for the presence of lead until two
46 consecutive tests fall at or below the lead action level.
- 47 (2) The community water system shall provide the results of
48 every test authorized pursuant to this subsection to the customer.

1 b. A public community water system shall not be required to
2 comply with the requirements of subsection a. of this section for a
3 residential unit that is:

4 (1) located in a residential rental property that was constructed
5 after 1986;

6 (2) located in a residential rental property that is serviced by a
7 lead-safe service line; or

8 (3) a seasonal rental unit.

9 c. A customer who requests a test pursuant to this section shall
10 not be charged a fee by the public community water system for the
11 test. A public community water system that is a "public utility," as
12 defined in R.S.48:2-13, and that is regulated by the Board of Public
13 Utilities pursuant to Title 48 of the Revised Statutes, may petition
14 the board to include in the public community water system's rate
15 base the reasonable costs of testing it provides to customers
16 pursuant to this section. A public community water system that is
17 not regulated by the Board of Public Utilities may include in the
18 public community water system's rates the reasonable costs of
19 testing it provides to customers pursuant to this section.

20
21 5. Section 4 of P.L.2021, c.183 (C.58:12A-43) is amended to
22 read as follows:

23 4. a. No later than 30 days after submitting an initial service
24 line inventory to the department pursuant to subsection c. of section
25 3 of **[this act]** P.L.2021, c.183 (C.58:12A-42), and periodically
26 thereafter as the department may require, a public community water
27 system shall send, to each customer and non-paying consumer
28 served by a lead service line in the service area, and to any off-site
29 owner of property served by a lead service line in the service area,
30 written notice of the composition of the service line.

31 b. A notice provided pursuant to this section shall:

32 (1) be sent, by certified mail, to each residential, commercial, or
33 institutional address affected by the known lead service line and
34 addressed to the primary resident or commercial or institutional
35 occupant thereof, as appropriate. Notice shall be sent to all affected
36 addresses, as provided in this paragraph, regardless of whether the
37 resident or occupant is a system customer or is a non-paying
38 consumer;

39 (2) be sent, by certified mail, to each off-site owner of property
40 affected by the known lead service line and addressed to the
41 property owner's last known address, as determined through the
42 review of local property tax and other available records;

43 (3) be included in a mailing that is separate and distinct from the
44 water bill that is issued for the property. The notice shall contain
45 large, easily readable text and be presented on distinctly colored
46 paper or other paper that is easily distinguishable from the water
47 billing statement; and

(4) include, at a minimum: (a) a list of the lead service lines that are being used to serve the customer or non-paying consumer; (b) information describing the sources of lead in drinking water, including lead service lines and household plumbing; (c) a description of the health effects of lead exposure; and (d) the steps that system customers and non-paying consumers in the service area can take to reduce their exposure to lead in drinking water.

c. (1) If the recipient of notice provided pursuant to this section is the owner or operator of an apartment building, group home, or other multi-family or multi-unit dwelling, such owner or operator shall provide a hard copy of the notice to each existing resident of the multi-family or multi-unit dwelling and shall additionally post a copy of the notice in a conspicuous location in a common area of the dwelling. The owner or operator shall also inform each new resident of the multi-family or multi-unit dwelling, prior to their residence, about the existence of the lead service line, and shall provide each new resident with a hard copy of the notice received pursuant to this section, upon the commencement of their residence. A notice posted in a common area of a multi-family or multi-unit dwelling, pursuant to this subsection, may be removed only after all of the lead service lines identified in the notice have been replaced and determined to be non-lead service lines.

(2) If the owner or operator of a residential rental property, including an apartment building, group home, or other multi-family or multi-unit dwelling, receives notice pursuant to this section, and the owner or operator offers a dwelling unit within the residential property for rent to a prospective or current tenant, then the lease or renewal agreement shall be conditioned on the owner's or operator's commitment not to obstruct a public community water system from replacing a lead service line. If the owner or operator obstructs the replacement of a lead service line, such as denying access to the property owner-side of the lead service line, then the lease or renewal agreement shall remain in effect, but the tenant may terminate the agreement any time thereafter without incurring any charge or penalty otherwise imposed under the agreement for such termination.

(3) Nothing in this section shall be deemed to preclude an owner from seeking to arrange reasonable conditions upon a public community water system, its contactors, or subcontractors, specifically with regard to scheduling the replacement of a lead service line and related site restoration work.

d. If a public community water system serves a municipality in which the primary language of 10 percent or more of the residents is a language other than English, the public community water system shall provide the notice required pursuant to subsection a. of this section in both English and the other language spoken by residents.

(cf: P.L.2021, c.183, s.4)

1 6. (New section) Any person found to be in violation of any
2 provision of P.L. , c. (C.) (pending before the Legislature
3 as this bill) shall be provided with a written notice of the violation
4 by the Commissioner of Community Affairs and given 15 days to
5 cure the violation. If the person has not cured the violation after 15
6 days, the commissioner may impose a penalty of \$100 for a first
7 violation, \$500 for a second violation, and \$1,000 for a third and
8 subsequent violation, to be enforced pursuant to the "Penalty
9 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

10

11 7. This act shall take effect immediately.