

[First Reprint]

SENATE, No. 3179

STATE OF NEW JERSEY
220th LEGISLATURE

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Sponsored by:

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SYNOPSIS

Requires public water systems and landlords to provide certain notice of elevated perfluoroalkyl or polyfluoroalkyl substances levels in drinking water; requires DEP to establish educational program.

CURRENT VERSION OF TEXT

As reported by the Senate Environment and Energy Committee on January 30, 2023, with amendments.



1 AN ACT concerning certain notifications for elevated perfluoroalkyl
2 or polyfluoroalkyl substances levels in drinking water and
3 supplementing P.L.1977, c.224 (C.58:12A-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

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

10 ¹"Exceedance of a PFAS maximum contaminant level" means,
11 for a public water system, that the system has measured, in
12 conformance with the provisions of the "Safe Drinking Water Act,"
13 P.L.1977, c.224 (C.58:12A-1 et seq.), and the rules and regulations
14 adopted pursuant thereto, and the federal "Safe Drinking Water
15 Act," 42 U.S.C. s.300 et al., and the rules and regulations adopted
16 pursuant thereto, a concentration of a PFAS at a sampling point
17 such that the running annual average of the PFAS concentration at
18 that sampling point is in excess of the applicable PFAS maximum
19 contaminant level.¹

20 "Landlord" means the same as that term is defined in section 2 of
21 P.L.1975, c.310 (C.46:8-44).

22 "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS"
23 means any member of the class of fluorinated organic chemicals
24 containing at least one fully fluorinated carbon atom.

25 "PFAS maximum contaminant level" means the applicable
26 maximum contaminant level for PFAS, or a category or type of
27 PFAS, in drinking water established by the department pursuant to
28 the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et
29 seq.).
30

31 2. a. A public water system that exceeds a PFAS maximum
32 contaminant level shall provide a written notice ¹**【**, in a letter
33 addressed to "resident" or "property owner/tenant," by regular
34 mail,¹**】** to ¹**【**both the service address and the mailing address of¹**】**
35 all customers served by the public water system, including all
36 ¹residences,¹ schools, daycare centers, and facilities serving young
37 children, all public and private hospitals, medical clinics, and
38 doctor's offices serving pregnant women and young children, all
39 local health and welfare agencies in the public water system's
40 service area, and the chief executive of each municipality in the
41 public water system's service area.

42 The written notice shall be sent as soon as practicable, but no
43 later than ¹**【**10¹ 30¹**】** calendar days after the public water system
44 confirms that there has been an exceedance of ¹**【**the¹ a¹**】** PFAS
45 maximum contaminant level and the ¹department approves the¹

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEN committee amendments adopted January 30, 2023.

1 written notice ¹【has been approved by the department】¹ . The
2 written notice shall:

3 (1) clearly state that the public water system is in exceedance of
4 ¹【the】 a¹ PFAS maximum contaminant level;

5 (2) explain what the PFAS maximum contaminant level is and
6 the measurement process that the public water system is required to
7 perform to monitor drinking water for PFAS;

8 (3) ¹【provide additional information on the possible sources of
9 PFAS in drinking water, the health effects of drinking water with
10 elevated levels of PFAS, and measures a consumer can take to
11 reduce or eliminate PFAS in drinking water】 state that drinking
12 water containing elevated levels of a PFAS can cause negative
13 health effects¹ ;

14 (4) provide information to direct the consumer to the
15 educational program developed by the department pursuant to
16 section 4 of P.L. , c. (C.) (pending before the Legislature
17 as this bill), including a link to the department's Internet website
18 where the educational resources are located; and

19 (5) state, in easily legible type, the responsibility of a landlord
20 to distribute the written notice to every tenant pursuant to section 3
21 of P.L. , c. (C.) (pending before the Legislature as this
22 bill).

23 b. The notice required pursuant to this section shall be in
24 addition to any notice requirements under federal or State law.

25 c. A public water system shall provide ¹【monthly】 annual¹
26 written notifications to all customers served by the public water
27 system where an exceedance of a PFAS maximum contaminant
28 level has been found. The ¹【monthly】 annual¹ written notifications
29 shall continue until there is no longer an exceedance of the PFAS
30 maximum contaminant level. The ¹【monthly】 annual¹ written
31 notifications shall include, at a minimum:

32 (1) an update on the current status of the ¹【remediation】
33 mitigation¹ process along with an estimate of the time until the
34 ¹【remediation】 mitigation¹ process will be completed; and

35 (2) any information on what work, if any, has been done to
36 ¹【remediate】 mitigate the contamination¹ or treat the contaminated
37 drinking water supply.

38 ¹d. Whenever a public water system that is subject to the
39 provisions of this section is found to no longer have an exceedance
40 of a PFAS maximum contaminant level, the public water system
41 shall provide a written notice to all customers of this fact.

42 e. A public water system shall provide any written notice or
43 notification required pursuant to this section by regular mail, in a
44 letter addressed to "resident" or "property owner/tenant," as
45 applicable, to both the service address and the mailing address of
46 the customer, or via electronic mail to the customer's preferred
47 email address, or both.

1 f. A violation of the provisions of this section shall be
2 considered a violation of the "Safe Drinking Water Act," P.L.1977,
3 c.224 (C:58:12A-1 et seq.) and the commissioner shall have
4 recourse to any of the actions provided for in section 10 of
5 P.L.1977, c.224 (C.58:12A-10), in order to remedy the violation.¹
6

7 3. a. ¹**【When】** Whenever¹ a landlord receives any notice or
8 health and safety information from a public water system
9 concerning the presence of PFAS in drinking water, including, but
10 not limited to, the written notice submitted pursuant to subsection a.
11 of section 2 of P.L. , c. (C.) (pending before the
12 Legislature as this bill) and any follow-up ¹**【monthly】** annual¹
13 written notifications ¹required¹ pursuant to subsection c. of section
14 2 of P.L. , c. (C.) (pending before the Legislature as this
15 bill), the landlord shall:

16 (1) distribute, by any means including by electronic mail, the
17 notice or information, as soon as practicable, but no later than three
18 business days after receipt, to every tenant who has entered into a
19 lease agreement with the landlord and whose dwelling unit is served
20 by the public water system; and

21 (2) post the notice or information, as soon as practicable, but no
22 later than three business days after receipt, in a prominent location
23 at the entrance of each rental premises that is owned by the landlord
24 and served by the public water system, except that this requirement
25 shall not apply in the case of single-family dwellings that do not
26 have a common area.

27 b. ¹A landlord shall provide the most recent notice or health and
28 safety information that the landlord has received from a public
29 water system concerning the presence of a PFAS in drinking water
30 issued pursuant to subsection a. or c. of section 2 of P.L. ,
31 c. (C.) (pending before the Legislature as this bill), to each
32 prospective tenant prior to signing a lease agreement, unless the
33 most recent notice is a notification, issued pursuant to subsection d.
34 of section 2 of P.L. , c. (C.) (pending before the
35 Legislature as this bill), indicating that the public water system no
36 longer exceeds a PFAS maximum containment level.

37 c.¹ The requirements of subsection a. of this section shall not
38 apply to a landlord when a tenant is a direct customer of the public
39 water system and is billed directly by the public water system.

40 ¹**【c. When】** d. Whenever¹ a public water system provides any
41 notice or information to its customers concerning the presence of
42 PFAS in drinking water, the public water system shall include a
43 statement, printed in easily legible type, explaining the
44 requirements set forth in subsection a. of this section.

45 ¹e. (1) For a first violation of the provisions of this section, the
46 commissioner shall issue a written warning to the landlord, which

1 identifies the section of the statute, rule, regulation, or order
2 violated and recites the facts alleged to constitute a violation.

3 (2) For each subsequent violation of the provisions of this
4 section, the commissioner is authorized to impose a civil
5 administrative penalty of not more than \$500. In assessing a civil
6 administrative penalty, the commissioner shall consider the severity
7 of the violation, the measures taken to prevent further violations,
8 and whether the penalty will maintain an appropriate deterrent.
9 Prior to the assessment of a civil administrative penalty, the
10 commissioner shall notify the person committing the violation by
11 certified mail or personal service that the penalty is being assessed.
12 The notice shall identify the section of the statute, rule, regulation,
13 or order violated; recite the facts alleged to constitute a violation;
14 state the basis for the amount of the civil administrative penalties to
15 be assessed; and affirm the rights of the alleged violator to a
16 hearing. The ordered party shall have 35 days from receipt of the
17 notice within which to deliver to the commissioner a written request
18 for a hearing. After the hearing, and upon finding that a violation
19 has occurred, the commissioner may issue a final order assessing
20 the amount of the fine specified in the notice. If no hearing is
21 requested, the notice shall become a final order after the expiration
22 of the 35-day period. A civil administrative penalty assessed
23 pursuant to this subsection shall be due and paid within 30 days
24 after a final order is issued or the notice becomes a final order. The
25 commissioner may compromise any civil administrative penalty
26 assessed under this section, in an amount and with conditions the
27 commissioner determines appropriate.¹

28

29 4. a. No later than one year after the effective date of ¹【P.L. ,
30 c. (C.) (pending before the Legislature as this bill)】 this
31 section¹ , the department ¹ , in conjunction with the Department of
32 Health,¹ shall establish and implement an educational program
33 concerning PFAS in drinking water. The program shall, at a
34 minimum:

35 (1) educate the general public on the subject of PFAS and its
36 environmental and health impacts;

37 (2) provide informational resources specific to PFAS in drinking
38 water, including:

39 (a) an explanation of how PFAS can contaminate drinking
40 water;

41 (b) the potential risks associated with PFAS in drinking water,

42 (c) steps that can be taken to ¹【remediate】 mitigate or reduce¹
43 an exceedance of PFAS in drinking water; ¹【and】¹

44 (d) preventative measures that can be taken to prevent ¹or
45 reduce¹ an exceedance of PFAS in drinking water; ¹【and】

1 (e) information about the health impacts on specific
2 subpopulations who are particularly susceptible to PFAS
3 contamination; and

4 (f) model written notices that may be utilized by public water
5 systems and landlords to comply with the provisions of P.L. ,
6 c. (C.) (pending before the Legislature as this bill); and¹

7 (3) provide any other information and efforts that are
8 determined by the department ¹or the Department of Health¹ to be
9 beneficial in educating the public on the presence of PFAS in
10 drinking water.

11 b. The educational program established pursuant to this section
12 shall be published on the department's Internet website and updated
13 annually.

14

15 5. This act shall take effect immediately ¹, except that sections 1
16 through 3 of this act shall take effect 18 months after the date of
17 enactment¹ .