

**ASSEMBLY, No. 4675**

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**STATE OF NEW JERSEY**

**221st LEGISLATURE**

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INTRODUCED JUNE 28, 2024

**Sponsored by:**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

**SYNOPSIS**

Requires child care centers to test for and remediate lead in drinking water, and disclose test results.

**CURRENT VERSION OF TEXT**

As introduced.



A4675 WIMBERLY, REYNOLDS-JACKSON

2

1 AN ACT concerning lead in drinking water at child care centers and  
2 supplementing P.L.1983, c.492 (C.30:5B-1 et seq.).

3

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

6

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

9 “Child care center” means the same as that term is defined in  
10 section 3 of P.L.1983, c.492 (C.30:5B-3).

11 “Drinking water outlet” means any water fountain, faucet, or tap  
12 regularly used for drinking or food preparation, including ice-  
13 making and hot drink machines.

14 “Elevated lead level” means a lead concentration in drinking  
15 water that exceeds the standard therefor established by the United  
16 States Environmental Protection Agency or the Department of  
17 Environmental Protection in the technical guidance, whichever is  
18 more stringent.

19 “Local health agency” means the same as that term is defined in  
20 section 3 of P.L.1975, c.329 (C.26:3A2-3).

21 “Public water system” means the same as that term is defined in  
22 section 3 of P.L.1977, c.224 (C.58:12A-3).

23 “Technical guidance” means any technical guidance for reducing  
24 lead in drinking water at child care centers issued by the United  
25 States Environmental Protection Agency, or by the Department of  
26 Environmental Protection pursuant to subsection b. of section 6 of  
27 P.L. , c. (C. ) (pending before the Legislature as this bill).

28

29 2. a. Except as provided in subsection b. of this section, each  
30 child care center shall undertake periodic testing of each drinking  
31 water outlet used by the child care center in the building where the  
32 child care center is located for the presence of lead. Each test for  
33 lead shall be conducted by a laboratory certified for this purpose by  
34 the Commissioner of Environmental Protection, and in accordance  
35 with the sampling and testing methods specified in the technical  
36 guidance. The initial tests for lead shall be conducted no later than  
37 90 days after the effective date of P.L. , c. (C. ) (pending  
38 before the Legislature as this bill), and subsequent testing shall be  
39 conducted every five years thereafter, unless the commissioner  
40 determines, on a case-by-case basis, that a greater or lesser  
41 frequency of testing is necessary or sufficient to ensure the public  
42 health.

43 b. The commissioner may, upon application by a child care  
44 center, exempt the child care center from the requirement to  
45 conduct initial testing if the child care center demonstrates that it  
46 has conducted testing that substantially complies with the  
47 requirements of subsection a. of this section within two years prior  
48 to the effective date of P.L. , c. (C. ) (pending before the

1 Legislature as this bill), and any drinking water outlet that was  
2 found to have an elevated lead level has either been removed from  
3 service or remediated.

4 c. A child care center that is a public water system and that  
5 meets the standards for lead in drinking water for public water  
6 systems adopted by the Department of Environmental Protection  
7 shall not be required to comply with the provisions of this section.

8 d. A child care center may seek the assistance of a local health  
9 agency or public water system to help ensure the child care center's  
10 compliance with the provisions of this section.

11 e. Nothing in this section shall prevent a child care center from  
12 conducting more frequent testing than required pursuant to  
13 subsection a. of this section.

14

15 3. If testing conducted pursuant to section 2 of P.L. , c. (C. )  
16 (pending before the Legislature as this bill) reveals an elevated lead  
17 level at a drinking water outlet, the child care center shall  
18 immediately shut or close off access to that outlet and report the test  
19 results to the Department of Environmental Protection. The child  
20 care center and the owner of the building in which the child care  
21 center is located, in consultation with the Department of  
22 Environmental Protection, shall conduct follow-up testing, as  
23 provided in the technical guidance, to determine the source of the  
24 lead and take appropriate remedial measures to ensure that children  
25 are not exposed to water with an elevated lead level and have access  
26 to clean drinking water at the child care center. Such remedial  
27 measures may include, but need not be limited to: permanently  
28 shutting or closing off access to the drinking water outlet; providing  
29 an alternative source of water; manual or automatic flushing of the  
30 drinking water outlet; installing and maintaining a filter at the  
31 drinking water outlet; and repairing or replacing the drinking water  
32 outlet, plumbing, or service line contributing to the elevated lead  
33 level.

34

35 4. a. Each child care center shall:

36 (1) maintain, in a suitable location for inspection by the  
37 department and parents and guardians, the complete results of the  
38 testing conducted pursuant to section 2 of P.L. , c. (C. )  
39 (pending before the Legislature as this bill), and information on any  
40 measures being taken pursuant to section 3 of P.L. , c. (C. )  
41 (pending before the Legislature as this bill) to remediate a drinking  
42 water outlet found to have an elevated lead level;

43 (2) post, in a conspicuous location near the entrance of the child  
44 care center, a summary of the information maintained pursuant to  
45 paragraph (1) of this subsection, in a form and manner as  
46 determined by the department; and

1 (3) notify parents and guardians and employees of the child care  
2 center of the availability of the information required to be  
3 maintained pursuant to paragraph (1) of this subsection.

4 b. The department shall have the authority to inspect the  
5 information required to be maintained by the child care center  
6 pursuant to paragraph (1) of subsection a. of this section during  
7 normal business hours, and without prior notice to the child care  
8 center.

9 c. If testing conducted pursuant to section 2 of P.L. , c. (C. )  
10 (pending before the Legislature as this bill) reveals an elevated lead  
11 level at a drinking water outlet, the child care center shall  
12 immediately notify parents and child care center employees  
13 directly, through written notice, electronic mail, or other means  
14 approved by the Department of Environmental Protection. Such  
15 notification shall include, but need not be limited to:

16 (1) a summary of the results of the testing conducted pursuant to  
17 section 2 of P.L. , c. (C. ) (pending before the Legislature  
18 as this bill), and information on the availability of the complete test  
19 results for public inspection at a suitable location;

20 (2) a description of any remedial measures that are being taken,  
21 or will be taken, pursuant to section 3 of P.L. , c. (C. )  
22 (pending before the Legislature as this bill);

23 (3) general information on the public health effects and risks  
24 posed by lead in drinking water, and information on the availability  
25 of additional resources concerning lead in drinking water, as  
26 outlined in the technical guidance; and

27 (4) if determined necessary by the Department of Environmental  
28 Protection, information on how and where individuals may seek  
29 blood testing for lead.

30  
31 5. The Department of Environmental Protection, in  
32 consultation with the Department of Children and Families, shall,  
33 within 30 days after the effective date of P.L. , c. (C. )  
34 (pending before the Legislature as this bill), provide to each child  
35 care center the technical guidance for reducing lead in drinking  
36 water at child care centers issued by the United States  
37 Environmental Protection Agency, a summary of the sampling and  
38 testing methods contained in the technical guidance, a list of each  
39 laboratory in the State certified to conduct lead testing, and any  
40 other information deemed appropriate by the departments.

41  
42 6. a. Notwithstanding the provisions of the “Administrative  
43 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
44 contrary, the Department of Environmental Protection, in  
45 consultation with the Department of Children and Families and the  
46 Department of Health, may adopt, after notice, interim rules and  
47 regulations necessary to implement the provisions of P.L. , c. (C.)  
48 (pending before the Legislature as this bill). The rules and

1 regulations shall be effective as regulations immediately upon filing  
2 with the Office of Administrative Law and shall be effective for a  
3 period not to exceed 18 months, and may, thereafter, be amended,  
4 adopted, or readopted by the Department of Environmental  
5 Protection in accordance with the provisions of the “Administrative  
6 Procedure Act.”

7 b. The Department of Environmental Protection may issue its  
8 own technical guidance, provided the guidance is at least as  
9 protective of the public health as the technical guidance for  
10 reducing lead in drinking water at child care centers issued by the  
11 United States Environmental Protection Agency.

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13 7. This act shall take effect immediately.

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#### STATEMENT

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18 This bill would require child care centers to test for and  
19 remediate lead in drinking water, and disclose their test results.

20 Specifically, under the bill, each child care center would be  
21 required to undertake periodic testing of each drinking water outlet  
22 used by the child care center in the building where the child care  
23 center is located for the presence of lead. The tests would be  
24 conducted by a certified laboratory in accordance with the sampling  
25 and testing methods specified in the United States Environmental  
26 Protection Agency’s (EPA) technical guidance for reducing lead in  
27 drinking water at child care centers, or more protective technical  
28 guidance that may be issued by the Department of Environmental  
29 Protection (DEP). The initial tests would be conducted no later  
30 than 90 days after the effective date of the bill, and subsequent tests  
31 would be conducted every five years thereafter, unless the DEP  
32 determines, on a case-by-case basis, that more or less frequent  
33 testing is necessary or sufficient to protect the public health.

34 A child care center may obtain an exemption from the  
35 requirement to conduct initial testing if it demonstrates to the DEP  
36 that it has conducted testing that substantially complies with the  
37 technical guidance within two years prior to the effective date of the  
38 bill, and any drinking water outlet that was found to have an  
39 elevated lead level has either been removed from service or  
40 remediated. Under the bill, a child care center may seek the  
41 assistance of a local health agency or public water system to help  
42 ensure compliance with the bill. Nothing in the bill would prevent  
43 a child care center from conducting more frequent testing than  
44 required by the bill. The testing requirements would not apply to a  
45 child care center that is considered a public water system under  
46 federal law and meets the applicable standards for lead in drinking  
47 water supplied by public water systems.

1       If testing conducted pursuant to the bill reveals an elevated lead  
2 level at a drinking water outlet, the child care center would be  
3 required to immediately shut or close off access to that outlet and  
4 report the test results to the DEP. The child care center and the  
5 owner of the building in which the child care center is located, in  
6 consultation with the DEP, would be required to conduct follow-up  
7 testing to determine the source of the lead, and take appropriate  
8 remedial measures to ensure that children are not exposed to water  
9 with an elevated lead level and have access to free, fresh, and clean  
10 drinking water. Remedial measures may include permanently  
11 shutting or closing off access to the drinking water outlet, providing  
12 an alternative source of water, manual or automatic flushing,  
13 installing and maintaining a filter, and replacing outlets, plumbing,  
14 or service lines contributing to the elevated lead level.

15       Under the bill, each child care center would be required to  
16 maintain the complete results of the testing conducted under the  
17 bill, and information on any measures being taken to remediate a  
18 drinking water outlet found to have an elevated lead level. The  
19 DEP would have the authority to inspect this information during  
20 regular business hours and without prior notice. Child care centers  
21 would also be required to post a summary of this information in a  
22 conspicuous location near the entrance of the child care center, and  
23 notify parents (including guardians) and employees of the child care  
24 center of the availability of the information. If test results reveal an  
25 elevated lead level at a drinking water outlet, the child care center  
26 would be required to immediately notify parents and child care  
27 center employees directly.

28       The bill would require the DEP, within 30 days after the  
29 effective date of the bill, to provide to each child care center with  
30 the EPA's technical guidance for reducing lead in drinking water at  
31 child care centers, a summary of the sampling and testing methods  
32 contained in the technical guidance, a list of each laboratory in the  
33 State certified to conduct lead testing, and any other information the  
34 DEP deems relevant.