# SENATE, No. 1034

# STATE OF NEW JERSEY

## 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**
**Senator LINDA R. GREENSTEIN**
**District 14 (Mercer and Middlesex)**
**Senator M. TERESA RUIZ**
**District 29 (Essex and 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**

Introduced Pending Technical Review by Legislative Counsel.

**(Sponsorship Updated As Of: 6/6/2024)**

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

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

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

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

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

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

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

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

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

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

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

2. (New section) a. Within six months of the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), the Department of Health, in consultation with the Department of Environmental Protection and the Department of Community Affairs, shall develop a notice that provides consumers information concerning the health risks associated with lead in drinking water, including protective measures for minimizing exposure to lead in drinking water. These measures may include, but not be limited to, 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.**

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

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

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

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

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

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

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

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

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

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

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

b. A landlord shall not be required to comply with the requirements of subsection a. of this section related to a lease or renewal agreement for a residential rental unit that is:

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

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

(3) a seasonal rental unit.

c. Within six months of the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), the Department of Community Affairs shall prepare a model "Lead In Drinking Water Disclosure" statement that may be used by landlords to satisfy the requirements of this section.

d. Within five days of developing or updating the model "Lead In Drinking Water Disclosure" statement, the Department of Community Affairs shall:

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

(2) make the notice available to the public on the official Internet website of the Department of Community Affairs; and

(3) transmit the notice to the Department of Health, who shall also make the notice available to the public on the official Internet website of the Department of Health.

e. If a lease is oral, the landlord shall provide the "Lead in Drinking Water Disclosure" statement to the tenant, or prospective tenant, as a separate notice utilizing the model notice established pursuant to subsection c. of this section. If the lease or the renewal lease is in writing, the landlord shall provide the "Lead in Drinking Water Disclosure" statement required pursuant to this section either as a separate notice utilizing the model notice established pursuant to subsection c. of this section, or the "Lead In Drinking Water Disclosure" statement may be included in the written lease or the written renewal lease, provided that the notice is a separate rider, individually signed or otherwise acknowledged by the tenant and landlord, and written in not less than 12-point typeface.

4. (New section) a. (1) A public community water system shall, upon request by a residential customer, test the customer's drinking water for the presence of lead using a laboratory certified for that purpose by the Department of Environmental Protection. A community water system shall be required to provide only one test each year, upon such request by a residential customer, unless a test shows that the lead action level was exceeded. If a test shows that the lead action level was exceeded, the public community water system shall, upon request by a customer, test the customer's drinking water every 60 days for the presence of lead until two consecutive tests fall at or below the lead action level.

(2) The community water system shall provide the results of every test authorized pursuant to this subsection to the customer.

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

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

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

(3) a seasonal rental unit.

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

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

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

b. A notice provided pursuant to this section shall:

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

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

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

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

7. This act shall take effect immediately.

STATEMENT

This bill requires disclosure of lead drinking water hazards to tenants of residential units, prohibits landlords from obstructing the replacement of lead service lines, and requires testing of residential rental units for lead drinking water hazards at the request of customers.

The bill would require the Department of Health, within six months of the effective date of the bill, to develop a notice that provides consumers information concerning the health risks associated with lead in drinking water, which may include instructions for flushing water before drinking, using only cold tap water for drinking, installation and use of certified point-of-use water filters, and the availability of water testing. The notice would be periodically updated by the Commissioner of Health.

Within five days of developing or updating the educational materials, the bill directs the Department of Health to publish the notice in the New Jersey Register, make the notice available on the department’s website, and transmit the notice to the Commissioner of Community Affairs, who would also make the notice available on its website.

Within 90 days following publication of the notice, the bill directs a landlord to provide a "Lead In Drinking Water Disclosure" statement to each prospective or current residential tenant before entering into a lease or renewal agreement with the tenant. The disclosure would include:

(1) an acknowledgment that the rental property is serviced by a lead service line or service line of unknown composition, if the landlord received such notification from a public community water system;

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

(3) a copy of any formal notice received by the landlord within the previous three years indicating that a lead action level exceedance was detected within the service area in which the rental property is located,

unless the notice of lead action level exceedance was received more than 12 months prior to lease signing or renewal and the exceedance was subsequently corrected;

(4) a copy of any citation for a violation of this bill that resulted in the issuance of a penalty against the landlord that was issued in the 12 months prior to lease signing or renewal; and

(5) a copy of, or instructions for accessing, the notice established by the Commissioner of Health, concerning the health risks of lead in drinking water.

A landlord would not be required to comply with these disclosure requirements upon a lease or renewal agreement for a residential rental unit that is: (1) located in a residential rental property constructed after 1986; (2) located in a residential rental property serviced by a lead-safe service line; or (3) a seasonal rental unit.

Within six months of the effective date of the bill, the Department of Community Affairs would be required to prepare a model "Lead In Drinking Water Disclosure" statement that may be used by landlords to satisfy the requirements of the bill.

Within five days of developing or updating the model "Lead In Drinking Water Disclosure" statement, the bill directs the Department of Community Affairs to publish the notice in the New Jersey Register, make the notice available on the department’s website, and transmit the notice to the Department of Health, who would also make the notice available on its website. If a lease is oral, the landlord would be required to provide the "Lead in Drinking Water Disclosure" statement to the tenant, or prospective tenant, as a separate notice utilizing the model notice. If the lease or the renewal lease is in writing, the landlord would provide the disclosure statement either as a separate notice utilizing the model notice, or include the statement in the written lease.

The bill directs a public community water system to, upon request by a residential customer, test the customer's drinking water for the presence of lead using a laboratory certified for that purpose. A community water system would be required to provide only one test each year upon request by a residential customer, unless a test shows that the lead action level was exceeded. If a test shows that the lead action level was exceeded, the public community water system would, upon request by a customer, test the customer's drinking water every 60 days for the presence of lead until two consecutive tests fall at or below the lead action level. The public community water system would provide results of every test authorized by the bill to the customer.

A public community water system would not be required to comply with the requirements of the bill to provide drinking water tests at the request of the customer for a residential unit that is located in a residential rental property that is constructed after 1986 or serviced by a lead-safe service line, or that is a seasonal rental unit.

A customer who requests a test for lead in drinking water would not be charged a fee by the public community water system for the test. A public community water system not regulated by the Board of Public Utilities would be authorized to include in the public community water system's rate base the reasonable costs of testing provided under the bill. A public community water system that is a public utility, and regulated by the Board of Public Utilities, would be permitted to petition the board to include in the public community water system's rates the reasonable costs of testing it provides to customers.

The bill would permit certain residential tenants to terminate a residential lease agreement without incurring any charge or penalty if the owner or operator obstructs the replacement of a lead service line.

The bill provides that a person found in violation of a provision of the bill would be provided with a written notice of the violation by the Commissioner of Community Affairs and given 15 days to cure the violation. If the person has not cured the violation after 15 days, the commissioner would be authorized to impose a penalty of $100 for a first violation, $500 for a second violation, and $1,000 for a third and subsequent violation.