

S.77

Introduced by Committee on Natural Resources and Energy

Date: February 18, 2011

Subject: Conservation and development; potable water supply; private well
testing

Statement of purpose: This bill proposes to require a private well used or
intended for use as a potable water supply to be tested for drinking water
contaminants when the well is initially drilled and as a condition of a contract
for sale. The bill also proposes to require the agency of natural resources to
develop a well testing kit that would be available to the public. In addition, the
bill proposes to require the department of health to revise and update its
education and outreach materials regarding the potential health effects of
contaminants in private sources of drinking water.

An act relating to water testing of private wells

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 10 V.S.A. § 1981 is added to read:~~

~~§ 1981. TESTING OF PRIVATE WELLS; NEW WELLS; AS A~~

~~CONDITION OF CONTRACT FOR SALE~~

~~(a) A private well intended for use as a potable water supply shall be tested
upon the initial construction or drilling of the well for the parameters set forth~~

1 ~~in subsection (e) of this section. Within 10 days of receiving the results of a~~
2 complete test, the owner of the real property on which the private well is
3 located shall submit the results, on a form provided by the agency, to the
4 agency and the department of health.

5 (b) In any transaction for the sale or exchange of real property for which
6 the potable water supply is a private well, the seller of the property, as a
7 condition of a contract for sale, shall have the well tested for the parameters set
8 forth in subsection (c) of this section. Within 10 days of receiving the results
9 of a complete test, the seller shall submit the results, on a form provided by the
10 agency, to the agency, the department of health, and the buyer.

11 (c) A water test conducted under this section shall include, at a minimum a
12 test for arsenic; lead; uranium; gross alpha radiation; coliform bacteria, and
13 any other parameters required by the agency by rule.

14 (d) When a well is tested under subsection (a) or (b) of this section, the
15 samples sent for testing shall include, on a form provided by the agency, the
16 name, signature, and contact information of a witness who attests to the fact
17 that the sample is from the identified well.

18 (e) The secretary, in consultation with the commissioner of health, may
19 adopt rules to implement the requirements of this section.

1 ~~Sec. 2. 27 V.S.A. § 616 is added to read:~~

2 § 616. DISCLOSURE OF RESULTS OF PRIVATE WELL TESTING

3 Upon conveyance of land on which is located a potable water supply, as
4 that term is defined in 10 V.S.A. § 1972(6), the source of which is a private
5 well, the seller shall provide the buyer with a disclosure form that includes the
6 results of the well testing required under 10 V.S.A. § 1981.

7 Sec. 3. PRIVATE WELL TESTING KIT

8 (a) The agency of natural resources, in consultation with the department of
9 health, shall develop a kit for the testing of the following contaminants in a
10 private well used as a potable water supply, as that term is defined in 10 V.S.A.
11 § 1972(6):

12 (1) arsenic;

13 (2) lead;

14 (3) uranium;

15 (4) gross alpha radiation; and

16 (5) coliform bacteria.

17 (b) The testing kit required under subsection (a) of this section shall be
18 available to homeowners from the agency of natural resources and the
19 department of health. Homeowners shall be charged no more than \$120.00 for
20 a testing kit. The department of health shall establish by procedure a program,
21 including eligibility requirements, to allow homeowners to apply for financial

~~assistance for the purchase of the testing kit. Financial assistance may take the form of a refund of the purchase price or a reduced purchase price.~~

Sec. 4. DEPARTMENT OF HEALTH; EDUCATION AND OUTREACH
ON SAFE DRINKING WATER

~~The department of health, after consultation with the agency of natural resources, shall revise and update its education and outreach materials regarding the potential health effects of contaminants in private sources of drinking water in order to improve citizen access to such materials and to increase awareness of the need to conduct testing of private water sources. In revising and updating its education and outreach materials, the department shall:~~

~~(1) Update the online safe water resource guide by incorporating the most current information on the health effects of contaminants, treatment of contaminants, and causes of contamination and by directly linking users to the department of health contaminant fact sheets.~~

~~(2) Develop an educational brochure regarding arsenic contamination of private drinking water sources that can be distributed to schools, doctors, municipalities, well drilling companies, and other appropriate parties.~~

~~(3) Develop a media campaign to educate the public regarding potential contamination of private drinking water sources and the need to test such sources.~~

1 (4) Develop an educational program for elementary and secondary
2 schools regarding potential contamination of private drinking water sources
3 and the need to test such sources.

4 Sec. 5. EFFECTIVE DATE

5 This act shall take effect on January 1, 2012.

Sec. 1. FINDINGS

The general assembly finds and declares that:

(1) The U.S. Environmental Protection Agency and the Vermont department of health estimate that 40 percent of Vermont residents obtain drinking water from private wells.

(2) Property owners are not required to test private wells used for potable water, and the state does not regulate the water quality of private drinking water wells.

(3) In adults and especially in children, contaminated well water can cause serious health effects, such as digestive problems, kidney problems, blue baby syndrome, and brain damage.

(4) Because the state does not regulate water quality in private wells, the state lacks a comprehensive database or map identifying where groundwater contamination is prevalent in the state.

(5) To help mitigate the potential health effects of contaminated well water, the state should require well tests for all newly constructed or drilled wells and should conduct education and outreach regarding the need for property owners to test the water quality of private wells used as potable water supplies.

(6) The state should utilize private well tests to construct a database and map of groundwater contamination in the state so that the department of health can recommend treatment options to property owners in certain parts of the state.

Sec. 2. 10 V.S.A. § 1981 is added to read:

§ 1981. TESTING OF PRIVATE WELLS; NEW WELLS

(a) After construction of a newly drilled well intended for use as a potable water supply, the owner of the property on which the well is located shall test the well for the parameters set forth in subsection (b) of this section.

~~(b) A water test conducted under this section shall include, at a minimum, a test for arsenic; lead; uranium; gross alpha radiation; coliform bacteria, nitrate, nitrite, fluoride, manganese, and any other parameters required by the agency by rule.~~

~~c) The secretary, after consultation with the department of health, the wastewater and potable water supply technical advisory committee, the Vermont association of realtors, the Vermont home inspectors' association, private laboratories, and other interested parties, shall adopt by rule requirements regarding:~~

~~(1) when, after construction or drilling of a well, the well test required under subsection (a) of this section shall be conducted;~~

~~(2) who shall be authorized to conduct the well test required under subsection (a) of this section, provided that the rule shall include licensed well drillers among those authorized to conduct the test;~~

~~(3) how well samples will be delivered for testing, including the form and information to be submitted with the well sample;~~

~~(4) a current, nationally-recognized accreditation or approval that an in-state or out-of-state laboratory shall possess in order to conduct a well test required under subsection (a) of this section; and~~

~~(5) any other requirements necessary to implement the requirements of this section.~~

~~(d) Any laboratory that analyzes a water sample of a private well in Vermont shall report the results of the well analysis to the entity submitting the sample and shall report, in an electronic format, to the department of health all information that is required by the department pursuant to the rule adopted under subsection (c) of this section.~~

Sec. 3. 27 V.S.A. § 616 is added to read:

§ 616. PRIVATE WELL TESTING; DISCLOSURE OF EDUCATIONAL MATERIAL

~~(a) Prior to the execution of a purchase and sale agreement for a property not served by a public community water system, the seller shall provide the buyer with informational materials developed by the department of health regarding:~~

~~(1) the potential health effects of untreated well water; and~~

~~(2) the buyer's opportunity under the agreement to test the potable water supply.~~

~~(b) Noncompliance with this section shall not affect marketability of title.~~

~~Sec. 4. DEPARTMENT OF HEALTH; EDUCATION AND OUTREACH ON
SAFE DRINKING WATER~~

~~The department of health, after consultation with the agency of natural resources, shall revise and update its education and outreach materials regarding the potential health effects of contaminants in private sources of drinking water in order to improve citizen access to such materials and to increase awareness of the need to conduct testing of private water sources. In revising and updating its education and outreach materials, the department shall update the online safe water resource guide by incorporating the most current information on the health effects of contaminants, treatment of contaminants, and causes of contamination and by directly linking users to the department of health contaminant fact sheets.~~

~~Sec. 5. EFFECTIVE DATES~~

~~(a) This section and Secs. 1 (findings), 3 (disclosure of educational material), and 4 (department of health; education and outreach) of this act shall take effect upon passage.~~

~~(b) Sec. 2 (testing of private wells) of this act shall take effect upon passage, except that 10 V.S.A. § 1981(a) (well test requirement) and 10 V.S.A. § 1981(d) (well test reports) shall take effect on July 1, 2012.~~

Sec. 1. FINDINGS

The general assembly finds and declares that:

(1) The U.S. Environmental Protection Agency and the Vermont department of health estimate that 40 percent of Vermont residents obtain drinking water from groundwater sources.

(2) Property owners currently are not required to test groundwater sources that are a potable water supply serving one single-family residence.

(3) In adults and especially in children, consumption of contaminated groundwater can cause serious health effects, such as digestive problems, kidney problems, blue baby syndrome, and brain damage.

(4) The state lacks a comprehensive database or map identifying where groundwater contamination is prevalent in the state.

(5) To help mitigate the potential health effects of consumption of contaminated groundwater, the state should require testing of all newly developed groundwater sources and should conduct education and outreach regarding the need for property owners to test the water quality of groundwater used in potable water supplies.

(6) The state should utilize tests of groundwater sources to construct a database and map of groundwater contamination in the state so that the department of health can recommend treatment options to property owners in certain parts of the state.

Sec. 2. 10 V.S.A. § 1981 is added to read:

§ 1981. TESTING OF NEW GROUNDWATER SOURCES

(a) As used in this section, "groundwater source" means that portion of a potable water supply that draws water from the ground, including a drilled well, shallow well, driven well point, or spring.

(b) Prior to use of a new groundwater source as a potable water supply, where testing is not otherwise required, the person who owns or controls the groundwater source shall test the groundwater source for the parameters set forth in subsection (c) of this section.

(c) A water sample collected under this section shall be analyzed for, at a minimum: arsenic; lead; uranium; gross alpha radiation; total coliform bacteria, total nitrate and nitrite, fluoride, manganese, and any other parameters required by the agency by rule.

(d) The secretary, after consultation with the department of health, the wastewater and potable water supply technical advisory committee, the Vermont association of realtors, the Vermont home inspectors' association, private laboratories, and other interested parties, shall adopt by rule requirements regarding:

(1) when, prior to use of a new groundwater source, the test required under subsection (b) of this section shall be conducted;

(2) who shall be authorized to sample the source for the test required under subsection (b) of this section, provided that the rule shall include the person who owns or controls the groundwater source and licensed well drillers among those authorized to conduct the test;

(3) how a water sample shall be collected in order to comply with the requirements of the analyses to be performed; and

(4) any other requirements necessary to implement this section.

Sec. 3. 18 V.S.A. § 501b is amended to read:

§ 501b. CERTIFICATION OF LABORATORIES

(a) The commissioner may certify a laboratory to perform the testing and monitoring required under 10 V.S.A. chapter 56, 10 V.S.A. § 1981, and the federal Safe Drinking Water Act if such laboratory meets the standards currently in effect of the National Environmental Laboratory Accreditation

Conference and is accredited by an approved National Environmental Laboratory Accreditation Program accrediting authority or its equivalent.

(b)(1) The commissioner may by order suspend or revoke a certificate granted under this section, after notice and opportunity to be heard, if the commissioner finds that the certificate holder has:

*(A) submitted materially false or materially inaccurate information;
or*

(B) violated any material requirement, restriction or condition of the certificate; or

(C) violated any statute, rule or order relating to this title.

(2) The order shall set forth what steps, if any, may be taken by the certificate holder to relieve the holder of the suspension or enable the certificate holder to reapply for certification if a previous certificate has been revoked.

(c) A person may appeal the suspension or revocation of the certificate to the board under section 128 of this title.

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(f) In accrediting a laboratory to conduct testing under 10 V.S.A. § 1981, the commissioner shall require a laboratory accredited under this section to submit in an electronic format the results of groundwater analyses conducted pursuant to 10 V.S.A. § 1981 to the department of health and the agency of natural resources.

Sec. 4. 27 V.S.A. § 616 is added to read:

§ 616. GROUNDWATER SOURCE TESTING; DISCLOSURE OF EDUCATIONAL MATERIAL

(a) For purchase and sales agreements executed on or after January 1, 2012, the seller shall, within 72 hours of the execution of a purchase and sales agreement for a property with a potable water supply, as that term is defined in 10 V.S.A. § 1972(6), that is not served by a public water system, as that term is defined in 10 V.S.A. § 1671(5), provide the buyer with informational materials developed by the department of health regarding:

(1) the potential health effects of the consumption of untreated groundwater; and

(2) the buyer's opportunity under the agreement to test the potable water supply.

(b) Non-compliance with the requirements of subsection (a) of this section shall not affect the marketability of title.

Sec. 5. DEPARTMENT OF HEALTH; EDUCATION AND OUTREACH ON SAFE DRINKING WATER

The department of health, after consultation with the agency of natural resources, shall revise and update its education and outreach materials regarding the potential health effects of contaminants in groundwater sources of drinking water in order to improve citizen access to such materials and to increase awareness of the need to conduct testing of groundwater sources. In revising and updating its education and outreach materials, the department shall update the online safe water resource guide by incorporating the most current information on the health effects of contaminants, treatment of contaminants, and causes of contamination and by directly linking users to the department of health contaminant fact sheets.

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 3 (certification of laboratories), and 5 (department of health; education and outreach) of this act shall take effect upon passage.

(b) Sec. 2 (testing of new groundwater sources) of this act shall take effect upon passage, except that 10 V.S.A. § 1981(b) (the requirement to test new groundwater sources) shall take effect on January 1, 2013.

(c) Sec. 4 (disclosure of educational material) of this act shall take effect on January 1, 2012.