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Act No. 66 (S.40). Public health; education; schools; drinking water; lead

An act relating to testing and remediation of lead in the drinking water of schools and child care facilities

This act requires all school districts, supervisory unions, independent schools, and child care providers to test for lead in the drinking water from outlets in each building or facility it owns or controls. Initial sampling shall be conducted by December 31, 2020. Prior to sampling, a school or child care provider shall notify parents, guardians, and staff of: requirements for testing, sampling results, and the response to be taken if lead is present in drinking water at or above the action level of 4 parts per billion (ppb). A school or child care provider may apply to the Department of Health (DOH) for a waiver from testing if it conducted sampling of all drinking water outlets on or after November 1, 2017 according to an approved methodology.

DOH shall pay to conduct the testing of samples taken by schools and child care providers. If testing indicates lead is present in drinking water from an outlet at or above the action level of 4 ppb, the act requires the school or child care provider to take the outlet out of service and conduct remediation to eliminate or reduce lead in the drinking water from the outlet. The school or child care provider shall: notify parents, guardians, and staff of the remedial action, submit a lead remediation plan to DOH, and notify DOH when the plan is complete. DOH shall retain all records of testing and remedial action and shall make the records available on its website. The State shall pay the costs of testing. The State shall pay the actual cost of replacement of outlets that are at or above the action level up to a capped maximum amount per type of drinking water fixture replaced.

The act also requires DOH to adopt rules to implement the testing program, including requirements or guidance for taking samples, frequency and scope of continued sampling, and implementation of a lead remediation plan. DOH shall provide guidance to schools and child care providers on sampling and shall issue guidance documents on lead implementation plans and communications with parents, guardians, and staff. In addition, the remediation costs incurred by a school shall not be calculated as education spending for the purpose of calculating excess spending by a school district.

Effective Date: June 17, 2019