

1 S.40

2 Introduced by Senators Campion, Ashe, Bray, Clarkson, Lyons, and Sears

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; education; public health; drinking
6 water; lead in school drinking water

7 Statement of purpose of bill as introduced: This bill proposes to require all
8 schools and child care facilities in Vermont to test drinking water outlets at the
9 school or facility for lead contamination. If samples indicate lead at levels
10 exceeding the defined action level, the bill would require the school or child
11 care facility to develop and implement an appropriate response or lead
12 remediation plan.

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

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

2 Sec. 1. 10 V.S.A. chapter 56A is added to read:

3 CHAPTER 56A. LEAD IN DRINKING WATER OF SCHOOLS AND
4 CHILD CARE FACILITIES

5 § 1691. PURPOSE

6 The purpose of this chapter is to require all schools and child care facilities
7 in Vermont to:

8 (1) test drinking water for lead contamination; and

9 (2) develop and implement an appropriate response or lead remediation
10 plan when sampling indicates unsafe lead levels in drinking water at the school
11 or child care facility.

12 § 1692. DEFINITIONS

13 As used in this chapter:

14 (1) “Action level” means one part per billion (ppb) of lead.

15 (2) “Agency” means the Agency of Natural Resources.

16 (3) “Building” means any structure, facility, addition, or wing of a
17 school that may be occupied or used by children or students. “Building” shall
18 not include any structure, facility, addition, or wing of a school that is lead
19 free, as defined in section 1417 of the Federal Safe Drinking Water Act.

20 (4) “Child care facility” has the same meaning as in 33 V.S.A. § 3511.

21 (5) “Commissioner” means the Commissioner of Health.

1 (6) “Department” means the Department of Health.

2 (7) “Drinking water” has the same meaning as in subdivision 1671(1) of
3 this title.

4 (8) “First-draw sample” means a 250 milliliter sample of drinking water
5 that has been standing in plumbing pipes at least six hours and that is collected
6 without flushing the tap.

7 (9) “Independent school” has the same meaning as in 16 V.S.A. § 11.

8 (10) “Outlet” means a drinking water fixture currently or potentially
9 used for drinking or cooking purposes, including a drinking fountain or a
10 faucet.

11 (11) “Public school” has the same meaning as in 16 V.S.A. § 11.

12 (12) “School” means any public school or independent school in the
13 State.

14 (13) “Secretary” means the Secretary of Natural Resources.

15 § 1693. TESTING OF DRINKING WATER

16 (a) Scope of testing.

17 (1) Schools in the State shall test drinking water for lead contamination
18 as required under this chapter.

19 (2) Child care facilities in the State shall test drinking water for lead
20 contamination as required under this chapter, unless otherwise required to test
21 for lead in drinking water under State law.

1 (b) Initial sampling. On or before January 1, 2020, each school or child
2 care facility in the State shall collect a first draw sample from each outlet in
3 each building of the school or child care facility.

4 (c) Continued sampling. After January 1, 2020, each school or child care
5 facility in the State shall sample each outlet in each building of the school or
6 child care facility for lead according to a schedule adopted by the Agency of
7 Natural Resources by rule under section 1697 of this title.

8 (d) Laboratory analysis. All first-draw samples required under this section
9 shall be sent to a laboratory approved by the Commissioner of Health to
10 conduct analyses of drinking water under this chapter.

11 (e) Record keeping. A school or child care facility shall retain all records
12 of test results, laboratory analyses, lead remediation plans, determinations that
13 a building is lead free, and waiver requests for 10 years following the creation
14 of the record. Records produced or acquired under this chapter are public
15 records subject to inspection or copying under the Public Records Act.

16 § 1694. RESPONSE TO ACTIONABLE LEVEL; NOTICE; REPORTING

17 If laboratory analyses of a sample of drinking water from an outlet at a
18 school or child care facility exceeds the action level, the school or child care
19 facility shall:

20 (1) prohibit use of the outlet until a lead remediation plan or other
21 remediation approved by the Secretary is implemented to mitigate the lead

1 level of the outlet and subsequent test results indicate that the lead levels are at
2 or below the action level;

3 (2) provide occupants of the school or child care facility an adequate
4 supply of potable water for drinking and cooking until remediation is
5 performed;

6 (3) report the results of the laboratory analyses to the Agency and to the
7 Department within one business day of receiving the laboratory report; and

8 (4) notify all staff and all parents or guardians of students of the test
9 results, in writing or by electronic means, within 10 business days after receipt
10 of the laboratory report.

11 § 1695. PUBLIC NOTIFICATION; AGENCY WEBSITE

12 On or before March 1, 2020, the Secretary shall publish on the Agency's
13 website a list of all schools and child care facilities that reported an outlet that
14 exceeded the action level within the previous two years of reported samples.

15 The Secretary shall publish on the Agency's website a report of an outlet that
16 exceeds the action level within two weeks of receipt of the report under section
17 1694 of this title.

18 § 1696. LEAD REMEDIATION PLAN; RESPONSE

19 (a) Consultation. When a laboratory analyses of a sample of drinking
20 water from an outlet at a school or child care facility exceeds the action level,
21 the school or child care facility shall consult with the Secretary and the

1 Commissioner regarding the development of a lead remediation plan or other
2 necessary response.

3 (b) Model plan. The Secretary, after consultation with the Commissioner,
4 shall publish a model lead remediation plan to inform and assist schools and
5 child care facilities of the potential requirements for response to a sample of
6 drinking water from an outlet that exceeds the action level.

7 § 1697. RULEMAKING

8 On or before November 1, 2020, the Secretary, after consultation with the
9 Commissioner, shall adopt rules regarding the implementation of the
10 requirements of this chapter. The rules shall include:

11 (1) requirements or guidance for taking samples of drinking water from
12 outlets in buildings of schools and child care facilities;

13 (2) the frequency of sampling required, including additional sampling
14 requirements for schools that report an exceedance of the action level;

15 (3) requirements or guidance for sending samples to laboratories;

16 (4) requirements for approval of a laboratory to conduct sampling under
17 this chapter;

18 (5) the method or form for reporting an exceedance of the action level to
19 the Secretary;

20 (6) requirements for implementation of a lead mitigation plan or other
21 necessary response to a reported exceedance of the action level;

1 (7) conditions or criteria for the waiver of sampling required under this
2 chapter; and
3 (8) any other requirements that the Secretary deems necessary for the
4 implementation of the requirements of this chapter.

5 Sec. 2. 10 V.S.A. § 8003 is amended to read:

6 § 8003. APPLICABILITY

7 (a) The Secretary may take action under this chapter to enforce the
8 following statutes and rules, permits, assurances, or orders implementing the
9 following statutes, and the Board may take such action with respect to
10 subdivision (10) of this subsection:

11 * * *

12 (28) 30 V.S.A. § 255, relating to regional coordination to reduce
13 greenhouse gases; ~~and~~

14 (29) 10 V.S.A. § 1420, relating to abandoned vessels; and

15 (30) 10 V.S.A. chapter 56A, relating to testing of drinking water in
16 school and child care facilities for lead.

17 * * *

18 Sec. 3. 10 V.S.A. § 8503 is amended to read:

19 § 8503. APPLICABILITY

20 (a) This chapter shall govern all appeals of an act or decision of the
21 Secretary, excluding enforcement actions under chapters 201 and 211 of this

1 title and rulemaking, under the following authorities and under the rules
2 adopted under those authorities:

3 (1) The following provisions of this title:

4 * * *

5 (U) chapter 168 (product stewardship for primary batteries and
6 rechargeable batteries);

7 (V) chapter 56A (testing of drinking water in school and child care
8 facilities for lead).

9 (2) 29 V.S.A. chapter 11 (management of lakes and ponds).

10 (3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).

11 * * *

12 Sec. 4. EFFECTIVE DATE

13 This act shall take effect on passage.