

**ASSEMBLY, No. 1075**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblywoman SHANIQUE SPEIGHT**

**District 29 (Essex)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

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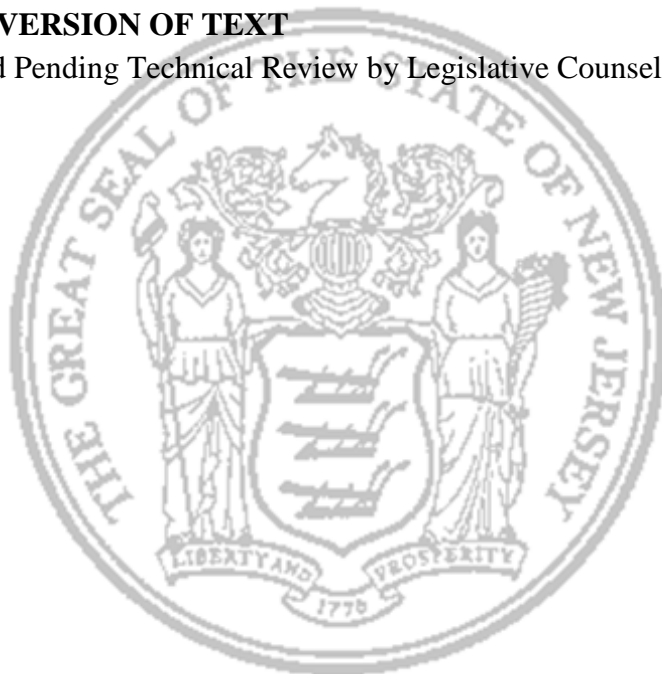
**Assemblyman Benson and Assemblywoman Lopez**

**SYNOPSIS**

Requires DEP, DOH, DCA, owners or operators of public water systems, and owners or operators of certain buildings to take certain actions to prevent and control cases of Legionnaires' disease.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 2/24/2020)**

1 AN ACT concerning Legionnaires' disease and supplementing  
2 P.L.1977, c.224 (C.58:12A-1 et seq.) and Title 52 of the Revised  
3 Statutes.

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

7  
8 1. a. Notwithstanding any other provision of law, or rule or  
9 regulation adopted pursuant thereto, to the contrary, the owner or  
10 operator of a public water system shall:

11 (1) maintain a detectable disinfectant residual of free chlorine,  
12 combined chlorine, or chlorine dioxide of at least 0.5 milligrams per  
13 liter in all active parts of the public water system at all times; and

14 (2) conduct disinfectant residual testing at frequent and regular  
15 intervals to determine the amount and type of detectable  
16 disinfectant residual existing at different points in the public water  
17 system.

18 b. The Department of Environmental Protection, in  
19 consultation with the Department of Health, may adopt rules and  
20 regulations pursuant to the "Administrative Procedure Act,"  
21 P.L.1968, c.410 (C.52:14B-1 et seq.), if determined to be  
22 appropriate, to require additional disinfectant requirements or  
23 testing requirements of public water systems in order to minimize  
24 the growth and transmission of *Legionella* bacteria, and  
25 requirements for the monitoring of public water systems during  
26 construction activities that may impact the public water system.

27  
28 2. a. The owner or operator of a public water system shall  
29 provide a timely written notice, in a form and manner as determined  
30 by the Department of Environmental Protection pursuant to  
31 subsection b. of this section, to all residential, commercial, and  
32 institutional customers and residents served by the public water  
33 system and located in an affected area of disruptions in the water  
34 distribution system that could result in increased levels of  
35 *Legionella* bacteria being present in the public water system.

36 The notice shall include, but need not be limited to:

37 (1) notification that planned construction, maintenance, repair, or  
38 replacement of a part of the system may affect *Legionella* bacteria  
39 in the water distribution system and temporarily increase the level  
40 of *Legionella* bacteria in the public water system;

41 (2) the estimated length of time that the level of *Legionella*  
42 bacteria may remain elevated, as determined by the department;

43 (3) general information on the possible sources of *Legionella*  
44 bacteria in the public water system, and the health effects of  
45 Legionnaires' disease and related illnesses to at-risk populations;  
46 and

47 (4) measures consumers can take to reduce or eliminate exposure  
48 to *Legionella* bacteria, including, but not limited to, flushing water

1 lines during and after completion of construction work, removing  
2 and cleaning faucet aerator screens and showerheads, and installing  
3 a water filter or water treatment device certified to remove  
4 *Legionella* bacteria.

5 b. No later than 120 days after the effective date of P.L. ,  
6 c. (C. ) (pending before the Legislature as this bill), the  
7 Department of Environmental Protection, in consultation with the  
8 Department of Health and the Department of Community Affairs,  
9 shall publish a public notice in the New Jersey Register and on its  
10 Internet website specifying the form and manner of the notice  
11 required pursuant to subsection a. of this section and the specific  
12 information to be included in the notice.

13 c. If a public water system serves a municipality in which the  
14 primary language of 10 percent or more of the residents is a  
15 language other than English, the water purveyor shall provide the  
16 notice required pursuant to subsection a. of this section in both  
17 English and the other language to the residents.

18 d. The owner or operator of a public water system shall not be  
19 required to provide the notice required pursuant to subsection a. of  
20 this section until the department has published the public notice  
21 required pursuant to subsection b. of this section.

22  
23 3. a. For every reported diagnosis of Legionnaires' disease, the  
24 Department of Health shall immediately provide notification to the  
25 Department of Environmental Protection of the diagnosis. This  
26 notification shall include addresses where the individual diagnosed  
27 with Legionnaires' disease resided, frequently visited, or was  
28 employed in the month immediately prior to the individual's  
29 diagnosis.

30 b. Upon receipt of notification from the Department of Health  
31 pursuant to subsection a. of this section, the Department of  
32 Environmental Protection shall sample and test the public water  
33 system for the presence of *Legionella* bacteria, at all locations  
34 identified by the Department of Health. Each test shall be  
35 conducted by a laboratory certified for this purpose by the  
36 Department of Environmental Protection, and in accordance with  
37 the sampling and testing methods established and provided by the  
38 department.

39 The Department of Environmental Protection shall conduct, or  
40 require the owner or operator of the applicable public water system  
41 to conduct, further testing to confirm the presence of *Legionella*  
42 bacteria in any source in which the bacteria is detected through  
43 initial testing pursuant to this subsection, as it determines to be  
44 necessary.

45  
46 4. a. No later than one year after the effective date of P.L. ,  
47 c. (C. ) (pending before the Legislature as this bill), the owner  
48 or operator of a building that meets any of the criteria set forth in

1 paragraphs (1) through (5) of this subsection shall implement a  
2 water management program to minimize the growth and  
3 transmission of *Legionella* bacteria in the building's water system,  
4 consistent with the American Society of Heating, Refrigeration, and  
5 Air Conditioning Engineers (ASHRAE) Standard 188-2018 or  
6 comparable standards adopted by a nationally-recognized, accepted,  
7 and appropriate organization:

8 (1) a health care facility licensed pursuant to P.L.1971, c.136  
9 (C.26:2H-1 et seq.) where patient stays exceed 24 hours;

10 (2) a building containing one or more areas for the purpose of  
11 housing or treating occupants receiving treatment for burns,  
12 chemotherapy, solid organ transplantation, or bone marrow  
13 transplantation;

14 (3) a building containing one or more areas for the purpose of  
15 housing or treating occupants that are immunocompromised, at-risk,  
16 on medications that weaken the immune system, or have renal  
17 disease, diabetes, or chronic lung disease;

18 (4) a building containing a whirlpool; spa; pool; open- or closed-  
19 circuit cooling tower or evaporative cleanser that provides cooling  
20 or refrigeration for a heating, venting, air conditioning, or  
21 refrigeration system; ornamental fountain; mister; atomizer; air  
22 wash; humidifier; or other non-potable water system or device that  
23 releases water aerosols in the building or on the property upon  
24 which the building is located; and

25 (5) a building that is more than 10 stories high, including any  
26 level that is below grade, with a centralized potable water-heater  
27 system.

28 b. The owner or operator of a facility or building required to  
29 implement a water management program pursuant to this section  
30 shall make the water management program available upon request  
31 to an employee of the Department of Community Affairs, the  
32 Department of Environmental Protection, the Department of Health,  
33 or any other department or agency with license or inspection  
34 authority for the facility or building.

35 c. (1) An owner or operator of a facility or building who fails  
36 to implement a water management program or fails to demonstrate  
37 compliance with a water management program required pursuant to  
38 this section shall be subject to a penalty of not more than \$2,000 for  
39 a first violation, and not more than \$5,000 for a second or  
40 subsequent violation, except that the owner or operator shall be  
41 subject to a penalty of not more than \$10,000 for any violation  
42 which causes serious injury or death to any person, to be collected  
43 by the State in a civil action by a summary proceeding under the  
44 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10  
45 et seq.). The Superior Court and the municipal court shall have  
46 jurisdiction over proceedings for the enforcement of the penalty  
47 provided by this section.

1 (2) The Department of Community Affairs, the Department of  
2 Environmental Protection, or the Department of Health may  
3 institute a civil action for injunctive relief in the Superior Court to  
4 enforce the provisions of this section and to prohibit and prevent a  
5 violation of this section, and the court may proceed in the action in  
6 a summary manner.

7  
8 5. No later than 180 days after the effective date of P.L. ,  
9 c. (C. ) (pending before the Legislature as this bill), the  
10 Department of Community Affairs, in consultation with the  
11 Department of Health, Department of Environmental Protection,  
12 and a public stakeholder group that shall be comprised of no more  
13 than five public members, including one representative of a public  
14 health organization dedicated to eradicating Legionnaires' disease  
15 and one representative of an organization representing water  
16 purveyors, shall adopt rules and regulations pursuant to the  
17 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
18 seq.), as necessary to implement the provisions of P.L. ,  
19 c. (C. ) (pending before the Legislature as this bill).

20 The rules and regulations adopted pursuant to this section shall  
21 include requirements for the monitoring and testing for *Legionella*  
22 bacteria in the water system of facilities and buildings identified in  
23 subsection a. of section 4 of P.L. , c. (C. ) (pending before  
24 the Legislature as this bill), and may require increased monitoring  
25 and testing of the water system in those facilities and buildings  
26 during construction activities or other events that may impact the  
27 water supply distribution system and could result in the loss of  
28 water pressure or foster the release of *Legionella* bacteria into the  
29 water system of the facility or building.

30  
31 6. No later than one year after the effective date of P.L. ,  
32 c. (C. ) (pending before the Legislature as this bill), and  
33 annually thereafter, the Commissioner of Community Affairs, in  
34 conjunction with the Department of Environmental Protection and  
35 the Department of Health, shall submit a report to the Governor,  
36 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the  
37 Legislature, which shall include:

38 a. the number of cases of Legionnaire's disease in the State  
39 reported in each of the previous 10 years;

40 b. the number of reported test results received by the  
41 Department of Community Affairs, the Department of  
42 Environmental Protection, or the Department of Health which  
43 indicate the presence of *Legionella* bacteria at levels that present a  
44 serious health threat;

45 c. the number and type of violations of P.L. , c. (C. )  
46 (pending before the Legislature as this bill) for which penalties  
47 were assessed; and

1 d. recommendations for legislative action as may be necessary  
2 to further control *Legionella* bacteria in the public water supply and  
3 affected buildings.

4  
5 7. This act shall take effect immediately.  
6

7  
8 STATEMENT  
9

10 This bill would require the Departments of Environmental  
11 Protection, Health, and Community Affairs, owners or operators of  
12 public water systems, and the owners or operators of certain types  
13 of buildings to take specified actions to help inform citizens of the  
14 State about, and prevent and control cases of, Legionnaires' disease.

15 This bill would require the owner or operator of a public water  
16 system to maintain a detectable disinfectant residual of free  
17 chlorine, combined chlorine, or chlorine dioxide of at least 0.5  
18 milligrams per liter in all active parts of the public water system at  
19 all times and conduct disinfectant residual testing at frequent and  
20 regular intervals to determine the amount and type of detectable  
21 disinfectant residual existing at different points in the public water  
22 system. The Department of Environmental Protection (DEP) may  
23 adopt rules and regulations to require additional, if determined to be  
24 appropriate, disinfectant requirements or testing requirements of  
25 public water systems in order to minimize the growth and  
26 transmission of *Legionella* bacteria.

27 The bill would require the owner or operator of a public water  
28 system to provide written notice to its residential, commercial, and  
29 institutional customers and residents located in an affected area of  
30 disruptions in the water distribution system that could result in  
31 increased levels of *Legionella* bacteria being present in the public  
32 water system. The bill requires the DEP to publish a public notice  
33 in the New Jersey Register and on its Internet website specifying  
34 the form and manner of this notice and the specific information that  
35 it is to include.

36 The bill requires the DOH to immediately notify the DEP of  
37 reported diagnoses of Legionnaires' disease, including addresses  
38 where the individual diagnosed with Legionnaires' disease resided,  
39 frequently visited, or was employed in the month immediately prior  
40 to the individual's diagnosis. Upon receiving this notification from  
41 the DOH, the bill would require the DEP to sample the water for the  
42 presence of *Legionella* bacteria, at all locations identified by the  
43 Department of Health. The DEP would conduct, or require the  
44 owner or operator of the applicable public water system to conduct,  
45 further testing to confirm the presence of *Legionella* bacteria in any  
46 source in which the bacteria is detected, as it determines to be  
47 necessary.

1 The bill would also require owners or operators of certain types  
2 of buildings to implement a water management program to  
3 minimize the growth and transmission of *Legionella* bacteria in the  
4 building water system. This requirement would apply to:

5 (1) certain health care facilities where patient stays exceed 24  
6 hours;

7 (2) buildings containing one or more areas for the purpose of  
8 housing or treating occupants receiving treatment for burns,  
9 chemotherapy, solid organ transplantation, or bone marrow  
10 transplantation;

11 (3) buildings containing one or more areas for the purpose of  
12 housing or treating occupants that are immunocompromised, at-risk,  
13 on medications that weaken the immune system, or have renal  
14 disease, diabetes, or chronic lung disease;

15 (4) buildings containing a whirlpool, spa, pool, open- or closed-  
16 circuit cooling tower or evaporative cleanser that provides cooling  
17 or refrigeration for a heating, venting, air conditioning, or  
18 refrigeration system, ornamental fountain, mister, atomizer, air  
19 wash, humidifier, or other non-potable water system or device that  
20 releases water aerosols in the building or on the property upon  
21 which the building is located; and

22 (5) buildings that are more than 10 stories high, including any  
23 level that is below grade, with a centralized potable water-heater  
24 system.

25 The bill provides for penalties for owners or operators of  
26 facilities or buildings who fail to implement a water management  
27 program or fail to demonstrate compliance with a water  
28 management program. A violator would be subject to a penalty of  
29 not more than \$2,000 for a first violation, and not more than \$5,000  
30 for a second or subsequent violation, except that an owner or  
31 operator would be subject to a penalty of not more than \$10,000 for  
32 any violation which causes serious injury or death to any person.

33 The bill would require the DCA Commissioner, in consultation  
34 with the DEP and the DOH, and a public stakeholder group  
35 comprised of no more than five public members, including one  
36 representative of a public health organization dedicated to  
37 eradicating Legionnaires' disease and one representative of an  
38 organization representing water purveyors, to adopt rules and  
39 regulations as necessary to implement the provisions of the bill.  
40 The rules and regulations would include requirements for the  
41 monitoring and testing for *Legionella* bacteria in the water system  
42 of those facilities and buildings specified in the bill, and may  
43 include increased monitoring and testing of the water system in  
44 those facilities and buildings during construction activities or other  
45 events that may impact the water supply distribution system and  
46 could result in the loss of water pressure or foster the release of  
47 *Legionella* bacteria into the water system of the facility or building.

1       Lastly, the bill would require the DCA Commissioner, in  
2 conjunction with the DEP and the DOH, to prepare an annual report  
3 including information on reported cases of Legionnaire's disease  
4 reported in each of the previous 10 years, test results indicating the  
5 presence of *Legionella* bacteria at levels that present a serious  
6 health threat, and recommendations for such legislative action as  
7 may be necessary to further control *Legionella* bacteria in the public  
8 water supply and affected buildings.

9       Legionnaires' disease is type of pneumonia caused by the  
10 bacterium *Legionella*. This bacterium is commonly found in the  
11 country's natural waters and public water supply systems.

12       *Legionella* bacteria can enter human lungs and result in  
13 Legionnaires' disease, causing substantial illness and potentially  
14 death. More than ninety percent of Legionnaires' cases, as reported  
15 by the United States Centers for Disease Control and Prevention,  
16 are individual and sporadic cases unassociated with outbreaks and  
17 indicative of likely exposure to *Legionella* bacteria through daily  
18 activities. Certain populations are more susceptible to contracting  
19 Legionnaires' disease, such as the immune compromised and the  
20 elderly.

21       Proactive management of water supplies and certain building  
22 systems can control waterborne pathogens such as *Legionella*  
23 bacteria. Water quality can vary suddenly and substantially due to  
24 excessive rains, flooding, utility directed water sourcing changes,  
25 water main breaks, water supply system disruptions, construction  
26 activities, geological changes, water treatment system failures, and  
27 other conditions depleting residual disinfectants in our water  
28 supply.

29       Legionnaires' disease was identified within the last 50 years, and  
30 a growing body of knowledge has resulted in best practices for  
31 managing waterborne pathogens from "source-to-human exposure."  
32 It is the intent of this bill to help the citizens of New Jersey better  
33 protect themselves from the *Legionella* bacteria.