

[First Reprint]

ASSEMBLY, No. 1075

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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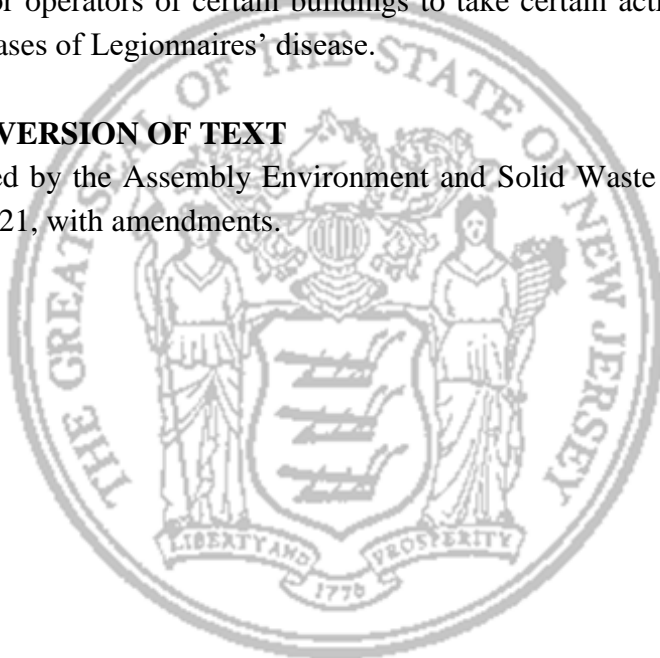
**Assemblyman Benson, Assemblywomen Lopez, Chaparro, Assemblymen
Rooney and Karabinchak**

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

As reported by the Assembly Environment and Solid Waste Committee on March 15, 2021, with amendments.



(Sponsorship Updated As Of: 12/2/2021)

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 ¹minimum¹ detectable disinfectant residual of
 12 free chlorine ¹**【**, combined chlorine, or chlorine dioxide**】**¹ of at least
 13 ¹**【0.5】** 0.3¹ milligrams per liter in all active parts of the public
 14 water system at all times; and

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

19 b. ¹(1) If the owner or operator of a public water system
 20 repeatedly fails to meet the minimum detectable disinfectant
 21 residual of chlorine targets established pursuant to paragraph (1) of
 22 subsection a. of this section and the violations are reported to the
 23 Department of Environmental Protection, the public water system
 24 shall conduct an internal investigation of the violations. If, after the
 25 public water system conducts an investigation, subsequent failures
 26 to meet the targets are reported, the Department of Environmental
 27 Protection shall conduct an investigation of the subsequent
 28 violations or, at its discretion, authorize a third-party entity to
 29 conduct the investigation.

30 (2) The Department of Environmental Protection shall develop
 31 procedures and guidelines regarding the investigation of an owner
 32 or operator of a public water system conducted pursuant to
 33 paragraph (1) of this subsection, including but not limited, to:

34 (a) the definition of what constitutes a repeated failure to meet
 35 the minimum detectable disinfectant residual of chlorine targets;

36 (b) the requirements for reporting violations of the chlorine
 37 targets;

38 (c) when to initiate an initial internal investigation of violations
 39 of chlorine targets and subsequent investigations;

40 (d) the establishment of penalties for a violation of chlorine
 41 targets, if the department determines that a violation has occurred;

42 (e) the development of a notice to inform consumers if a public
 43 water system fails to maintain the minimum detectable disinfectant
 44 residual of chlorine targets established pursuant to paragraph (1) of
 45 subsection a. of this section; and

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AEN committee amendments adopted March 15, 2021.

1 (f) the criteria used by the department to select appropriate third
2 party entities to conduct investigations of additional violations of
3 chlorine targets.

4 c.¹ The Department of Environmental Protection, in
5 consultation with the Department of Health, may adopt rules and
6 regulations pursuant to the “Administrative Procedure Act,”
7 P.L.1968, c.410 (C.52:14B-1 et seq.), if determined to be
8 appropriate, to require additional disinfectant requirements or
9 testing requirements of public water systems ¹, or to increase the
10 minimum detectable disinfectant residual,¹ in order to minimize the
11 growth and transmission of *Legionella* bacteria, and requirements
12 for the monitoring of public water systems during construction
13 activities that may impact the public water system. ¹The
14 Department of Environmental Protection shall not reduce the
15 minimum detectable disinfectant residual of chlorine targets
16 established pursuant to paragraph (1) of subsection a. of this
17 section.

18 d. The Department of Environmental Protection shall submit an
19 annual report to the Governor and to the Legislature, pursuant to
20 section 2 of P.L.1991, c.164 (C.52:14-19.1), containing its
21 recommendations as to whether the minimum detectable
22 disinfectant residual of chlorine targets established pursuant to
23 paragraph (1) of subsection a. of this section should be increased in
24 order to minimize the growth and transmission of *Legionella*
25 bacteria.¹

26
27 2. a. The owner or operator of a public water system shall
28 provide a timely written notice, in a form and manner as determined
29 by the Department of Environmental Protection pursuant to
30 subsection b. of this section, to all residential, commercial, and
31 institutional customers and residents served by the public water
32 system and located in an affected area of disruptions in the water
33 distribution system that could result in increased levels of
34 *Legionella* bacteria being present in the public water system.

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

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

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

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

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

1 ¹ensuring hot water heaters are working properly and maintaining a
2 temperature of at least 130 degrees Fahrenheit at the water heater
3 outlet,¹ flushing water lines ¹, including the hot water heater drain
4 and external hose connections,¹ during and after completion of
5 construction work, removing and cleaning faucet aerator screens
6 and showerheads, and installing a water filter or water treatment
7 device certified to remove Legionella bacteria.

8 b. No later than 120 days after the effective date of
9 P.L. , c. (C.) (pending before the Legislature as this bill),
10 the Department of Environmental Protection, in consultation with
11 the Department of Health and the Department of Community
12 Affairs, shall publish a public notice in the New Jersey Register and
13 on its Internet website specifying the form and manner of the notice
14 required pursuant to subsection a. of this section ¹, the
15 circumstances under which the owner or operator of a public water
16 system is required to provide the notice pursuant to subsection a. of
17 this section, including when a notice is to be provided if the
18 disruption in a water distribution system is related to *Legionella*
19 bacteria in ground water and when the disruption is related to
20 *Legionella* bacteria in surface water,¹ and the specific information
21 to be included in the notice.

22 c. If a public water system serves a municipality in which the
23 primary language of 10 percent or more of the residents is a
24 language other than English, the water purveyor shall provide the
25 notice required pursuant to subsection a. of this section in both
26 English and the other language to the residents.

27 d. The owner or operator of a public water system shall not be
28 required to provide the notice required pursuant to subsection a. of
29 this section until the department has published the public notice
30 required pursuant to subsection b. of this section.

31
32 3. a. For every reported diagnosis of Legionnaires' disease, the
33 Department of Health shall immediately provide notification to the
34 Department of Environmental Protection of the diagnosis. This
35 notification shall include addresses where the individual diagnosed
36 with Legionnaires' disease resided, frequently visited, or was
37 employed in the month immediately prior to the individual's
38 diagnosis.

39 b. Upon receipt of notification from the Department of Health
40 pursuant to subsection a. of this section, the Department of
41 Environmental Protection shall sample and test the public water
42 system for the presence of *Legionella* bacteria ¹**[,]**¹ at all locations
43 identified by the Department of Health. Each test shall be conducted
44 by a laboratory certified for this purpose by the Department of
45 Environmental Protection, and in accordance with the sampling and
46 testing methods established and provided by the department. ¹At the
47 request of an individual diagnosed with Legionnaires' disease, the

1 Department of Environmental Protection shall sample and test the
2 fixtures and water-using equipment in the individual's residence in
3 a manner consistent with the consent provided.¹

4 ¹c.¹ The Department of Environmental Protection shall
5 conduct, or require the owner or operator of the applicable public
6 water system to conduct, further testing to confirm the presence of
7 *Legionella* bacteria in any source in which the bacteria is detected
8 through initial testing pursuant to this subsection, as ¹~~it~~ the
9 department¹ determines to be necessary.

10
11 4. a. No later than one year after the effective date of
12 P.L. , c. (C.) (pending before the Legislature as this bill),
13 the owner or operator of a building that meets any of the criteria set
14 forth in paragraphs (1) through (5) of this subsection shall
15 implement a water management program to minimize the growth
16 and transmission of *Legionella* bacteria in the building's water
17 system, consistent with the American Society of Heating,
18 Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard
19 188-2018 or comparable standards adopted by a nationally-
20 recognized, accepted, and appropriate organization:

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

23 (2) a building containing one or more areas for the purpose of
24 housing or treating occupants receiving treatment for burns,
25 chemotherapy, solid organ transplantation, or bone marrow
26 transplantation;

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

31 (4) a building containing a whirlpool; spa; pool; open- or
32 closed-circuit cooling tower or evaporative ¹~~cleanser~~ condenser¹
33 that provides cooling or refrigeration for a heating, ¹~~venting~~
34 ventilation¹ , air conditioning, or refrigeration system; ornamental
35 fountain; mister; atomizer; air wash; humidifier; or other non-
36 potable water system or device that releases water aerosols in the
37 building or on the property upon which the building is located; and

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

41 b. The owner or operator of a facility or building required to
42 implement a water management program pursuant to this section
43 shall make the water management program available upon request
44 to an employee of the Department of Community Affairs, the
45 Department of Environmental Protection, the Department of Health,
46 or any other department or agency with license or inspection
47 authority for the facility or building.

1 c. ¹When testing for *Legionella* bacteria consistent with a
2 building's water management program pursuant to subsection a. of
3 this section, the testing shall be conducted:

4 (1) in a manner consistent with consistent with the American
5 Society of Heating, Refrigeration, and Air Conditioning Engineers
6 (ASHRAE) Standard 188-2018 or comparable standards adopted by
7 a nationally recognized, accepted, and appropriate organization; and

8 (2) by individuals whose qualifications to conduct the testing is
9 determined by the Department of Environmental Protection and
10 may include testing professionals certified in accordance with
11 ASSE Series 12000-2018, Professional Qualifications Standards for
12 Infection Control Risk Assessment for all Building Systems, or any
13 subsequent standards established by ASSE International.

14 d.¹ (1) An owner or operator of a facility or building who fails
15 to implement a water management program or fails to demonstrate
16 compliance with a water management program required pursuant to
17 this section shall be subject to a penalty of not more than \$2,000 for
18 a first violation, and not more than \$5,000 for a second or
19 subsequent violation, except that the owner or operator shall be
20 subject to a penalty of not more than \$10,000 for any violation
21 which causes serious injury or death to any person, to be collected
22 by the State in a civil action by a summary proceeding under the
23 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
24 et seq.). The Superior Court and the municipal court shall have
25 jurisdiction over proceedings for the enforcement of the penalty
26 provided by this section.

27 (2) The Department of Community Affairs, the Department of
28 Environmental Protection, or the Department of Health may
29 institute a civil action for injunctive relief in the Superior Court to
30 enforce the provisions of this section and to prohibit and prevent a
31 violation of this section, and the court may proceed in the action in
32 a summary manner.

33 ¹e. The provisions of this section shall not apply to a residential
34 property with four or less dwelling units.¹
35

36 5. No later than 180 days after the effective date of
37 P.L. , c. (C.) (pending before the Legislature as this bill), the
38 Department of Community Affairs, in consultation with the
39 Department of Health, Department of Environmental Protection,
40 and a public stakeholder group that shall be comprised of no more
41 than five public members, including one representative of a public
42 health organization dedicated to eradicating Legionnaires' disease
43 and one representative of an organization representing water
44 purveyors, shall adopt rules and regulations pursuant to the
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
46 1 et seq.), as necessary to implement the provisions of
47 P.L. , c. (C.) (pending before the Legislature as this bill).

1 The rules and regulations adopted pursuant to this section
2 ¹**[shall]**;

3 (1) shall be consistent with the American Society of Heating,
4 Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard
5 188-2018 or comparable standards adopted by a nationally
6 recognized, accepted, and appropriate organization;

7 (2) shall¹ include requirements for the monitoring and testing
8 for *Legionella* bacteria ¹, the specific strains of which shall be
9 determined by the Department of Environmental Protection and
10 shall include but may not be limited to *Legionella Pneumophila*,¹ in
11 the water system of facilities and buildings identified in subsection
12 a. of section 4 of P.L. , c. (C.) (pending before the
13 Legislature as this bill) ¹**[.]**;¹ and

14 ¹(3)¹ may ¹**[require]** include requirements for¹ increased
15 monitoring and testing of the water system in those facilities and
16 buildings during construction activities or other events that may
17 impact the water supply distribution system and could result in the
18 loss of water pressure or foster the release of *Legionella* bacteria
19 into the water system of the facility or building.
20

21 6. No later than one year after the effective date of
22 P.L. c. (C.) (pending before the Legislature as this bill), and
23 annually thereafter, the ¹**[Commissioner]** Department¹ of
24 Community Affairs, in conjunction with the Department of
25 Environmental Protection and the Department of Health, shall
26 submit a report to the Governor, and, pursuant to section 2 of
27 P.L.1991, c.164 (C.52:14-19.1), to the Legislature, which shall
28 include:

29 a. the number of cases of ¹**[Legionnaire's]** Legionnaires'¹
30 disease in the State reported in each of the previous 10 years;

31 b. the number of reported test results received by the
32 Department of Community Affairs, the Department of
33 Environmental Protection, or the Department of Health which
34 indicate the presence of *Legionella* bacteria ¹**[at levels that present**
35 a serious health threat]¹ ;

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

39 d. recommendations for legislative action as may be necessary
40 to further control *Legionella* bacteria in the public water supply and
41 affected buildings.
42

43 ¹7. The Department of Health shall develop a public awareness
44 campaign and targeted consumer education program to educate
45 consumers, especially vulnerable populations, on the environmental
46 sources of *Legionella* bacteria, the movement of *Legionella* bacteria

1 through water distribution systems, the notification requirements of
2 P.L. , c. (C.) (pending before the Legislature as this bill)
3 and how the requirements impact consumers, and on methods to
4 control *Legionella* bacteria in a person's home. The public
5 awareness campaign and education program shall include, but not
6 be limited to, information on the relationship between the risks of
7 the proliferation of *Legionella* bacteria and hot water and the
8 temperature requirements for medical devices, expansion tanks, hot
9 tubs, whirlpools, spas, pools, air conditioning, ornamental
10 fountains, or other equipment or device that releases water aerosols
11 in a person's home or on the person's property and the related risks
12 associated with the inhalation by vulnerable populations of water
13 droplets containing *Legionella* bacteria.¹

14

15 ¹**[7.] 8.**¹ This act shall take effect immediately.