

SENATE, No. 695

STATE OF NEW JERSEY 219th LEGISLATURE

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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.



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,
38 or replacement of a part of the system may affect *Legionella*
39 bacteria in the water distribution system and temporarily increase
40 the level 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
48 exposure to *Legionella* bacteria, including, but not limited to,

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

5 b. No later than 120 days after the effective date of
6 P.L. , c. (C.) (pending before the Legislature as this bill),
7 the Department of Environmental Protection, in consultation with
8 the Department of Health and the Department of Community
9 Affairs, shall publish a public notice in the New Jersey Register and
10 on its 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 conducted
35 by a laboratory certified for this purpose by the Department of
36 Environmental Protection, and in accordance with the sampling and
37 testing methods established and provided by the department.

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

44
45 4. a. No later than one year after the effective date of
46 P.L. , c. (C.) (pending before the Legislature as this bill),
47 the owner or operator of a building that meets any of the criteria set
48 forth in paragraphs (1) through (5) of this subsection shall

1 implement a water management program to minimize the growth
2 and transmission of *Legionella* bacteria in the building's water
3 system, 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 (1) a health care facility licensed pursuant to P.L.1971, c.136
8 (C.26:2H-1 et seq.) where patient stays exceed 24 hours;

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

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

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

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

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

34 c. (1) An owner or operator of a facility or building who fails to
35 implement a water management program or fails to demonstrate
36 compliance with a water management program required pursuant to
37 this section shall be subject to a penalty of not more than \$2,000 for
38 a first violation, and not more than \$5,000 for a second or
39 subsequent violation, except that the owner or operator shall be
40 subject to a penalty of not more than \$10,000 for any violation
41 which causes serious injury or death to any person, to be collected
42 by the State in a civil action by a summary proceeding under the
43 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
44 et seq.). The Superior Court and the municipal court shall have
45 jurisdiction over proceedings for the enforcement of the penalty
46 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
9 P.L. , 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-
18 1 et seq.), as necessary to implement the provisions of
19 P.L. , 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
32 P.L. , c. (C.) (pending before the Legislature as this bill),
33 and annually thereafter, the Commissioner of Community Affairs,
34 in conjunction with the Department of Environmental Protection
35 and the Department of Health, shall submit a report to the
36 Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
37 19.1), to the 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 Department of Environmental Protection
11 (DEP), the Department of Health (DOH), the Department of
12 Community Affairs (DCA), owners or operators of public water
13 systems, and the owners or operators of certain types of buildings to
14 take specified actions to help inform citizens of the State about, and
15 prevent and control cases of, Legionnaires' disease.

16 This bill would require the owner or operator of a public water
17 system to maintain a detectable disinfectant residual of free chlorine,
18 combined chlorine, or chlorine dioxide of at least 0.5 milligrams per
19 liter in all active parts of the public water system at all times and to
20 conduct disinfectant residual testing at frequent and regular intervals to
21 determine the amount and type of detectable disinfectant residual
22 existing at different points in the public water system. The DEP would
23 be authorized to adopt rules and regulations to require additional
24 disinfectant requirements or testing requirements of public water
25 systems in order to minimize the growth and transmission of
26 *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 to 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 would require the DEP to publish a public
33 notice in the New Jersey Register and on its Internet website
34 specifying the form and manner of this notice and the specific
35 information to be included in the notice.

36 The bill would require 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 to
40 the individual's diagnosis. Upon receiving this notification from the
41 DOH, the bill would require the DEP to sample the water for the
42 presence of *Legionella* bacteria, at all locations identified by the DOH.
43 The DEP would conduct, or require the owner or operator of the
44 applicable public water system to conduct, further testing to confirm
45 the presence of *Legionella* bacteria in any source in which the bacteria
46 is detected, as it determines to be necessary.

1 The bill would also require the owner or operator of certain types
2 of buildings to implement a water management program to minimize
3 the growth and transmission of *Legionella* bacteria in the building
4 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 disease,
14 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 or
17 refrigeration for a heating, venting, air conditioning, or refrigeration
18 system, ornamental fountain, mister, atomizer, air wash, humidifier, or
19 other non-potable water system or device that releases water aerosols
20 in the building or on the property upon which the building is located;
21 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 the owner or operator of a
26 facility or building who fails to implement a water management
27 program or fails to demonstrate compliance with a water management
28 program. A violator would be subject to a penalty of not more than
29 \$2,000 for a first violation, and not more than \$5,000 for a second or
30 subsequent violation, except that an owner or operator would be
31 subject to a penalty of not more than \$10,000 for any violation which
32 causes serious injury or death to any person.

33 The bill would require the DCA, in consultation with the DEP and
34 the DOH, and a public stakeholder group to adopt rules and
35 regulations as necessary to implement the provisions of the bill. The
36 rules and regulations would include requirements for the monitoring
37 and testing for *Legionella* bacteria in the water system of those
38 facilities and buildings specified in the bill, and may include increased
39 monitoring and testing of the water system in those facilities and
40 buildings during construction activities or other events that may
41 impact the water supply distribution system and could result in the loss
42 of water pressure or foster the release of *Legionella* bacteria into the
43 water system of the facility or building.

44 Lastly, the bill would require the DCA Commissioner, in
45 conjunction with the DEP and the DOH, to prepare an annual report
46 including information on reported cases of Legionnaire's disease
47 reported in each of the previous 10 years, test results indicating the
48 presence of *Legionella* bacteria at levels that present a serious health

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