

[First Reprint]

SENATE, No. 695

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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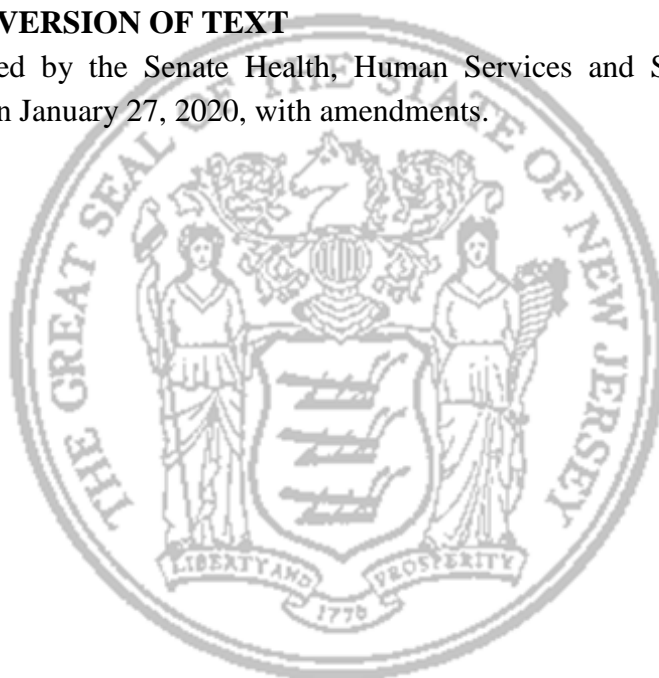
Senators T.Kean and Madden

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 Senate Health, Human Services and Senior Citizens Committee on January 27, 2020, with amendments.



(Sponsorship Updated As Of: 2/13/2020)

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,
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

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:

¹Senate SHH committee amendments adopted January 27, 2020.

1 Legionnaires' disease and related illnesses to at-risk populations;
2 and

3 (4) measures consumers can take to reduce or eliminate
4 exposure to *Legionella* bacteria, including, but not limited to,
5 flushing water lines during and after completion of construction
6 work, removing and cleaning faucet aerator screens and
7 showerheads, and installing a water filter or water treatment device
8 certified to remove *Legionella* bacteria.

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

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

22 d. The owner or operator of a public water system shall not be
23 required to provide the notice required pursuant to subsection a. of
24 this section until the department has published the public notice
25 required pursuant to subsection b. of this section.

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

34 b. Upon receipt of notification from the Department of Health
35 pursuant to subsection a. of this section, the Department of
36 Environmental Protection shall sample and test the public water
37 system for the presence of *Legionella* bacteria¹ [.]¹ at all locations
38 identified by the Department of Health. Each test shall be conducted
39 by a laboratory certified for this purpose by the Department of
40 Environmental Protection, and in accordance with the sampling and
41 testing methods established and provided by the department.

42 c. The Department of Environmental Protection shall conduct,
43 or require the owner or operator of the applicable public water
44 system to conduct, further testing to confirm the presence of
45 *Legionella* bacteria in any source in which the bacteria is detected
46 through initial testing pursuant to this subsection, as¹ [it] the
47 department¹ determines to be necessary.

1 ¹d. When testing for the *Legionella* bacteria is required pursuant
2 to this section, the Department of Environmental Protection shall
3 ensure that the testing shall be conducted by qualified testing
4 professionals certified in accordance with ASSE Series 12000–
5 2018, Professional Qualifications Standard for Infection Control
6 Risk Assessment for All Building Systems or any subsequent
7 standards established by ASSE International.¹

8
9 4. a. No later than one year after the effective date of
10 P.L. , c. (C.) (pending before the Legislature as this bill),
11 the owner or operator of a building that meets any of the criteria set
12 forth in paragraphs (1) through (5) of this subsection shall
13 implement a water management program to minimize the growth
14 and transmission of *Legionella* bacteria in the building's water
15 system, consistent with the American Society of Heating,
16 Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard
17 188-2018 or comparable standards adopted by a nationally-
18 recognized, accepted, and appropriate organization:

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

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

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

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

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

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

46 c. (1) An owner or operator of a facility or building who fails
47 to implement a water management program or fails to demonstrate
48 compliance with a water management program required pursuant to

1 this section shall be subject to a penalty of not more than \$2,000 for
2 a first violation, and not more than \$5,000 for a second or
3 subsequent violation, except that the owner or operator shall be
4 subject to a penalty of not more than \$10,000 for any violation
5 which causes serious injury or death to any person, to be collected
6 by the State in a civil action by a summary proceeding under the
7 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
8 et seq.). The Superior Court and the municipal court shall have
9 jurisdiction over proceedings for the enforcement of the penalty
10 provided by this section.

11 (2) The Department of Community Affairs, the Department of
12 Environmental Protection, or the Department of Health may
13 institute a civil action for injunctive relief in the Superior Court to
14 enforce the provisions of this section and to prohibit and prevent a
15 violation of this section, and the court may proceed in the action in
16 a summary manner.

17

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

30 The rules and regulations adopted pursuant to this section shall
31 include requirements for the monitoring and testing for *Legionella*
32 bacteria in the water system of facilities and buildings identified in
33 subsection a. of section 4 of P.L. , c. (C.) (pending before
34 the Legislature as this bill), and may ¹**[require]** include
35 requirements for¹ increased monitoring and testing of the water
36 system in those facilities and buildings during construction
37 activities or other events that may impact the water supply
38 distribution system and could result in the loss of water pressure or
39 foster the release of *Legionella* bacteria into the water system of the
40 facility or building.

41

42 6. No later than one year after the effective date of
43 P.L. c. (C.) (pending before the Legislature as this bill), and
44 annually thereafter, the ¹**[Commissioner]** Department¹ of
45 Community Affairs, in conjunction with the Department of
46 Environmental Protection and the Department of Health, shall
47 submit a report to the Governor, and, pursuant to section 2 of

1 P.L.1991, c.164 (C.52:14-19.1), to the Legislature, which shall
2 include:

3 a. the number of cases of ¹**Legionnaire's** Legionnaires¹
4 disease in the State reported in each of the previous 10 years;

5 b. the number of reported test results received by the
6 Department of Community Affairs, the Department of
7 Environmental Protection, or the Department of Health which
8 indicate the presence of *Legionella* bacteria at levels that present a
9 serious health threat;

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

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

16

17 7. This act shall take effect immediately.