

FIRST REGULAR SESSION

# HOUSE BILL NO. 995

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE KNIGHT.

2245H.02I

JOSEPH ENGLER, Chief Clerk

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### AN ACT

To repeal sections 160.077 and 701.200, RSMo, and to enact in lieu thereof one new section relating to lead in school drinking water.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 160.077 and 701.200, RSMo, are repealed and one new section  
2 enacted in lieu thereof, to be known as section 160.077, to read as follows:

160.077. 1. This section shall be known and may be cited as the "Get the Lead Out of  
2 School Drinking Water Act".

3 2. As used in this section, the following terms mean:

4 (1) "Department", the Missouri department of health and senior services;

5 (2) "Disadvantaged school district", any school district that serves students from a  
6 county in which at least twenty-five percent of the households in such county are below the  
7 federal poverty guidelines updated periodically in the Federal Register by the U.S.  
8 Department of Health and Human Services under the authority of 42 U.S.C. Section 9902(2),  
9 as amended, or any school district in which more than seventy percent of students in the  
10 district qualify for a free or reduced price lunch under the federal Richard B. Russell National  
11 School Lunch Act, 42 U.S.C. Section 1751 et seq.;

12 (3) "Drinking water outlet", a potable water fixture that is used for drinking or food  
13 preparation. Drinking water outlet includes, but is not limited to:

14 (a) A water fountain, faucet, or tap that is used or potentially used for drinking or food  
15 preparation **or for cleaning cooking or eating utensils**; and

16 (b) Ice-making and hot drink machines;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 17 (4) "First draw", a two hundred fifty-milliliter sample immediately collected from a  
18 drinking water outlet that has been turned on after a stagnation period of at least eight hours;
- 19 (5) "Parent", a parent, guardian, or other person having control or custody of a child;
- 20 (6) "Private school", the same definition as in section 166.700;
- 21 (7) "Public school", the same definition as in section 160.011;
- 22 (8) "Remediation", decreasing the lead concentration in water from a drinking water  
23 outlet to less than five parts per billion ~~[without relying solely on flushing practices, or]~~ using  
24 methods such as the replacement of lead-containing pipes, solder, fittings, or fixtures with  
25 lead-free components **or filtering when the water supply is the source of contamination.**  
26 Flushing ~~[as a stand-alone action]~~ shall not be considered remediation;
- 27 (9) "School", any public school, private school, or provider of an early childhood  
28 education program that receives state funding.
- 29 3. Beginning in the 2023-24 school year and for each subsequent school year, each  
30 school shall provide drinking water with a lead concentration level below five parts per  
31 billion in sufficient amounts to meet the drinking water needs of all students and staff as  
32 provided in this section.
- 33 4. (1) On or before January 1, 2024, each school shall:
- 34 (a) Conduct an inventory of all drinking water outlets ~~[and all outlets that are used for~~  
35 ~~dispensing water for cooking or for cleaning cooking and eating utensils]~~ in each of the  
36 school's buildings;
- 37 (b) Develop a plan for testing each outlet inventoried under paragraph (a) of this  
38 subdivision and make such plan available to the public; and
- 39 (c) Upon request, provide general information on the health effects of lead  
40 contamination and additional informational resources for employees and parents of children  
41 at each school.
- 42 (2) Each school shall make buildings housing early childhood education programs,  
43 kindergartens, and elementary schools the priority when complying with paragraphs (a) and  
44 (b) of subdivision (1) of this subsection.
- 45 (3) Before August 1, 2024, or the first day on which students will be present in the  
46 building, whichever is later, each school shall:
- 47 (a) Perform all testing as required by subsection 5 of this section and within two  
48 weeks after receiving test results, make all testing results and any lead remediation plans  
49 available on the school's website;
- 50 (b) Remove and replace any drinking water coolers or drinking water outlets that the  
51 United States Environmental Protection Agency has determined are not lead-free under the  
52 federal Lead Contamination Control Act of 1988, as amended; except the school shall not be  
53 required to replace those drinking water outlets or water coolers that tested under the

54 requirements of this section and have been determined to be dispensing drinking water with a  
55 lead concentration less than five part per billion; however, such drinking water outlet or water  
56 cooler shall be subject to all testing requirements and shall not be excluded from testing under  
57 **subdivision (3) of subsection [10] 5** of this section.

58 (4) If testing indicates that the water source is causing the contamination and until  
59 such time that the source of the contamination has been remediated, the school shall:

60 (a) Install a filter **that reduces lead in drinking water** at each point at which the  
61 water supply enters the building **in accordance with any relevant requirements set forth**  
62 **by the department of natural resources to ensure lead concentrations are below the**  
63 **standard set in subsection 3 of this section;**

64 (b) Install a filter that reduces lead in drinking water on each water outlet inventoried  
65 under paragraph (a) of subdivision (1) of this subsection to ensure lead concentrations are  
66 below five parts per billion; or

67 (c) Provide purified water at each water outlet inventoried under paragraph (a) of  
68 subdivision (1) of this subsection.

69 (5) If testing indicates that the internal building piping is causing the contamination  
70 and until such time that the source of the contamination has been remediated, the school shall:

71 (a) Install a filter that reduces lead in drinking water on each water outlet inventoried  
72 under paragraph (a) of subdivision (1) of this subsection to ensure lead concentrations are  
73 below five parts per billion; ~~[or]~~

74 (b) Provide purified water at each water outlet inventoried under paragraph (a) of  
75 subdivision (1) of this subsection; **or**

76 **(c) Remove the outlet from service.**

77 (6) If a pipe, solder, fitting, or fixture is replaced as part of remediation, the  
78 replacement shall be lead free, as such term is defined in 40 CFR 143.12, as amended.

79 (7) If a test result exceeds five parts per billion, the affected school shall:

80 (a) Contact parents and staff via written notification within seven business days after  
81 receiving the test result. The notification shall include at least:

82 a. The test results and a summary that explains such results;

83 b. A description of any remedial steps taken; and

84 c. A description of general health effects of lead contamination and community  
85 specific resources; and

86 (b) Provide bottled water if there is not enough water to meet the drinking water  
87 needs of the students, teachers, and staff.

88 (8) School districts shall submit such annual testing results to the department.

89 (9) This subsection shall not be construed to prevent a school from conducting more  
90 frequent testing than required under this section.

91           5. (1) Before August 1, 2024, or the first day on which students will be present in the  
92 building, whichever is later, and annually thereafter, each school shall conduct testing for lead  
93 by first-draw and follow-up flush samples of a random sampling of at least twenty-five  
94 percent of remediated drinking water outlets until all remediated sources have been tested as  
95 recommended by the 2018 version of the United States Environmental Protection Agency's  
96 Training, Testing, and Taking Action program. The testing shall be conducted and the results  
97 analyzed for both types of tests by an entity or entities approved by the department. **All**  
98 **drinking water outlets with test results of less than five parts per billion for lead shall be**  
99 **retested at intervals described in subdivision (3) of this subsection.**

100           (2) If, in the ten years prior to the 2023-24 school year, a fixture tested above five  
101 parts per billion for lead, such fixture does not need to be repeat tested for lead, but instead  
102 remediation shall begin on such fixture.

103           **(3) A school that tests and does not find a drinking water outlet with a lead**  
104 **concentration above the standard described in subsection 3 of this section shall be**  
105 **required to test only every five years. This subdivision shall not be construed to prevent**  
106 **a school from conducting more frequent testing than required under this subsection.**

107           6. (1) In addition to the apportionments payable to a school district under chapter  
108 163, the department of natural resources, with support from the department of elementary and  
109 secondary education and the department of health and senior services, is hereby authorized to  
110 apportion to any school additional funding for the filtration, testing, and other remediation of  
111 drinking water systems required under this section, subject to appropriation.

112           (2) To the extent permitted by federal law, a school district may seek reimbursement  
113 or other funds for compliance incurred under this section under any applicable federal law  
114 including, but not limited to, the America's Water Infrastructure Act of 2018 and the Water  
115 Infrastructure Finance and Innovation Act of 2014, 33 U.S.C. Section 3901 et seq.

116           (3) Disadvantaged school districts shall receive funding priority under this  
117 subsection.

118           7. The department, in conjunction with the department of elementary and secondary  
119 education, shall publish a report biennially based on the findings from the water testing  
120 conducted under this section. Such report shall be published on the department of natural  
121 resources website.

122           8. For public schools, the department shall ensure compliance with this section. Each  
123 school district shall be responsible for ensuring compliance within each school within the  
124 school district's jurisdiction.

125           9. ~~No school building constructed after January 4, 2014, as provided in the federal~~  
126 ~~Reduction of Lead in Drinking Water Act (42 U.S.C. Section 300g-6), as amended, shall be~~

127 ~~required to install, maintain, or replace filters under paragraph (c) of subdivision (1) of~~  
128 ~~subsection 4 of this section.~~

129 ~~10. A school that tests and does not find a drinking water source with a lead~~  
130 ~~concentration above the acceptable level as described in subsection 3 of this section shall be~~  
131 ~~required to test only every five years.~~

132 ~~4.]~~ The department may promulgate all necessary rules and regulations for the  
133 administration of this section. Any rule or portion of a rule, as that term is defined in section  
134 536.010, that is created under the authority delegated in this section shall become effective  
135 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
136 section 536.028. This section and chapter 536 are nonseverable and if any of the powers  
137 vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
138 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant  
139 of rulemaking authority and any rule proposed or adopted after August 28, 2022, shall be  
140 invalid and void.

2 ~~[701.200. 1. Subject to appropriations, each school district, as such~~  
3 ~~term is defined in section 160.011, may test a sample of a source of potable~~  
4 ~~water in a public school building in that district serving students under first~~  
5 ~~grade and constructed before 1996 for lead contamination in accordance with~~  
6 ~~guidance provided by the department of health and senior services. The school~~  
7 ~~district may submit the samples to a department approved laboratory for~~  
8 ~~analysis for lead and provide the written sampling results to the department~~  
9 ~~within seven days of receipt.~~

10 ~~2. The department shall develop guidance for schools in collecting and~~  
11 ~~testing first draw samples of potable water. The department shall develop and~~  
12 ~~make publicly available a list of approved laboratories for lead analysis.~~

13 ~~3. If any of the samples taken in the building exceed current standards~~  
14 ~~for parts per billion of lead established by the United States Environmental~~  
15 ~~Protection Agency, the school district shall promptly provide individual~~  
16 ~~notification of the sampling results, by written or electronic communication, to~~  
17 ~~the parents or legal guardians of all enrolled students and include the following~~  
18 ~~information: the corresponding sampling location within the building and the~~  
19 ~~U.S. Environmental Protection Agency's website for information about lead in~~  
20 ~~drinking water. If any of the samples taken in the building are at or below five~~  
21 ~~parts per billion, notification may be made as provided in this subsection or by~~  
22 ~~posting on the school's website.~~

23 ~~4. The department may promulgate rules and regulations necessary to~~  
24 ~~implement the provisions of this section. Any rule or portion of a rule, as that~~  
25 ~~term is defined in section 536.010, that is created under the authority delegated~~  
26 ~~in this section shall become effective only if it complies with and is subject to~~  
27 ~~all of the provisions of chapter 536 and, if applicable, section 536.028. This~~  
28 ~~section and chapter 536 are nonseverable and if any of the powers vested with~~  
29 ~~the general assembly pursuant to chapter 536 to review, to delay the effective~~  
~~date, or to disapprove and annul a rule are subsequently held unconstitutional,~~

30 ~~then the grant of rulemaking authority and any rule proposed or adopted after~~  
31 ~~August 28, 2020, shall be invalid and void.~~

32 ~~5. As used in this section, the term "source of potable water" shall~~  
33 ~~mean the point at which nonbottled water that may be ingested by children or~~  
34 ~~used for food preparation exits any tap, faucet, drinking fountain, wash basin~~  
35 ~~in a classroom occupied by children or students under first grade, or similar~~  
36 ~~point of use; provided, that all bathroom sinks and wash basins used by~~  
37 ~~janitorial staff are excluded from this definition.]~~

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