

FIRST REGULAR SESSION

# SENATE BILL NO. 581

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR HENDERSON.

2252S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 160.077 and 701.200, RSMo, and to enact in lieu thereof one new section relating to lead testing in schools.

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

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2 repealed and one new section enacted in lieu thereof, to be  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

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

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

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

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

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

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

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

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

24 (4) "First draw", a two hundred fifty-milliliter  
25 sample immediately collected from a drinking water outlet  
26 that has been turned on after a stagnation period of at  
27 least eight hours;

28 (5) "Parent", a parent, guardian, or other person  
29 having control or custody of a child;

30 (6) "Private school", the same definition as in  
31 section 166.700;

32 (7) "Public school", the same definition as in section  
33 160.011;

34 (8) "Remediation", decreasing the lead concentration  
35 in water from a drinking water outlet to less than five  
36 parts per billion [**without relying solely on flushing**  
37 **practices, or]** using methods such as the replacement of lead-  
38 containing pipes, solder, fittings, or fixtures with lead-  
39 free components, **or filtering when the water supply is the**  
40 **source of contamination.** Flushing [**as a stand alone action]**  
41 shall not be considered remediation;

42 (9) "School", any public school, private school, or  
43 provider of an early childhood education program that  
44 receives state funding.

45 3. Beginning in the 2023-24 school year and for each  
46 subsequent school year, each school shall provide drinking  
47 water with a lead concentration level below five parts per

48 billion in sufficient amounts to meet the drinking water  
49 needs of all students and staff as provided in this section.

50 4. (1) On or before January 1, 2024, each school  
51 shall:

52 (a) Conduct an inventory of all drinking water outlets  
53 [and all outlets that are used for dispensing water for  
54 cooking or for cleaning cooking and eating utensils] in each  
55 of the school's buildings;

56 (b) Develop a plan for testing each outlet inventoried  
57 under paragraph (a) of this subdivision and make such plan  
58 available to the public; and

59 (c) Upon request, provide general information on the  
60 health effects of lead contamination and additional  
61 informational resources for employees and parents of  
62 children at each school.

63 (2) Each school shall make buildings housing early  
64 childhood education programs, kindergartens, and elementary  
65 schools the priority when complying with paragraphs (a) and  
66 (b) of subdivision (1) of this subsection.

67 (3) Before August 1, 2024, or the first day on which  
68 students will be present in the building, whichever is  
69 later, each school shall:

70 (a) Perform all testing as required by subsection 5 of  
71 this section and within two weeks after receiving test  
72 results, make all testing results and any lead remediation  
73 plans available on the school's website;

74 (b) Remove and replace any drinking water coolers or  
75 drinking water outlets that the United States Environmental  
76 Protection Agency has determined are not lead-free under the  
77 federal Lead Contamination Control Act of 1988, as amended;  
78 except the school shall not be required to replace those  
79 drinking water outlets or water coolers that tested under

80 the requirements of this section and have been determined to  
81 be dispensing drinking water with a lead concentration less  
82 than five part per billion; however, such drinking water  
83 outlet or water cooler shall be subject to all testing  
84 requirements and shall not be excluded from testing under  
85 subsection 10 of this section.

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

90 (a) Install a filter **that reduces lead in drinking**  
91 **water** at each point at which the water supply enters the  
92 building **in accordance with any relevant requirements set**  
93 **forth by the department of natural resources, to ensure lead**  
94 **concentrations are below the standard set in subsection 3 of**  
95 **this section;**

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

100 (c) Provide purified water at each water outlet  
101 inventoried under paragraph (a) of subdivision (1) of this  
102 subsection.

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

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

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

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

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

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

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

123 a. The test results and a summary that explains such  
124 results;

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

126 c. A description of general health effects of lead  
127 contamination and community specific resources; and

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

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

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

136 5. (1) Before August 1, 2024, or the first day on  
137 which students will be present in the building, whichever is  
138 later, and annually thereafter, each school shall conduct  
139 testing for lead by first-draw and follow-up flush samples  
140 of a random sampling of at least twenty-five percent of  
141 remediated drinking water outlets until all remediated  
142 sources have been tested as recommended by the 2018 version

143 of the United States Environmental Protection Agency's  
144 Training, Testing, and Taking Action program. The testing  
145 shall be conducted and the results analyzed for both types  
146 of tests by an entity or entities approved by the  
147 department. **All drinking water outlets with test results**  
148 **less than five parts per billion for lead shall be retested**  
149 **at intervals described in subdivision (3) of this subsection.**

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

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

160 6. (1) In addition to the apportionments payable to a  
161 school district under chapter 163, the department of natural  
162 resources, with support from the department of elementary  
163 and secondary education and the department of health and  
164 senior services, is hereby authorized to apportion to any  
165 school additional funding for the filtration, testing, and  
166 other remediation of drinking water systems required under  
167 this section, subject to appropriation.

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

175 (3) Disadvantaged school districts shall receive  
176 funding priority under this subsection.

177 7. The department, in conjunction with the department  
178 of elementary and secondary education, shall publish a  
179 report biennially based on the findings from the water  
180 testing conducted under this section. Such report shall be  
181 published on the department of natural resources website.

182 8. For public schools, the department shall ensure  
183 compliance with this section. Each school district shall be  
184 responsible for ensuring compliance within each school  
185 within the school district's jurisdiction.

186 9. [No school building constructed after January 4,  
187 2014, as provided in the federal Reduction of Lead in  
188 Drinking Water Act (42 U.S.C. Section 300g-6), as amended,  
189 shall be required to install, maintain, or replace filters  
190 under paragraph (c) of subdivision (1) of subsection 4 of  
191 this section.]

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

196 11.] The department may promulgate all necessary rules  
197 and regulations for the administration of this section. Any  
198 rule or portion of a rule, as that term is defined in  
199 section 536.010, that is created under the authority  
200 delegated in this section shall become effective only if it  
201 complies with and is subject to all of the provisions of  
202 chapter 536 and, if applicable, section 536.028. This  
203 section and chapter 536 are nonseverable and if any of the  
204 powers vested with the general assembly pursuant to chapter  
205 536 to review, to delay the effective date, or to disapprove  
206 and annul a rule are subsequently held unconstitutional,

207 then the grant of rulemaking authority and any rule proposed  
208 or adopted after August 28, 2022, shall be invalid and void.

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

14 2. The department shall develop guidance  
15 for schools in collecting and testing first-draw  
16 samples of potable water. The department shall  
17 develop and make publicly available a list of  
18 approved laboratories for lead analysis.

19 3. If any of the samples taken in the  
20 building exceed current standards for parts-per-  
21 billion of lead established by the United States  
22 Environmental Protection Agency, the school  
23 district shall promptly provide individual  
24 notification of the sampling results, by written  
25 or electronic communication, to the parents or  
26 legal guardians of all enrolled students and  
27 include the following information: the  
28 corresponding sampling location within the  
29 building and the U.S. Environmental Protection  
30 Agency's website for information about lead in  
31 drinking water. If any of the samples taken in  
32 the building are at or below five parts-per-  
33 billion, notification may be made as provided in  
34 this subsection or by posting on the school's  
35 website.

36 4. The department may promulgate rules and  
37 regulations necessary to implement the  
38 provisions of this section. Any rule or portion  
39 of a rule, as that term is defined in section  
40 536.010, that is created under the authority  
41 delegated in this section shall become effective



42 only if it complies with and is subject to all  
43 of the provisions of chapter 536 and, if  
44 applicable, section 536.028. This section and  
45 chapter 536 are nonseverable and if any of the  
46 powers vested with the general assembly pursuant  
47 to chapter 536 to review, to delay the effective  
48 date, or to disapprove and annul a rule are  
49 subsequently held unconstitutional, then the  
50 grant of rulemaking authority and any rule  
51 proposed or adopted after August 28, 2020, shall  
52 be invalid and void.

53 5. As used in this section, the term  
54 "source of potable water" shall mean the point  
55 at which nonbottled water that may be ingested  
56 by children or used for food preparation exits  
57 any tap, faucet, drinking fountain, wash basin  
58 in a classroom occupied by children or students  
59 under first grade, or similar point of use;  
60 provided, that all bathroom sinks and wash  
61 basins used by janitorial staff are excluded  
62 from this definition.]

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