

HOUSE BILL No. 2142

By Committee on Education

1-24

1 AN ACT concerning schools and school districts; relating to the health and
2 safety of school drinking water; creating the get the lead out of school
3 drinking water act; requiring schools to comply with legal limits on
4 lead content in school drinking water; establishing the get the lead out
5 of school drinking water grant fund.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. The provisions of sections 1 through 6, and amendments
9 thereto, shall be known and may be cited as the get the lead out of school
10 drinking water act.

11 Sec. 2. As used in sections 1 through 6, and amendments thereto:

12 (a) "Department" means the Kansas department of health and
13 environment.

14 (b) "Disadvantaged school district" means any school district in
15 which more than 70% of the students enrolled in such district qualify for
16 free or reduced-price meals under the national school lunch act.

17 (c) "Drinking water cooler" means any mechanical device affixed to
18 water supply plumbing that actively cools water for human consumption.

19 (d) "Drinking water outlet" means a potable water fixture that is used
20 for drinking or food preparation, including, but is not limited to:

21 (1) A water fountain, faucet or tap used for drinking or food
22 preparation; and

23 (2) ice making machines.

24 (e) "First-draw" means a 250mL sample collected from a drinking
25 water outlet immediately after such outlet has been turned on after a
26 stagnation period of at least eight but not more than 18 hours.

27 (f) "Lead-free" means:

28 (1) Not containing more than 0.2% lead when used with respect to
29 solder and flux; and

30 (2) not containing more than a weighted average of 0.25% lead when
31 used with respect to wetted surfaces of pipes, pipe fittings, plumbing
32 fittings and fixtures.

33 (g) "NSF/ANSI 53-2021" means national sanitation
34 foundation/American national standards institute standard for drinking
35 water treatment systems that is designed to reduce specific health-related
36 contaminants in water supplies.

- 1 (h) "Private school" means an organization that:
 - 2 (1) Regularly offers education at the elementary or secondary level;
 - 3 (2) is exempt from federal income taxation under section 501 of the
 - 4 federal internal revenue code;
 - 5 (3) conforms to the civil rights act of 1964; and
 - 6 (4) attendance at which satisfies compulsory school attendance laws
 - 7 of this state.
- 8 (i) "Public school" means any elementary or secondary school
- 9 maintained and operated by a school district organized under the laws of
- 10 this state.
- 11 (j) "Remediation" means decreasing the lead concentration in water
- 12 from a drinking water outlet to less than one part per billion, including, but
- 13 not limited to, using methods such as the replacement of a drinking water
- 14 outlet with a filtered drinking water outlet or the replacement of lead-
- 15 containing pipes, solder, fittings or fixtures with lead-free components.
- 16 "Remediation" does not include sole reliance on flushing practices.
- 17 (k) "School" means any public or private school or any provider of an
- 18 early childhood education program that receives state funding.
- 19 (l) "Secretary" means the secretary of the department of health and
- 20 environment.
- 21 Sec. 3. (a) Commencing in the school year 2024-2025 and for each
- 22 school year thereafter, each school shall provide drinking water with a lead
- 23 concentration level below one part per billion in sufficient amounts to
- 24 meet the drinking water needs of all students and staff in accordance with
- 25 this section.
- 26 (b) On or before January 1, 2025, each school shall:
 - 27 (1) Conduct an inventory of all drinking water outlets and non-
 - 28 potable water fixtures in each building of the school;
 - 29 (2) remove any drinking water coolers that are not lead-free as
 - 30 determined by the United States environmental protection agency under
 - 31 the federal lead contamination control act of 1988;
 - 32 (3) install a filter that reduces lead in drinking water on each drinking
 - 33 water outlet;
 - 34 (4) post a warning sign at each non-potable water fixture that such
 - 35 fixture shall not be used for cooking or drinking water purposes;
 - 36 (5) prepare an annual schedule for the testing of drinking water
 - 37 outlets and drinking water coolers. Such schedule shall be provided to
 - 38 employees of the school and parents or legal guardians of students enrolled
 - 39 at such school upon request; and
 - 40 (6) prepare general information on the health effects of lead
 - 41 contamination and additional informational resources regarding lead
 - 42 contamination. Such information shall be provided to employees of the
 - 43 school and parents or legal guardians of students enrolled at such school

1 upon request.

2 (c) Buildings used by a school for early childhood education
3 programs and for preschool, kindergarten and elementary education shall
4 be given priority in implementing the requirements of subsections (b)(1)
5 through (4).

6 (d) Filters installed pursuant to this section and any replacement
7 filters shall be:

8 (1) Certified as compliant with NSF/ANSI 53-2021;

9 (2) incorporated with an integral performance indication device;

10 (3) maintained to ensure that lead concentration levels are below one
11 part per billion; and

12 (4) replaced at least as frequently as provided for in the
13 manufacturer's instructions.

14 Sec. 4. (a) Within 60 days after filters are installed as required under
15 section 3, and amendments thereto, and annually thereafter, each school
16 shall conduct testing for lead by first-draw and follow-up flush samples of
17 all drinking water outlets and drinking water coolers as recommended by
18 the United States environmental protection agency. Testing shall be
19 conducted and the results analyzed for both types of tests by an entity or
20 entities approved by the secretary.

21 (b) Not more than two weeks after receiving test results, each school
22 shall publish all test results and any interim or permanent lead remediation
23 plans, if known at the time, on the school's website. A school may hold a
24 public meeting on the test results. Notice of any such meeting shall be sent
25 to employees of the school and parents or legal guardians of students
26 enrolled in the school.

27 (c) If a first-draw test result shows a drinking water outlet with lead
28 concentration of one part per billion or greater, the school shall:

29 (1) Within one business day after receiving the test result, shut off
30 such drinking water outlet and post a warning on such outlet that states the
31 drinking water outlet contains lead and should not be used for human
32 consumption;

33 (2) provide bottled water if there is not sufficient drinking water to
34 meet the needs of the students, teachers and other employees of the school;

35 (3) within 30 calendar days after receiving the test result, determine
36 interim remediation steps to address the elevated lead concentration level.
37 Such steps shall be published on the school's website; and

38 (4) within 90 calendar days after receiving the test result, develop a
39 plan for permanent remediation. Such plan shall be published on the
40 school's website.

41 (d) If a first-draw test result shows a drinking water outlet with a lead
42 concentration that exceeds one part per billion, the school shall send a
43 written notification to all employees of the school and all parents or legal

1 guardians of students enrolled in the school within seven business days
2 after receiving the test result. Such notification shall include, but is not
3 limited to:

4 (1) The test results and a summary explanation of such results;

5 (2) a description of any remedial plans the school will implement;
6 and

7 (3) a description of the general health effects of lead contamination
8 and additional informational resources regarding lead contamination,
9 including specific community resources.

10 (e) If a pipe, solder, fitting or fixture is replaced as part of permanent
11 remediation plan, such replacement shall be lead-free.

12 (f) Each school shall submit all test results to the department in such
13 form and manner as prescribed by the secretary.

14 (g) Nothing in this section shall be construed to prevent a school from
15 conducting more frequent testing than required under this section.

16 Sec. 5. (a) Subject to appropriations, the secretary may award grants
17 from the get the lead out of school drinking water grant fund to any
18 approved school to pay for the costs of filtration, testing and other
19 remediation measures implemented by such school. Each school seeking a
20 grant shall submit an application to the department in such form and
21 manner as prescribed by the secretary. Each application shall include a
22 description of the measures the school intends to implement to ensure safe
23 drinking water for the employees and students of the school, the cost of
24 such measures and any other information the secretary deems necessary.

25 (b) Upon review of each application, the secretary may approve the
26 application and award a grant in an amount not to exceed the aggregate
27 amount of costs specified in the application. If the secretary denies an
28 application, the secretary shall send written notice of such denial to the
29 applicant school that includes the reason for such denial. The secretary
30 shall give priority in approving applications to disadvantaged schools.

31 (c) There is hereby established the get the lead out of school drinking
32 water grant fund in the state treasury. The secretary of health and
33 environment shall administer the get the lead out of school drinking water
34 grant fund. Expenditures from the get the lead out of school drinking water
35 grant fund shall be made in accordance with appropriation acts upon
36 warrants of the director of accounts and reports issued pursuant to
37 vouchers approved by the secretary or the secretary's designee. Moneys in
38 the get the lead out of school drinking water grant fund shall be used for
39 the award of grants to schools to be used for the payment of costs related
40 to remediation and other measures implemented by such schools pursuant
41 to sections 3 and 4, and amendments thereto.

42 (d) The secretary and any school may seek aid, grants or other
43 financial assistance to pay for the costs incurred by schools to comply with

1 the provisions of the get the lead out of school drinking water act through
2 any applicable federal program, including, but not limited to, any program
3 implemented under the America's water infrastructure act of 2018, the
4 water infrastructure finance and innovation act of 2014 or the American
5 rescue plan act of 2021.

6 (e) On or before January 15, 2025, and January 15 every two years
7 thereafter, the department shall prepare and publish a report based on the
8 test results reported by schools for water testing conducted under section
9 4, and amendments thereto. Such a report shall be submitted to the
10 governor and the legislature and shall be published on the website of the
11 department.

12 Sec. 6. (a) On or before January 1, 2024, the department shall provide
13 guidance to schools regarding the maintenance of filters and filtration
14 systems and the development and implementation of flushing plans. Such
15 guidance shall include recommendations for flushing after stagnant times
16 including, but not limited to, the morning of each school day and after
17 weekends, school holidays and summer break. Flushing plans shall include
18 details for flushing the incoming water line and the filter.

19 (b) On or before February 1, 2024, the department shall implement a
20 program to provide training for custodial staff on the maintenance of filters
21 and filtration systems and on the implementation of flushing plans,
22 emphasizing that proper maintenance is critical to improved drinking
23 water quality and safety. Such program shall be provided online to all
24 school custodial staff.

25 (c) On or before May 1, 2024, each school shall develop and
26 implement a plan for maintenance of filters and filtration systems and for
27 flushing based on the guidance and trainings issued by the department.

28 (d) Employees and agents of the department shall have the authority
29 to enter any school building upon reasonable notice and during normal
30 operating hours to determine compliance with the get the lead out of
31 school drinking water act, and rules and regulations adopted pursuant
32 thereto. If the secretary or the secretary's designee finds any violation of
33 the get the lead out of school drinking water act or any rules and
34 regulations adopted pursuant thereto, the secretary may issue an order to
35 the governing body of the school to direct compliance with the act.

36 (e) On or before January 1, 2024, the secretary shall adopt rules and
37 regulations the secretary deems necessary to administer and enforce the
38 provisions of sections 1 through 6, and amendments thereto.

39 Sec. 7. This act shall take effect and be in force from and after its
40 publication in the statute book.