

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2188

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED MAY 9, 2024

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Co-Sponsored by:

**Senators McKnight, Burgess, Assemblywomen Haider, Hall and McCann
Stamato**

SYNOPSIS

Requires DEP, DOH, owners or operators of certain public community water systems, and owners or operators of certain buildings or facilities to take certain actions to prevent and control cases of Legionnaires' disease.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 24, 2024, with amendments.

(Sponsorship Updated As Of: 6/28/2024)

1 **AN ACT** concerning Legionnaires' disease and supplementing
2 P.L.1977, c.224 (C.58:12A-1 et seq.) and Title 26 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. As used in sections 1 through 4 of P.L. , c. (C.)
9 (pending before the Legislature as this bill):

10 "Disruption of the public community water system" means any
11 disruption that has the potential to lessen the quality of the water
12 delivered, including increasing the risk of exposure to pathogens
13 such as *Legionella* bacteria. "Disruption of the public community
14 water system" shall include, but not be limited to: (1) a change in
15 the water treatment process; (2) an unplanned event that results in
16 catastrophic issues that disrupt typical water system operations; (3)
17 a change in source of the drinking water; and (4) any other
18 conditions that the Department of Environmental Protection finds
19 may lead to a potential risk in the quality of water.

20 "Public community water system" means the same as the term is
21 defined in section 2 of P.L.2021, c.183 (C.58:12A-41).

22

23 2. a. Notwithstanding any other provision of law, or rule or
24 regulation adopted pursuant thereto, to the contrary, the owner or
25 operator of a public community water system, which has more than
26 100 service connections, and which is served fully or partially by
27 surface water or groundwater under the influence of surface water,
28 or any other public water system, as determined by the Department
29 of Environmental Protection for the protection of public health,
30 shall maintain:

31 (1) for systems utilizing chlorine as a disinfectant, a minimum
32 detectable disinfectant residual of at least 0.3 milligrams per liter of
33 free chlorine in all active parts of the public community water
34 system at all times; and

35 (2) for systems utilizing chloramine as a disinfectant, a minimum
36 detectable disinfectant residual of at least 1.0 milligrams per liter of
37 monochloramine in all active parts of the public community water
38 system at all times.

39 b. The Department of Environmental Protection shall, within 12
40 months after the effective date of P.L. , c. (C.) (pending
41 before the Legislature as this bill), develop and publish on its
42 Internet website best management practices for public community
43 water systems to discourage the growth and potential distribution of
44 pathogens such as *Legionella* bacteria. The best management
45 practices shall include, but not be limited to, information regarding:

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 SBA committee amendments adopted June 24, 2024.

1 (1) identification of areas of aging infrastructure, dead ends, or
2 components prone to biofilm accumulation;
3 (2) types of disruptions in the water distribution system;
4 (3) flushing details and schedule;
5 (4) disinfectant residual maintenance;
6 (5) storage tank maintenance;
7 (6) identification of areas of low water use, stagnation, or low
8 pressure;
9 (7) monitoring and testing;
10 (8) water age management; and
11 (9) other measures the Department of Environmental Protection
12 deems necessary for the optimization of water systems.

13 c. No later than six months after the promulgation of rules
14 regulations by the Department of Environmental Protection
15 pursuant to section **'[3] 4'** of P.L. , c. (C.) (pending
16 before the Legislature as this bill), each public community water
17 system that is subject to the provisions of subsection a. of this
18 section shall develop and implement a distribution system
19 maintenance plan to comply with the provisions of 1 through 4 of
20 P.L. , c. (C.) (pending before the Legislature as this bill),
21 in accordance with the best management practices developed
22 pursuant to subsection b. of this section and any applicable rules
23 and regulations adopted by the department. The public community
24 water system shall annually submit to the department a statement
25 certifying that the public community water system has developed
26 and implemented a distribution system maintenance plan pursuant
27 to the provisions of this section.

28

29 3. a. The owner or operator of a public community water
30 system that is subject to the provisions of subsection a. of section 2
31 of P.L. , c. (C.) (pending before the Legislature as this
32 bill) shall provide a record of a disruption of the public community
33 water system to the Department of Environmental Protection via
34 document upload or form submission to a data management system
35 established by the Department of Environmental Protection
36 pursuant to subsection b. of this section, within 72 hours of the
37 occurrence of the disruption of the public community water system.

38 b. No later than 24 months after the effective date of P.L. ,
39 c. (C.) (pending before the Legislature as this bill), the
40 Department of Environmental Protection shall establish a data
41 management system for the receipt of records by a public
42 community water system of any disruption, and, on its Internet
43 website, a dashboard of publicly accessible and searchable records
44 of disruptions of the public community water system received by
45 the Department of Environmental Protection pursuant to subsection
46 a. of this section.

47 c. The requirements of subsection a. of this section shall not
48 become operative until the Department of Environmental Protection

1 has developed a data management system for the submission of
2 records of disruptions of the public community water system.

3
4 4. a. No later than 24 months after the effective date of P.L. ,
5 c. (C.) (pending before the Legislature as this bill), the
6 Department of Environmental Protection, in consultation with the
7 Department of Health, shall adopt rules and regulations pursuant to
8 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.) to implement the provisions of P.L. , c. (C.)
10 (pending before the Legislature as this bill).

11 b. The rules and regulations adopted pursuant to this section
12 shall establish requirements for public community water systems
13 with more than 100 service connections to discourage and minimize
14 growth and potential distribution of pathogens such as *Legionella*
15 bacteria in the water system, and shall include, but not be limited
16 to:

17 (1) criteria to be used by public community water systems to
18 develop distribution system maintenance plans ¹, including, but not
19 limited to, frequency of required disinfectant residual monitoring¹ ;

20 (2) requirements for a public community water system to certify
21 its distribution system maintenance plan and provide the plan to the
22 department upon request;

23 (3) the criteria for what would constitute a failure to comply
24 with a distribution system maintenance plan;

25 (4) criteria for identifying disruptions of the public community
26 water system; and

27 (5) requirements for customer notifications during times of
28 increased risk of *Legionella* bacteria exposure, in accordance with
29 similar notification requirements in P.L.1977, c.224 (C.58:12A-1 et
30 seq.), including, but not limited to, a requirement to provide
31 information about the risks of *Legionella* bacteria and measures
32 consumers can take to reduce or eliminate exposure to *Legionella*
33 bacteria; and

34 (6) penalties, in accordance with the provisions of section 10 of
35 P.L.1977, c.224 (C.58:12A-10), for failure to maintain the
36 minimum detectable disinfectant residual required pursuant to
37 subsection a. of section 2 of P.L. , c. (C.) (pending before
38 the Legislature as this bill), failure to comply with a certified
39 distribution system maintenance plan, failure to comply with
40 notification requirements, or any other violations of the provisions
41 of P.L. , c. (C.) (pending before the Legislature as this
42 bill).

43
44 5. a. As used in this section:

45 "De-identified data" means information that does not identify an
46 individual and for which there is no reasonable basis to believe that
47 the information can be used to identify an individual, and which
48 meets the requirements for de-identification of protected health

1 information under the "Health Insurance Portability and
2 Accountability Act of 1996," Pub.L.104-191, and any regulations
3 adopted pursuant thereto by the Secretary of the United States
4 Department of Health and Human Services.

5 b. For each reported diagnosis of Legionnaires' disease in the
6 State, the Department of Health, or a local health officer pursuant to
7 subsection f. of this section, shall conduct an epidemiological
8 investigation to ascertain potential sources of infection consistent
9 with the provisions of this section and the procedures and
10 guidelines established pursuant to subsection c. of this section.

11 c. The Department of Health shall develop procedures and
12 guidelines regarding suspected outbreaks of Legionnaires' disease
13 and the case investigation of reported diagnoses of Legionnaires'
14 disease pursuant to subsection b. of this section, including, but not
15 limited to:

16 (1) documentation of any disruption of the public community
17 water system, as defined in section 1 of P.L. , c. (C.)
18 (pending before the Legislature as this bill), of the water system
19 serving the primary residence of the individual with a confirmed
20 case of Legionnaires' disease or other water exposure points
21 identified pursuant to paragraph (3) of this subsection;

22 (2) provisions for the investigation of potential sources of
23 exposure to *Legionella* bacteria from fixtures, water-using
24 equipment, or features at the individual's residence including water
25 exposures external to the residence such as irrigation, hoses, or
26 water-based equipment and devices;

27 (3) provisions for the investigation of potential sources of
28 exposure to *Legionella* bacteria from water exposure points in
29 locations the individual visited in the 14 days preceding infection, if
30 appropriate; and

31 (4) procedures for determining when sampling of water fixtures
32 identified as potential sources of exposure in paragraphs (2) and (3)
33 of this subsection shall be performed, and procedures for
34 performing such sampling.

35 d. As part of an investigation of a confirmed case of
36 Legionnaires' disease, the Department of Health or the local health
37 officer may require the owner or operator of a building suspected to
38 be a source of *Legionella* bacteria exposure to test and mitigate the
39 presence of *Legionella* bacteria consistent with the procedures and
40 guidelines established by the department. The owner or operator
41 shall report to the department the results of any environmental
42 testing performed as part of the investigation. For the purposes of
43 this subsection "building" shall not include any residential property
44 with four or fewer dwelling units.

45 e. The Department of Health or the local health officer may
46 require the owner or operator of a building suspected to be a source
47 of *Legionella* bacteria exposure to provide notice in a form and
48 manner specified by the department. If notice is required in a

1 municipality in which the primary language of 10 percent or more
2 of the residents is a language other than English, the owner or
3 operator shall provide the notice in both English and the other
4 language to potentially exposed individuals.

5 f. The Department of Health may delegate its responsibilities
6 and duties pursuant to this section as deemed appropriate for
7 conducting all or part of the case investigation required by this
8 section to a local health officer having jurisdiction over the locality
9 in which a patient diagnosed with Legionnaires' disease lives,
10 frequently visits, or is employed ¹, subject to the resources available
11 to the local health officer¹.

12 g. The Department of Health shall establish on its Internet
13 website a dashboard accessible to the public and healthcare
14 providers that provides de-identified data related to all reported
15 cases of Legionnaires' disease, with the goal of providing near-real-
16 time incidence rates in affected communities. The Department of
17 Health shall include information concerning aggregated data of all
18 reported cases of Legionnaires' disease with the greatest degree of
19 specificity consistent with ensuring that no information that could
20 compromise protected health information, or patient identity, is
21 included in such reporting.

22
23 6. a. No later than 24 months after the effective date of P.L. ,
24 c. (C.) (pending before the Legislature as this bill), the
25 owner or operator of a building or facility that meets any of the
26 following criteria shall develop a water management program to
27 minimize the growth and transmission of *Legionella* bacteria in the
28 building's or facility's water system, consistent with the American
29 Society of Heating, Refrigeration, and Air Conditioning Engineers
30 (ASHRAE) Standard 188-2018 or subsequent versions thereof, or
31 comparable standards adopted by a nationally-recognized, accepted,
32 and appropriate organization:

33 (1) a general or specialty hospital that provides in-patient
34 services and is licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
35 seq.);

36 (2) a nursing home, assisted living facility, comprehensive
37 personal care home, residential health care facility, or dementia care
38 home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.);

39 (3) a building containing a whirlpool, spa, pool, open-circuit or
40 closed-circuit cooling tower or evaporative condenser that provides
41 cooling or refrigeration for a heating, ventilation, air conditioning,
42 or refrigeration system, ¹indoor¹ ornamental fountain, mister,
43 atomizer, air wash, humidifier, or other non-potable water system or
44 device that releases water aerosols in the building or on the property
45 upon which the building is located. A building with a device listed
46 in this paragraph shall implement a water management program for
47 the listed device and need not implement a water management

1 program for the entire building unless otherwise indicated by this
2 subsection;

3 (4) a federal, State, county, or privately owned or operated
4 correctional facility with one or more centralized potable hot water
5 systems;

6 (5) ¹a residential high-rise structure with six or more floors and
7 one or more centralized potable water-heater systems;

8 (6)¹ a building with one or more centralized potable water-heater
9 systems shared by ¹~~50~~ 25¹ or more housing units for transient
10 use, including, not but limited to, a hotel or motel;

11 ¹~~[(6)]~~ (7)¹ a residential building with a centralized potable
12 water-heater system that is shared by 25 or more housing units,
13 which serves as subsidized housing designated for individuals who
14 are 62 years of age or older or who have a disability, or is
15 designated as senior housing and is subject to the provisions of
16 P.L.1986, c.103 (C.52:27D-330 et seq.);

17 ¹~~[(7)]~~ (8)¹ a residential, commercial, institutional, or industrial
18 building or facility, including a hotel or motel, not otherwise
19 required to implement a water management program, but which has
20 been determined by the Department of Health or a local health
21 officer to have been associated with an outbreak of Legionnaires'
22 disease. The Department of Health or local health officer shall
23 determine the period during which a water management program is
24 required pursuant to this paragraph in order to address the increased
25 risk of *Legionella* contamination of the building or facility.

26 b. (1) A water management program for a building or facility
27 that meets the criteria of paragraphs (1) or (2) of subsection a. of
28 this section, that has been determined by the Department of Health
29 or a local health authority to have been associated with an outbreak
30 of Legionnaires' disease, or for which periodic water sampling for
31 bacteria is recommended by the federal Centers for Disease Control
32 and Prevention shall include periodic water sampling and testing for
33 bacteria in accordance with the rules and regulations promulgated
34 by the Department of Health pursuant to section 8 of P.L. ,
35 c. (C.) (pending before the Legislature as this bill).

36 (2) A water management program for a building or facility that
37 does not meet the criteria described in paragraph (1) of this
38 subsection may include periodic water sampling and testing for
39 bacteria.

40 (3) All sampling and testing carried out pursuant to this
41 subsection shall include, but not be limited to, testing for the
42 presence of *Legionella Pneumophila*, and shall be conducted in a
43 manner consistent with:

44 (a) rules, regulations, and best practices developed by the
45 Department of Health; and

46 (b) the American Society of Heating, Refrigeration, and Air
47 Conditioning Engineers (ASHRAE) Standard 188-2018 or

1 subsequent versions thereof, or comparable standards adopted by a
2 nationally recognized, accepted, and appropriate organization.

3 (4) The owner or operator of a covered facility or building shall
4 follow ASHRAE Standard 188-2018 and guidelines established by
5 the federal Centers for Disease Control and Prevention in
6 interpreting and responding to positive test results. The Department
7 of Health shall establish procedures for the reporting of positive test
8 results for *Legionella* bacteria received during testing carried out
9 pursuant to this subsection.

10 c. When a person required to implement a water management
11 program pursuant to this section has complied with the
12 requirements of this section, the person shall post a written public
13 notice on the premises in a location easily accessible to building
14 occupants that such a program has been implemented.

15 d. No later than 12 months after the effective date of P.L. ,
16 c. (C.) (pending before the Legislature as this bill), the
17 Department of Health shall develop and make available on its
18 Internet website guidance documents for the development and
19 implementation of water management programs pursuant to this
20 section, including guidance documents for complying with record-
21 keeping requirements, and best practices for periodic water
22 sampling and testing.

23 e. The owner or operator of a building or facility required to
24 implement a water management program pursuant to this section
25 shall establish documentation concerning all procedures and shall
26 maintain all records related to these procedures and their
27 implementation and make them available upon request to an
28 employee of the Department of Community Affairs, the Department
29 of Environmental Protection, the Department of Health, or any
30 other department or agency with license or inspection authority for
31 the facility or building in order to confirm that a water management
32 program was developed. The Department of Community Affairs,
33 the Department of Environmental Protection, the Department of
34 Health, or any other department or agency with license or
35 inspection authority for the facility or building shall not be required
36 to evaluate or otherwise review a water management program
37 unless required for an investigation of a case of Legionnaires'
38 disease ¹in accordance with procedures developed by the
39 Department of Health¹ pursuant to section 5 of P.L. ,
40 c. (C.) (pending before the Legislature as this bill).

41 f. (1) No later than 27 months after the effective date of P.L. ,
42 c. (C.) (pending before the Legislature as this bill), the
43 owner or operator of a building or facility that meets any of the
44 criteria set forth in paragraphs (1) through (7) of subsection a. of
45 this section shall implement the procedures outlined in their
46 personalized water management program. Newly constructed or
47 repurposed buildings or facilities shall confirm that the water

1 management program mitigates the potential for human exposure to
2 *Legionella* bacteria prior to commissioning.

3 (2) The owner or operator of a building or facility that meets
4 any of the criteria set forth in paragraphs (1) through (7) of
5 subsection a. of this section shall maintain on the building or
6 facility premises for at least five years: (i) the written water
7 management program; (ii) documentation and records concerning
8 all procedures conducted, including the results from any water
9 testing carried out pursuant to subsection b. of this section; and (iii)
10 all other relevant documentation on the implementation of the water
11 management program. Such records shall be made available to the
12 Department of Health immediately upon request.

13 g. (1) The owner or operator of a building or facility who fails
14 to implement or demonstrate compliance with a water management
15 program required pursuant to this section, fails to report a positive
16 *Legionella* water system test pursuant to the procedures set by the
17 Department of Health, fails to test for or mitigate the presence of
18 *Legionella* as required by the Department of Health or the local
19 health officer pursuant to subsection d. of section 5 of P.L. ,
20 c. (C.) (pending before the Legislature as this bill), or fails
21 to provide notice pursuant to subsection e. of section 5 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill) shall be
23 subject to a civil penalty of not more than \$2,000 for a first
24 violation, and not more than \$5,000 for a second or subsequent
25 violation, except that the owner or operator shall be subject to a
26 civil penalty of not more than \$10,000 for any violation which
27 causes serious injury or death to any person. Penalties imposed
28 pursuant to this paragraph shall be collected by the State in a civil
29 action by a summary proceeding under the "Penalty Enforcement
30 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior
31 Court and the municipal court shall have jurisdiction over
32 proceedings for the enforcement of the penalties provided by this
33 paragraph.

34 (2) Whenever the Department of Health determines that any
35 person is in violation of a provision of this section or section 5 of
36 P.L. , c. (C.) (pending before the Legislature as this bill),
37 the department may assess a civil administrative penalty of not
38 more than \$2,000 for a first violation, and not more than \$5,000 for
39 a second or subsequent violation, except that the person shall be
40 subject to a civil administrative penalty of not more than \$10,000
41 for any violation which causes serious injury or death to any person.
42 In assessing a civil administrative penalty, the commissioner shall
43 consider the severity of the violation, the measures taken to prevent
44 further violations, and whether the penalty will act as an appropriate
45 deterrent. Prior to the assessment of a civil administrative penalty
46 under this paragraph, the person committing the violation shall be
47 notified by certified mail or personal service that the penalty is
48 being assessed. The notice shall identify the section of the statute,

1 rule, regulation, or order that was violated; recite the facts alleged
 2 to constitute a violation; state the basis for the amount of the civil
 3 administrative penalties to be assessed; and affirm the rights of the
 4 alleged violator to a hearing. The ordered party shall have 35 days
 5 from receipt of the notice within which to deliver to the
 6 Commissioner of Health a written request for a hearing. After the
 7 hearing and upon finding that a violation has occurred, the
 8 Commissioner of Health may issue a final order after assessing the
 9 amount of the fine specified in the notice. If no hearing is
 10 requested, the notice shall become a final order after the expiration
 11 of the 35-day period. Payment of the assessment is due when a
 12 final order is issued or the notice becomes a final order.

13 (3) The Department of Community Affairs, the Department of
 14 Environmental Protection, or the Department of Health, or any
 15 other department or agency with license or inspection authority for
 16 the facility or building, may institute a civil action for injunctive
 17 relief in the Superior Court to enforce the provisions of this section
 18 or section 5 of P.L. , c. (C.) (pending before the
 19 Legislature as this bill) and to prohibit and prevent a violation of
 20 these sections, and the court may proceed in the action in a
 21 summary manner.

22 h. The provisions of this section shall not apply to a residential
 23 property with four or fewer dwelling units.
 24

25 7. a. The Department of Health, in consultation with the
 26 Department of Environmental Protection, shall develop a public
 27 awareness campaign and targeted consumer education program to
 28 educate consumers, especially vulnerable populations, concerning
 29 the environmental sources of *Legionella* bacteria, the movement of
 30 *Legionella* bacteria through water distribution systems, the
 31 notification requirements of P.L. , c. (C.) (pending before
 32 the Legislature as this bill) and how the requirements impact
 33 consumers, and the methods to control *Legionella* bacteria in a
 34 person's home. The public awareness campaign and education
 35 program shall include, but not be limited to, information on the
 36 relationship between the risks of the proliferation of *Legionella*
 37 bacteria and hot water, the temperature requirements for medical
 38 devices, expansion tanks, hot tubs, whirlpools, spas, pools, air
 39 conditioning systems, ornamental fountains, or other equipment or
 40 devices that release water aerosols in a person's home or on a
 41 person's property, and the related risks associated with the
 42 inhalation by vulnerable populations of water droplets containing
 43 *Legionella* bacteria.

44 b. No later than one year after the effective date of P.L. ,
 45 c. (C.) (pending before the Legislature as this bill), and
 46 annually thereafter, the Department of Health, in consultation with
 47 the Department of Environmental Protection, shall submit a report

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

3 (1) the number of cases of Legionnaires' disease in the State
4 reported in each of the previous 10 years;

5 (2) the number of reported water sampling results in public
6 community water systems in the past year received by the
7 Department of Environmental Protection that indicate the presence
8 of *Legionella* bacteria;

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

12 (4) recommendations as to whether the minimum detectable
13 disinfectant targets established pursuant to subsection a. of section
14 2 of P.L. , c. (C.) (pending before the Legislature as this
15 bill) should be increased in order to minimize the growth and
16 transmission of *Legionella* bacteria; and

17 (5) any recommendations for legislative action as may be
18 necessary to further control *Legionella* bacteria in the public water
19 supply and affected buildings.

20

21 8. No later than 24 months after the effective date of P.L. ,
22 c. (C.) (pending before the Legislature as this bill), the
23 Department of Health, in consultation with the Department of
24 Environmental Protection, shall adopt rules and regulations
25 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
26 (C.52:14B-1 et seq.) to implement the provisions of P.L. ,
27 c. (C.) (pending before the Legislature as this bill). The
28 rules and regulations shall be consistent with the American Society
29 of Heating, Refrigeration, and Air Conditioning Engineers
30 (ASHRAE) Standard 188-2018, or subsequent versions thereof, or
31 comparable standards adopted by a nationally recognized, accepted,
32 and appropriate organization.

33

34 9. This act shall take effect immediately.