



Reprinted
February 22, 2023

HOUSE BILL No. 1138

DIGEST OF HB 1138 (Updated February 21, 2023 3:19 pm - DI 150)

Citations Affected: IC 16-41.

Synopsis: Preschool and child care facility drinking water. Requires the owner or operator having authority over a child care facility or preschool to test the drinking water in the child care facility or preschool before January 1, 2025, to determine whether lead is present in the drinking water. Identifies exceptions to testing before January 1, 2025. Requires action to reduce lead concentration that equals or exceeds the action level for lead. Requires the environmental rules board to adopt rules, including emergency rules, that conform with the forthcoming Lead and Copper Rule Improvements being promulgated by the EPA.

Effective: July 1, 2023.

**Jackson, Aylesworth, Errington,
Garcia Wilburn**

January 10, 2023, read first time and referred to Committee on Environmental Affairs.
February 16, 2023, amended, reported — Do Pass.
February 21, 2023, read second time, amended, ordered engrossed.

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First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1138

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-41-21.2 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]:

4 **Chapter 21.2. Water in Child Care Facilities and Preschools**

5 **Sec. 1. As used in this chapter, "action level for lead" means the**
6 **concentration of lead in water of fifteen (15) parts per billion, or**
7 **fifteen-thousandths (0.015) milligrams of lead per liter of water.**

8 **Sec. 2. As used in this chapter, "child care facility" means any**
9 **of the following:**

10 (1) A child care center (as defined in IC 12-7-2-28.4).

11 (2) A child care home (as defined in IC 12-7-2-28.6).

12 **Sec. 3. As used in this chapter, "preschool" has the meaning set**
13 **forth in IC 12-7-2-143.5.**

14 **Sec. 4. (a) Except as provided in subsection (c), the owner or**
15 **operator having authority over a child care facility or preschool**
16 **shall test the drinking water in the child care facility or preschool**
17 **before January 1, 2025, to determine whether lead is present in the**

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1 drinking water in a concentration that equals or exceeds the action
2 level for lead.

3 (b) Drinking water testing required by this section must be
4 performed in accordance with the lead sampling program for
5 school buildings and child care facilities conducted by the Indiana
6 finance authority.

7 (c) If the drinking water in a child care facility or preschool was
8 tested through the lead sampling program for school buildings and
9 child care facilities conducted by the Indiana finance authority in
10 2019 and 2020, the drinking water of the child care facility or
11 preschool is not required to be tested before January 1, 2025, as
12 described in subsection (a).

13 (d) If any testing of drinking water in a child care facility or
14 preschool under subsection (a) or (c) indicates that the presence of
15 lead in the drinking water equals or exceeds the action level for
16 lead, the owner or operator having authority over the child care
17 facility or preschool shall take action to reduce the concentration
18 of lead in the drinking water to below the action level for lead.

19 (e) The environmental rules board shall, under IC 4-22-2 and
20 IC 13-14-9, adopt rules, including emergency rules adopted in the
21 manner provided by IC 4-22-2-37.1, concerning the lead action
22 level. Rules adopted by the environmental rules board shall
23 conform with the forthcoming Lead and Copper Rule
24 Improvements (LCRI) being promulgated by the United States
25 Environmental Protection Agency. Notwithstanding
26 IC 4-22-2-37.1(g), the emergency rules that are adopted under this
27 subsection and in the manner provided by IC 4-22-2-37.1 expire on
28 the date on which rules that supersede the emergency rules are
29 adopted by the board under this subsection and IC 4-22-2-24
30 through IC 4-22-2-36.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1138, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 6, delete "one (1) part" and insert "**fifteen (15) parts**".

Page 1, line 6, after "or" delete "one" and insert "**fifteen-thousandths (0.015) milligrams of lead per liter of water.**".

Page 1, delete line 7.

Page 1, delete lines 12 through 14.

Page 2, after line 21, begin a new paragraph and insert:

"(e) The environmental rules board shall, under IC 4-22-2 and IC 13-14-9, adopt rules, including emergency rules adopted in the manner provided by IC 4-22-2-37.1, concerning the lead action level. Rules adopted by the environmental rules board shall conform with the forthcoming Lead and Copper Rule Improvements (LCRI) being promulgated by the United States Environmental Protection Agency. Notwithstanding IC 4-22-2-37.1(g), the emergency rules that are adopted under this subsection and in the manner provided by IC 4-22-2-37.1 expire on the date on which rules that supersede the emergency rules are adopted by the board under this subsection and IC 4-22-2-24 through IC 4-22-2-36."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1138 as introduced.)

MORRISON

Committee Vote: yeas 12, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1138 be amended to read as follows:

Page 1, line 14, delete "individual or" and insert "**owner or operator**".

Page 1, line 15, delete "entity".

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Page 2, line 16, delete "individual or entity" and insert "**owner or operator**".

(Reference is to HB 1138 as printed February 16, 2023.)

JACKSON

