



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBs0126/1
EHS&ZDW:kjf&skw

**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 424**

January 3, 2020 - Offered by Senator COWLES.

1 **AN ACT to amend** 24.61 (3) (a) 2.; and **to create** 48.651 (1d) (am), 48.67 (6), 48.675
2 and 97.67 (8) of the statutes; **relating to:** testing for lead in drinking water in
3 facilities used for recreational and educational camps, child care, and group
4 homes for children, and providing loans for lead remediation in certain child
5 care, group home, and recreational and educational camp facilities.

Analysis by the Legislative Reference Bureau

This bill requires child care centers, child care providers, and recreational and educational camps to test for lead in drinking water and to provide potable water if lead contamination is found in order to obtain, renew, or continue a camp or child care center license or child care provider certification and provides funding options for that testing and remediation.

Under current law, no person may for compensation provide care and supervision for four or more children under the age of seven for less than 24 hours a day unless that person obtains a license to operate a child care center from the Department of Children and Families. To be licensed, current law requires a person to meet the minimum requirements established by DCF. Under current law, a child care center license is valid until revoked or suspended, but must be reviewed every two years.

Current law also requires a person, other than a licensed child care center, to be certified by DCF in order to be eligible to receive payment for providing child care services for an individual who is determined eligible for a Wisconsin Shares child care subsidy. To be certified, current law requires a child care provider to meet minimum requirements established by DCF. Under current rules promulgated by DCF, a child care provider certification is valid for two years unless revoked or suspended, and must be renewed if the provider continues to comply with certification standards.

Current law also requires the Department of Agriculture, Trade and Consumer Protection or a local health department granted agent status to issue licenses to and regulate recreational and educational camps. Under current law, such licenses expire annually on June 30.

This bill adds as a minimum requirement for a recreational and education camp license, a group home license, a child care center license, and a child care provider certification that an applicant for an initial, continued, or renewed license or certification (applicant), with one exception, test water from every drinking water source for lead contamination in facilities used or to be used for child care, a camp, or a group home within six months before submitting the application. The bill provides that lead contamination is a concentration of lead that is greater than the federal action level established under the federal Safe Drinking Water Act.

Under the bill, if a test shows lead contamination, the applicant must take one of two courses of action, both of which require the applicant to immediately eliminate all access to water from the contaminated drinking water source. Under the first option, the applicant must make a plan to remediate the lead contamination and provide potable water in the interim. The applicant must provide the plan and proof of the applicant's compliance with these requirements to the licensing or certification authority. If the applicant submits with a subsequent application a test result showing no lead contamination in a drinking water source, the applicant is exempt from testing and reporting requirements with respect to that source. If the applicant submits a test result showing no lead contamination in a drinking water source before a subsequent application is due, the applicant is exempt from further requirements under this first option but must submit one more test showing no lead contamination at the time the next application is due. If the applicant submits a test result showing lead levels not higher than 5 parts per billion in a drinking water source before a subsequent application is due, the applicant is exempt from all further testing requirements.

Under the second option, the applicant must make a plan for providing on a permanent basis an adequate supply of potable water from external sources and ensuring that children served on the premises do not consume water from contaminated drinking water sources. This option also requires the applicant to provide the plan and proof of the applicant's compliance with these requirements to the licensing or certification authority, but no further testing is necessary. The bill authorizes an applicant who has previously complied with this option, when it submits a subsequent application, to switch to the first option or to submit a new test

result showing each drinking water source to have no lead contamination, in which case the applicant is exempt from all testing and reporting requirements.

Under the bill, a child care provider applying for Wisconsin Shares certification may, as an alternative to the testing requirement, conduct a plumbing assessment and submit documentation of the assessment with its application. Under the bill, a plumbing assessment is an assessment completed by a licensed plumber, environmental consultant, certified lead risk assessor, or certified lead hazard investigator that includes, at a minimum, a determination of the year in which the building was built, a review of any available utility records for the presence of a full or partial lead service line, and an inspection of interior plumbing for the presence in the building's plumbing of leaded or galvanized steel pipes or any fixtures, fittings, faucets, or valves made with alloys that contain lead, such as leaded brass (presence of lead). If a plumbing assessment shows the presence of lead, the applicant must choose one of the two courses of action required after a test shows lead contamination. If a plumbing assessment shows no presence of lead, the applicant is exempt from further testing and reporting requirements.

The bill specifies that remediation may include affixing a point-of-source or point-of-entry filter to a drinking water source and testing may be conducted with such a filter affixed. The bill also specifies that remediation may include permanently disconnecting, shutting off, or otherwise eliminating access to water from a drinking water source if another drinking water source on the premises is not contaminated or will be remediated, and that after proof of such remediation is submitted to the licensing or certifying authority, the applicant is exempt from further testing requirements with respect to that drinking water source.

The bill requires DCF and DATCP, in consultation with the Department of Health Services and the Department of Natural Resources, to seek federal funding to assist, respectively, child care providers and operators of child care centers, group homes, and recreational and educational camps in paying for the costs of complying with the testing and remediation requirements, and to ensure that any funding obtained for this purpose is distributed equitably among those eligible entities.

This bill allows the Board of Commissioners of Public Lands to use school trust funds to issue loans to municipalities for the purpose of remediating lead contamination in a building used for child care, as a group home for children, or as a recreational or educational camp for children.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 24.61 (3) (a) 2. of the statutes is amended to read:
- 2 24.61 (3) (a) 2. A town, village, city or county as provided under s. 67.04 or
- 3 otherwise authorized by law, or to remediate lead contamination in a building used

1 for child care, as a group home for children, or as a recreational or educational camp
2 for children by an entity with which the town, village, city, or county has contracted.

3 **SECTION 2.** 48.651 (1d) (am) of the statutes is created to read:

4 48.651 **(1d)** (am) In establishing the requirements for certification of a child
5 care provider under par. (a), the department shall include a requirement that all
6 child care providers certified under s. 48.651 comply with s. 48.675.

7 **SECTION 3.** 48.67 (6) of the statutes is created to read:

8 48.67 **(6)** That all child care centers licensed under s. 48.65 and all group homes
9 licensed under s. 48.625 comply with s. 48.675.

10 **SECTION 4.** 48.675 of the statutes is created to read:

11 **48.675 Testing for lead in drinking water. (1) DEFINITIONS.** In this section:

12 (a) “Drinking water source” means a water faucet, drinking fountain, ice
13 maker, or other water outlet that dispenses potable water that is used for drinking
14 or food preparation.

15 (b) “Lead contamination” means a concentration of lead that is greater than the
16 federal action level established under the Safe Drinking Water Act, 42 USC 300f et
17 seq.

18 (c) “Presence of lead” means the presence in a building’s plumbing of leaded or
19 galvanized steel pipes or any fixtures, fittings, faucets, or valves made with alloys
20 that contain lead, such as leaded brass.

21 **(2) TESTING REQUIRED.** (a) Except as provided under subs. (3) (b) 4., (4) (b), (5),
22 and (6), each applicant for an initial or continued license to operate a group home
23 under s. 48.625 or a child care center under s. 48.65 or for an initial or renewed
24 certification under s. 48.651 shall, no sooner than 6 months prior to submitting the
25 application, test the water from every drinking water source used or to be used by

1 children in the building used or to be used for child care or as a group home to monitor
2 for lead contamination. A test under this subsection may be completed with a
3 point-of-source or point-of-entry filter affixed to the drinking water source. The
4 applicant shall submit the test results to the appropriate licensing or certifying
5 authority along with the application. This section does not apply to child care
6 programs under s. 120.13 (14).

7 (b) A license or certification applicant shall ensure that the testing required
8 under sub. (2) is done by the State Laboratory of Hygiene or a laboratory certified
9 under ch. NR 149, Wis. Adm. Code, and that samples are collected in accordance with
10 instructions provided by the laboratory that will do the testing.

11 **(3) PROCEDURES IF LEAD CONTAMINATION IS FOUND.** If a test submitted under sub.
12 (2) shows that there is lead contamination in a drinking water source or a plumbing
13 assessment conducted under sub. (5) shows the presence of lead in plumbing at a
14 building used or to be used for child care or as a group home, the applicant for an
15 initial or continued license under s. 48.625 or 48.65 or for an initial or renewed
16 certification under s. 48.651 shall do one of the following:

17 (a) *Remediation.* 1. Immediately after obtaining the test results, disconnect,
18 shut off, or otherwise eliminate all access to water from the drinking water source.

19 2. Provide the building with an adequate supply of potable water or, for an
20 applicant for an initial license under s. 48.625 or 48.65 or an initial certification
21 under s. 48.651, prepare a plan to provide the building with an adequate supply of
22 potable water if licensed or certified.

23 3. Submit along with its application the most recent test results under sub. (2)
24 and other proof, such as photographs, receipts, or other applicable documentation,
25 that it is compliant with subds. 1. and 2.

1 4. Within 6 months after submitting the application, establish, submit to the
2 licensing or certifying authority, and begin to carry out a plan for remediating the
3 lead contamination.

4 5. Between the date the license or certification is granted, continued, or
5 renewed and the date on which the applicant submits an application for the
6 subsequent license or certification period, the applicant may demonstrate to the
7 appropriate licensing or certifying authority continued compliance with subds. 1. to
8 4. and submit more recent test results than the last results submitted under sub. (2).
9 Except as provided under sub. (6), if a test result is submitted under this subdivision
10 that shows no lead contamination in a drinking water source, this subsection no
11 longer applies with respect to that drinking water source, but sub. (2) applies with
12 respect to that drinking water source for an application submitted for the subsequent
13 license or certification period.

14 (b) *Substitution of water source.* 1. Immediately after obtaining the test
15 results, disconnect, shut off, or otherwise eliminate all access to water from the
16 drinking water source.

17 2. Establish and carry out a plan for providing, on a permanent basis, an
18 adequate supply of potable water from external sources, such as bottled water, and
19 for ensuring that children served in the building do not consume water from
20 contaminated drinking water sources. The plan shall include the estimated quantity
21 of water needed to supply the building with all potable water needs.

22 3. No later than 3 months after the first application is submitted after the test
23 showing lead contamination, submit the plan established under subd. 2. and proof,
24 such as photographs, receipts, or other applicable documentation, that the applicant

1 is compliant with subds. 1. and 2. and will be during the license or certification
2 period.

3 4. Submit, along with any subsequent application submitted for a license or
4 certification period after the one for which an application under subd. 3. is submitted,
5 proof, such as photographs, receipts, or other applicable documentation, that the
6 applicant has been compliant with the plan under subd. 2. and an updated plan
7 under subd. 2. for the period for which the application is submitted. The updated
8 plan shall indicate any changes made since the application was submitted for the
9 preceding license or certification period. An applicant in compliance with this
10 subdivision is not required to do further lead testing or to submit further lead test
11 results after the test results are submitted under subd. 3.

12 5. If the applicant has previously complied with subds. 1. to 4., the applicant
13 may do one of the following:

14 a. Indicate in a subsequent license or certification application an intent to
15 instead comply with par. (a), in which case the applicant shall comply with par. (a)
16 with respect to that application.

17 b. Submit along with a subsequent application a new test result under sub. (2)
18 for each drinking water source showing no lead contamination, in which case the
19 applicant is exempt from further compliance with this section.

20 **(4) METHODS OF REMEDIATION.** Remediation under sub. (3) (a) 4. may, among
21 other methods, include any of the following:

22 (a) Affixing a point-of-source or point-of-entry filter onto the drinking water
23 source.

24 (b) Permanently disconnecting, shutting off, or otherwise eliminating access
25 to water from a drinking water source if another drinking water source in the

1 building is not contaminated or will be remediated. If a drinking water source is
2 remediated under this paragraph, the applicant is exempt from further testing
3 requirements under sub. (2) with respect to that drinking water source after proof
4 of compliance with this paragraph, such as photographs, receipts, or other applicable
5 documentation, is submitted to the licensing or certifying authority.

6 **(5) PLUMBING ASSESSMENT FOR CHILD CARE PROVIDERS.** As an alternative to lead
7 testing under sub. (2), a person applying for an initial or renewed certification under
8 s. 48.651 who has not already submitted testing under sub. (2) may instead have a
9 plumbing assessment completed on the plumbing connected to all drinking water
10 sources in the building. All of the following apply to a plumbing assessment under
11 this subsection:

12 (a) A plumbing assessment is an assessment completed by a licensed plumber,
13 environmental consultant, certified lead risk assessor, or certified lead hazard
14 investigator that includes, at a minimum, a determination of the year in which the
15 building was built, a review of any available utility records for the presence of a full
16 or partial lead service line, and an inspection of interior plumbing for the presence
17 of lead.

18 (b) If the applicant chooses to proceed under this subsection, the applicant shall
19 submit with the application documentation that is dated and signed by the person
20 who completed the plumbing assessment that indicates, at a minimum, whether the
21 plumbing assessment revealed the presence of lead.

22 (c) If a plumbing assessment shows the presence of lead, the applicant shall
23 choose an action to take under sub. (3).

24 (d) If a plumbing assessment shows no presence of lead, the applicant is exempt
25 from further compliance with this section.

1 **(6) LOW LEAD LEVEL.** The testing and application requirements under this
2 section do not apply to an applicant for a continued license under s. 48.625 or 48.65
3 or a renewed certification under s. 48.651 if the last drinking water test results the
4 applicant submitted under sub. (2) along with an application for an initial,
5 continued, or renewed license or certification or before an application is due as
6 provided under sub. (3) (a) 5. showed lead levels not higher than 5 parts per billion.

7 **(7) FEDERAL FUNDING.** The department shall, in consultation with the
8 department of health services and the department of natural resources, seek federal
9 funding to assist child care providers and operators of child care centers and group
10 homes in paying for the costs of complying with the testing and remediation
11 requirements under this section. The department shall ensure that any funding
12 obtained for this purpose is distributed equitably among those eligible child care
13 providers and operators of child care centers and group homes.

14 **SECTION 5.** 97.67 (8) of the statutes is created to read:

15 **97.67 (8) (a) Definitions.** In this subsection:

16 1. “Drinking water source” means a water faucet, drinking fountain, ice maker,
17 or other water outlet that dispenses potable water that is used for drinking or food
18 preparation.

19 2. “Lead contamination” means a concentration of lead that is greater than the
20 federal action level established under the Safe Drinking Water Act, 42 USC 300f et
21 seq.

22 **(b) Testing requirement.** 1. Except as provided under pars. (c) 2. d., (d) 2., and
23 (e), each applicant for an initial or renewed license to operate a recreational or
24 educational camp under this section shall, no sooner than 6 months prior to
25 submitting the application, test the water from every drinking water source used or

1 to be used by children that supplies facilities used or to be used as the camp to
2 monitor for lead contamination. A test under this subsection may be completed with
3 a point-of-source or point-of-entry filter affixed to the drinking water source. The
4 applicant shall submit the test results to the appropriate licensing authority along
5 with the application. This subsection does not apply to child care programs under
6 s. 120.13 (14).

7 2. A license applicant shall ensure that the testing required under subd. 1. is
8 done by the State Laboratory of Hygiene or a laboratory certified under ch. NR 149,
9 Wis. Adm. Code, and that samples are collected in accordance with instructions
10 provided by the laboratory that will do the testing.

11 (c) *Procedures if lead contamination is found.* If a test submitted under par. (b)
12 shows that there is lead contamination in a drinking water source that supplies
13 facilities used or to be used as a recreational or educational camp, the applicant for
14 an initial or renewed license under this section shall do one of the following:

15 1. 'Remediation.' a. Immediately after obtaining the test results, disconnect,
16 shut off, or otherwise eliminate all access to water from the drinking water source.

17 b. Provide the facility with an adequate supply of potable water or, for an
18 applicant for an initial license under this section, prepare a plan to provide the
19 facility with an adequate supply of potable water if licensed or certified.

20 c. Submit along with its application the most recent test results under par. (b)
21 and other proof, such as photographs, receipts, or other applicable documentation,
22 that it is compliant with subd. 1. a. and b.

23 d. Within 6 months after submitting the application, establish, submit to the
24 licensing or certifying authority, and begin to carry out a plan for remediating the
25 lead contamination.

1 e. Between the date the license or certification is granted, continued, or
2 renewed and the date on which the applicant submits an application for the
3 subsequent license or certification period, the applicant may demonstrate to the
4 appropriate licensing or certifying authority continued compliance with subd. 1. a.
5 to d. and submit more recent test results than the last results submitted under par.
6 (b). Except as provided under par. (e), if a test result is submitted under this subd.
7 1. e. that shows no lead contamination in a drinking water source, this subsection
8 no longer applies with respect to that drinking water source, but par. (b) applies with
9 respect to that drinking water source for an application submitted for the subsequent
10 license or certification period.

11 2. 'Substitution of water source.' a. Immediately after obtaining the test
12 results, disconnect, shut off, or otherwise eliminate all access to water from the
13 drinking water source.

14 b. Establish and carry out a plan for providing, on a permanent basis, an
15 adequate supply of potable water from external sources, such as bottled water, and
16 for ensuring that children served on the premises do not consume water from
17 contaminated drinking water sources. The plan shall include the estimated quantity
18 of water needed to supply the facility with all potable water needs.

19 c. No later than 3 months after the first application is submitted after the test
20 showing lead contamination, submit the plan established under subd. 2. b. and proof,
21 such as photographs, receipts, or other applicable documentation, that the applicant
22 is compliant with subd. 2. a. and b. and will be during the license or certification
23 period.

24 d. Submit, along with any subsequent application submitted for a license or
25 certification period after the one for which an application under subd. 2. c. is

1 submitted, proof, such as photographs, receipts, or other applicable documentation,
2 that the applicant has been compliant with the plan under subd. 2. b. and an updated
3 plan under subd. 2. b. for the period for which the application is submitted. The
4 updated plan shall indicate any changes made since the application was submitted
5 for the preceding license or certification period. An applicant in compliance with this
6 subd. 2. d. is not required to do further lead testing or to submit further lead test
7 results after the test results are submitted under subd. 2. c.

8 e. If the applicant has previously complied with subd. 2. a. to d., the applicant
9 may either indicate in a subsequent license or certification application an intent to
10 instead comply with subd. 1., in which case the applicant shall comply with subd. 1.
11 with respect to that application; or submit along with a subsequent application a new
12 test result under par. (b) for each drinking water source showing no lead
13 contamination, in which case the applicant is exempt from further compliance with
14 this section.

15 (d) *Methods of remediation.* Remediation under par. (c) 1. d. may, among other
16 methods, include any of the following:

17 1. Affixing a point-of-source or point-of-entry filter onto the drinking water
18 source.

19 2. Permanently disconnecting, shutting off, or otherwise eliminating access to
20 water from a drinking water source if another drinking water source on the premises
21 is not contaminated or will be remediated. If a drinking water source is remediated
22 under this paragraph, the applicant is exempt from further testing requirements
23 under par. (b) with respect to that drinking water source after proof of compliance
24 with this paragraph, such as photographs, receipts, or other applicable
25 documentation, is submitted to the licensing or certifying authority.

