

ASSEMBLY BILL

No. 737

**Introduced by Committee on Environmental Safety and Toxic
Materials (Chesbro (Chair), Miller (Vice Chair), Davis, Feuer,
Monning, Ruskin, and Smyth)**

February 26, 2009

An act to amend Sections 116450, 116455, and 116470 of the Health and Safety Code, relating to public water systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 737, as introduced, Committee on Environmental Safety and Toxic Materials. Public water systems: public notification.

Existing law, known as the California Safe Drinking Water Act, requires the State Department of Public Health to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the federal Safe Drinking Water Act, adoption of enforcement regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies.

Existing law requires every public water system to notify users when certain monitoring or other requirements have not been complied with, to notify customers when failure to comply with a primary drinking water standard that represents an imminent danger, to notify consumers of confirmation of detected contaminants, and to annually deliver a prescribed consumer confidence report to each consumer.

This bill would, in addition, require posting of the notices and reports on the public water system's Internet Web site, if the public water system maintains an Internet Web site. The bill would permit the public

water system to remove or amend the posted information when certain conditions are met.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 116450 of the Health and Safety Code
2 is amended to read:

3 116450. (a) When any primary drinking water standard
4 specified in the department's regulations is not complied with,
5 when a monitoring requirement specified in the department's
6 regulations is not performed, or when a water purveyor fails to
7 comply with the conditions of any variance or exemption, the
8 person operating the public water system shall notify the
9 department and shall give notice to the users of that fact, *and shall,*
10 *if the public water system has an Internet Web site, post that notice*
11 *on the public water systems Web site,* in the manner prescribed by
12 the department. When a variance or an exemption is granted, the
13 person operating the public water system shall give notice to the
14 users of that fact.

15 (b) When a person operating a public water system determines
16 that a significant rise in the bacterial count of water has occurred
17 in water he or she supplies, the person shall provide, at his or her
18 expense, a report on the rise in bacterial count of the water, together
19 with the results of an analysis of the water, within 24 hours to the
20 department and, where appropriate, to the local health officer.

21 (c) When the department receives the information described in
22 subdivision (b) and determines that it constitutes an immediate
23 danger to health, the department shall immediately notify the
24 person operating the public water system to implement the
25 emergency notification plan required by this chapter.

26 (d) In the case of a failure to comply with any primary drinking
27 water standard that represents an imminent danger to the health
28 of water users, the operator shall notify each of his or her
29 customers, *and shall, if the public water system has an Internet*
30 *Web site, post that notice on that Web site,* as provided in the
31 approved emergency notification plan.

32 (e) In addition, the same notification requirement shall be
33 required in any instance in which the department or the local health

1 department recommends to the operator that it notify its customers
2 to avoid internal consumption of the water supply and to use bottled
3 water due to a chemical contamination problem that may pose a
4 health risk.

5 (f) The content of the notices required by this section shall be
6 approved by the department. Notice shall be repeated at intervals,
7 as required by the department, until the department concludes that
8 there is compliance with its standards or requirements. Notices
9 may be given by the department.

10 In any case where public notification is required by this section
11 because a contaminant is present in drinking water at a level in
12 excess of a primary drinking water standard, the notification shall
13 include identification of the contaminant, information on possible
14 effects of the contaminant on human health, and information on
15 specific measures that should be taken by persons or populations
16 who might be more acutely affected than the general population.

17 (g) Whenever a school or school system, the owner or operator
18 of residential rental property, or the owner or operator of a business
19 property receives a notification from a person operating a public
20 water system under any provision of this section, the school or
21 school system shall notify school employees, students and parents
22 if the students are minors, the owner or operator of a residential
23 rental property shall notify tenants, and the owner or operator of
24 business property shall notify employees of businesses located on
25 the property.

26 (1) The operator shall provide the customer with a sample
27 notification form that may be used by the customer in complying
28 with this subdivision and that shall indicate the nature of the
29 problem with the water supply and the most appropriate methods
30 for notification that may include, but is not limited to, the sending
31 of a letter to each water user and the posting of a notice at each
32 site where drinking water is dispensed.

33 (2) The notice required by this subdivision shall be given within
34 10 days of receipt of notification from the person operating the
35 public water system.

36 (3) Any person failing to give notice as required by this
37 subdivision shall be civilly liable in an amount not to exceed one
38 thousand dollars (\$1,000) for each day of failure to give notice.

(4) If the operator has evidence of noncompliance with this subdivision the operator shall report this information to the local health department and the department.

(h) An operator that is required to post a notice on the public water system's Internet Web site pursuant to subdivision (a) or (d) may, upon rectifying the problem or complying with the standard that required notification, do either of the following:

(1) Remove the notice from the public water system's Internet Web site.

(2) Amend the notice posted on the public water system's Internet Web site to include the date on which the problem was rectified or compliance was achieved.

SEC. 2. Section 116455 of the Health and Safety Code is amended to read:

116455. (a) A public water system shall comply with the requirements of this section within 30 days after it is first informed of a confirmed detection of a contaminant found in drinking water delivered by the public water system for human consumption that is in excess of a maximum contaminant level, a notification level, or a response level established by the department.

(1) If the public water system is a wholesale water system, then the person operating the wholesale water system shall notify the wholesale water system's governing body and the water systems that are directly supplied with that drinking water. If the wholesale water system is a water company regulated by the California Public Utilities Commission, then the wholesale water system shall also notify the commission. The commission in the exercise of its general and specific powers to ensure the health, safety, and availability of drinking water served by the utilities subject to its jurisdiction, may order further action that is not inconsistent with the standards and regulations of the department to ensure a potable water supply.

(2) If the public water system is a retail water system, then the person operating the retail water system shall notify the retail water system's governing body and the governing body of any local agency whose jurisdiction includes areas supplied with drinking water by the retail water system. If the retail water system is a water company regulated by the California Public Utilities Commission, then the retail water system shall also notify the commission. The commission, in the exercise of its general and

1 specific powers to ensure the health, safety, and availability of
2 drinking water served by the utilities subject to its jurisdiction,
3 may order further action that is not inconsistent with the standards
4 and regulations of the department to ensure a potable water supply.

5 (b) The notification required by subdivision (a) shall identify
6 the drinking water source, the origin of the contaminant, if known,
7 the maximum contaminant level, response level, or notification
8 level, as appropriate, the concentration of the detected contaminant,
9 and the operational status of the drinking water source, and shall
10 provide a brief and plainly worded statement of health concerns.
11 *The notice shall, if the public water system has an Internet Web*
12 *site, also be posted on the public water system's Internet Web site.*

13 (c) For purposes of this section, the following terms have the
14 following meanings:

15 (1) "Drinking water source" means an individual groundwater
16 well, an individual surface water intake, or in the case of water
17 purchased from another water system, the water at the service
18 connection.

19 (2) "Local agency" means a city or county, or a city and county.

20 (3) "Notification level" means the concentration level of a
21 contaminant in drinking water delivered for human consumption
22 that the department has determined, based on available scientific
23 information, does not pose a significant health risk but warrants
24 notification pursuant to this section. Notification levels are
25 nonregulatory, health-based advisory levels established by the
26 department for contaminants in drinking water for which maximum
27 contaminant levels have not been established. Notification levels
28 are established as precautionary measures for contaminants that
29 may be considered candidates for establishment of maximum
30 contaminant levels, but have not yet undergone or completed the
31 regulatory standard setting process prescribed for the development
32 of maximum contaminant levels and are not drinking water
33 standards.

34 (4) "Response level" means the concentration of a contaminant
35 in drinking water delivered for human consumption at which the
36 department recommends that additional steps, beyond notification
37 pursuant to this section, be taken to reduce public exposure to the
38 contaminant. Response levels are established in conjunction with
39 notification levels for contaminants that may be considered
40 candidates for establishment of maximum contaminant levels, but

1 have not yet undergone or completed the regulatory standard setting
2 process prescribed for the development of maximum contaminant
3 levels and are not drinking water standards.

4 (5) "Retail water system" means a public water system that
5 supplies water directly to the end user.

6 (6) "Wholesale water system" means a public water system that
7 supplies water to other public water systems for resale.

8 *(d) An operator that is required to post a notice on the public*
9 *water system's Internet Web site pursuant to subdivision (b), may,*
10 *upon rectifying the problem complying with the standard that*
11 *required notification, do either of the following:*

12 *(1) Remove the notice from the public water system's Internet*
13 *Web site.*

14 *(2) Amend the notice posted on the public water system's*
15 *Internet Web site to include the date on which the problem was*
16 *rectified or compliance was achieved.*

17 SEC. 3. Section 116470 of the Health and Safety Code is
18 amended to read:

19 116470. (a) As a condition of its operating permit, every
20 public water system shall annually prepare a consumer confidence
21 report and mail or deliver a copy of that report to each customer,
22 other than an occupant, as defined in Section 799.28 of the Civil
23 Code, of a recreational vehicle park. *The report shall, if the public*
24 *water system has an Internet Web site, also be posted on the public*
25 *water system's Internet Web site.* A public water system in a
26 recreational vehicle park with occupants as defined in Section
27 799.28 of the Civil Code shall prominently display on a bulletin
28 board at the entrance to or in the office of the park, and make
29 available upon request, a copy of the report. The report shall
30 include all of the following information:

31 (1) The source of the water purveyed by the public water
32 system.

33 (2) A brief and plainly worded definition of the terms
34 "maximum contaminant level," "primary drinking water standard,"
35 and "public health goal."

36 (3) If any regulated contaminant is detected in public drinking
37 water supplied by the system during the past year, the report shall
38 include all of the following information:

1 (A) The level of the contaminant found in the drinking water,
2 and the corresponding public health goal and primary drinking
3 water standard for that contaminant.

4 (B) Any violations of the primary drinking water standard that
5 have occurred as a result of the presence of the contaminant in the
6 drinking water and a brief and plainly worded statement of health
7 concerns that resulted in the regulation of that contaminant.

8 (C) The public water system's address and *the* phone number
9 to enable customers to obtain further information concerning
10 contaminants and potential health effects.

11 (4) Information on the levels of unregulated contaminants, if
12 any, for which monitoring is required pursuant to state or federal
13 law or regulation.

14 (5) Disclosure of any variances or exemptions from primary
15 drinking water standards granted to the system and the basis
16 therefor.

17 (b) On or before July 1, 1998, and every three years thereafter,
18 public water systems serving more than 10,000 service connections
19 that detect one or more contaminants in drinking water that exceed
20 the applicable public health goal, shall prepare a brief written report
21 in plain language that does all of the following:

22 (1) Identifies each contaminant detected in drinking water that
23 exceeds the applicable public health goal.

24 (2) Discloses the numerical public health risk, determined by
25 the office, associated with the maximum contaminant level for
26 each contaminant identified in paragraph (1) and the numerical
27 public health risk determined by the office associated with the
28 public health goal for that contaminant.

29 (3) Identifies the category of risk to public health, including,
30 but not limited to, carcinogenic, mutagenic, teratogenic, and acute
31 toxicity, associated with exposure to the contaminant in drinking
32 water, and includes a brief plainly worded description of these
33 terms.

34 (4) Describes the best available technology, if any is then
35 available on a commercial basis, to remove the contaminant or
36 reduce the concentration of the contaminant. The public water
37 system may, solely at its own discretion, briefly describe actions
38 that have been taken on its own, or by other entities, to prevent
39 the introduction of the contaminant into drinking water supplies.

(5) Estimates the aggregate cost and the cost per customer of utilizing the technology described in paragraph (4), if any, to reduce the concentration of that contaminant in drinking water to a level at or below the public health goal.

(6) Briefly describes what action, if any, the local water purveyor intends to take to reduce the concentration of the contaminant in public drinking water supplies and the basis for that decision.

(c) Public water systems required to prepare a report pursuant to subdivision (b) shall hold a public hearing for the purpose of accepting and responding to public comment on the report. Public water systems may hold the public hearing as part of any regularly scheduled meeting.

(d) The department shall not require a public water system to take any action to reduce or eliminate any exceedance of a public health goal.

(e) Enforcement of this section does not require the department to amend a public water system's operating permit.

(f) Pending adoption of a public health goal by the Office of Environmental Health Hazard Assessment pursuant to subdivision (c) of Section 116365, and in lieu thereof, public water systems shall use the national maximum contaminant level goal adopted by the United States Environmental Protection Agency for the corresponding contaminant for purposes of complying with the notice and hearing requirements of this section.

(g) This section is intended to provide an alternative form for the federally required consumer confidence report as authorized by 42 U.S.C. Section 300g-3(c).

(h) A public water system that is required to include in its consumer confidence report the information described in paragraph (3) of subdivision (a), and that is required to post its consumer confidence report on its Internet Web site pursuant to subdivision (a), may, upon rectifying the problem or complying with the standard that required inclusion of the information described in paragraph (3) of subdivision (a), do either of the following:

(1) Remove the information required by paragraph (3) of subdivision (a), from the consumer confidence report that is posted on the public water system's Internet Web site.

- 1 (2) *Amend the consumer confidence report posted on the public*
- 2 *water system's Internet Web site to include the date on which the*
- 3 *problem identified in the information required pursuant paragraph*
- 4 *(3) of subdivision (a) was rectified or compliance was achieved.*

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