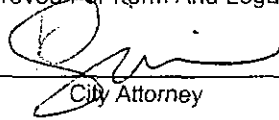


OFFICE OF THE CLERK
Introduced By: 11:01 AM
COUNCIL
2008 Councilmember 5:06

Approved For Form And Legality


City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

**RESOLUTION SUPPORTING SENATE BILL 1334 (CALDERON), AS AMENDED,
WHICH WILL AMEND CALIFORNIA HEALTH AND SAFETY CODE SECTION
116875 AND REQUIRE INDEPENDENT TESTING OF LEAD CONTENT IN
PRODUCTS CONVEYING AND DISPENSING WATER FOR HUMAN
CONSUMPTION**

WHEREAS, Senate Bill 1334 (Calderon), as amended on April 7, 2008, to link its enactment with the enactment of Senate Bill 1395 (Corbett), is currently pending in the California legislature; and

WHEREAS, California Health and Safety Code section 116875 currently regulates the levels of lead (amount by weight) contained in faucets, pipes, fittings, solder, and related manufactured products sold in California and used to convey and dispense water for human consumption; and

WHEREAS, said statute does not currently regulate the methodology used or the analyzers employed by manufactures to determine the levels of lead in said manufactured products; and

WHEREAS, said bill, as amended, will require that said lead testing shall be in accordance with the protocols used by the California Department of Toxic Substance Controls; and

WHEREAS, the Alameda County Board of Supervisors, the Alameda County Lead Poisoning Prevention Program, the East Bay Municipal Utility District, and the Building Services Division of the Community and Economic Development Agency have recommended that SB 1334, as amended, be enacted by the California Legislature; now, therefore, be it

RESOLVED: That the Council of the City of Oakland proclaims its support of California Senate Bill 1334 (Calderon), as amended, and authorizes the City Administrator to instruct the Legislative Lobbyist for the City to support the passage of SB 1334, as amended.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2008

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND
PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

BILL NUMBER: SB 1334 AMENDED

AMENDED IN SENATE APRIL 16, 2008

AMENDED IN SENATE APRIL 7, 2008

INTRODUCED BY Senator Calderon

FEBRUARY 20, 2008

An act to amend Section 116875 of the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

SB 1334, as amended, Calderon. Drinking water: pipes and fittings: lead content.

Existing law, with certain exceptions, prohibits the use of any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free, as defined, in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption. Existing law, commencing on January 1, 2010, revises this prohibition to, with certain exceptions, apply to any pipe or plumbing fitting, or fixture intended to convey or dispense water for human consumption. Existing law prohibits the introduction into commerce of any pipe, pipe or plumbing fitting, or fixture that is not lead free, except for a pipe that is used in manufacturing or industrial processing. Existing law defines lead free as not more than 8% lead when used with respect to pipes and fittings, and not more than 4% by dry weight with respect to plumbing fittings and fixtures. Existing law, commencing on January 1, 2010, revises the term "lead free," for purposes of manufacturing, industrial processing, and conveying or dispensing water for human consumption, to refer not to the lead content of pipes and pipe fittings, plumbing fittings, and fixtures, but instead, to refer to a weighted average lead content of the wetted surface area of the pipes, fittings, and fixtures of not more than 0.25%, to be determined pursuant to a prescribed formula. Existing law requires the State Department of Public Health to develop building standards to implement the above-described provisions, and requires these standards to be enforced by the appropriate state and local building and health officials. This bill would also require that the plumbing material be certified for compliance with these provisions by an independent 3rd party, as provided, and would specify that, notwithstanding this requirement, the department shall retain its authority in implementing the above-described provisions.

The bill would provide that its provisions shall only become operative if SB 1395, of the 2007-08 Regular Session, is enacted and becomes operative on or before January 1, 2009.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 116875 of the Health and Safety Code, as amended by Section 1 of Chapter 853 of the Statutes of 2006, is amended to read:

116875.

(a) No person shall use any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility

providing water for human consumption, except when necessary for the repair of leaded joints of cast iron pipes.

- (b) No person shall introduce into commerce any pipe, pipe or plumbing fitting, or fixture, that is not lead free, except for a pipe that is used in manufacturing or industrial processing.
- (c) No person engaged in the business of selling plumbing supplies, except manufacturers, shall sell solder or flux that is not lead free.
- (d) No person shall introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.
- (e) For the purposes of this section, "lead free" means not more than 0.2 percent lead when used with respect to solder and flux and not more than 8 percent when used with respect to pipes and pipe fittings. With respect to plumbing fittings and fixtures, "lead free" means not more than 4 percent by dry weight after August 6, 2002, unless the department has adopted a standard, based on health effects, for the leaching of lead.
- (f) (1) All pipe, pipe or plumbing fittings or fixtures, solder, or flux shall be certified by an independent American National Standards Institute (ANSI) accredited third-party, including, but not limited to, NSF International, as being in compliance with this section.
 - (2) (A) The certification described in paragraph (1) shall, at a minimum, include testing of materials in accordance with the protocols used by the Department of Toxic Substances Control in implementing Article 10.1.2 (commencing with Section 25214.4.3) of Chapter 6.5 of Division 20.
 - (B) The certification required pursuant to this subdivision shall not interfere with either the department's exercise of its independent authority to protect public health pursuant to this section, or the Department of Toxic Substances Control's exercise of its independent authority to implement Article 10.1.2 (commencing with Section 25214.4.3) of Chapter 6.5 of Division 20.
- (3) It is the intent of the Legislature that this subdivision only provide guidance and assistance to the entities that use an independent ANSI accredited third-party to demonstrate compliance with this section. Any tests developed by an independent ANSI accredited third-party in accordance with this subdivision shall have no weight of authority under California statute.
- (4) Notwithstanding paragraph (1), the department shall retain its independent authority in administering this article. (g) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 2. Section 116875 of the Health and Safety Code, as added by Section 2 of Chapter 853 of the Statutes of 2006, is amended to read:

116875.

- (a) No person shall use any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption, except when necessary for the repair of leaded joints of cast iron pipes.

- (b) (1)** No person shall introduce into commerce any pipe, pipe or plumbing fitting, or fixture intended to convey or dispense water for human consumption through drinking or cooking that is not lead free, as defined in subdivision (e). This includes kitchen faucets, bathroom faucets, and any other end-use devices intended to convey or dispense water for human consumption through drinking or cooking, but excludes service saddles, backflow preventers for nonpotable services such as irrigation and industrial, and water distribution main gate valves that are two inches in diameter and above.
- (2)** Pipes, pipe or plumbing fittings, or fixtures that are used in manufacturing, industrial processing, for irrigation purposes, and any other uses where the water is not intended for human consumption through drinking or cooking are not subject to the requirements of paragraph (1).
- (3)** For all purposes other than manufacturing, industrial processing, or to convey or dispense water for human consumption, "lead free" is defined in subdivision (f).
- (c)** No person engaged in the business of selling plumbing supplies, except manufacturers, shall sell solder or flux that is not lead free.
- (d)** No person shall introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.
- (e)** For the purposes of this section, "lead free" means not more than 0.2 percent lead when used with respect to solder and flux and not more than a weighted average of 0.25 percent when used with respect to the wetted surfaces of pipes and pipe fittings, plumbing fittings, and fixtures. The weighted average lead content of a pipe and pipe fitting, plumbing fitting, and fixture shall be calculated by using the following formula: The percentage of lead content within each component that comes into contact with water shall be multiplied by the percent of the total wetted surface of the entire pipe and pipe fitting, plumbing fitting, or fixture represented in each component containing lead. These percentages shall be added and the sum shall constitute the weighted average lead content of the pipe and pipe fitting, plumbing fitting, or fixture.
- (f)** For the purposes of paragraph (3) of subdivision (b), "lead free," consistent with the requirements of federal law, means not more than 0.2 percent lead when used with respect to solder and flux and not more than 8 percent when used with respect to pipes and pipe fittings. With respect to plumbing fittings and fixtures, "lead free" means not more than 4 percent by dry weight after August 6, 2002, unless the department has adopted a standard, based on health effects, for the leaching of lead.
- (g) (1)** All pipe, pipe or plumbing fittings or fixtures, solder, or flux shall be certified by an independent American National Standards Institute (ANSI) accredited third-party, including, but not limited to, NSF International, as being in compliance with this section.
- (2) (A)** The certification described in paragraph (1) shall, at a minimum, include testing of materials in accordance with the protocols used by the Department of Toxic Substances Control in implementing Article 10.1.2 (commencing with Section 25214.4.3) of Chapter 6.5 of Division 20.
- (B)** The certification required pursuant to this subdivision shall not interfere with either the department's exercise of its independent authority to protect public health pursuant to

this section, or the Department of Toxic Substances Control's exercise of its independent authority to implement Article 10.1.2 (commencing with Section 25214.4.3) of Chapter 6.5 of Division 20.

(3) It is the intent of the Legislature that this subdivision only provide guidance and assistance to the entities that use an independent ANSI accredited third-party to demonstrate compliance with this section. Any tests developed by an independent ANSI accredited third-party in accordance with this subdivision shall have no weight of authority under California statute.

(4) Notwithstanding paragraph (1), the department shall retain its independent authority in administering this article.

(h) This section shall become operative on January 1, 2010. The ~~certification~~ requirement described in subdivision

(g) shall not be construed in any manner as to justify a delay in compliance with the lead-free standard set forth in subdivision (e).

SEC. 3. This act shall only become operative if Senate Bill 1395, of the 2007-08 Regular Session, is enacted and becomes operative on or before January 1, 2009.

Bill No: **SB 1334**
Author: Calderon (D)
Amended: 4/16/08
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 4/9/08

AYES: Kuehl, Aanestad, Alquist, Cedillo, Cox, Maldonado,
Negrete McLeod, Steinberg, Wyland, Yee

NO VOTE RECORDED: Ridley-Thomas

SENATE ENVIRONMENTAL QUALITY COMMITTEE : 7-0, 4/14/08

AYES: Simitian, Runner, Aanestad, Florez, Kuehl,
Lowenthal, Steinberg

SUBJECT: Drinking water: pipes and fittings: lead content

SOURCE: Plumbing Manufacturers Institute

DIGEST: This bill provides a process for the certification of compliant pipe, pipe or plumbing fittings or fixtures, solder, or flux by an American National Standards Institute accredited third-party, including, but not limited to, the National Sanitation Foundation International.

ANALYSIS :

Existing law:

1. Defines "lead free," as of January 1, 2010, for the purpose of manufacturing, industrial processing, and conveying or dispensing water for human consumption, to refer to a weighted average lead content of the wetted surface area of the pipes, fittings, and fixtures of not more than 0.25 percent, to be determined pursuant to a prescribed formula.
2. Prohibits, commencing January 1, 2010, the introduction into commerce any pipe, pipe or plumbing fitting, or fixture that is not lead free, except for a pipe that is used in manufacturing or industrial processing.

This bill:

1. Provides a process for the certification of compliant pipe, pipe or plumbing fittings or fixtures, solder, or flux by an American National Standards Institute (ANSI) accredited third-party, including, but not limited to, the National Sanitation Foundation International.
 - A. Provides that, at a minimum, the testing of materials shall be in accordance with the specified protocols used by the Department of Toxic Substances Control, i.e., in accordance with the lead plumbing monitoring and compliance testing protocols as contained in SB 1395.
 - B. Stipulates that the certification process shall not interfere with either the department's exercise of its independent authority to protect public health or the department's exercise of its independent authority to implement SB 1395.

- C. Provides Legislative intent that the foregoing provisions provide guidance and assistance to the entities that use an independent ANSI accredited third-party to demonstrate compliance and that any tests developed by an independent ANSI accredited third-party shall have no weight of authority under California statute.
 - D. States that the department shall retain its independent authority to administer this article, notwithstanding provisions providing for the certification of compliant product by a third-party described in this act.
 - E. Repeals the provisions relating to the California "lead free" standard as of January 1, 2010, unless otherwise changed by subsequent enactment of another statute effecting these provisions.
 - F. Makes operative a set of essentially parallel provisions as of January 1, 2010 and mandates that the third-party certification process shall not be construed in any manner to justify as delay in compliance with the lead-free standard set forth in the original legislation.
2. Makes the enactment of this bill contingent on the enactment of SB 1395 during the 2007-08 Regular Session; and, that SB 1395 becomes operative on or before January 1, 2009.

Background

Lead is a highly toxic substance, and exposure to it can produce a wide range of adverse health effects. There are many ways in which humans are exposed to lead, including through deteriorating paint, household dust, bare soil, air, drinking water, food, ceramics, home remedies, hair dyes and other cosmetics. Young children under the age of six are especially vulnerable to lead's harmful health effects, because their brains and central nervous system are still being formed. Even very low levels of exposure can result in reduced IQ, learning disabilities, attention deficit disorders, behavioral problems, stunted growth, impaired hearing, and kidney damage in children. According to the Centers for Disease Control and Prevention (CDC), there is no level of lead in a child's blood that can be specified as safe, and the CDC has emphasized the need to make primary prevention of lead poisoning, through interventions that control or eliminate lead hazards before children are exposed, a high priority for health, housing, and environmental agencies. It is estimated that 14 percent to 20 percent of total childhood lead exposure is from drinking water. It takes a significantly greater level of exposure to lead for adults than for children to sustain adverse health effects. However, in adults, lead can increase blood pressure and cause fertility problems, nerve disorders, muscle and joint pain, irritability, and memory or concentration problems.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 4/15/08)

Plumbing Manufacturers Institute (source)
California Building Industry Association
California State Pipe Trade Council

OPPOSITION: (Verified 4/15/08)

Plastic Pipe and Fitting Association

ARGUMENTS IN SUPPORT:

The Plumbing Manufacturers Institute (PMI) writes that this bill would work pro-actively to help prevent consumers from unknowingly purchasing water faucets and other fixtures that do not comply with the new state standard that takes effect on January 1, 2010. PMI further states that this bill provides a measure of protection so that California consumers purchasing products, including drinking water faucets, will not be buying products that have more than .25 percent lead as set forth in the law.

ARGUMENTS IN OPPOSITION:

The Plastic Pipe and Fittings Association is requesting that the bill be modified so that any new certification applies only to components that use lead in the manufacture of the item; and, to state that the certification does not apply to plastic or copper pipe, fittings and fixtures.

CTW:nl 4/15/08 Senate Floor Analyses