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SYNOPSIS
Requires registration, inspection, testing, cleaning, and disinfection of cooling towers to control outbreaks of Legionnaire’s Disease.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.
AN ACT concerning cooling towers and supplementing Title 26 of
the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. As used in this act:
   “Commissioner” means the Commissioner of Health.
   “Cooling tower” means a cooling tower, evaporative condenser,
or fluid cooler that is part of a recirculated water system
incorporated into a building’s cooling, industrial process,
refrigeration, or energy production system.
“Department” means the Department of Health.

2. a. (1) The owner of a building at which a cooling tower is
   newly installed on or after the effective date of this act shall register
   the cooling tower with the department prior to initial operation of
   the cooling tower.
   (2) The owner of a building at which a cooling tower exists
   prior to the effective date of this act shall register the cooling tower
   no later than 30 days after the effective date of this act. If the
   owner has permanently discontinued use of the cooling tower prior
to the effective date of this act, the owner shall not be required to
register the cooling tower but shall, within 30 days after the
effective date of this act, notify the commissioner of such
permanent discontinuation of use.
   b. The registration required under subsection a. of this section
   shall be on a form and in a manner as required by the commissioner,
   and shall include the following information:
      (1) the address of the building where the cooling tower is
located;
      (2) the intended use of the cooling tower;
      (3) the name, address, telephone number, and email address of
the owner of the building;
      (4) the manufacturer, model number, and specific unit serial
number of the cooling tower;
      (5) the cooling capacity and basin capacity of the cooling tower;
      (6) the commissioning date of the cooling tower;
      (7) the name, address, telephone number, and email address of
the designated operator of the cooling tower, if any; and
      (8) any other information as the commissioner may require.
   c. The owner of a building at which a cooling tower is located
shall notify the department within 30 days after removing or
permanently discontinuing use of a cooling tower. Such notice
shall include a statement certifying that the cooling tower has been
drained and sanitized in accordance with department requirements.
A cooling tower which has been removed or permanently
discontinued from use shall not be subject to the provisions of
sections 3, 4, 6, or 7 of P.L. , c. (C. ) (pending before the Legislature as this bill).

3. a. The owner of a building where a cooling tower is located shall inspect, test, clean, and disinfect the cooling tower in accordance with this section and with such requirements as the department may adopt by regulation. The owner may designate a qualified operator to ensure that the requirements of this section are met, except that the owner shall be solely liable to any civil or criminal penalties that may apply for a violation of the provisions of this act.

b. The building owner shall develop and implement a maintenance program and plan for the cooling tower consistent with the manufacturer’s instructions and with the current standards and guidelines published by the American Society of Heating, Refrigeration, and Air-Conditioning Engineers.

c. The building owner shall ensure that a cooling tower that has been shut down for more than five days is cleaned and disinfected no more than 15 days before the tower is put into use.

d. Each cooling tower shall be inspected and tested at least once every three months during any period of the year during which the cooling tower is in use. The inspection shall:

(1) Include an evaluation of the cooling tower and associated equipment for the presence of organic material, biofilm, algae, and other visible contaminants; and

(2) Include a test for the presence of microbes in the water of the cooling tower. For the purposes of this testing, the department shall establish by regulation:

(a) the targets and acceptable methods of microbial testing and laboratory analysis;

(b) the levels of microbes in cooling towers that are indicative of a maintenance deficiency requiring mitigation, including, but not limited to, maintenance to prevent potential health risks; and

(c) the levels of microbes in cooling towers that present a serious health threat and require immediate action and reporting.

e. (1) When the results of a test conducted under paragraph (2) of subsection d. of this section indicate levels of microbes that are indicative of a maintenance deficiency requiring mitigation, including, but not limited to, maintenance to prevent potential health risks, the owner of the building shall, within 48 hours after the owner knows or should reasonably know of the results, clean and disinfect the cooling tower in accordance with department regulations.

(2) When the results of a test conducted under paragraph (2) of subsection d. of this section indicate levels of microbes that present a serious health threat, the owner of the building shall, within 24 hours after the owner knows or should reasonably know of the results, notify the department of the results and clean and disinfect
the cooling tower, including an additional application of biocide, in accordance with department regulations.

(3) If the building owner or a designated operator does not clean and disinfect a cooling tower within the time requirements set forth in this subsection, the department may serve an order on the owner requiring compliance within a specified time. If the owner does not comply with the order, the department may execute the required cleaning and disinfection and may recover the costs of the cleaning and disinfection from the owner. In addition to any civil penalty as may apply, an owner who knowingly fails to comply with an order issued under this subsection shall be guilty of a crime of the fourth degree. It shall not be a defense to a violation of this paragraph that the owner designated an operator for the cooling tower.

f. The cleaning, disinfection, and inspection of a cooling tower, and the development of a maintenance program and plan for a cooling tower, shall be performed by or under the supervision of a qualified person.

4. a. The owner of a building where a cooling tower is located shall file a certification no later than November 1 each year certifying that the cooling tower was inspected, tested, cleaned, and disinfected, and that a maintenance program and plan has been developed and implemented for the cooling tower, in accordance with the requirements of section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill).

b. The building owner shall maintain records of all inspections and tests performed on a cooling tower for at least three years, and shall maintain a copy of the maintenance program and plan developed for the cooling tower on the premises where the cooling tower is located. The records and copy of the maintenance program and plan shall be made available to the department upon request.

5. The department may establish reasonable fees for the registration, discontinuation of use, and annual certification of a cooling tower.

6. a. A building owner who fails to register a cooling tower or provide notice of discontinued use of a cooling tower as required under section 2 of P.L. , c. (C. ) (pending before the Legislature as this bill), who fails to meet the inspection, testing, cleaning, and disinfection requirements or submit an annual certification as required under section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), or who fails to meet the recordkeeping requirements under section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill), shall be liable to a civil penalty of not more than $2,000 for a first violation, and not more than $5,000 for a second or subsequent violation, except that the owner shall be liable to a civil penalty of
not more than $10,000 for any violation which causes serious injury
or death to any person.

b. A penalty recovered under the provisions of this section
shall be recovered by and in the name of the commissioner and shall
be paid by the commissioner into the treasury of the State.

c. Every municipal court shall have jurisdiction over
proceedings to enforce and collect any penalty imposed because of
a violation of any provision of this act, if the violation has occurred
within the territorial jurisdiction of the court. The proceedings shall
be summary and in accordance with the "Penalty Enforcement Law
the nature of a summons or warrant and shall issue only at the suit
of the commissioner as plaintiff.

7. No later than one year after the effective date of this act, and
annually thereafter, the commissioner shall submit a report to the
Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
19.1), to the Legislature, which report shall include:
   a. the number of new cooling tower registrations and the
      number of notifications of removal or permanently discontinued use
      of a cooling tower which have been received by the department;
   b. the number of certifications which have been received by the
department indicating that a cooling tower was inspected, tested,
cleaned, and disinfected;
   c. the number of reported test results received by the
      department which indicate the presence of microbes at levels that
      present a serious health threat;
   d. the number and type of violations of this act for which
      penalties were assessed;
   e. the number of cleanings and disinfections executed by the
      department or another State agency pursuant to paragraph (3) of
      subsection e. of section 3 of P.L.  , c.  (C. ) (pending before
the Legislature as this bill);
   f. the number of cases of Legionnaire’s disease reported in
each of the previous 10 years; and
   g. recommendations for such legislative action as may be
      necessary to further control microbial contamination of cooling
towers and other building water systems.

8. The Commissioner of Health, in consultation with the
Department of Environmental Protection, shall adopt rules and
regulations pursuant to the “Administrative Procedure Act,”
P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions
of this act.

9. This act shall take effect immediately.
This bill requires the registration, inspection, testing, cleaning, and disinfection of cooling towers. Cooling towers, which use a recirculated water system, are associated with outbreaks of Legionnaire’s Disease, a respiratory condition characterized by pneumonia-like symptoms which can, in severe cases, result in death. Legionnaire’s Disease is caused by contamination with Legionella bacteria, which grow in water and are spread through inhalation of contaminated mist or vapor. It is the sponsor’s belief that establishing requirements for the inspection, testing, cleaning, and disinfection of cooling towers will help prevent future outbreaks of Legionnaire’s Disease.

Under the bill, the owner of a building at which a cooling tower is located will be required to register the cooling tower with the Department of Health (DOH) prior to initial operation of the cooling tower or, in the case of a currently-existing cooling tower, within 30 days of the effective date of the bill. The registration will include the owner’s contact information and details concerning the cooling tower’s specifications.

The owner will additionally be required to meet certain requirements for inspecting, testing, cleaning, and disinfecting the cooling tower, and will be required to develop and implement a maintenance program and plan for the cooling tower consistent with the manufacturer’s instructions and with the current standards and guidelines published by the American Society of Heating, Refrigeration, and Air-Conditioning Engineers.

Specifically, the owner will be required to ensure that a cooling tower that has been shut down for more than five days is cleaned and disinfected no more than 15 days before the tower is put into use, and that each cooling tower is inspected and tested for evidence of organic material, biofilm, algae, and other visible contaminants, as well as microbial contamination, at least once every three months during any period of the year during which the cooling tower is in use.

The owner will be required to certify to DOH that the inspection, testing, cleaning, and disinfection requirements have been met no later than November 1 of each year. The owner will be required to maintain records of inspections, tests, cleanings, and disinfections for three years, and will be required to maintain a copy of the maintenance program and plan on the premises at all times. The records and maintenance documents will be made available for DOH inspection at any time.

An owner who fails to meet the registration, inspection, testing, cleaning, disinfection, certification, or recordkeeping requirements of the bill will be liable to a civil penalty of not more than $2,000 for a first violation and not more than $5,000 for a second or subsequent violation, except that the owner will be liable to a civil
penalty of not more than $10,000 for any violation which leads to
the serious injury or death of any person. Penalties will be
recovered by and in the name of the Commissioner of Health and
will be paid by the commissioner into the treasury of the State.

In addition, when testing detects levels of microbes that indicate
a maintenance deficiency requiring mitigation, the owner will be
required to clean and disinfect the cooling tower within 48 hours;
when test results indicate levels of microbes that present a serious
health threat, the owner will be required to notify DOH and clean
and disinfect the cooling tower within 24 hours. If an owner does
not clean and disinfect the cooling tower within these time limits,
the department may serve an order on the owner requiring
compliance within a specified time. If the owner does not comply
with the order, the department may complete the required cleaning
and disinfection and may recover the costs of cleaning and
disinfection from the owner. In addition, an owner who knowingly
fails to comply with an order would be guilty of a crime of the
fourth degree, which is punishable by imprisonment for up to 18
months, up to a $10,000 fine, or both.

The bill requires that the inspection, testing, cleaning, and
disinfection of a cooling tower, and the development of a
maintenance program and plan for the cooling tower, be conducted
by or under the supervision of a qualified person. The owner of a
building would be permitted to designate a qualified operator to
carry out the inspection, testing, cleaning, and disinfecting
requirements; however, the owner would be solely liable for any
civil or criminal penalties for a violation.

If the owner of a building where a cooling tower is located
removes or permanently discontinues use of a cooling tower, the
owner will be required to notify DOH within 30 days, and include
with the notice a statement that the cooling tower has been drained
and sanitized. The owner will thereafter not be required to meet the
requirements of the bill with respect to that cooling tower.

The department will be permitted to establish reasonable fees for
the registration, discontinuation of use, and annual certification of
cooling towers.

The commissioner will be required to annually report to the
Governor and to the Legislature concerning compliance with the
requirements of the bill, including the number of reported tests that
found microbes at levels that present a serious health threat, the
number of cases of Legionnaire’s disease reported in each of the
previous 10 years, and the commissioner’s recommendations for
further legislative action.