

# ASSEMBLY, No. 1657

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

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**District 29 (Essex)**

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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.



1 AN ACT concerning cooling towers and supplementing Title 26 of  
2 the Revised Statutes.

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

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7 1. As used in this act:

8 “Commissioner” means the Commissioner of Health.

9 “Cooling tower” means a cooling tower, evaporative condenser,  
10 or fluid cooler that is part of a recirculated water system  
11 incorporated into a building’s cooling, industrial process,  
12 refrigeration, or energy production system.

13 “Department” means the Department of Health.

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15 2. a. (1) The owner of a building at which a cooling tower is  
16 newly installed on or after the effective date of this act shall register  
17 the cooling tower with the department prior to initial operation of  
18 the cooling tower.

19 (2) The owner of a building at which a cooling tower exists  
20 prior to the effective date of this act shall register the cooling tower  
21 no later than 30 days after the effective date of this act. If the  
22 owner has permanently discontinued use of the cooling tower prior  
23 to the effective date of this act, the owner shall not be required to  
24 register the cooling tower but shall, within 30 days after the  
25 effective date of this act, notify the commissioner of such  
26 permanent discontinuation of use.

27 b. The registration required under subsection a. of this section  
28 shall be on a form and in a manner as required by the commissioner,  
29 and shall include the following information:

30 (1) the address of the building where the cooling tower is  
31 located;

32 (2) the intended use of the cooling tower;

33 (3) the name, address, telephone number, and email address of  
34 the owner of the building;

35 (4) the manufacturer, model number, and specific unit serial  
36 number of the cooling tower;

37 (5) the cooling capacity and basin capacity of the cooling tower;

38 (6) the commissioning date of the cooling tower;

39 (7) the name, address, telephone number, and email address of  
40 the designated operator of the cooling tower, if any; and

41 (8) any other information as the commissioner may require.

42 c. The owner of a building at which a cooling tower is located  
43 shall notify the department within 30 days after removing or  
44 permanently discontinuing use of a cooling tower. Such notice  
45 shall include a statement certifying that the cooling tower has been  
46 drained and sanitized in accordance with department requirements.  
47 A cooling tower which has been removed or permanently  
48 discontinued from use shall not be subject to the provisions of

1 sections 3, 4, 6, or 7 of P.L. , c. (C. ) (pending before the  
2 Legislature as this bill).

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

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

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

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

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

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

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

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

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

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

44 (2) When the results of a test conducted under paragraph (2) of  
45 subsection d. of this section indicate levels of microbes that present  
46 a serious health threat, the owner of the building shall, within 24  
47 hours after the owner knows or should reasonably know of the  
48 results, notify the department of the results and clean and disinfect

1 the cooling tower, including an additional application of biocide, in  
2 accordance with department regulations.

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

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

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

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

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

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37 6. a. A building owner who fails to register a cooling tower or  
38 provide notice of discontinued use of a cooling tower as required  
39 under section 2 of P.L. , c. (C. ) (pending before the  
40 Legislature as this bill), who fails to meet the inspection, testing,  
41 cleaning, and disinfection requirements or submit an annual  
42 certification as required under section 3 of P.L. ,  
43 c. (C. ) (pending before the Legislature as this bill), or who  
44 fails to meet the recordkeeping requirements under section 4 of  
45 P.L. , c. (C. ) (pending before the Legislature as this bill),  
46 shall be liable to a civil penalty of not more than \$2,000 for a first  
47 violation, and not more than \$5,000 for a second or subsequent  
48 violation, except that the owner shall be liable to a civil penalty of

1 not more than \$10,000 for any violation which causes serious injury  
2 or death to any person.

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

6 c. Every municipal court shall have jurisdiction over  
7 proceedings to enforce and collect any penalty imposed because of  
8 a violation of any provision of this act, if the violation has occurred  
9 within the territorial jurisdiction of the court. The proceedings shall  
10 be summary and in accordance with the "Penalty Enforcement Law  
11 of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Process shall be in  
12 the nature of a summons or warrant and shall issue only at the suit  
13 of the commissioner as plaintiff.

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15 7. No later than one year after the effective date of this act, and  
16 annually thereafter, the commissioner shall submit a report to the  
17 Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
18 19.1), to the Legislature, which report shall include:

19 a. the number of new cooling tower registrations and the  
20 number of notifications of removal or permanently discontinued use  
21 of a cooling tower which have been received by the department;

22 b. the number of certifications which have been received by the  
23 department indicating that a cooling tower was inspected, tested,  
24 cleaned, and disinfected;

25 c. the number of reported test results received by the  
26 department which indicate the presence of microbes at levels that  
27 present a serious health threat;

28 d. the number and type of violations of this act for which  
29 penalties were assessed;

30 e. the number of cleanings and disinfections executed by the  
31 department or another State agency pursuant to paragraph (3) of  
32 subsection e. of section 3 of P.L. , c. (C. ) (pending before  
33 the Legislature as this bill);

34 f. the number of cases of Legionnaire's disease reported in  
35 each of the previous 10 years; and

36 g. recommendations for such legislative action as may be  
37 necessary to further control microbial contamination of cooling  
38 towers and other building water systems.

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

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46 9. This act shall take effect immediately.

STATEMENT

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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

1 penalty of not more than \$10,000 for any violation which leads to  
2 the serious injury or death of any person. Penalties will be  
3 recovered by and in the name of the Commissioner of Health and  
4 will be paid by the commissioner into the treasury of the State.

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

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

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

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

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