



MEMORANDUM

TO: PA Senate Democratic Policy Committee

FROM: David Crow
Business Development Manager
Water Safety Group

DATE: May 5, 2021

RE: The Legionnaires' Disease Prevention and Reporting Act - (SB 1285 of the 2019-20 Legislative Session)

Chairwoman Muth and esteemed members of the Senate Democratic Policy Committee, I would like to thank you for the opportunity to submit these written remarks concerning the prevention of Legionnaires disease as proposed in SB 1285 from the 2019-20 legislative session. My name is David Crow, and I am employed by Garratt-Callahan Company as ASSE 12080 Certified in Legionella Water Safety & Management and as a Water Treatment Specialist Class III. My area of expertise and employment includes the development and implementation of water management plans, risk assessments, *Legionella* testing, emergency disinfections, and supplemental disinfection. I applaud Senator Fontana's commitment to preventing Legionnaires' disease and support the enactment of sound public policy further protects Commonwealth citizens from Legionnaires' disease and other waterborne pathogens.

Garratt-Callahan Company currently has 6 employees living in or with customers in the Commonwealth of Pennsylvania. These employees are actively involved in *Legionella* testing, water management plans, risk assessments, emergency disinfections, new construction disinfection and supplemental disinfection. Garratt-Callahan employees include licensed operators of supplemental disinfection in building water systems. These supplemental disinfection systems are a direct result of *Legionella pneumophila* outbreaks in building water systems that unfortunately have resulted in Legionnaires' disease and some deaths.

Many of those customers would be bound by the provisions of SB 1285, which, if modified appropriately, will help protect our employees, families, and loved ones, some of which have been adversely impacted by *Legionella pneumophila* to include deaths and costly remediations that can run into the millions of dollars. Hence, I would like to focus my comments on four distinct areas contained in SB 1285 from the 2019-20 legislative session that should be amended to lessen the burden of economic impact to the building owner while still ensuring citizens are protected. Those four areas include:



- Minimum testing standard should be for *Legionella pneumophila*
- A barrier is placed by only allowing for CDC ELITE labs instead of state accredited labs
- DEP requirements in this bill are duplicative of other passed legislation
- The state should enact supplemental disinfection for buildings under 40 CFR 141.29

Minimum Testing Standard for *Legionella pneumophila*

The minimum standard for testing as proposed in SB 1285 from the 2019-20 session should be for *Legionella pneumophila* instead of all *Legionella* species. Examining a list of outbreaks since 2000 will show >98.5% of all outbreaks are from *L. pneumophila*. An analogy is simple, in today's environment and the current COVID 19 pandemic, when people are tested, it is for COVID 19 and not for all COVID viruses. The cost of additional testing and monitoring becomes an unfunded mandate from the state to business owners.

Garratt-Callahan has been involved in outbreaks where both *L. pneumophila* and other *Legionella* species have been present. It was *L. pneumophila* that caused the infection. Remediation through hyper-disinfection eliminated *L. pneumophila* while some species of *Legionella* remained. This led to weeks and months and round after round of testing and hyper-disinfection to eliminate all *Legionella* species. The extra testing resulted in long term permanent measures being delayed because of the testing. For a large hospital, the amount of money that will be spent can easily run into the millions of dollars. For a small community hospital, it can mean hundreds of thousands of dollars that can put the facility in danger of bankruptcy.

CDC ELITE Labs Instead of State Accredited Labs

SB 1285 from the 2019-20 legislative session requires all laboratories to maintain CDC Elite status, which is unnecessary, cost prohibitive, and anticompetitive. The original concept was to require the CDC Elite certification for laboratories that could identify *Legionella* specifically during an outbreak. The Commonwealth of Pennsylvania has already established minimum competencies for laboratories within its borders. The need for CDC ELITE status is redundant. For a lab to be able to report out *Legionella* it already requires on going testing to show the lab can identify *Legionella* as well as any other organism it is permitted to test. Requiring extra certifications restricts the number of labs available for testing and decreases competition.

In general, anytime legislation mentions one designation over another, it is picking winners and losers. The legislation should be amended to permit allowances to be made for improvements in technology and advancements in regulations and standards. Where certifications or standards are mentioned, I recommend inserting terminology that permits like "or equal" or "nationally recognized by government or industry standards".



Duplicative Department of Environmental Protection (DEP) Requirements

Beginning April 29, 2019, the minimum required distribution residual level for water utilities in Pennsylvania increased from 0.02 to 0.2 mg/L (free or total chlorine depending on the type of disinfectant used). SB 1285 from the 2019-20 legislative session would require water utilities to go beyond what is required by EPA. While this is permitted, the cost of extra testing and monitoring is an unfunded mandate from state government. Nuances in wording of each statute can also cause conflict. With the detail of requirements in this bill, one could question how much input DEP had on this bill. Was DEP consulted and does this bill interfere with other rules and regulations?

Supplemental Disinfection for Buildings Under 40 CFR 141.29

Under current state rules and regulations, DEP is charged with enforcing EPA requirements under the Clean Water Act. If a building owner discovers *Legionella pneumophila* has established itself in a building water piping system, under DEP rules and regulations, if the building owner adds any supplemental disinfectant or corrosion inhibitor, the building owner becomes a public treatment facility. The building owner would have to meet the same testing and personnel requirements as if they were obtaining their water from a river, lake, or stream. The building owner is already receiving “treated” water from a water utility already meeting potable water standards and the amount of testing and personnel requirements are redundant and costly.

The Federal EPA has recognized there is a difference and has allowed for it in 40 CFR 141.29. 40 CFR 141.29 allows for a continuous water system, water that has already been treated to potable standards but needs additional treatment. DEP still has oversight and rulemaking authority and jurisdiction. DEP is urged to study other states that have enacted 40 CFR 141.29 and find out what would work best for the Commonwealth of Pennsylvania. By enacting rules and regulations for a continuous water system, public safety is maintained, and unnecessary costs to the building owner are eliminated or greatly reduced. By lessening the financial burden on the building owner, they will be more likely to implement supplemental disinfection to protect the building occupants.

Conclusion

While the current legislation does lay a foundation to greatly impact the mitigation and prevention of *Legionella* and Legionnaires’ disease, amendments are necessary to balance public safety and government mandates.

It has been my privilege and pleasure to be able to submit this written testimony. If I can be of further help in answering questions by phone, video, or in person, I would appreciate the opportunity to do so.



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