



RI Department of Health
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TTY: 771
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March 18, 2025

The Honorable Susan R. Donovan, Chair
House Committee on Health and Human Services
State House
82 Smith St.
Providence, RI 02908

RE: H 5859 – Relating to Food and Drugs -- Sanitation in Food Establishments

Dear Chair Donovan:

Please accept this letter opposing H 5859, legislation that will permit the use of private well water in a food service establishment's restroom if the water complies with the standards established pursuant to § 23-1-5.3(8) concerning the duties of the Rhode Island Department of Health's (RIDOH's) Office of Private Well Water Contamination. This act would take effect on January 1, 2026.

RIDOH is primarily concerned that H 5859 would allow a business to obtain a license to operate a food establishment without obtaining a public drinking water system license. Specifically, RIDOH is concerned that, because of this bill, such establishments could evade the definition of public water system (PWS) to avoid regulation by RIDOH under the *Rhode Island Public Drinking Water Regulations* (216-RICR-50-05-1). The resulting impacts on human health, in RIDOH's opinion, could be significant. For example, if H 5859 is enacted, monitoring for acute contaminants (i.e., E. coli/nitrates) that are a risk to human health would not be required on a routine basis.

Furthermore, if the source water well is not required to comply with current public drinking water system standards, there is a possibility that other potential contamination sources—such as septic tanks and junkyards—would be located close to the source water well. H 5859 would increase the number of people at a higher risk of being exposed to acute drinking water contaminants and does not require routine sampling to determine the safety of the water. Customers and employees may ingest the private well water, unaware of the elevated risks compared to public drinking water. RIDOH is not sure there is a benefit to this bill since the provisions would not apply to the regulated drinking water the food establishment would use for customer food preparation and drinking purposes.

Importantly, RIDOH is the State agency with primary enforcement responsibility (primacy) over PWS, as that term is defined by the federal *Safe Drinking Water Act* (SDWA). For RIDOH to maintain state primacy, it must adopt regulations that are at least as strict as the requirements of any federal drinking water regulation adopted by the federal Environmental Protection Agency (EPA) pursuant to SDWA. RIDOH's State authority to adopt such federal requirements is the *Rhode Island Public Drinking Water Supply* statute (R.I. Gen. Laws Section § 46-13-1 et

seq.). RIDOH is concerned that H 5859 would limit the meaning and reach of PWS as that term is interpreted at the federal level (to include water provided for normal, everyday uses, including handwashing), and therefore could impact EPA's authorization of RIDOH's primary enforcement responsibility over PWS.

It is for these reasons that RIDOH cannot support this bill.

Sincerely,

A handwritten signature in black ink that reads "Jerome M. Larkin" with a long, sweeping horizontal line extending to the right.

Jerome M. Larkin, MD
Director

CC: The Honorable Megan L. Cotter
The Honorable Members of the House Committee on Health and Human Services
Nicole McCarty, Esquire, Chief Legal Counsel
Lynne Urbani, Director of House Policy