



NATIONAL CONFERENCE *of* STATE LEGISLATURES

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State Environmental Health Legislation 2016

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2016 was an active year for environmental health in the states. State Legislatures introduced 2744 bills related to environmental health, enacting 482 of them. Some of the foremost issues legislatures tackled include lead in drinking water, dealing with waste water, and food safety.

Lead in Water

With the situation in Flint, Mich., legislatures became aware of concerns regarding lead in drinking water. California, Nebraska, New York, Ohio, Rhode Island and Tennessee enacted bills regarding lead in water. California adopted a comprehensive law (S 1398, Chap. 731) requiring public water systems to compile an inventory of known lead user service lines in use in its system and provide a timeline for replacement of these lines to the State Water Resources Control Board. Nebraska amended its Safe Drinking Water Act, limiting the lead content in water pipes, plumbing, solder and flux (L 899). New York A 10740 (Act No. 296) requires schools to conduct periodic testing of school potable water sources for lead contamination. Ohio H 512 (Act No. 84) establishes requirements governing lead and copper testing in water systems, and provides grants for lead fixture replacement in eligible schools. Rhode Island S 3098; H 8127 (Act No. 440, 439) directs the Department of Health to conduct baseline copper and lead testing the water supply systems of each local government as well as in public schools and licensed daycare facilities. And in Tennessee, the legislature adopted bills to require that the public be notified if a public water system is above the lead action level (S 2450, Act No. 836).

Waste Water

Waste water systems were another major concern, with 80 bills being enacted in 32 states. Hawaii has over 90,000 unregulated cesspools, leading the legislature to adopt S 3084 (Act No. 182) which provides tax credits for homeowners who convert these pools into septic systems. The state also adopted a law allowing nonprofit organizations to receive loans from the clean water state revolving fund loan program to construct, repair, or replace privately owned decentralized wastewater treatment system and individual wastewater system (H 1852, Act No. 240).

Waste from animal excreta from trucks prompted a bill in Iowa. H 583 (Act No. 92) controls effluent from animal truck wash facilities. Vermont H 674 (Act No. 86) requires wastewater treatment facilities to notify the Secretary of Natural Resources and local health officers of overflows, upsets or bypasses around or within the wastewater treatment facility. Virginia H 558 (Act No. 444) directs the State Health Commissioner to develop a plan to eliminate evaluation and design services by the Department for onsite sewage systems and private wells.

Food Safety

Food safety remains a priority for state legislatures, with 560 bills being introduced and 87 being enacted. California's S 1067 (Act No. 195) relates to food facilities. The law requires the person in charge of a food facility to have adequate knowledge of major food allergens and to educate food facility employees regarding those matters. Florida's H 249 (Act No. 120) applies the Department of Health sanitation rules to a licensed culinary education program and includes certain culinary education programs under the definition of food service establishment.

Hawaii adopted a program to assist the agricultural community with federal requirements. H 2582 (Act No. 106) requires the Department of Agriculture to develop and implement an Agricultural Food Safety Certification Program that complies with the Food and Drug Administration (FDA)'s Food Safety Modernization Act as it applies to farmers and ranchers.

Indiana's H 1267 (Act No. 80) provides that a food establishment may not sell or serve a meat product, poultry, or game animal unless certain inspections have been conducted under the State Inspection Program. The bill allows the Department of Health to adopt rules that specify inspection, registration, handling, and processing requirements of food intended for use as human food.

In North Carolina, food stands (including mobile food trucks) may provide up to eight tables and chairs for customers to use while consuming drinks or food upon the premises without an evaluation of the sanitary sewer system. The bill also authorizes pushcarts or mobile food units to prepare and serve food, provided the food is from a commissary or restaurant. (NC S 7; Act No. 104)

Rhode Island H 7962 (Act No. 478) provides an instructor for food safety certification need not possess a bachelor's degree, if the instructor is certified by a nationally accredited food safety certification program recognized by the State. And in Vermont, the Agency of Agriculture, Food and Markets has the authority to enforce the federal Food Safety and Modernization Act through on-farm inspections. (VT H 778; Act No. 104)

The overuse of antimicrobial drugs led the California Senate to enact S 27 (Act No. 758) prohibiting the administration of medically-important antimicrobial drugs to livestock unless prescribed by a licensed veterinarian or solely for purposes of promoting weight gain or improving feed efficiency.

Donation of foods has emerged as a concern, with 13 legislatures reviewing 19 bills. Illinois enacted H 5530 (Act No. 552), prohibiting the state from contracting with a food provider if that provider does not allow the state to donate excess food. Tennessee sought to encourage state agencies and their contractors to donate excess, apparently wholesome foods to non-profit organizations (HJR 514).

The ability for consumers to buy raw milk was expanded, with bills in Rhode Island (H 7817, Act No. 536), Utah (H 194, Act No. 402) and West Virginia (S 387, Act No. 6). Rhode Island now allows the sale of

cheeses made from raw milk and West Virginia's law permits shared animal agreements for consumers to purchase raw milk.

Providing exemptions from food safety regulations is a common theme among state legislatures. Arizona provided an exemption for potluck meals (they had previously only been exempted at a workplace) (AZ H 2341; Act. No. 54). Colorado's S 58 (Act No. 158) amends the cottage food law to state that an informed end consumer assumes the risks inherent in the purchase, use, or ingestion of the food purchased under a cottage food exemption and is legally responsible for all damage, injury, or death that may result. The law also exempts certain poultry producers from federal inspection.

Florida expanded exclusion from food safety oversight by limiting the term 'public food service establishment.' The term no longer applies to food contests or cook-offs. Church, religious or nonprofit civic organizations may apply for an exclusion (FL H 633; Act No. 2016-86). In Michigan, if a food service establishment operates a vending machine location on the same premises, the vending machine location is considered part of the establishment and does not require a separate license (MI S 774; Act No. 188).

Asthma

States introduced 94 bills related to asthma, enacting 23 of them. Four states (Illinois, Nebraska, New Hampshire and Ohio) enacted laws permitting students to carry and administer asthma medication. Illinois H 4462 (Act No. 711) created the Epinephrine Auto-Injector Act, allowing students to self-administer and self-carry asthma medication and epinephrine auto-injectors in schools. The state also adopted IL H 6233 (Act No. 843) which amends the school code to allow each school district, public school, charter school, or nonpublic school to request asthma action plans from the parents or guardians of a pupil with asthma and provide for self-administration and self-carry of certain medication.

Ohio H 200 (Act No. 2016-81) permits epinephrine autoinjectors to be stored and accessed for use in case of emergency, provides for civil immunity of health professionals who administer epinephrine or provide an epinephrine autoinjector to a person experiencing anaphalaxis seizures, including schools and school districts. Nebraska's L 1083 and New Hampshire's S 322 (Act No. 2016-45) both permit students to carry and administer asthma medicine.

Body Art/Tattoo

States saw 46 bills related to body art and/or tattooing, enacting 10 bills. Connecticut H 5537 (Act No. 16-66) prohibits the practice of tattooing without having obtained a license or temporary permit.

Illinois H 3375 (Act No. 117) provides that the Department of Public Health is authorized to establish and assess penalties or fines against any person who violates the Tattoo and Body Piercing Act, provides that the operator of an establishment must meet specified operating requirements. Utah S 130 (Act No. 75) authorizes a physician assistant or an advanced practice registered nurse acting under the supervision of a physician to perform certain functions associated with tattoo removal.

Childrens' Environmental Health

States enacted 20 bills related to children's environmental health. Of note is Oklahoma's H 1685 (Act No. 259) which implements the 24/7 Tobacco-free Schools Act, an act that prohibits the use of tobacco products on or in educational facilities, including chewing tobacco.

Drinking Water

State legislatures spent extensive time reviewing bills on drinking water, with 426 bills being introduced and 87 being enacted. Arizona S 1459 (Act No. 227) allows a county board of supervisors to offer financial assistance to low- and fixed-income homeowners for making improvements to drinking water wells or water delivery systems.

CA A 496 (Act No. 664) authorizes the State Department of Education to allocate funds to school districts to comply with the requirement of providing students access to drinking water. The law provides that funds may be used for water quality projects, treatment, filling stations and maintenance. The state also adopted S 522 (Act No. 773), authorizing the state water resources control board to order consolidation where a public water system or a state small water system fails to provide an adequate supply of safe drinking water, including mobile home parks.

Connecticut H 5350 (Act No. 16-4) requires that a water company to add fluoride to the water supply of their water system and specifies an average monthly fluoride content.

Nebraska L 19 changes provisions relating to laboratory certification under the Nebraska Safe Drinking Water Safety Act, authorizes cooperative agreements with laboratories to perform tests for toxins on water that is intended for human consumption.

Ohio S 1 (Act No. 2015-4) responded to the Toledo Water shutdown. This law prohibits the application of fertilizer and manure in the western basin of Lake Erie on certain ground or soil and during certain weather conditions, requires certification of persons applying manure from a concentrated animal feeding facility, prohibits deposit of dredged materials in Lake Erie, among other provisions.

VT H 595 (Act No. 154) requires the Secretary of Natural Resources to adopt rules allowing the use of a surface water as a source for a potable water supply for an individual residential dwelling. If a private owner uses surface water and treats it with specified filtration and disinfection technology, the Secretary may permit the system.

Indoor Air Quality

Over 120 bills were introduced on indoor air, but only six were enacted. District of Columbia's B 881 requires the Department of General Service to conduct assessments to measure environmental conditions and identify environmental hazards that impact human health in all public buildings. The act also requires the Department to publish an annual healthy building report card for each public building.

Nebraska adopted the Radon Resistant New Construction Act (L 9). Illinois H 152 (Act No. 470) requires schools be equipped with carbon monoxide alarms or carbon monoxide detectors, sets forth requirements for where alarms or detectors must be located, and requires inspections. New Jersey A 3662 (Act No. 2016-81) establishes the Rosa-Bonilla Family Act, which concerns the development of carbon monoxide poisoning educational program for drivers addressing the dangers of carbon monoxide poisoning from motor vehicles and techniques for the safe operation and proper maintenance of a vehicle. Utah H 37 (Act No. 236) amends the state construction code, relates to the installation of passive radon controls and amends a provision related to natural gas-fired water heater emissions.

Pesticides

Legislation on pesticides related to environmental health were introduced in 28 states, with 25 bills being enacted. California's A S 328 (Act No. 278) requires a landlord to provide tenants and tenants of adjacent units with notice of the use of pesticides at the dwelling unit and common areas if the landlord does not hire a licensed pest control operator. California also addressed bed bugs, enacting A 551 (Act No. 599) which prescribes the duties of landlords and tenants with regard to bed bugs. The act requires the landlord to provide tenants information about bed bugs, requires the landlord provide notice to the tenants of those units inspected by the pest control operator of the operator's findings and prohibits a landlord from showing, renting, or leasing a unit that the landlord knows has a bed bug infestation.

Colorado S 15 (Act No. 10) requires a state agency to promulgate rules that identify which pesticides may be used in the cultivation of marijuana. Florida's H 1205 (Act No. 143) revises the general fumigation notification requirements, authorizes Department of Agriculture and Consumer Services to adopt safety procedures for clearance of residential structures before reoccupation after fumigation, and authorizes the Department to establish certain conditions for the registration or reregistration of fumigants.

Kansas H 2490 (Act No. 101) allows the Secretary of the Department of Agriculture to contain chemical toxins and plant pests for the protection of the public health. Maine S 291 (Act No. 58) repealed the notification and reporting provisions for forest insect aerial pesticide spray projects and eliminates provisions relating to government pesticide supervisors, spotters and monitors, including the certification, licensing and associated reporting requirements.

Toxics and Chemicals

State efforts to regulate toxics and chemicals led to 554 bills being introduced in 43 states; 66 were enacted. DC B-113 prohibits the manufacture, sale, and distribution of products containing carcinogenic flame retardants, plus authorizes the Mayor to request and obtain a certificate of compliance with the Act from manufacturers.

Minnesota S 1215 (Act No. 62) prohibits the use of certain flame-retardant chemicals in certain products, establishes that no manufacturer or wholesaler may manufacture, sell, offer for sale, distribute for sale, or distribute for use a children's product or upholstered residential furniture containing certain flame-retardants.

Oklahoma S 658 (Act No. 106) provides that the Commissioner of Labor shall be the primary authority regarding the regulation of asbestos abatement at the abatement site through the completion of the on-site abatement and relates to the protection of health from hazards posed by friable asbestos materials.

In Washington, H 2545 (Act No. 176) prohibits the manufacture, sale, or distribution of children's products or residential upholstered furniture containing specified flame retardants, and requires manufactures of a restricted product to notify sellers of the restricted product and to recall such product.

Tracking/Biomonitoring

Three bills were enacted on environmental health data in California, Louisiana and Washington. California's A 1059 (Act No. 584) requires the Office of Environmental Health Hazard Assessment to report on specified data necessary for updating the indicators in the tool for communities in the

California-Mexico border region including barriers to accessing that data and studies and plans for obtaining that data. Requires the Office, when such data is of sufficient quality are available, to include that data in the next update of the tool.

Louisiana's H 900 (Act No. 451) authorizes an increase of fees paid for accreditation by commercial laboratories, authorizes an increase in fees paid for certain reviews of immovable property, and authorizes an increase for underground storage tank fees and for the Lead Hazard Reduction Fund.

Washington's H 1620 (Act No. 254) increases the surcharge on recreational shellfish licenses to fund biotoxin testing and monitoring by the department of health of beaches used for recreational shellfishing, and to fund monitoring by the Olympic region harmful algal bloom program of the Olympic natural resources center at the University of Washington.

Waste Water

Legislation addressing waste water saw 310 bills with 80 being enacted. In addition to the bills listed above, bills were enacted in Alaska, Arizona and Nebraska. Alaska's H 209 (Act No. 48) relates to safe and sustainable water and sewer systems for all communities and rural areas of the state, and provides for an accurate estimate of the number of homes without safe water and sewer systems.

Arizona H 2541 (Act No. 200) exempts defined primitive camp and picnic grounds from rules governing sewage and excreta disposal and water supply; subjects these facilities to approval by a county health department under specified existing sanitary regulations.

And Nebraska's L 328 amends the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act. The act requires professional engineers licensed in Nebraska or environmental health specialists registered in Nebraska perform all work on systems, provides for continuing education costs and investigation, inspection and enforcement related to any private onsite wastewater treatment system.

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