2012 Environmental Health Legislation
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**Overview**

2012 marked the 4th year since the great recession began and the 3rd since its ended, according to government statistics. For state legislatures, however, 2012 marked the first year the states had to balance budgets without federal stimulus funding, instead relying on state revenues. This forced the austerity measures that the states began during the recession to remain in place. The good news is that states survived the past year without suffering from severe budget gaps (the difference between revenue and expenditures). The bad news is that they remain under fiscal constraint.

In 2012 state legislatures met in 44 of the 50 states, plus in Puerto Rico and the District of Columbia. Although the biggest concern remains the budget, health insurance exchanges came in a close second. Medicaid is the largest single expenditure in most states, making bringing health care costs under control a major issue, as was education, transportation and welfare.

Bills on environmental health were introduced in every state in session. Of the states (and territories) in session, legislators proposed 1,556 pieces of legislation, of which 192 passed into law. The enacted laws have been categorized among 13 subject areas, including Asthma, Asbestos, Biomonitoring, Surveillance and Tracking, Children’s Environmental Health, Drinking Water, Food Safety, Indoor Air Quality, Lead, Mercury, Miscellaneous, Pesticides, Swimming Pools, and Toxics and Chemicals. Food safety saw the greatest number of bills introduced (285), as well as the greatest number of enacted laws (45). Biomonitoring, Surveillance, and Tracking represents the category with the fewest laws proposed (14) and passed (1).

**Asbestos**

Thirteen bills adopted relating to asbestos. Four of those laws were passed in three states (Louisiana, Virginia, and West Virginia) to recognize Mesothelioma Awareness Day. Virginia and West Virginia recognize this day of awareness on September 26th; Louisiana chose October 17th. Laws pertaining to the liability of successor corporations for asbestos claims passed in Arizona, Idaho, Michigan, and Utah. All four states limit a successor corporation’s asbestos liability to “the fair market value of the gross assets of the transferor [at] the time of merger or consolidation.”

**Asthma**

Of the six bills pertaining to asthma that passed into law, one newly allows schools to administer epinephrine to students in the event of an allergic reaction; all three protect school nurses from liability arising from the administration of epinephrine to students. These laws were passed in Illinois and Virginia. The remaining laws related to asthma were passed in Pennsylvania to recognize World Asthma Day. The dates chosen were May 3rd for 2011 and May 1st for 2012.

**Biomonitoring, Tracking, and Surveillance**

One law was found to have passed that relates solely to biosurveillance. NE L 591 passed in May 2011. The law requires the Nebraska Department of Health and Human Services to develop a surveillance

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program to monitor “public health threats.” The law also requires the Department to develop an immunization database and amends language in other statutes.

**Children’s Environmental Health**

Children’s environmental health covers a wide variety of topics. Consequently, most children’s environmental health laws overlap with the other topics surveyed. Three of the 25 bills which passed address the presence of bisphenol-A, often shortened to BPA, in children’s products. The laws were passed in California, Delaware, and Maine. According to the US Department of Health and Human Services, BPA has been used in packaging materials for over 40 years.\(^2\)\(^3\) CA A.B. 1319, which passed in 2011, bans the use of BPA in bottles or cups for young children in amounts exceeding 0.1 parts per billion, and requires manufactures to “use the least toxic alternative.” Delaware will ban the use of BPA completely in products intended for children “under four years of age” beginning July 2012. Maine recognizes BPA “as a Priority Chemical,” Subjecting it to the state’s chemical safety regimen.

Eight of the laws passed regarding children’s environmental health pertained to schools. One of these laws, AZ H 2520, passed in Arizona to amend language in a law which forbids the use of paraquat and highly toxic pesticides within ¼ mile of schools, daycare centers, and other facilities, with some exceptions.

**Drinking Water**

Drinking water laws included terms which ranged from funds which ensure access to water to protecting water from industrial pollutants (NC H 45). California amended its definition of drinking water to include water for cooking, preparing food and washing food (CA A 1194 (2012)). Three states passed laws regarding water fluoridation—Nebraska, New Hampshire and Tennessee. NE L 36, which passed in 2011, amends a statute which mandates that municipalities with more than 1,000 residents add fluoride to their water supplies. Municipalities with less than 1,000 residents may, upon reaching the requisite population level, put the issue of municipal water fluoridation to a public vote to determine whether to add fluoride to the water supply. NH H 1416 (2012) requires consumers be notified if their water contains fluoride. TN S 1055 (2012) allows municipalities to either start or discontinue fluoridation of municipal water supplies, however municipalities must notify the state of their decision, and must provide residents with written notice.

North Carolina added language in its site remediation and Brownfields law to protect groundwater that is used for or may be used for drinking water (NC H 45 (2012)). Vermont now requires owners of potable water supplies to test their groundwater and disclose the results of those tests (VT S 183 (2012)).

**Food Safety**

Forty-five laws in 26 states and Puerto Rico relating to food safety. Connecticut S.B. 57 (2012) requires the liensure and oversight of food manufacturing facilities, and prohibits the employment of persons with known infectious or communicable diseases. MI HB 5130 revamps the state’s Food Law, bringing it into line with federal requirements. It also repeals the state law on eggs, instead adopting the federal standard, as well as exempting farms that have less than 3000 layer hens. FL H 7021 (2012) also

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\(^2\) [http://www.hhs.gov/safety/bpa/](http://www.hhs.gov/safety/bpa/)

\(^3\) Note that the Centers for Disease Control state that BPA has been used in a variety of products for over 50 years. See [http://www.cdc.gov/biomonitoring/BisphenolA_BiomonitoringSummary.html](http://www.cdc.gov/biomonitoring/BisphenolA_BiomonitoringSummary.html). See also [http://www.cdc.gov/exposurereport/pdf/fourthreport.pdf](http://www.cdc.gov/exposurereport/pdf/fourthreport.pdf).
authorizes the state to update laws to meet federal standards, as well as shifts food safety from the Department of Health to the Department of Agriculture and Consumer Services.

NH H.B. 339 (2012) requires the Commissioner of Agriculture to establish a state meat inspection program. SC SB 220 (2012) provides that food returned by the consumer cannot be resold.

Nine states adopted food safety laws pertaining to “cottage foods,” or foods that are prepared in home-based kitchens for sale directly to the consumer either at the site of production or at farmer’s markets. States which regulate cottage foods generally require the foods produced for sale to be non-hazardous. In 2012, the states of Colorado, Illinois, Indiana, Maryland, Minnesota, Michigan, New Hampshire, South Carolina and Tennessee all adopted language to exempt certain foods and processing from state oversight.

Colorado’s legislature recognized the cottage food industry as a means to support the economy, as well as to encourage healthy lifestyle choices (CO SB 48 (2012)). Michigan included cottage foods in its overhaul of its Food Law, and Illinois specifically exempts farmers’ markets from regulation. Indiana exempt poultry, as long as it is ‘frozen at the time of sale’ (IN HB 1298 (2012)).

Utah passed one of the most unusual bills pertaining to home-produced foods in 2012. UT H 198 explicitly exempts foods produced in one’s home or grown on one’s property for personal consumption from confiscation by a “government entity,” so long as certain conditions are met.

**Indoor Air Quality**

Of the 26 laws passed regarding indoor air quality, four subjects comprised the bulk of legislation. Six laws address smoking, six pertain to radon, six pertain to mold, and five pertain to carbon monoxide.

CA S 332 (2012) allows landlords to forbid smoking on the premises of the rental property; however, if tenants had been allowed to smoke on the property prior to January 1, 2012, the landlord must provide the tenants with adequate notice before changing the policy. Maine has also enacted a law regarding smoking in rental units. ME H 802 (2012) allows a landlord to either permit or prohibit smoking on the rental property. A landlord may also choose to designate smoking areas on the rental property. Whichever policy is adopted by a landlord, tenants must be notified in writing of the smoking policy on the property.

**Lead**

Five of the fifteen laws that passed regarding lead pertained to preventing lead poisoning in children. Of those five laws, two address the presence of lead in jewelry and other items intended for use by children. One of these laws, IL S 1943, which passed in 2011, amends Illinois’ Lead Poisoning Prevention Act by defining “body piercing jewelry,” as well as jewelry in general, and mandates a warning statement on children’s items which contain lead, but in amounts which comply with “Federal standards.” The warning is not necessary if the item in question does not contain lead components which are accessible to children.

CT SB 188 (2012) provides financial assistance to local health departments for lead poisoning prevention and control services. KY HB 294 (2012) requires all blood lead levels above 2.3 micrograms per deciliter, half of the revised CDC standard of 5 micrograms per deciliter (down from 10 micrograms per deciliter). ME SB 89, which passed in 2011, enacts terms regarding blood testing for elevated lead levels in children.
LA S 200 (2012) requires the Department of Environmental Quality to conduct an inspection of a new day care center, preschool or certain elementary school facility buildings for the presence of lead hazards. Maryland revised its lead hazard reduction law, updating it to meet current issues and conditions (MD H 644 (2012)). NY S 2812 creates the state lead poisoning prevention task force. In Oklahoma, the legislature authorized the state to adopt a certification program for renovators who disturb lead-based paint (OK HJR 1110 (2012)).

**Mercury**

Like lead, exposure to mercury has been linked to cognitive impairments in children, as well as other negative health effects in children and adults. State laws passed regarding mercury generally focused on preventing releases of mercury into the environment at the time of disposal, by reducing or eliminating the amount of mercury which may be used in manufactured goods, and by regulating the sale of mercury-containing products. A notable exception may be found in Missouri, which passed MO HCR 49 to encourage Congress “to adopt S.J. Res. 37, disapproving the Mercury and Air Toxics Standards regulation.” According to the language of the law, compliance with the EPA’s Mercury Air Toxics Standards regulation is prohibitively expensive and places undue stress on the economy.

NY A 668 (2012) states that no person shall sell mercury sphygmomanometers, thermometers or thermostats. The legislature in Oregon prohibited the sale of lighting containing mercury (OR S 1512 (2012)). In Washington, the legislature prohibited the sale of mercury thermometers, thermostats or motor vehicle switches (WA S 6131 (2012)). UT S 133 (2012) repealed the Mercury Switch Removal Act.

**Pesticides**

Of the 21 bills which passed into law regarding pesticides, six pertained to mosquitoes, two related to pesticide registration, and four related to pesticide applicators. Only one law passed regarding bed bugs; Ohio passed OH HR 31 to ask the US EPA to approve the use of the pesticide propoxur for use on bed bugs, citing a dire infestation of the insects within the state.

Louisiana now requires pesticide dealers and agricultural consultants to maintain records of pesticide use (LA S 151 (2012)). North Carolina eliminated the requirement to submit a material data safety sheet to the state’s Pesticide Board when registering a pesticide (NC S 603 (2012)). NY A 7638 (2012) requires lawn care companies to provide information on the pesticides they apply to property owners. The legislature in Oklahoma now allows the state to suspend the license of an applicator that has applied pesticides in a negligent manner (OK H 2715 (2012))). VA S 126 (2012) allows the use of methyl bromide gas on “forest tree seedlings” grown by the State Forester.

**Swimming Pools**

Swimming pools and aquatic venues entail several challenges to public health, leading to the enactment of several bills. Florida, in revising its environmental health program, altered its requirements to operate a swimming pool (FL S 704, FL H 887, FL H 1263 (2012)). Minnesota passed MN S 1675 (2011), which require pools in daycare facilities to comply with the Abigail Taylor Pool Safety Act. The Act was passed in response to an incident in which a six-year old child died as a result of injuries caused by a drain in a wading pool. In 2012, Mississippi passed the “William Lee Montjoy Pool Safety Act” via MS HB 1281. The law, which requires “a multiunit rental complex, property owners association, or private club,” as well as “condominiums, cooperatives, or townhome projects” that allow children below 12.

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4 [http://www.epa.gov/hg/effects.htm](http://www.epa.gov/hg/effects.htm)
years of age to install proper “pool yard enclosures,” fencing, and gates, as well as promulgating regulations regarding doors that opening into pool areas. The law was named for a child who drowned in a yacht club pool.

North Carolina also passed a law regarding pool fencing through NC SB 368 (2012). Pennsylvania, Tennessee, and South Carolina also passed laws related to pool safety. Pennsylvania and South Carolina both passed laws designating May 2011 as Water Safety Month; South Carolina (SC SB 1351 (2012)) also passed a law regulating the number of lifeguards which must be stationed at swimming pools; lastly, Tennessee passed a law pertaining to pool alarms (TN HB 1713 (2012)).

**Toxics and Chemicals**

Of the 56 enacted Toxics and Chemicals bills, three were passed in two states (California and Illinois) that request Congress “to Modernize the Toxic Substances Control Act of 1976.” Two were passed in Kansas and New Hampshire that addressed veterans of the Vietnam War who have been exposed to Agent Orange, which was widely used as a defoliant. The language of the laws is substantively the same; both laws ask for benefits for veterans of the Vietnam Conflict who did not serve within that nation, but were nonetheless exposed to Agent Orange, to be made equal with those of veterans who were exposed to the substance during service within Vietnam.

GA H 40 (2012) requires “bittering agents” be applied to antifreeze to make it unpalatable to animals and young children. ME H 690 (2012) allows for Deca-BDE to be replaced with a less hazardous flame retardant. In Michigan, the legislature passed a law that prohibits the state Department of Natural Resources and Environment from adopting rules that restrict residential burn barrel bans (MI H 4207 (2012)).

**Miscellaneous**

Miscellaneous laws, by definition, include a variety of topics. However, brownfields were addressed in six of the laws in this section, comprising the single largest subject. According to the US EPA, brownfields are lands which have been contaminated in such a manner as to impede putting the property to another use. Hawaii passed HI H 1015 in 2011, which approved an emergency loan funding increase “to clean up a contaminated site in Kapolei.” IA S 514, an Iowa law which also passed in 2011, amends a statute that offers a tax credit to investors to restore brownfield properties.

Other laws of note in this section include Vermont’s VT H 202, which established a universal healthcare program within the state, known as “Green Mountain Care,” which includes language to study and implement health impact assessments within the state. New York’s NY A 5516 (2012), which expands the list of places in which smoking is banned to include “ticketing, boarding, or platform areas of railroad stations operated by the metropolitan transit authority.”

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5 [http://www.epa.gov/brownfields/](http://www.epa.gov/brownfields/)