



Environment and Natural Resources

NATIONAL CONFERENCE of STATE LEGISLATURES

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State Environmental Health Legislation 2017

Topic	2017	
	Intro	Enacted
Asthma	56	13
Body Art	22	3
Drinking Water	284	56
Food Safety	380	75
Indoor Air Quality	146	16
Pesticides	112	15
Swimming Pools	21	3
Toxics & Chemicals	447	69
Water/Waste Water	134	28
Total Bills	1603	269



Environmental health remains a concern within state legislatures. In 2017, 1,603 separate bills covering 2,879 categories of environmental health were introduced, with 269 bills being enacted. Bills were introduced in every state and the District of Columbia, ranging from three bills in **Wyoming** to 255 bills in **New York**.

California enacted the most bills with 32, followed by **Virginia** with 20. Several states, including **Alaska, Missouri, Ohio, South Dakota** and **Wisconsin**, did not enact any bills on environmental health. **Massachusetts** introduced 100 bills relating to environmental health, with none passing in 2017 (although all these bills carry over to 2018).

Toxic & Chemicals was the foremost topic in 2017, with 447 bills being introduced. Food safety was the second foremost concern, with 380 bills. Drinking water remained a top priority, with 284 bills being introduced, along with bills addressing wastewater (134 bills).

Lead hazards was the dominant chemical of concern in 2017, with 248 bills being introduced. Other issues of legislative interest included asthma (56 bills introduced), body art (22 bills introduced), radon (49 bills introduced), swimming pools (21 bills introduced) and pesticides (112 bills introduced).

North Dakota enacted three of the most consequential state laws on environmental health. In 2017, the legislature created a state Department of Environmental Quality (S 2327), transferring environmental responsibilities from the state's Department of Health to the new department. The legislature also enacted the Food Freedom Act (H 1433) exempting certain food manufactures from health or safety requirements. A third law requires mineral developers to test the water quality private drinking water wells within a half-mile of their operation (H 1409).

Toxics & Chemicals



Congress' revisions to the Toxic Substances Control Act (TSCA) through enactment of the Lautenberg Chemical Safety Act (LCSA) sought to limit state efforts in regulating chemicals. However, states remain as active in chemical safety as they were prior to the enactment of the LCSA. In 2015, prior to the act, states introduced 437 bills. In the first year of the act, states introduced 447 bills, although many of these bills addressed lead hazards, a chemical that states still have the authority to regulate.

Of these 447 bills, 69 were enacted into law in 33 states.

One of the biggest issues in 2017 was sunscreen—whether a child can take sunscreen to school or camp without it being considered a prohibited drug. Another concern was whether oxybenzone (an ingredient in sunscreen) is harmful to marine life (an issue limited to the Hawaiian Legislature).

The Food and Drug Administration considers sunscreen an over-the-counter drug product, meaning it is legal to purchase but should not be applied to children without supervision. **California** passed a law in 2002 forgoing this warning and allowing students to use sunscreen in school. **New York** enacted a similar law in 2013, **Oregon** and **Texas** passed laws in 2015. In 2017, **Alabama, Arizona, Florida, Georgia, Illinois, Louisiana, Massachusetts, Utah** and **Washington** passed laws regarding sunscreen products. **Rhode Island, Mississippi,** and **Pennsylvania** had bills introduced on the subject in 2017 but not enacted. (The bill in Mississippi has died; bills in Pennsylvania and Rhode Island carried over to the 2018 session.)

Cleaning Product Right-to-Know law was adopted in **California** (S 258). **Florida** enacted S 1018, requiring owners to report the release of certain pollutants within 24 hours to the state.

In **Maine**, recent state law prohibits the sale and distribution of upholstered furniture with flame-retardant chemicals (H 138). **Rhode Island** enacted similar provisions in 2017 (S 166 and H 5082).

Perfluorooctanoic acid (PFOA) emerged as a concern in 2017. **New York** enacted S 5198 to reimburse several communities from PFOA contamination. **Vermont** made persons who release PFOA into public water supplies be strictly, jointly and severably liable (S 10).

Lead Hazard Control

Of the 248 bills introduced regarding lead hazards, 34 were either enacted or adopted into law. **New Mexico** adopted SJM 15 to study the risks of lead poisoning to the state. **Pennsylvania** established a task force on lead exposures and hazards to lead poisoning (SR 33). Legislation to replace lead service lines was common. **California** S 427 requires communities to set a timeline to replace lead water service lines. **Indiana** H 1519 allows for utilities to be reimbursed for replacing private lead service lines. **Minnesota** S

1457 bans lead in plumbing and plumbing components. **Wisconsin** S 48 permits public utilities to use public funds to replace lines on private property. Appropriation bills in **New York** (A 3004, A 3007, S 2007) and **Pennsylvania** (H 674) address lead service lines. New York authorizes \$20 million to communities replacing lead service lines. Pennsylvania allows for public water systems to pay for the replacement of lead service lines on private property.

Requirements for testing for lead in school water systems were enacted in **California** (A 746), **Colorado** (H 1306), the **District of Columbia** (B 29), **Maryland** (H 270), and **Virginia** (S 1359). **Arizona's** budget bill provides funds for consultants addressing lead in school water systems (H 2545). **New Jersey** provides reimbursements to schools for testing lead in water (A 4284). **Oregon's** Healthy and Safety Schools Plan (S 1062) mandates schools adopt a healthy safe school plan, ensuring compliance with EPA Lead Renovation, Repair and Painting rule. **Rhode Island** extended the special House commission on lead in drinking water in the state (H 6035).

California's A 1316 requires screening for blood lead levels for high-risk children to be covered by insurers and changes the definition of lead poisoning to include lead in arterial or cord blood. In **Florida**, legislation requires health care providers to report to the individual cases of elevated blood lead levels (H 1041). **Maryland's** H 133 requires the state to notify both a child's parents and the owner of the property where a child lives of the results of an elevated blood lead test. **New Jersey** requires state blood lead standards to be consistent with CDC recommendations (S 1830).

Asbestos

Several states adopted legislation regarding claims to the asbestos bankruptcy trust, including **Iowa** (S 376), **Mississippi** (H 1426), **North Dakota** (H 1197), and **South Dakota** (S 138). **Virginia** S 305 requires the state to provide basic worker safety procedures regarding the handling of asbestos. In **Montana**, the Libby Asbestos Cleanup Oversight Team was created to address the asbestos cleanup in the town of Libby. (S 315).

Mercury

States enacted five bills on Mercury: three in **Maryland**, one in **Utah** and one in **Washington**. **Maryland's** H 504 and S 713 prohibits the sale of electric switches, electric relays and gas valve switches containing mercury. **Utah** extended the repeal date of its earlier Mercury Switch Removal Act (H 33).

Indoor Air Quality



State legislatures introduced 146 bills related to indoor air quality (IAQ), enacting 18 of them. IAQ covers efforts to eliminate contaminants in buildings, including carbon monoxide, mold and radon.

Delaware enacted S 107, which establishes an indoor environment information portal on the health and Social Services website. **Virginia's** H 1869 makes a tenant financially responsible for the cost of exterminating insects and pests if the tenant failed to report their existence to the landlord.

Carbon Monoxide

In previous sessions, legislation requiring carbon monoxide detectors was common. 2017 saw 35 bills in 15 states introduced that relate to carbon monoxide, with the only bill becoming enacted being **New Jersey's**

Rosa-Bonilla Family Act, which requires the state to provide educational materials on carbon monoxide poisoning in motor vehicles (A 3662).

Mold

Maryland enacted two laws related to mold, both dealing with mold remediation service providers—H 115 and S 183. These bills extend the date for firms providing mold remediation services to be licensed. **Virginia** enacted a law requiring landlords to pay relocations costs of tenants moving due to a mold situation not caused by the tenant (H 735.)

Radon

Of the bills on radon, five bills were enacted in four states. **Connecticut** included radon as a list of contaminants private well owners should test (H 7222).

Nebraska enacted the Radon Resistant New Construction Act (L 9), requiring active radon mitigation systems be installed in new construction by licensed contractors. **Utah** H 37 amends the state construction code to address passive radon installation. **Illinois** H 2719 amends the Radon Resistant Construction Act, removing the reference to the Radon-Resistant Building Codes Task Force.

Illinois also amended its radon licensing law, clarifying the circumstances in which a conviction would prohibit a person from receiving a license (H 1688).

Food Safety



Food safety is the second most common environmental health topic for state legislatures in 2017. Food safety saw 380 bills introduced in 2017, down from 560 in 2016, with 75 being enacted into law.

California A 564 provides for the Secretary of Food and Agriculture to inspect raw unprocessed fruit, nut and vegetables and enforce standards of quality. The **Illinois** legislature now requires restaurant employees be trained in basic allergen principles (H 2510). Micro-markets in **Indiana** no longer must be staffed (S 77).

Nebraska updated its food code in 2017 (L 134). **New Hampshire** revised its food code to allow the department of health and human services to inspect facilities (S 221). **Maryland** (H 771; S 262), **Utah** (S 250) and **Virginia** (H 1625; S 515) enacted laws regulating mobile food trucks.

Food Safety Modernization Act

Connecticut H 6333 and **Louisiana** S 256 establishes their state's agriculture department as the lead agency for enforcement of the Food Safety Modernization Act (FSMA). The **Montana** legislature provided for its agriculture department authority to inspect produce as part of FSMA (H 91). **New Mexico's** H 305 authorizes its department similar powers to comply with FSMA, as does **Oregon's** S 18 and **South Carolina's** H 4003. **Rhode Island** provided FSMA authority to its department of environmental management (H 6345; S 720).

Georgia H 176 allows its Department of Agriculture to enter into agreements with the federal government to enforce provisions of FSMA. **Texas** H 3227 permits the agriculture department to enter into a cooperative agreements, interagency agreements, grants, or memorandum of understanding with a federal or state agency for the administration, implementation, or enforcement of produce safety rules.

Cottage Foods and Food Freedom

In 2017, the **Wyoming** Legislature expanded the state's Food Freedom Act, the **North Dakota** Legislature enacted its own Food Freedom Act and the **Maine** Legislature enacted legislation allowing local jurisdictions to opt-out of state food safety requirements (a.k.a. food sovereignty).

The **Wyoming** legislature amended its Food Freedom Act to include rabbit and fish; to clarify which homemade products were specifically exempt from state licensure, inspection, and labeling; and to permit state agencies to provide assistance, consultation and inspection services to food producers utilizing the state's food freedom law (H 129; S 118).

North Dakota H 1433 Food Freedom law allows for producers of food (including animal products) to sell directly to consumers without a state food safety license.

Maine expanded the cottage food concept into food sovereignty by enacting S 242 and S 605. S 242 authorizes local governments to adopt their own food standards for foods grown, produced or processed within the local jurisdiction, marking the first time that a state has given regulatory control to a municipal government over food produced and sold locally. **Maine's** S 605 amended S 242 by providing that local governments must still comply with state and federal food safety laws.

Florida expanded its cottage food law by increasing the annual sales limitation required to gain cottage food protections (H 1233). **Illinois'** H 3063 allows for cottage food operations to produce homemade food and drink, with exceptions for potentially hazardous foods.

Farmers' markets in **Illinois** must provide an effective means to maintain potentially hazardous food at or below a specific temperature (H 2820). Distillers can sell whiskey and distilled spirits at festivals in **Kentucky** (H 100).

Oklahoma now permits the sale of home-based foods at farmers' markets and through direct delivery (S 508). **Tennessee's** S 1187 exempts certain producers of small amounts of non-hazardous foods.

Food Donation

Liability relief for groups who donate excess foods to charitable organizations gained interest in state legislatures in 2017. **California** enacted S 557 which allows unused returned food to be offered to a food bank or non-profit charitable organization. The state also enacted the Good Samaritan Food Donation Act to exempt gleaners and persons who donate food. (A 1219).

Kentucky allows fit, wholesome food to be donated to non-profit organizations and allows those organizations to recondition donated foods (H 237). **Montana** now allows wild game and fish meat be served at not-for-profit events (H 166). **Oregon** permits the salvage of wildlife for consumption if the animal has been struck by a vehicle (S 372).

New York's S 5664 establishes voluntary guidelines for the donation of excess, unused and edible foods from educational institutions to voluntary food assistance programs. **Oklahoma** permits schools to donate foods to non-profit organizations (H 1875). Texas addresses food donation and distribution of surplus foods from public schools (S 725).

Virginia provides a tax credit for food crop donations to food banks (H 1093), as does **West Virginia** (S 25).

Raw Milk

Legislatures in 8 states introduced 14 bills regarding raw milk, but only one bill survived to enactment. **Rhode Island** S 247 sets forth standards and procedures for the handling and sale of raw milk.

Drinking Water



Events in Michigan, Ohio and West Virginia have prompted state legislatures to become more involved with their drinking water systems, both private and public.

Arizona established the Small Drinking Water Systems Fund to provide grants to owners of small systems to upgrade their water infrastructure (H 2094). **California** enacted several water and wastewater grant programs (A 277; A 560). **Maine** made a one-time appropriation for the treatment of contaminated private drinking water wells (S 426).

The **Indiana** General Assembly reviewed the ability of its utilities to provide clean and safe drinking water (S 416). **Louisiana** enacted an ambitious program to improve public drinking water quality in this state, and to develop recommendations to the legislature concerning effective and responsible practices to improve and maintain the quality of water (H 533). **Texas** requires the notification of water quality test results in state-supported living centers (S 546).

Lead Service Lines

California adopted a lead service line replacement program in 2016; in 2017 the state enacted S 427 to establish a timeline for the replacement. The appropriation bills in **New York** (A 2007) and **Pennsylvania** (H 674) provide financing options to replace lead service lines.

Colorado enacted H 1306 which requires the testing of lead in public schools. The **District of Columbia** enacted a similar provision (B 29). **Illinois** S 1943 provides waivers from testing for lead in school buildings. **Maryland** also requires periodic testing for the presence of lead in schools (H 270). **Minnesota's** H 2 establishes a program to test for lead in schools.

New Jersey provided reimbursement for schools testing for lead in water (A 4284). **Virginia** S 1359 requires each school board to implement a plan to test potable water for lead.

Private Wells

Connecticut's H 7222 allows local directors of health to require private well water owners to test for water contaminants. The **Maine** legislature enacted H 321 to improve the testing and treatment of water in residential private drinking water wells.

North Dakota enacted a law that requires mineral developers to test private drinking water wells within a half-mile of their operation. Owners who refuse to allow the developers to test the water are ineligible to bring suit against the developer for water contamination (H 1409).

Water/Wastewater



Sixteen states enacted 26 bills relating to water quality and waste water. **Arizona** enacted comprehensive legislation (S 1183) that provides for the regulation of dry wells and increases awareness of properly disposing of solid wastes.

Arkansas enacted a couple of bills related to wastewater; H 1550 amended the nonmunicipal domestic sewage treatment program, including the prohibition of new water connections to noncompliant

nonmunicipal systems; S 685 permits water utilities to terminate service if the customer has failed to pay for wastewater services.

California enacted S 277 and A 339, both which provide loans and grants to communities to upgrade its wastewater systems. **New Jersey** had several bills on environmental infrastructure allowing for loans for wastewater maintenance and upgrades (A 10, A 3883, A 3884). The state also enacted A 4350, which precludes the state agency from imposing certification requirements on installers of individual subsurface sewage disposal systems.

Hawaii, which has been struggling with homes that lack septic systems, enacted H 1244 which provides an income tax credit for homeowners who upgrade their cesspools or connect to a municipal wastewater system. **New York** amended its Septic System Replacement Fund to allow septic system installers to receive state reimbursement directly (A 7892). In **Virginia**, the state must eliminate the evaluation and design services by the health department for onsite sewage systems and private wells (H 558).

Tennessee S 999 requires public reports of annual audits of water and wastewater treatment authorities. Washington enacted a law allow for water-sewer districts to contract for asset management services (S 5119).

One bill was enacted concerning graywater. **Colorado** enacted H 1008 which provides an exception for graywater uses if done for purposes of scientific research.

Pesticides



117 bills were introduced relating to pesticides in 2017, with four being adopted and 12 being enacted. **California** adopted ACR 51 which establishes a Mosquito Awareness Week. **New Jersey** adopted SR 67 and AR 142 which urge Congress to fund efforts to combat the Zika virus and to add Zika to the federal list of Tropical Diseases.

California enacted laws to make its fumigation enforcement program part of its pesticide regulation department (A 593) and to regulate to use of carbon monoxide to control burrowing rodents (A 1126).

Florida, Illinois and **Montana** amended their fee rates for its pesticide registration program (FL H 5401; IL H 3130; MT H 126). **Maine** amended its definition of pesticides by removing the reference to the U.S. Environmental Protection Agency (S 209). **North Dakota's** S 2027 provides for a pesticide program and user fees. Rhode Island enacted two bills that provide exemptions from pesticide registration requirements; S 733 and H 6158 exempts persons from registration and permit fees for the minor use of pesticides.

In **Hawaii**, H 186 studies the impact of pesticides on the coffee berry borer. **Maryland's** H 830 requires pollinator habitation plans be established by state agencies. **Rhode Island** adopted H 6256 which continues its Pollinator Working Group within its department of environmental management.

Asthma



Eight bills were enacted and 5 adopted on asthma in 2017. Resolutions were adopted in **California, Michigan, and Pennsylvania** supporting asthma awareness (CA ACR 68; MI HR 108; PA HR 254). **Arizona** enacted H 2208, relating to the emergency administration of epinephrine and inhalers in schools. The **Illinois** legislature enacted S 1846 that requires the public health department to promulgate rules and regulations to include asthma in the

standard school health examination. In **Nebraska**, a physician or health care professions may issue medication to schools for cases of asthma or anaphylaxis emergencies (L 487).

Texas enacted two laws on the use of epinephrine injectors in private schools and institutes of higher education (S 579; S 1367). **Utah** also amended its Emergency Administration of Epinephrine Act (S 108).

Body Art/Tattoo



Only 3 bills were enacted on body art in 2017, out of a total of 23 introduced. States introducing but not enacting include **Massachusetts**, which sought to prohibit body piercing except by persons licensed by its public health department; New York, which considered body art chemicals that could cause cancer; a **North Carolina** bill that sought to regulate mobile beauty salons; in **Virginia**, a bill wanted to license laser hair removal technicians.

Three bills were enacted in 2017. **Alabama** enacted H 262, which relates to natural hair stylists. **Arizona** also enacted a law relating to minimum standards for hairstylists (S 1130). **Utah** modified its Acupuncture Licensing Act Requirements (S 73).

Swimming Pools



Legislatures introduced 21 bills in 9 states that address swimming pools, from lifeguard and instructor certification requirements to sanitation standards to construction code revisions. **California** enacted S 442 requiring pools and spas be equipped with drowning prevention features when a building permit is issued and requires home inspectors to examine pools and spas.

In **Texas**, the legislature enacted a law that requires public swimming pools or artificial swimming lagoons be maintained in a sanitary condition (H 1468). **Washington** exempted inflatable equipment at temporary events from the regulation of water recreational facilities (H 1449).

Tracking, Surveillance and Biomonitoring



Thirty-six bills were introduced in 2017, with 4 being enacted into law. **Arkansas** enacted H 1259, which modernized its state's environmental laboratory certification program. **California's** A 1438 also amends its state's Environmental Laboratory Accreditation Act. The state also enacted the Cleaning Products Right to Know Act (S 258).

Florida's H 1041 requires the surgeon general's program for early identification of persons at risk of having elevated blood-lead levels.

Montana, in response to its adoption of medical marijuana laws, established requirements for testing laboratories and the testing of samples collected during an inspection (S 333).

New York had two bills seeking to develop a state environmental health tracking system; both bills remain pending (A 5450; S 484).

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