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Enacted 2019 State Environmental Health Legislation

Editor's Note: NEHA's Government Affairs program has a long and productive association with the National Conference of State Legislatures (NCSL). The organizations have worked together on numerous legislative and policy areas that directly impact the environmental health profession. One of the keys to the successes of this collaboration has been the recognition of the fact that often some of the most significant legislation and policy initiatives related to environmental health occur in state legislatures. The states have, in a very real sense, been the innovators in developing new programs and practices. In recognition of this fact, we have asked NCSL to provide occasional overviews of state environmental health legislative activity, covering topics that are of the most pressing public concern

Summary

State legislatures introduced 2,624 bills in 2019 related to environmental health and enacted or adopted close to 400 bills. Legislatures in every state, Puerto Rico, and Washington, DC, introduced environmental health legislation and bills were enacted in 48 states, Puerto Rico and Washington, DC. The legislatures in Ohio and Wisconsin did not enact any bills on environmental health.

New Jersey introduced 508 pieces of legislation related to environmental health, the most in the nation. This number was followed by New York with 460 bills, Massachusetts with 276 bills, California with 155 bills, Hawaii and New Hampshire with 119 bills each, and Minnesota with 115 bills. On the lower end, Wyoming and South Dakota introduced 6 bills each, Alaska introduced 4 bills, and Idaho introduced the least with 3 bills.

Food safety was the most popular topic for 2019 legislation: 798 bills were introduced in every state and 148 were enacted. Labeling of

cell- or plant-based meat led to several laws being introduced and enacted on the labeling of these products.

The second most common environmental health topic for legislatures in 2019 was toxics and chemicals. Legislatures in 49 states introduced 793 bills related to some aspect of toxics or chemicals with 216 bills on lead hazards or lead poisoning. Legislation regarding per- and polyfluoroalkyl substances (PFAS) was one of the foremost issues addressed with over 40 bills introduced and 17 enacted.

More than 413 bills related to drinking water were introduced in 43 state legislatures. New Jersey introduced the most bills on this topic (77). The leading topics included the replacement of lead service lines and managing perfluorooctanoic acid (PFOA).

Other popular environmental health topics addressed by state legislatures included indoor air quality (385 bills introduced and 45 enacted), wastewater (323 bills introduced and 39 enacted), and pesticides (193 bills introduced and 17 enacted). Topics

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such as body art (79 bills introduced and 16 enacted), asthma (59 bills introduced and 19 enacted), environmental health laboratories (34 bills introduced and 8 enacted), and swimming pools (9 bills introduced and 4 enacted) were less common environmental health topics addressed in 2019 by state legislatures.

As of March 2020, 49 state legislatures introduced 3,526 bills on environmental health.

Due to space limitations, a condensed version of the full listing of enacted 2019 state environmental health legislation is presented here in alphabetical order by topic. Readers can access a complete listing on the National Conference of State Legislatures (NCSL) Environmental Health State Bill Tracking Database at www.ncsl.org/research/environment-and-natural-resources/environmental-health-legislation-database.aspx.

Asthma

In regard to asthma, a total of 59 bills were introduced and 19 were enacted. The foremost issue for state legislatures regarding asthma was permission to allow students and school administrators to administer emergency asthma medications. Other enacted bills include Maryland's H 1160, Act 724 that established the Breathe Easy East Baltimore Pilot Program and Pennsylvania's HR 256 that recognized May 7, 2019, as World Asthma Day.

Body Art

Legislatures enacted 16 bills related to body art. Examples of these bills include:

- California's A 647, Act 60 requires the manufacturer of a hazardous substance that constitutes a cosmetic to post the material safety data sheet on its website.

- In Illinois, S 241, Act 303 makes it unlawful for a manufacturer to import for profit, sell, or offer for sale any cosmetic that was developed or manufactured using animal testing.
- Minnesota's S 326, Act 29 modifies requirements for supervisors of temporary body art technicians.
- Nebraska (L 449) and Washington (H 1856, Act 307) prohibit scleral (the white part of the eye) tattooing.
- New Mexico's S 142, Act 245 requires that an applicant for a body art tattoo or piercing scarification license be granted credit for equivalent training or experience obtained outside the state.
- South Dakota's H 1176, Act 55 provides for the regulation of saline tattoo removal by municipalities.

Drinking Water

A total of 413 bills related to drinking water were introduced to state legislatures in 2019 and 61 bills were enacted. The foremost issue was the funding of water infrastructure. Examples of enacted bills related to drinking water include:

- California enacted the Safe and Affordable Drinking Water Fund (S 200, Act 120) to assist water systems in providing adequate and affordable supplies of water.
- In Illinois, H 2650, Act 143 amends the state's Environmental Protection Act to adopt rules to expand the usage of federally allowable set-aside programs within the Water Revolving Fund, including programs that provide financial assistance to utilities exploring consolidation for the purpose of improving efficiency, sustainable water management, and equitable water rates.
- New Hampshire enacted the Drinking and Groundwater Trust Fund Study (S 164, Act 238) that establishes a committee to study unprotected drinking water sources and estimate the costs of protecting such sources.
- Puerto Rico enacted SJR 196 to provide emergency assistance loans or credit facilities to power and sewer authorities in response to the challenges caused by Hurricanes Irma and Maria.
- Texas enacted the Drinking Water Protection Laws (S 530, Act 519) that increase the civil and administrative penalties assessed or imposed for violations of laws protecting drinking water, public water supplies, and bodies of water.

Environmental Health Laboratories

A total of 6 states enacted legislation regarding environmental health laboratories and the foremost issue was biomonitoring programs.

- Maine's H 1043, Act 277 seeks to use biomonitoring to test for PFAS in food packaging.
- Minnesota's H 13a, Act 12 and S 7a, Act 4 authorizes perfluorochemical biomonitoring in eastern metropolitan communities.
- Vermont's S 55, Act 75 evaluates chemical inventories and identifies potential risks through the use of biomonitoring.

Food and Food Safety

Laws regarding food were enacted in 42 states, Puerto Rico, and Washington, DC. There were 798 bills introduced in 2019 and 148 were enacted. Topics included the Food Safety Modernization Act (FSMA), changes to the retail food code, inspectors for produce safety, and responses to allergens. New Jersey and New York had the most bills related to the topic (63 and 59, respectively), followed by Hawaii with 46.

The foremost issue regarding food was food safety. Legislatures reviewed many aspects of food safety, from the adoption of the Food and Drug Administration's *Food Code* to state efforts to implement FSMA. Laws regarding food establishments and retail food locations were also popular with 130 bills introduced and 14 enacted.

The most interesting issue in 2019 was cell- and plant-based meat laws. Cell-based meat is produced by taking a small sample of animal cells and replicating them in a culture outside of the animal. It is also referred to as "clean meat." Plant-based meat is an animal-free alternative to common processed foods that are typically made of animal parts. They are designed and created to look, taste, and cook like conventional meat. The popularity of plant-based meats led to several laws being introduced and enacted on the labeling of these products. Many of these laws involve cell-based meats as well, even though such products are not readily available. States that enacted these types of bills included: Alabama (H 518), Arkansas (H 1407, Act 501), Colorado (HR 1005), Kentucky (H 311, Act 42 and HR 105), Louisiana (S 152, Act 273), Mississippi (S 2922), Montana (H 327, Act 273), North Dakota (H 1400 and HCR 3024), Oklahoma (S 392), South Carolina (H 4245),

South Dakota (S 68, Act 181), and Wyoming (S 68, Act 100).

Limiting a state's oversight of food safety regulations was another popular topic with 59 bills introduced regarding cottage foods. With the exception of New Jersey, every state, Puerto Rico, and Washington, DC, have enacted cottage food laws that exempt small-scale food production from regulatory oversight. A total of 59 bills were introduced in 2019 to expand or define the scope of cottage food operations. Allowing for larger operations to be eligible for cottage food protections, permitting hazardous food products, and altering rules on food handling all were reviewed by state legislatures. Examples of these bills include:

- In Illinois, S 2068, Act 425 amends the Food Handling Regulation Enforcement Act by prohibiting a public health district from regulating the preparation and service of food in a private residence that is prepared by or for the lessees and their guests.
- Maryland's S 290, Act 370 alters the definition of cottage food products to include food sold to retail food stores or food cooperatives. The law requires the owner of a cottage food business to submit information to the Maryland Department of Health before selling a cottage food product to a retail food store. Also, H 527, Act 370 alters the definition of cottage food products to include food sold to retail food stores or food cooperatives and requires that a specific label be applied to cottage food products.
- In Texas, H 1694, Act 373 limits food regulations applied to farms, farmers markets, and cottage food production operations.
- West Virginia's S 285, Act 3 authorizes the production and sale of homemade food items under certain circumstances. The law establishes conditions for exemption from licensure, permitting, inspection, packaging, and labeling laws; provides required notices to the consumer; and permits local health departments to inspect reported foodborne illnesses.

One of the more interesting laws in 2019 came from the legislature in Maine. Maine's H 583 proposes an amendment to the state's constitution related to rights to food and food sovereignty and freedom from hunger. It declares that all individuals have a natural, inherent, and unalienable right to food, including the right to acquire, produce,

process, prepare, preserve, consume, barter, trade, and purchase the food of their own choosing for their own nourishment, sustenance, bodily health, and well-being. The bill will be subject to a statewide vote if passed by the legislature.

Indoor Air Quality

Legislatures in 29 states and Puerto Rico enacted 45 bills related to indoor air quality. The main issues addressed were related to vaping, radon, and indoor smoke. Examples of these bills include:

- Colorado enacted the Residential Tenants Health and Safety Act (H 1170, Act 229) that defines mold in housing.
- Connecticut's H 7269, Act 19 funds a program to reduce health and safety hazards in residential dwellings, including lead, radon, and other contaminants through removal and remediation.
- Florida's S 7012, Act 14 prohibits vaping in an enclosed indoor workplace, revises requirements for customs smoking rooms, and requires the proprietor to implement a policy regarding specified smoking and vaping prohibitions.
- Indiana's S 632, Act 21 requires the State Department of Health to distribute a manual of best practices for managing indoor air quality at schools—including recommendations for radon testing—to the legislative council, Department of Education, and facilities manager and superintendent of each school.
- In Maine, the legislature prohibited the possession and use of electronic smoking devices on school grounds (A 39, Act 61).
- Nebraska adopted the Radon Resistant New Construction Requirements bill (L 130).
- Puerto Rico's S 147, Act 69 prohibits smoking in motor vehicles that have passengers under 18 years old.
- Virginia's H 1885, Act 279 directs the Department of Health to develop programs to educate the public about radon, sources of radon, potential adverse health impacts of radon exposure, and options for radon testing and mitigation.

Pesticides

Legislatures in 12 states and Puerto Rico enacted 15 bills regarding pesticides and environmental health. Examples of these bills include:

- In California, A 320, Act 422 created the California Mosquito Surveillance and Research Program to be administered by the University of California. The law requires the university to maintain an interactive Internet website for dissemination of data on mosquito-borne viruses and surveillance control.
- Colorado enacted H 1328, Act 426 that establishes duties for landlords and tenants regarding the presence of bed bugs and requires a tenant to promptly notify the landlord when the tenant suspects that their dwelling unit contains bed bugs.
- Maine enacted the Pesticide Safety Education Program (S 393, Act 243) that awards an annual grant to the University of Maine Cooperative Extension for the development and revision of training manuals for pesticide applicator certification, licensing, and recertification.
- Nevada's A 205, Act 317 requires the establishment of an integrated pest management policy for controlling pests and weeds on school district properties.
- Puerto Rico's SR 281 directs the Senate Health Committee to study the effect of glyphosate on the public's health.
- Texas enacted the Mosquito Control Waiver (S 113, Act 344) that authorizes the application of pesticides for mosquito control by municipal or county employees in an emergency.

Swimming Pools

Legislatures enacted 4 bills in 3 states on swimming pools.

- New Jersey enacted A 3772, Act 22 regarding pool and spa service contractors and provides that provisions do not apply to a property owner who performs pool and spa building and installation or swimming pool service and repair work on his own property or pool. Also, A 4191, Act 23 exempts certain facilities from regulation even if they have a diving board, water slide, or similar feature.
- Texas adopted the International Swimming Pool and Spa Code for the state through H 2858, Act 214.
- West Virginia's H 2490, Act 213 prevents the state from a review of any repair or modernization of equipment at a public pool facility if such activity does not exceed \$25,000 in planned costs.

Toxics and Chemicals

State legislatures reviewed bills related to concerns from toxics and chemicals, including asbestos, lead, PFAS, sunscreen, and ethylene oxide. Legislatures in 49 states introduced 793 bills related to this topic. Examples of these bills (not including lead hazards and PFAS as those are discussed in the following subsections) include:

- In Illinois, S 1392, Act 330 studies the threat of microplastics to human health and the environment.
- In Maine, the legislature enacted S 296, Act 47 that regards the elimination of highly toxic and hazardous chemicals in the workplace.
- Washington's S 5135, Act 292 requires manufacturers of child and consumer products containing a state-identified priority chemical to provide notice to the state.

Lead Hazards

Lead hazards, replacements of lead water services lines, and the screening of children with elevated blood-lead levels were all addressed by state legislatures in 2019. Examples of these bills include:

- California's A 206, Act 171 makes a property owner who participates in a program to abate lead-based paint as a result of a judgment in any public nuisance immune from liability in any lawsuit seeking to recover any cost associated with that abatement program. Also, A 72, Act 1 provides \$5 million to test and remediate lead in drinking water at licensed day care centers.
- California's S 647, Act 379 and New York's S 4046, Act 671 regulate jewelry containing lead.
- Maine enacted H 21, Act 100 that requires a notice of any lead abatement order and when the abatement is complete. Also, S 336, Act 479 makes several changes to the state's Lead Poisoning Control Act by changing the year for the state's goal to eradicate childhood lead poisoning, requiring all state children be tested for unsafe exposure to lead at 1 and 2 years, increasing the lead poisoning prevention fee per gallon of paint, and allowing up to one half of the fee to be used for mandated dwelling inspections.
- Maine (S 40, Act 158), Maryland (H 1253, Act 557), and Vermont (S 40, Act 66) require schools to test their drinking water for lead.

- Maryland's H 1233, Act 341 amends the reference level for blood lead. The law also requires the Department of the Environment to adopt regulations for conducting environmental investigations.
- New Jersey enacted a law to issue bonds to replace lead-contaminated water service lines (A 4120, Act 114). Furthermore, SR 133 urges Suez North America to aggressively replace its lead service lines in the state.

Per- and Polyfluoroalkyl Substances

One of the foremost issues addressed by legislatures in 2019 was PFAS. Over 40 bills were introduced and 17 were enacted regarding these chemicals. Examples of these bills include:

- Arizona (S 1526, Act 222), Kentucky (S 104, Act 47), Minnesota (H 359, Act 47), and New Hampshire (S 257, Act 337) prohibit firefighting foam that contains PFAS chemicals from being used for firefighting training or testing.
- Colorado's H 1279, Act 427 requires the Department of Public Health and Environment to determine the amount of PFAS foam currently held, used, and disposed of by fire departments.
- Michigan's Human Service Budget (S 139, Act 67) allocates grants to local public health departments to support PFAS response and emerging public health threat activities.

- North Carolina's S 433, Act 241 requires the state to conduct an analysis for PFAS, including GenX, at all public water supply surface water intakes to establish a water quality baseline for all sampling sites.
- Vermont's S 49, Act 21 adopts a maximum contaminant level for PFAS under the Agency of Natural Resources' Water Supply Rule, requires the Secretary of Natural Resources to amend the quality standards to include criteria or effluent limitations for PFAS, and requires landfills to treat leachate for PFAS prior to delivery to a wastewater treatment facility or other facilities where the leachate would be discharged to state waters.
- Washington's budget (H 1102, Act 413) includes funds for the Department of Ecology to characterize PFAS chemicals in areas that impact the Issaquah Valley aquifer.

Wastewater

State legislatures enacted 39 bills addressing wastewater concerns, such as septic systems, reclaimed wastewater, and sewage systems. Examples of these bills include:

- Colorado's H 1200, Act 78 relates to the process involved in treating reclaimed domestic wastewater for indoor nonpotable uses within a building where the general public can access plumbing fixtures that are used to deliver the reclaimed domestic wastewater.
- In Hawaii, H 444, Act 202 requires the Department of Health to adopt rules for onsite nonpotable water reuse systems.

- In Indiana, H 1486, Act 261 amended residential onsite sewage systems to allow for technological advances in wastewater.
- North Carolina's H 268, Act 151 disapproves of certain wastewater treatment and dispersal rules adopted by the Commission for Public Health. The bill creates a task force to recommend new wastewater treatment and dispersal rules and creates standards for an onsite wastewater evaluator.
- Oregon's S 884, Act 558 authorizes loans from Water Pollution Control Revolving Fund to finance projects to repair or replace failing onsite septic systems with connections to available sewers.
- Washington's S 5503, Act 50 provides that a local health officer may not deny or condition a permit application related to an onsite sewage system upon the granting of an easement allowing for the inspection or maintenance of the onsite system.
- Virginia's H 192, Act 187 directs the State Department of Health to adopt regulations regarding the use of greywater and rainwater. 🐾

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