

PUBLIC HEALTH

Environmental Regulation		
HB 09-1282 (Enacted) <i>Electronic Device Recycling Task Force</i>	SB 09-156 (Lost in Senate) <i>Plastic Bag Reduction</i>	SB 09-289 (Enacted) <i>Collect & Allocate Waste Tire Revenues</i>
Solid Waste Regulation		
HB 09-1056 (Enacted) <i>Solid Waste Disposal Administrative Penalties</i>		
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HB 09-1111 (Enacted) <i>Health Resources for Underserved Areas</i>	SB 09-179 (Enacted) <i>Communicable Disease Control</i>	
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HB 09-1196 (Enacted) <i>Nursing Home Penalty Benefit Residents</i>	HB 09-1278 (Postponed Indefinitely) <i>Care for Vulnerable Populations</i>	HJR 09-1022 (Enacted) <i>Home Care Placement Agency Task Force</i>
Tobacco Settlement and Tax Programs		
SB 09-210 (Enacted) <i>Tobacco Settlement Health Programs</i>	SB 09-269 (Enacted) <i>Adjust Tobacco Settlement Moneys Allocation</i>	SB 09-270 (Enacted) <i>Tobacco Tax Investment Income Transfers</i>
SB 09-271 (Enacted) <i>Emergency Use Tobacco Tax Transfers</i>	SJR 09-035 (Enacted) <i>Declare Fiscal Emergency Tobacco Tax</i>	
Other		
SB 09-223 (Enacted) <i>Retail Food Establishment Inspection</i>		

During the 2009 session, the General Assembly considered a variety of bills relating to public health. The legislature considered bills relating to environmental regulation, penalties for solid waste violations, air quality, disease control and treatment, and health care facility licensing. In addition, as a result of the budget shortfall, the General Assembly approved legislation transferring moneys from the tobacco tax and tobacco settlement that currently fund health care programs to the state's General Fund.

Environmental Regulation

House Bill 09-1282 creates a 16-member Electronic Device Recycling Task Force within the Department of Public Health and Environment (DPHE). The task force must hold its first meeting by July 1, 2009, and must hold at least three public meetings, one of which must be outside of the Denver metro area. The task force must gather input from interested parties regarding the benefits and consequences of establishing a landfill disposal ban for electronic devices. In addition, the task force must consider methods to:

- increase diversion rates for electronic devices;
- promote new nontoxic designs for electronics;
- create jobs in Colorado in connection with the recycling of electronic waste; and
- build on the existing infrastructure that currently diverts electronic waste in Colorado.

The task force must submit its recommendations, including proposed legislation, to the House and Senate Health and Human Services committees by December 15, 2009.

Senate Bill 09-289 concerns the recycling of waste tires. Currently, a \$1.50 fee is charged on the disposal of each waste tire in the state. The fee funds recycling programs for waste tires and other programs. Senate Bill 09-289 requires that tire retailers collect the fee on the sale of new tires, rather than the disposal of old tires. Retailers must also print a notice on customer receipts for the purchase of new tires explaining that state law requires the fee to be collected. The bill restricts the disposal of waste tires in monofill landfills unless the tires are shredded.

Senate Bill 09-156 created the "Plastic Bag Reduction Act." Beginning September 1, 2009, customers would have been charged six cents for each plastic bag provided at checkout. Of the total fee, three cents were to have been retained by the store, and three cents were to be credited to the Plastic Bag Reduction Education Fund. The DPHE would have used the moneys in the fund to educate customers about the ban on plastic bags which was to take effect July 1, 2012.

Beginning July 1, 2012, the act would have prohibited stores with at least 10,000 feet of retail space and gross annual sales of \$1 million or more from providing plastic bags to customers at checkout. Individuals who violated the provisions of the act would have been subject to fines for each plastic bag provided. The bill was lost in the Senate.

Solid Waste Regulation

House Bill 09-1056 makes a number of changes to enforcement procedures of the DPHE related to solid waste disposal. Specifically, the bill:

- specifies that the DPHE is not required to conduct a hearing before issuing a compliance order, but a person who receives a compliance order may request a hearing through the Department of Personnel and Administration, Office of Administrative Courts;
- authorizes a compliance order to include an administrative or civil penalty;
- allows an administrative law judge (ALJ) to grant a motion to stay any portion of a compliance order pending the outcome of a hearing, and specifies factors for the ALJ to consider;

- allows an ALJ to request an interpretive rule from the Solid and Hazardous Waste Commission, and specifies factors to consider and procedures for the commission to follow; and
- allows the Solid and Hazardous Waste Commission to waive the requirement that oil and gas exploration and production waste facilities install fabricated liners if certain conditions are met.

The bill also increases the maximum penalty for violations from \$2,000 to \$10,000 per day payable to the county or municipality in which the violation occurred. Likewise, maximum penalties for the failure to comply with an order from the DPHE and the maximum misdemeanor fine penalty for violation of solid waste disposal requirements are increased from \$2,000 to \$10,000.

Air Quality

House Bill 09-1332 repeals a requirement that the DPHE conduct cumulative economic analyses of all air pollution control measures every five years.

Senate Bill 09-003 includes most of Weld and Larimer counties in the enhanced emissions program of the Automobile Inspection and Readjustment Program (AIR program), beginning January 1, 2010. The AIR program is designed to reduce air pollutants through the regular inspection and repair of high polluting vehicles. Vehicles registered in the current inspection area must meet established criteria for emissions of carbon monoxide, nitrogen oxides, and hydrocarbons. To ensure compliance with these standards, vehicles are required to undergo periodic emissions testing at the time their registration is renewed. Vehicles that fail the tests must be repaired and pass a retest before registration may be renewed.

The bill exempts a collector's item from the emissions testing process, and changes the definition of "collector's item" to include vehicles that are model year 1975 or earlier, and vehicles that were registered as a collector's item prior to September 1, 2009.

Disease Control and Treatment

House Bill 09-1111 creates the Primary Care Office in the Prevention Services Division of the DPHE. The office has the following duties:

- to assess the health care professional needs of areas throughout the state;
- to apply to the U.S. Department of Health and Human Services for federal designations declaring that certain areas of the state have a shortage of health care professionals. The designations allow the state to participate in federal programs to address health care professional shortages;
- to maximize the placement of health care professionals who serve communities designated as medically underserved areas, medically underserved populations, or health professional shortage areas;
- to administer the State Health Care Professional Loan Repayment Program, which was previously administered by CollegeInvest; and

- to administer or provide technical assistance to participants in the federal J-1 visa waiver program, which allows foreign physicians to practice in underserved areas.

Senate Bill 09-179 updates statutes related to communicable disease control. Specifically, the bill:

- clarifies statutes prohibiting individuals who have communicable diseases that are spread by food from working in food preparation;
- requires a health care professional treating a pregnant woman to conduct an HIV test during the first trimester of the woman's pregnancy or, if the test has been conducted earlier, when the woman presents for delivery, as long as the woman does not decline the test;
- updates statutory terminology regarding sexually-transmitted diseases;
- clarifies that a public health officer may detain a person subject to an isolation order without a court order; and
- specifies that a person who is being detained as a result of an isolation order be advised that he or she has the right to request release from detention by contacting a person designated in the order, and that the detention may not last longer than five business days after the person's request for release, unless the detention is authorized by court order.

Health Facility Licensing

Revenue to the Nursing Home Penalty Cash Fund comes from civil penalties that are assessed against long-term care facilities for violations of state regulations. Under current law, distributions from the fund may be made to relocate residents, to maintain the operation of nursing facilities, to close a facility, or to reimburse residents for lost personal funds. **House Bill 09-1196** allows moneys in the fund to be used for measures that will improve residents' quality of life at nursing facilities, such as consumer education; training for state surveyors, supervisors, and the state and local long-term care ombudsman; and newsletters and websites regarding resident-center care in nursing facilities. In FY 2009-10, \$200,000 of the fund's money must be used for these purposes. In following years, at least 25 percent of the moneys received by the fund in the previous year may be available, or about \$85,000 in FY 2010-11. The bill creates the Nursing Facility Culture Change Accountability Board to make recommendations about how the moneys in the fund may be used for activities that will benefit residents.

House Bill 09-1278 would have made a variety of changes to health care programs for vulnerable persons. Specific to health care facility licensing, the bill would have required the DPHE to license home care placement agencies. The bill was postponed indefinitely.

Another measure regarding home care placement agencies, **House Joint Resolution 09-1022**, creates a 13-member task force to study home care placement agencies and home care workers. The task force will meet during the 2009 legislative interim, and must study protections for consumers of home care services and whether home care placement agencies should be licensed. The task force must make recommendations to the House and Senate Health and Human Services committees by September 1, 2009.

Tobacco Settlement and Tax Programs

In Colorado, a variety of public health programs are funded through two tobacco-related funding sources: a tax on tobacco products implemented by Amendment 35, which was approved by voters in 2004, and the tobacco settlement agreement. The tobacco settlement agreement is a legal settlement under which states receive annual payments to compensate for the cost of caring for individuals with tobacco-related illnesses. During the 2009 legislative session, the General Assembly made adjustments to the programs funded by these tobacco moneys in response to the economic downturn.

Senate Bill 09-210 transfers \$214,070 of tobacco-settlement moneys to the General Fund in FY 2008-09. The transfers are from the following:

- \$65,000 from the Ryan White AIDS Drug Assistance Program; and
- \$149,070 from payments to local health agencies.

The bill also specifies that annual funding for Home- and Community-based Services for Children with Autism from the Tobacco Litigation Settlement Cash Fund is \$1.0 million, instead of *up to* \$1.0 million.

Senate Bill 09-269 transfers additional tobacco-settlement moneys to the General Fund for FY 2009-10. Specifically, the bill:

- caps the amount of tobacco settlement revenue allocated to tobacco settlement programs at \$100.0 million for FY 2009-10 and reduces appropriations to affected settlement supported programs;
- transfers \$1.1 million and any disputed settlement payments from the Tobacco Litigation Settlement Cash Fund to the General Fund;
- delays for one year the mandated 1 percent growth in the allocation of settlement moneys to the Nurse Home Visitor Program, maintaining program funding at the FY 2008-09 level;
- maintains funding for the AIDS Drug Assistance Program at the FY 2008-09 level; and
- changes the funding source for the Summer School Grant Program from the State Education Fund to the Read-to-Achieve Cash Fund (\$1.0 million).

The transfers total \$11.8 million in additional revenue for the General Fund.

When Amendment 35 was passed by voters, it contained a provision stating that the moneys generated by the new tax could be spent for purposes other than those outlined in the amendment if a state fiscal emergency was declared. **Senate Joint Resolution 09-035** declares a state fiscal emergency for FY 2009-10 and specifies that General Assembly intends to use the Amendment 35 revenue for any health-related purpose and to fund the Children's Basic Health Plan and Medicaid program.

Pursuant to the declaration of a state fiscal emergency in Senate Joint Resolution 09-035, **Senate Bill 09-271** allows Amendment 35 moneys that were dedicated for tobacco use and prevention programs and the prevention, early detection, and treatment of chronic diseases to be used

for any health-related purpose and to serve persons enrolled in both the Children's Basic Health Plan and Medicaid in FY 2009-10.

Senate Bill 09-270 allows interest earnings from Amendment 35 revenue to be transferred to the General Fund in FY 2008-09 through FY 2011-12.

Other

Senate Bill 09-223 establishes initial and annual licensing fees for establishments offering food to workers at temporary living quarters in the oil and gas development industry. The bill also increases annual licensing and other fees paid by other retail food establishments. The bill makes changes to the Food Protection Act as follows:

- provides for the uniform statewide administration of food safety;
- requires follow-up activities by the DPHE or county or district board of health if critical violations are found during an inspection; and
- establishes a grievance process for retail food establishments that believe that a county or district public health agency is taking inappropriate action.