(127th General Assembly)
(Senate Bill Number 214)

AN ACT

To amend sections 6111.09 and 6111.10 and to enact section 6111.11 of the Revised Code to prohibit the sale of dishwasher detergent that contains above a specified amount of phosphorus.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 6111.09 and 6111.10 be amended and section 6111.11 of the Revised Code be enacted to read as follows:

Sec. 6111.09. (A) Any person who violates section 6111.07 of the Revised Code shall pay a civil penalty of not more than ten thousand dollars per day of violation. Any person who purposely violates section 6111.10 or 6111.11 of the Revised Code shall pay a civil penalty of fifty dollars for a first violation and a civil penalty of not more than five hundred dollars for each subsequent violation occurring within twelve months of the first violation.

The attorney general, upon written request by the director of environmental protection, shall commence an action under this section against any person who violates section 6111.07 of the Revised Code. The director shall notify in writing any person who is allegedly selling or offering for sale a product in violation of section 6111.10 or 6111.11 of the Revised Code of the alleged specific violation and shall request the person to remove the product from ~~his~~ the person's sales area. If at least ten days after providing ~~such~~ that notification the director determines that the person has failed to remove the product from ~~his~~ the person's sales area, the director in writing shall request the attorney general to, and the attorney general shall, commence an action under this section against the person. Any action under this section is a civil action, governed by the Rules of Civil Procedure and other rules of practice and procedure applicable to civil actions.

(B) One-half of the moneys collected as civil penalties under division (A) of this section shall be credited to the environmental education fund created in section 3745.22 of the Revised Code. The remainder of the moneys so collected shall be credited to the water pollution control administration fund, which is hereby created in the state treasury. The water

pollution control administration fund shall be administered by the director. Moneys in the water pollution control administration fund shall be used to supplement other moneys available for the administration and enforcement of this chapter and the rules adopted and terms and conditions of orders and permits issued under it, including, without limitation, the issuance of permits under it, and shall not be used to satisfy any state matching fund requirements for the receipt of any federal grant funds.

The director may expend not more than seven hundred fifty thousand dollars of the moneys credited to the water pollution control administration fund under this division in any fiscal year for the purposes specified in this division. The director may request authority from the controlling board to expend any moneys credited to that fund in any fiscal year in excess of that amount.

Sec. 6111.10. After January 1, 1990, no person shall sell, offer for sale, or distribute for sale in the counties of Ashtabula, Trumbull, Lake, Geauga, Portage, Stark, Cuyahoga, Summit, Medina, Lorain, Ashland, Richland, Huron, Erie, Crawford, Marion, Wyandot, Seneca, Sandusky, Ottawa, Lucas, Wood, Hancock, Hardin, Fulton, Henry, Putnam, Allen, Auglaize, Shelby, Mercer, Van Wert, Paulding, Defiance, and Williams, a household laundry detergent containing phosphorus in any form in excess of one-half ~~percent~~ per cent by weight expressed as elemental phosphorus.

This section does not apply to:

(A) A cleanser, rinsing aid, ~~or~~ sanitizing agent, or detergent intended primarily for use in an automatic or machine dishwasher;

(B) An industrial or commercial conversion coating agent, corrosion remover, paint remover, rust inhibitor, metal brightener, etchant, or other surface conditioner;

(C) A solvent cleaner or other similar product not normally used with water;

(D) A disinfectant, detergent, or sanitizer used in institutions, hospitals, veterinary hospitals or clinics, nursing homes, or other health care facilities or by commercial laundries that provide laundry services for those institutions and facilities or for other commercial establishments;

(E) A compound or product used in the manufacture or processing of foods or food products, including those used in dairy, beverage, egg, fish, poultry, meat, fruit, or vegetable processing facilities;

(F) A product intended primarily for personal use, including, but not limited to, bathing soaps, dentifrices, shampoos, cleansing creams, toothpastes, or other products for the care of the human body;

(G) A product subject to registration or control under federal or state

law governing foods, drugs, cosmetics, insecticides, fungicides, or rodenticides;

(H) A product normally not used with water, such as a cleanser for windows, ovens, or other hard surfaces;

(I) A water softening chemical, anti-scale chemical, or corrosion inhibitor intended for use in circulatory systems, such as boilers, air conditioners, cooling towers, or hot water heating systems;

(J) A product used as a cleanser in the washing of milking or milk storage equipment normally used in the production of milk for market;

(K) A compound or product used for cleaning in transportation, commercial, or industrial activities;

(L) Retail sales or offers for sale from a retailer's inventory of a product otherwise covered by this section that remains at the end of the business day on December 31, 1989, if the retailer's inventory of the product during December, 1989, does not exceed ~~his~~ the retailer's average monthly inventory during the previous twelve months.

A person who unknowingly sells, offers for sale, or distributes for sale a household laundry detergent in violation of this section is not subject to the imposition of a civil penalty under section 6111.09 of the Revised Code for that violation if the sale, offer for sale, or distribution for sale occurred because of the inadvertent or unintentional delivery of the detergent to a business location in a county where such sale, offer for sale, or distribution for sale is prohibited under this section.

This section is intended for general application throughout the counties enumerated in it. Therefore, no such county and no political subdivision located within any such county shall adopt or enforce any law, ordinance, rule, resolution, requirement, or policy regulating the phosphorus content of any household laundry detergent that is to be sold, offered for sale, or distributed for sale in that county or political subdivision.

Sec. 6111.11. On and after July 1, 2010, no person shall sell, offer for sale, or distribute for sale a cleanser, rinsing aid, sanitizing agent, or detergent that is intended primarily for use in an automatic or machine dishwasher and that contains phosphorus in any form in excess of one-half per cent by weight expressed as elemental phosphorus.

This section does not apply to either of the following:

(A) Cleansers, rinsing aids, sanitizing agents, or detergents that are used in an automatic or machine dishwasher in a commercial or institutional facility;

(B) Retail sales or offers for sale from a retailer's inventory of a product that is otherwise covered by this section and that remains at the end of the

business day on June 30, 2010, if the retailer's inventory of the product during June 2010 does not exceed the retailer's average monthly inventory during the previous twelve months.

SECTION 2. That existing sections 6111.09 and 6111.10 of the Revised Code are hereby repealed.

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Speaker _____ of the House of Representatives.

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President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

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Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

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Secretary of State.

File No. _____ Effective Date _____