

As Passed by the Senate

**127th General Assembly
Regular Session
2007-2008**

S. B. No. 214

Senator Niehaus

**Cosponsors: Senators Jacobson, Spada, Miller, D., Morano, Kearney,
Mumper, Fedor, Harris, Padgett, Seitz, Schaffer, Stivers, Wilson, Roberts,
Mason, Gardner, Schuler, Miller, R., Smith**

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A B I L L

To amend sections 6111.09 and 6111.10 and to enact 1
section 6111.11 of the Revised Code to prohibit 2
the sale of dishwasher detergent that contains 3
above a specified amount of phosphorus. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 6111.09 and 6111.10 be amended and 5
section 6111.11 of the Revised Code be enacted to read as follows: 6

Sec. 6111.09. (A) Any person who violates section 6111.07 of 7
the Revised Code shall pay a civil penalty of not more than ten 8
thousand dollars per day of violation. Any person who purposely 9
violates section 6111.10 or 6111.11 of the Revised Code shall pay 10
a civil penalty of fifty dollars for a first violation and a civil 11
penalty of not more than five hundred dollars for each subsequent 12
violation occurring within twelve months of the first violation. 13

The attorney general, upon written request by the director of 14
environmental protection, shall commence an action under this 15
section against any person who violates section 6111.07 of the 16
Revised Code. The director shall notify in writing any person who 17

is allegedly selling or offering for sale a product in violation 18
of section 6111.10 or 6111.11 of the Revised Code of the alleged 19
specific violation and shall request the person to remove the 20
product from ~~his~~ the person's sales area. If at least ten days 21
after providing ~~such~~ that notification the director determines 22
that the person has failed to remove the product from ~~his~~ the 23
person's sales area, the director in writing shall request the 24
attorney general to, and the attorney general shall, commence an 25
action under this section against the person. Any action under 26
this section is a civil action, governed by the Rules of Civil 27
Procedure and other rules of practice and procedure applicable to 28
civil actions. 29

(B) One-half of the moneys collected as civil penalties under 30
division (A) of this section shall be credited to the 31
environmental education fund created in section 3745.22 of the 32
Revised Code. The remainder of the moneys so collected shall be 33
credited to the water pollution control administration fund, which 34
is hereby created in the state treasury. The water pollution 35
control administration fund shall be administered by the director. 36
Moneys in the water pollution control administration fund shall be 37
used to supplement other moneys available for the administration 38
and enforcement of this chapter and the rules adopted and terms 39
and conditions of orders and permits issued under it, including, 40
without limitation, the issuance of permits under it, and shall 41
not be used to satisfy any state matching fund requirements for 42
the receipt of any federal grant funds. 43

The director may expend not more than seven hundred fifty 44
thousand dollars of the moneys credited to the water pollution 45
control administration fund under this division in any fiscal year 46
for the purposes specified in this division. The director may 47
request authority from the controlling board to expend any moneys 48
credited to that fund in any fiscal year in excess of that amount. 49

Sec. 6111.10. After January 1, 1990, no person shall sell, 50
offer for sale, or distribute for sale in the counties of 51
Ashtabula, Trumbull, Lake, Geauga, Portage, Stark, Cuyahoga, 52
Summit, Medina, Lorain, Ashland, Richland, Huron, Erie, Crawford, 53
Marion, Wyandot, Seneca, Sandusky, Ottawa, Lucas, Wood, Hancock, 54
Hardin, Fulton, Henry, Putnam, Allen, Auglaize, Shelby, Mercer, 55
Van Wert, Paulding, Defiance, and Williams, a household laundry 56
detergent containing phosphorus in any form in excess of one-half 57
~~percent~~ per cent by weight expressed as elemental phosphorus. 58

This section does not apply to: 59

(A) A cleanser, rinsing aid, ~~or~~ sanitizing agent, or 60
detergent intended primarily for use in an automatic or machine 61
dishwasher; 62

(B) An industrial or commercial conversion coating agent, 63
corrosion remover, paint remover, rust inhibitor, metal 64
brightener, etchant, or other surface conditioner; 65

(C) A solvent cleaner or other similar product not normally 66
used with water; 67

(D) A disinfectant, detergent, or sanitizer used in 68
institutions, hospitals, veterinary hospitals or clinics, nursing 69
homes, or other health care facilities or by commercial laundries 70
that provide laundry services for those institutions and 71
facilities or for other commercial establishments; 72

(E) A compound or product used in the manufacture or 73
processing of foods or food products, including those used in 74
dairy, beverage, egg, fish, poultry, meat, fruit, or vegetable 75
processing facilities; 76

(F) A product intended primarily for personal use, including, 77
but not limited to, bathing soaps, dentifrices, shampoos, 78
cleansing creams, toothpastes, or other products for the care of 79

the human body;	80
(G) A product subject to registration or control under federal or state law governing foods, drugs, cosmetics, insecticides, fungicides, or rodenticides;	81 82 83
(H) A product normally not used with water, such as a cleanser for windows, ovens, or other hard surfaces;	84 85
(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;	86 87 88 89
(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;	90 91 92
(K) A compound or product used for cleaning in transportation, commercial, or industrial activities;	93 94
(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 <u>the retailer's</u> average monthly inventory during the previous twelve months.	95 96 97 98 99 100
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.	101 102 103 104 105 106 107 108 109

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.