

**As Reported by the House Economic Development and
Environment Committee**

**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
Representatives Ujvagi, Chandler, Celeste, Hagan, R., McGregor, J.**

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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 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 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 81
federal or state law governing foods, drugs, cosmetics, 82
insecticides, fungicides, or rodenticides; 83

(H) A product normally not used with water, such as a 84
cleanser for windows, ovens, or other hard surfaces; 85

(I) A water softening chemical, anti-scale chemical, or 86
corrosion inhibitor intended for use in circulatory systems, such 87
as boilers, air conditioners, cooling towers, or hot water heating 88
systems; 89

(J) A product used as a cleanser in the washing of milking or 90
milk storage equipment normally used in the production of milk for 91
market; 92

(K) A compound or product used for cleaning in 93
transportation, commercial, or industrial activities; 94

(L) Retail sales or offers for sale from a retailer's 95
inventory of a product otherwise covered by this section that 96
remains at the end of the business day on December 31, 1989, if 97
the retailer's inventory of the product during December, 1989, 98
does not exceed ~~his~~ the retailer's average monthly inventory 99
during the previous twelve months. 100

A person who unknowingly sells, offers for sale, or 101
distributes for sale a household laundry detergent in violation of 102
this section is not subject to the imposition of a civil penalty 103
under section 6111.09 of the Revised Code for that violation if 104
the sale, offer for sale, or distribution for sale occurred 105
because of the inadvertent or unintentional delivery of the 106
detergent to a business location in a county where such sale, 107
offer for sale, or distribution for sale is prohibited under this 108

section. 109

This section is intended for general application throughout 110
the counties enumerated in it. Therefore, no such county and no 111
political subdivision located within any such county shall adopt 112
or enforce any law, ordinance, rule, resolution, requirement, or 113
policy regulating the phosphorus content of any household laundry 114
detergent that is to be sold, offered for sale, or distributed for 115
sale in that county or political subdivision. 116

Sec. 6111.11. On and after July 1, 2010, no person shall 117
sell, offer for sale, or distribute for sale a cleanser, rinsing 118
aid, sanitizing agent, or detergent that is intended primarily for 119
use in an automatic or machine dishwasher and that contains 120
phosphorus in any form in excess of one-half per cent by weight 121
expressed as elemental phosphorus. 122

This section does not apply to either of the following: 123

(A) Cleansers, rinsing aids, sanitizing agents, or detergents 124
that are used in an automatic or machine dishwasher in a 125
commercial or institutional facility; 126

(B) Retail sales or offers for sale from a retailer's 127
inventory of a product that is otherwise covered by this section 128
and that remains at the end of the business day on June 30, 2010, 129
if the retailer's inventory of the product during June 2010 does 130
not exceed the retailer's average monthly inventory during the 131
previous twelve months. 132

Section 2. That existing sections 6111.09 and 6111.10 of the 133
Revised Code are hereby repealed. 134