**A** **BILL**

TO AMEND SECTION 44‑53‑50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PROHIBITION AGAINST USING, SELLING, OR MANUFACTURING CLEANING AGENTS CONTAINING PHOSPHATES, SO AS TO INCLUDE HOUSEHOLD DISHWASHING DETERGENTS IN THIS PROHIBITION; TO FURTHER SPECIFY CRITERIA FOR AND TYPES OF CLEANING AGENTS EXEMPT FROM THIS PROHIBITION; TO PROVIDE A CRIMINAL OFFENSE FOR SECOND AND SUBSEQUENT VIOLATIONS; TO AUTHORIZE THE SALE OF PROHIBITED CLEANING AGENTS THAT ARE IN A RETAILER’S INVENTORY ON JULY 1, 2011; AND TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO REPORT ON THE AVAILABILITY, EFFECTIVENESS, AND COST OF NONPHOSPHATE COMMERCIAL DISHWASHING DETERGENT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44‑53‑50 of the 1976 Code is amended to read:

“Section 44‑53‑50. (A) Except as otherwise provided in this section, a person may ~~not~~ use, sell, manufacture, or distribute for use or sale in this State ~~any~~ no cleaning agent that contains more than zero percent phosphorus by weight expressed as elemental phosphorus except for an amount not exceeding five‑tenths of one percent that is incidental to manufacturing. For the purposes of this section, ‘cleaning agent’ means a laundry detergent, dishwashing compound, household cleaner, household dishwashing detergent, metal cleaner, industrial cleaner, phosphate compound, or other substance that is intended to be used for cleaning purposes.

(B) A person may use, sell, manufacture, or distribute for use or sale a cleaning agent that contains greater than zero percent phosphorus by weight but does not exceed eight and seven‑tenths percent phosphorus by weight that is~~:~~

~~(1)~~ ~~a detergent used in a dishwashing machine, whether commercial or household; and~~

~~(2)~~ a substance excluded from the zero percent phosphorus limitation of this section by regulations adopted by the Department of Health and Environmental Control which are based on a finding that compliance with this section would:

~~(i)~~(1) create a significant hardship on the user; or

~~(ii)~~(2) be unreasonable because of the lack of an adequate substitute cleaning agent.

(C) This section does not apply to a cleaning agent that is:

(1) used in dairy, beverage, or food processing equipment;

(2) a product used as an industrial sanitizer, brightener, acid cleaner, or metal conditioner, including phosphoric acid products or trisodium phosphate;

(3) used in hospitals, veterinary hospitals, clinics, or health care facilities or in agricultural or dairy production or in the manufacture of health care supplies;

(4) used by a commercial laundry ~~or textile rental~~ service company or ~~any~~ other commercial entity~~: (a)~~ to provide laundry service to hospitals, clinics, nursing homes, other health care facilities, or veterinary hospitals or clinics; ~~(b) to clean textile products owned by a commercial laundry or textile rental service company and supplied to industrial or commercial users of the products on a rental basis; or (c) to clean military, professional, industrial, or commercial work uniforms;~~

(5) used by industry for metal, fabric, or fiber cleaning or conditioning;

(6) manufactured, stored, or distributed for use or sale outside of this State;

(7) used in ~~any~~ a laboratory, including a biological laboratory, research facility, chemical laboratory, ~~and~~ or engineering laboratory; or

(8) ~~used for cleaning hard surfaces, including household cleansers for windows, sinks, counters, ovens, tubs, or other food preparation surfaces and plumbing fixtures;~~

~~(9)~~ used as a water softening chemical, antiscale chemical, or corrosion inhibitor intended for use in closed systems such as boilers, air conditioners, cooling towers, or hot water heating systems.

(D) The Department of Health and Environmental Control shall promulgate regulations to administer and enforce the provisions of this section. ~~Any~~ A cleaning agent held for sale or distribution in violation of this section may be seized by appropriate administrative or law enforcement personnel. The seized cleaning agents are considered forfeited.

(E) A person who knowingly sells, manufactures, or distributes any cleaning agent in violation of the provisions of this section shall receive a written warning from the Department of Health and Environmental Control for the first violation. For a subsequent violation, the person is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year. Each unlawful sale constitutes a separate violation.

(F) The provisions of this section may not restrict sale by a retailer of a household dishwashing detergent product from inventory existing and in stock at the retailer on July 1, 2011.

SECTION 2. The Department of Health and Environmental Control shall report to the General Assembly by January 15, 2014, on the availability, effectiveness, and cost of nonphosphate commercial dishwashing detergents.

SECTION 3. The provisions of this act relating to household dishwashing detergent take effect on July 1, 2011. All other provisions of this act take effect July 1, 2014.

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