

Environmental Conservation

ARTICLE 35 DETERGENTS AND OTHER HOUSEHOLD CLEANSING PRODUCTS

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§ 35-0101. Scope of article.

By the enactment of this article the state fully exercises the exclusive right to regulate and control the labelling and ingredients of household cleansing products distributed, sold, offered, or exposed for sale in this state, within the scope and limitations of this article. The terms "regulation" and "control" include prohibitions or other restrictions on the distribution, sale, offering or exposing for sale of such products in this state. In order to assure statewide uniformity, such regulation and control by any political subdivision of the state of such products is prohibited after June 25, 1971 provided, however, that any such regulation and control in effect on June 1, 1971 shall be unaffected by this section.

§ 35-0103. Definitions.

The following terms, whenever used or referred to in this article, shall have the following meaning unless a different meaning clearly appears from the context:

1. "Household cleansing product" means any product, including but not limited to soaps and detergents, containing a surfactant as a wetting or dirt emulsifying agent and used primarily for domestic or commercial cleaning purposes, including but not limited to, the cleansing of fabrics, dishes, food utensils and household and commercial premises. Household cleansing product shall not mean foods, drugs, cosmetics, insecticides, fungicides and rodenticides or cleansing products used primarily in industrial manufacturing, production and assembling processes as provided by the commissioner by rule and regulation.

2. "Person" means any individual, partnership, firm or corporation.

3. "Phosphorus" means elemental phosphorus.

4. "Commercial establishment" means any premises used for the purpose of carrying on or exercising any trade, business, profession, vocation, or commercial or charitable activity, including but not limited to laundries, hospitals, and food or restaurant establishments.

§ 35-0105. Distribution and sale of household cleansing products; possession or use of household cleansing products containing phosphorus by commercial establishments restricted.

1. No person shall distribute, sell, offer or expose for sale in this state any household cleansing product unless its wrapper or container shall be plainly labeled as provided in this subdivision. The commissioner may by rule or regulation exempt products shipped or distributed in bulk from provisions of this subdivision. The wrapper or container of every household cleansing product must list the weight of each ingredient which the commissioner determines may affect adversely human health or the environment, including but not limited to phosphorus. Such listing shall be by percentage of total weight of such product and by grams per recommended use, in descending order of predominance. Labeling of ingredients shall be in accordance with the nomenclature established by regulation of the commissioner. The percentage by weight in the container and the weight in grams per recommended use level of each ingredient shall be expressed to at least two significant figures or as specified by the commissioner. Analyses to determine actual composition shall be performed in accordance with rules and regulations of the commissioner.

2. a. (1) No household cleansing product, except those used in dishwashers, food and beverage processing equipment, and dairy equipment, shall be distributed, sold, offered or exposed for sale in this state which contains a phosphorus compound other than such trace concentrations as may be authorized by the commissioner by regulation.

(2) No household cleansing product used in dishwashers shall be distributed, sold, offered or exposed for sale in this state which contains a phosphorus compound in excess of five-tenths percent by weight expressed as phosphorus.

(3) No household cleansing product used in food and beverage processing equipment and dairy equipment shall be distributed, sold, offered or exposed for sale in this state which contains a phosphorus compound in excess of eight and seven-tenths percent by weight expressed as phosphorus.

b. No owner, occupant, or person in control of a commercial establishment shall possess or use or authorize any other person by way of service contract or other arrangement to possess or use in this state any household cleansing product which contains a phosphorus compound in excess of the amount allowed for such product under paragraph a of this subdivision.

3. No person shall distribute, sell, offer or expose for sale in this state any household cleansing product which does not comply with regulations of the commissioner promulgated pursuant to subdivision 3 of section 35-0107.

§ 35-0107. Powers and duties of commissioner.

1. The commissioner is hereby authorized to promulgate regulations requiring manufacturers of household cleansing products distributed, sold or offered for sale in this state, to furnish to the commissioner for the public record as herein provided information regarding such products in a form prescribed by the commissioner including the nature and extent of investigations and research performed by the manufacturer concerning the effects of such products on human health and the environment. These reports shall be available to the public at the department of environmental conservation, except those portions the manufacturer determines, subject to the approval of the commissioner, would be, if disclosed, seriously prejudicial to the manufacturer's legitimate interest in trade secrets and economics of operation.

2. No later than February 1, 1973 the commissioner shall prepare and submit a comprehensive report to the governor and legislature on the status of progress made in research and development to provide a safe and effective substitute for phosphates in household cleansing products.

3. Whenever the commissioner finds, after investigation, that any ingredient of household cleansing products distributed, sold, offered or exposed for sale in this state, other than an ingredient for which limitations are set forth in subdivision 2 of section 35-0105, will or is likely to materially affect adversely human health or the environment, he may, after public hearing, restrict or limit by regulation the use of such ingredient in such products.

§ 35-0109. Notice of public hearing held pursuant to this article; hearing procedure.

1. Notice of public hearing shall be by publication in two newspapers most likely to give notice to the people of this state of such hearings at least once in each of three successive weeks, provided, however, that notice of public hearing shall be given to the manufacturer or manufacturers of such household cleansing products in writing, whenever practicable or in such other form as in the commissioner's judgment will reasonably notify such manufacturer of said hearing. Such hearing shall not be conducted less than sixty days following the date of first publication of notice of such hearing.

2. The commissioner may adopt other appropriate regulations prescribing the procedures to be followed at such hearings.