

## No. 1989-31

## AN ACT

## HB 168

Prohibiting the sale, manufacture, distribution or use of certain cleaning agents containing phosphates; conferring powers and duties on the Environmental Quality Board and the Department of Environmental Resources; and providing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

**Section 1. Short title.**

This act shall be known and may be cited as the Phosphate Detergent Act.

**Section 2. Prohibition on certain cleaning agents.**

Except as provided in section 3, a person may not use, sell, manufacture or distribute for use or sale within this Commonwealth any cleaning agent that contains more than 0.0% phosphorus by weight, expressed as elemental phosphorus, except for an amount not exceeding 0.5% phosphorus that is incidental to manufacturing.

**Section 3. Exclusions and exceptions.**

(a) Exclusions.—This act shall 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 or clinics, or health care facilities.
- (4) Used in agricultural production.
- (5) Used in a commercial laundry that provides laundry services for a hospital or health care facility or for a veterinary hospital or clinic.
- (6) Used by industry for metal cleaning or conditioning.
- (7) Manufactured, stored or distributed for use or sale outside this Commonwealth.
- (8) Used in any laboratory, including a biological laboratory, research facility, chemical laboratory or engineering laboratory.
- (9) Used for cleaning hard surfaces, including household cleansers for windows, sinks, counters, stoves, tubs or other food preparation surfaces and plumbing fixtures.
- (10) Used as a water softening chemical, antiscaling chemical or corrosion inhibitor intended for use in closed systems, such as boilers, air conditioners, cooling towers or hot water systems.

(b) Exceptions.—A person may use, sell, manufacture or distribute for use or sale a cleaning agent that contains greater than 0.0% phosphorus by weight, but does not exceed 8.7% phosphorus by weight, if it is:

(1) A detergent used in a dishwashing machine, whether commercial or household.

(2) A substance the Environmental Quality Board, by regulation, excludes from the 0.0% phosphorus limitation contained in section 2 based on a finding that compliance with this act would:

- (i) create a significant hardship on the user; or
- (ii) be unreasonable because of the lack of an adequate substitute cleaning agent.

#### Section 4. Regulatory authority.

The Environmental Quality Board shall adopt regulations to implement the provisions of this act.

#### Section 5. Administration.

(a) Enforcement.—It shall be the power and duty of the Department of Environmental Resources to administer and enforce the provisions of this act, and the department shall have the authority to issue such orders as are necessary to effectuate the same.

(b) Appeal.—Any person who is aggrieved by an order of the department issued hereunder shall have the right, within 30 days of receipt of notice thereof, to appeal the action to the Environmental Hearing Board in accordance with the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act.

#### Section 6. Penalties.

(a) Use.—Any person who uses a cleaning agent in violation of this act commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than \$100.

(b) Sells, distributes or makes.—Any person who sells, distributes or manufactures a cleaning agent in violation of this act commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000.

#### Section 7. Severability.

The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

#### Section 8. Repeals.

All acts and parts of acts are repealed insofar as they are inconsistent with this act.

#### Section 9. Sunset.

This act shall expire on December 31, 1992, unless otherwise extended by act of the General Assembly.

#### Section 10. Effective date.

This act shall take effect as follows:

- (1) On March 1, 1990, in all counties situated partially or wholly within the Susquehanna River Watershed or in the Lake Erie Watershed.

(2) On March 1, 1991, in all other counties.

APPROVED—The 5th day of July, A. D. 1989.

ROBERT P. CASEY