

By Mr. Atkins, a petition (subject to Joint Rule 12) of Chester G. Atkins and John S. Ames for legislation to ensure the public health by restricting the distribution and sale of articles containing certain chlorofluorocarbon compounds hazardous to human health and the environment. Health Care.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Five.

AN ACT TO ENSURE THE PUBLIC HEALTH BY RESTRICTING THE DISTRIBUTION AND SALE OF ARTICLES CONTAINING CERTAIN CHLOROFUOROCARBON COMPOUNDS HAZARDOUS TO HUMAN HEALTH AND THE ENVIRONMENT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Court finds that the continued dis-
 2 charge of increasing amounts of chlorofluorocarbon compounds
 3 which reach the stratosphere where they deplete the pro-
 4 tective layer of ozone is considered likely, in the judgment of
 5 the scientific community, to adversely affect human health.
 6 The ozone layer in the stratosphere provides the earth's pro-
 7 tective shield against the hazardous ultraviolet radiation of the
 8 sun. Depletion of even a small percentage of this ozone layer
 9 will predictably allow greater intensities of solar radiation
 10 to strike the earth's surface, causing a greater incidence of
 11 skin cancer, damage to plant life, and other hazardous effects.

1 SECTION 2. The General Laws are hereby amended by in-
 2 serting after Chapter 94 C the following new Chapter: —

3 *Section 1.* The following terms, whenever used or referred
 4 to in this Chapter, shall have the following meaning unless a
 5 different meaning clearly appears from the context:

6 1. "Chlorofluorocarbon compound", trichlorofluoromono-
 7 fluoromethane (C_2Cl_3), dichlorodifluoromethane (CF_2Cl_2),
 8 tetrafluorodichloromethane ($C_2Cl_2F_4$) and related non-hydrog-
 9 enated chlorofluorocarbons with similar physical and chemical
 10 properties.

- 11 2. "Non-hydrogenated", containing no hydrogen.
12 3. "Ozone", an allotropic, triatomic form of oxygen, chem-
13 ically described as O₃.
14 4. "Commissioner", the commissioner of the Department of
15 Public Health.
16 5. "Restricted Use Chlorofluorocarbon compound", a non-
17 hydrogenated chlorofluorocarbon compound, as defined here-
18 in, which the commissioner finds is likely to contribute to the
19 depletion of the ozone layer and by virtue of such depletion
20 creates a present or future risk of harmful effects to man or
21 other forms of life.

22 *Section 2.* No person shall distribute, sell, offer or expose
23 for sale in the Commonwealth any aerosol spray can contain-
24 ing a restricted use chlorofluorocarbon compound unless it is
25 plainly labelled, in lettering at least one-quarter inch high:

26 "This aerosol can contains restricted use chlorofluoro-
27 carbons which may cause damage to the environment."

28 No person shall distribute, sell, offer or expose for sale in
29 the Commonwealth after January first, nineteen hundred and
30 seventy seven, any aerosol spray can, refrigerator or air-con-
31 ditioner containing any restricted use chlorofluorocarbon com-
32 pound except as authorized by the commissioner pursuant to
33 section 3 of this Chapter; provided, that should the commis-
34 sioner affirmatively find pursuant to said section that the use
35 of restricted use chlorofluorocarbon compounds will not create
36 any significant environmental or public health hazards, then
37 this subdivision shall be of no force or effect.

38 *Section 3.* The commissioner is hereby authorized to:

39 (a) hold public hearings, to promulgate a list of restricted
40 use chlorofluorocarbon compounds, the distribution, sale, offer
41 and exposure for sale of which shall be restricted as set forth
42 in section 2 of this Chapter;

43 (b) to determine, after public hearings, whether any uses
44 including, but not limited to medical uses, of restricted chloro-
45 fluorocarbon compounds are so necessary to human life that
46 they should be exempted from the application of section 2 of
47 this Chapter; and

48 (3) to adopt, promulgate and issue such rules and regula-
49 tions as he may deem necessary to carry out and give full force

50 and effect to the provisions of this Chapter.

51 Any action of the commissioner under the provisions of this
52 Chapter shall be subject to judicial review within thirty days
53 of said action's effective date.

54 *Section 4.* Notice of public hearings shall be by publication
55 in newspapers likely to give notice to the people of the Com-
56 monwealth of such hearings at least once in each of three suc-
57 cessive weeks. In addition, the commissioner shall give notice
58 by letter to the manufactureres of restricted use chlorofluoro-
59 carbon compounds known to the commissioner whenever pos-
60 sible.

61 *Section 5.* Any person who violates any of the provisions of
62 or who fails to perform any duty imposed by this Chapter, or
63 by any regulation promulgated hereunder, shall be liable for
64 a civil penalty of not more than twenty-five hundred dollars
65 for each such violation and an additional penalty of not more
66 than five hundred dollars for each day during which such vio-
67 lation continues, and in addition thereto, such person may be
68 enjoined from continuing such violations. Penalties and in-
69 junctive relief provided herein shall be recoverable in an action
70 brought by the Attorney General.

1 SECTION 3. No later than June first, nineteen hundred and
2 seventy-six, after public hearings, the commissioner shall pre-
3 pare and submit to the Governor and the General Court a
4 comprehensive report on the status and progress of the fol-
5 lowing:

6 (a) research and development to provide for the safe and
7 effective substitutes for restricted use chlorofluorocarbon
8 compounds in aerosol spray cans, refrigerators and air-con-
9 ditioners;

10 (b) research concerning the extent of the danger to the
11 public health and the environment posed by restricted use
12 chlorofluorocarbon compounds.

13 If the commissioner affirmatively finds that the use of prod-
14 ucts containing restricted use chlorofluorocarbon compounds
15 will not create any significant environmental or public health
16 hazards, either now or in the future, he shall so inform the
17 Governor and the General Court.

1 SECTION 4. Every company manufacturing restricted use
2 chlorofluorocarbon compounds or products containing such
3 compounds for sale in the Commonwealth, may, and at the re-
4 quest of the commissioner shall, on or before January first,
5 nineteen hundred and seventy six, and July first, nineteen
6 hundred and seventy six, inform the commissioner in writing
7 of the status and progress of research and development to pro-
8 vide safe and effective substitutes for restricted use chloro-
9 fluorocarbon compounds in aerosol spray cans, refrigerators
10 and air-conditioners.

1 SECTION 5. The provisions of this Act shall be severable,
2 and if any clause, sentence, paragraph, subdivision or part of
3 this Act shall be judged by a court of competent jurisdiction
4 to be invalid, such judgment shall not effect, impair, or in-
5 validate the remainder thereof, but shall be confined to the
6 clause, sentence, paragraph, subdivision, or part thereof di-
7 rectly involved in the controversy in which such judgment
8 shall have been rendered.

1 SECTION 6. This Act shall take effect on October first, nine-
2 teen hundred and seventy-five.