

SENATE No. 1088

By Ms. Amick, a petition accompanied by bill, Senate, No. 1088) of Carol C. Amick, Nicholas J. Costello, Caroline Simmons, members of the House of Representatives and Marsha Rockefeller for legislation to regulate sewage system cleaners and additives. Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Nine.

AN ACT REGULATING SEWAGE SYSTEM CLEANERS AND ADDITIVES.

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

1 Chapter 94 of the General Laws is hereby amended by adding
2 the following sections: —

3 Section 303N: Prohibition of Sale and Distribution of Certain
4 Sewage System Cleaners and Additives

5 No person shall distribute, sell or offer for sale any product
6 which contains a restricted chemical material and is intended to
7 be used as a cleaner of, or an additive to septic tanks, cesspools,
8 and other septage and sewage disposal systems. These products
9 shall not include liquid or solid products intended or used solely
10 for cleaning, scouring, treating, deodorizing or disinfecting the
11 surfaces of common plumbing fixtures. A restricted chemical
12 material shall be defined as all organic toxic pollutants listed in
13 Table II of Appendix D, 40 CFR Part 122, as promulgated by
14 the federal environmental protection agency pursuant to
15 Section 307 (a) of the federal Clean Water Act (33 USC 1251 et
16 seq.).

17 Section 303O: Approval Required

18 No sewage system cleaner or additive shall be sold, offered for
19 sale, or held with intent to sell within the commonwealth unless
20 a specification sheet describing all chemical and other constituents
21 and their concentrations in said cleaner or additive has been
22 submitted to the department of environmental quality engineer-

23 ing, in this section and Sections 303N to 303R, inclusive, called
24 “the department,” and an approval for the sale thereof has been
25 issued by the department.

26 Section 303P: Enforcement; Inspection of Premises

27 Any officer of the division of law enforcement, the metropolitan
28 district commission, or any officer of the commonwealth or board
29 of health in any city or town in the commonwealth shall have
30 authority to execute any warrant to search for and seize any
31 sewage system cleaner or additive sold, distributed, offered for
32 sale, or exposed for sale for which the department has not received
33 a specification sheet and issued approval for sale or distribution.

34 Any such sewage system cleaner or additive shall be held
35 pending proceedings in any court of competent jurisdiction, and
36 when so ordered by the court, said seized items shall be forfeited
37 to the commonwealth and, upon forfeiture, destroyed under the
38 supervision of the department. The cost of said destruction shall
39 be borne by the manufacturer or distributor of the cleaner or
40 additive, or whoever is deemed responsible by the court so
41 ordering. When the property has been seized pursuant to the
42 provisions of this paragraph from a person who was not charged
43 with a violation of Section 303N to 303P, inclusive, or enjoined
44 by a court of competent jurisdiction, a notice of the institution
45 of a forfeiture proceeding shall be served on that person, and that
46 person shall be given opportunity to be heard before the seized
47 items are forfeited. Instead of forfeiture, the court may, when it
48 deems such action more appropriate to obtain compliance with
49 this section, order any seized property to be recalled, or the court
50 may order the recall without prior seizure of any sewage system
51 cleaner or additive sold, distributed, offered for sale, or exposed
52 for sale in violation of Sections 303N to 303P, inclusive. The
53 provisions of this paragraph shall be in addition to any other
54 remedy provided by law.

55 If any provision hereof or the application thereof to any person
56 or circumstances is held invalid, such invalidity shall not affect
57 other provision hereof or application thereof which can be given
58 effect without the invalid provision or application.

59 Section 303Q: Rules and Regulations

60 The department is hereby authorized to adopt such rules and
61 regulations as are necessary to promptly and effectively enforce

62 the provisions of Sections 303N to 303P, inclusive. Said
63 regulations shall: (1) require all manufacturers of any sewage
64 system cleaner or additive distributed, sold, offered for sale, or
65 exposed for sale in Massachusetts to furnish to the department
66 in such form and at such frequency as the department may
67 prescribe, all information the department deems necessary or
68 appropriate to properly enforce this Act, (2) establish analytical
69 standards for sewage system cleaners and additives in order to
70 assure that all approved cleaners and additives are compatible
71 with the groundwater environment and are not likely to have an
72 adverse effect on the public health, (3) reserve the right of the
73 department to add to the list of what is considered a restricted
74 chemical material, (4) serve to otherwise implement, interpret and
75 enforce Sections 303N to 303P, inclusive.

76 The provisions of section four of chapter seven and of
77 section ten of chapter sixty-six to the contrary notwithstanding,
78 the department shall hold confidential any information obtained
79 from a manufacturer pursuant to this Act when the manufacturer
80 persuades the department that disclosure of such information
81 (1) would not protect public health, the environment or waters
82 of the commonwealth, and (2) would divulge competitive business
83 information, methods, or processes entitled to protection as trade
84 secrets of such manufacturer.

85 Section 303R: Penalty

86 Any person who violates any provision of Sections 303N to
87 303Q, inclusive, or of any regulation promulgated pursuant to this
88 Act shall, for a first offense, be guilty of a misdemeanor punishable
89 by a fine of not less than one thousand dollars nor more than three
90 thousand dollars; and for a second and each subsequent offense,
91 be guilty of a felony punishable by a fine of not less than five
92 thousand dollars nor more than ten thousand dollars, or by
93 imprisonment for not less than one year nor more than three years,
94 or both said fine and imprisonment. Each violation shall be a
95 separate and distinct offense and, in the case of continuing offense,
96 each day's continuance thereof shall be deemed a separate and
97 distinct offense. This penalty is in addition to any other prescribed
98 by law.

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