

By Mr. Hatch of Beverly, petition of Francis W. Hatch, Jr., and other members of the House for legislation to establish a tax upon the phosphate contents of cleaning products. Taxation.

## The Commonwealth of Massachusetts

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

### AN ACT TO ESTABLISH A TAX UPON THE PHOSPHATE CONTENTS OF CLEANING PRODUCTS.

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

1 (a) As used in this section the following words shall have  
2 the following meanings: —

3 (1) "Cleaning product" means any detergent, soap,  
4 cleanser or other chemical or biological cleaning compound  
5 which is normally used with water.

6 (2) "Package" means any container in which individual or  
7 institutional consumers normally purchase a cleaning product.

8 (3) "Quarter" means any of the following three-month  
9 periods: January 1 to March 31, April 1 to June 30, July 1 to  
10 September 30, and October 1 to December 31.

11 (4) "Retail phosphate taxpayer" means any person, busi-  
12 ness or institution in the Commonwealth which sells any  
13 cleaning product in a taxable package to retail consumers.

14 (5) "Shipper" means any manufacturer, warehouse or  
15 wholesaler which sells or otherwise transfers cleaning products  
16 directly to phosphate taxpayers.

17 (6) "Taxable package" means any package containing  
18 more than one-half of one ounce of phosphate.

19 (7) "Wholesale phosphate taxpayer" means any person,  
20 business or institution in the Commonwealth which uses any  
21 cleaning product in a taxable package not purchased from a  
22 retail phosphate taxpayer.

23 (b) There shall be a tax of one cent per ounce, computed to  
24 the nearest ounce, upon the phosphate content of every tax-

25 able package of any cleaning product bought or otherwise  
26 received by every phosphate taxpayer. The revenue obtained  
27 under this section shall be placed in a general fund.

28 (c) (1) The commissioner of Taxation of the Common-  
29 wealth shall seek from cleaning-product manufacturers informa-  
30 tion concerning the weights of phosphate in all different  
31 packages of all cleaning products. He shall compile as complete  
32 a list as possible of the weights of phosphate of all packages on  
33 the basis of the manufacturers' or any other information. The  
34 list shall be updated when necessary and shall be made avail-  
35 able to phosphate taxpayers upon request.

36 (2) The Commissioner of Taxation shall increase the listed  
37 weight of phosphate for any package, if he receives conclusive  
38 information that the actual weight is higher than the listed  
39 weight.

40 (3) The Commissioner of Taxation shall lower the listed  
41 weight of phosphate for any package only with the concur-  
42 rence of the Commissioner of Public Health upon application  
43 by the manufacturer for a reduction in accordance with the  
44 terms of this subsection. In his application the manufacturer  
45 shall certify that the weight of phosphate in the package has  
46 been reduced. The manufacturer shall state what ingredients or  
47 compounds have been added to or increased in the cleaning  
48 product in question to replace the phosphate compounds which  
49 have been removed. If any new ingredient or compound is one  
50 not commonly used in comparable cleaning products at the  
51 date of passage of this section, or if any increased ingredient or  
52 compound should constitute a greater percentage by weight  
53 than is common in comparable cleaning products at the date of  
54 passage of this section, the manufacturer shall:

55 (i) certify that he has conducted reasonable tests on  
56 the ingredients or compounds in question and that he has  
57 found them to cause no significant damage to the  
58 environment;

59 (ii) and provide to the Commissioner of Public Health  
60 all test and research information concerning the environ-  
61 mental impact of the cleaning product in question. The  
62 manufacturer may withhold information necessary to  
63 protect trade secrets, but he shall advise the Commissioner

64 of Public Health if any information is withheld. The said  
65 test and research information shall be made available for  
66 public inspection in a reasonable manner. If the Commis-  
67 sioner of Public Health should consider the manufacturer's  
68 certifications of test and research information to be insuf-  
69 ficient to reasonably insure environmental protection, he  
70 may deny the application.

71 (d) (1) The Commissioner of Taxation shall provide to  
72 shippers upon request recent copies of the list prepared under  
73 subsection (c) (1) of this section. The Commissioner of Tax-  
74 ation shall further provide to all shippers a form to be  
75 completed in conjunction with any shipment containing taxable  
76 packages of cleaning products to a phosphate taxpayer. The  
77 said form shall indicate the shipping date, the number of units  
78 of each different type of taxable package of each different  
79 cleaning product in the shipment, the weight of phosphate in a  
80 single package of each different type of taxable package, the  
81 tax per package as computed under subsection (b) of this  
82 section and the total tax due for the shipment.

83 (2) The shipper shall compute the tax per package on the  
84 basis of the list described in subsection (c) (1) of this section.  
85 If no listing is available, he may compute the tax per package  
86 on the basis of information provided by the manufacturer. If  
87 neither a listing nor manufacturer's information is available, the  
88 packages in question may not be shipped.

89 The shipper shall send two completed copies of the said  
90 form with any shipment containing any taxable packages.  
91 Before January 31, April 30, July 31 and October 31, the  
92 shipper shall send to the Commissioner of Taxation a single  
93 copy of each completed form bearing a shipping date from the  
94 most recently completed quarter.

95 (3) Every phosphate taxpayer shall, before January 31,  
96 April 30, July 31 and October 31, send to the Commissioner  
97 of Taxation a phosphate tax report. The report shall include a  
98 copy of every form he has received bearing a shipping date  
99 from the most recently completed quarter. The report shall  
100 include a facsimile of the form if the phosphate taxpayer does  
101 not have a form for any shipment containing taxable packages.  
102 The phosphate taxpayer shall compute the total tax due from

103 the totals found on the forms and facsimiles and shall include  
104 payment of that amount with his report.

105 (e) Every retail phosphate taxpayer shall place upon every  
106 taxable package of cleaning product the following state-  
107 ment: "PRICE INCLUDES MASS. PHOSPHATE TAX  
108 OF       ". The tax per package as computed under subsection  
109 (b) of this section shall be included in the blank space. The  
110 statement shall be easily legible and shall appear at least once  
111 upon each taxable package. If the package bears a price the  
112 statement shall consist of letters and numbers at least as large  
113 as the numbers of the price, and the statement shall appear  
114 wherever the price shall appear. The statement must also  
115 appear with the price of a taxable package if that price is  
116 printed or published by a retail phosphate taxpayer for  
117 promotional or informational purposes.

118 (f) Every manufacturer who shall provide false or misleading  
119 information to the Commissioner of Taxation shall be deemed  
120 guilty of a misdemeanor and shall be subject to a fine of no  
121 more than \$1,000 for each violation. Every shipper or phos-  
122 phate taxpayer who shall violate any of the provisions of  
123 subsections (2) (two) and (3) (three) shall be deemed guilty of  
124 a misdemeanor and shall be subject to a fine of no more than  
125 \$100 for each violation. Every retail phosphate taxpayer who  
126 shall violate any of the provisions of subsection (e) of this  
127 section shall be deemed guilty of a misdemeanor and shall be  
128 subject to a fine of no more than \$10 for each violation.

129 (g) This section shall take effect on the first day of the  
130 second quarter which begins after the date this section becomes  
131 law.

132 (h) If any part of this section is determined by the courts to  
133 be invalid, no other part of this section shall be affected.