

HOUSE No. 6740

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 11, 1981.

The committee on Natural Resources and Agriculture, to whom was referred the petition (accompanied by bill, House, No. 6601) of William P. Nagle, Jr., for legislation to restrict the sale of certain chemicals for use in domestic sewage disposal system cleaners and additives, reports recommending that the accompanying bill (House, No. 6740) ought to pass.

For the committee,

WILLIAM P. NAGLE, JR.

The Commonwealth of Massachusetts

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

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 SECTION 1. Chapter 21 of the General Laws, is hereby amend-
2 ed by inserting the following section: —

3 *Section 59.* No person shall distribute, sell, offer for sale, or
4 expose for sale, or cause or induce any other person to distribute,
5 sell, offer for sale, or expose for sale any sewage system cleaner or
6 additive containing any restricted chemical material.

7 The department of environmental quality engineering, hereinaf-
8 ter in this section called the department, is hereby authorized to
9 adopt regulations (1) declaring what is a restricted chemical mate-
10 rial, which shall be any chemical which the department determines
11 has, or is likely to have, an adverse effect upon public health, the
12 environment, or the waters of the commonwealth, (2) requiring
13 the manufacturer of any sewage system cleaner or additive distrib-
14 uted, sold, offered for sale, or exposed for sale in Massachusetts to
15 furnish to the department in such form and at such frequency as the
16 department may prescribe all information the department deems
17 necessary or appropriate to properly enforce this section, (3) es-
18 tablishing analytical standards for sewage system cleaners and
19 additives, and (4) otherwise implementing, interpreting and en-
20 forcing this section.

21 The provisions of section four of chapter seven and of section ten
22 of chapter sixty-six to the contrary notwithstanding, the depart-
23 ment shall hold confidential any information obtained from a
24 manufacturer pursuant to this section when the manufacturer
25 persuades the department that disclosure of such information
26 (1) would not protect public health, the environment or waters of
27 the commonwealth, and (2) would divulge competitive business
28 information, methods, or processes entitled to protection as trade
29 secrets of such manufacturer.

30 Any person who violates any provision of this section or of any
31 regulation promulgated pursuant to this section shall, for a first
32 offense, be guilty of a misdemeanor punishable by a fine of not less
33 than one thousand dollars nor more than three thousand dollars;
34 and for a second and each subsequent offense, be guilty of a felony
35 punishable by a fine of not less than five thousand dollars nor more
36 than ten thousand dollars, or by imprisonment for not less than
37 one year nor more than three years, or both said fine and imprison-
38 ment. Each violation shall be a separate and distinct offense and, in
39 the case of a continuing offense, each day's continuance thereof
40 shall be deemed a separate and distinct offense. This penalty is in
41 addition to any other prescribed by law.

42 Any officer of the division of law enforcement, or any police
43 officer of the commonwealth, or any police officer of any city, town
44 or the metropolitan district commission shall have authority to
45 execute any warrant to search for and seize any sewage system
46 cleaner or additive sold, distributed, offered for sale, or exposed
47 for sale in violation of this section. Any such sewage system cleaner
48 or additive shall be held pending proceedings in any court of
49 competent jurisdiction, and when so ordered by the court, said
50 seized items shall be forfeited to the commonwealth and, upon
51 forfeiture, destroyed under the supervision of the department.
52 When the property has been seized pursuant to the provisions of
53 this paragraph from a person who was not charged with a violation
54 of this section, or enjoined by a court of competent jurisdiction, a
55 notice of the institution of a forfeiture proceeding shall be served
56 on that person, and that person shall be given opportunity to be
57 heard before the seized items are forfeited. Instead of forfeiture, the
58 court may, when it deems such action more appropriate to obtain
59 compliance with this section, order any seized property to be
60 recalled, or the court may order the recall without prior seizure of
61 any sewage system cleaner or additive sold, distributed, offered for
62 sale, or exposed for sale in violation of this section. The provisions
63 of this paragraph shall be in addition to any other remedy provided
64 by law.

65 If any provision hereof or the application thereof to any person
66 or circumstance is held invalid, such invalidity shall not affect
67 other provisions hereof or application thereof which can be given
68 effect without the invalid provision or application.

1 SECTION 2. The department of environmental quality engi-
2 neering is hereby authorized to forthwith commence proceedings
3 for the adoption of regulations authorized by section fifty-nine of
4 chapter twenty-one of the General Laws, inserted by section one of
5 this act, but no regulation adopted under the authority of said
6 section fifty-nine shall take effect prior to the effective date of this
7 act.