

By Mr. Ames of Easton, petition of John S. Ames III, Lois G. Pines and other members of the General Court and others for legislation to restrict the distribution and sale of articles containing certain chlorofluorocarbon compounds. Natural Resources and Agriculture.

The Commonwealth of Massachusetts

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

AN ACT TO ENSURE THE PUBLIC HEALTH BY RESTRICTING THE DISTRIBUTION AND SALE OF ARTICLES CONTAINING CERTAIN CHLOROFLUOROCARBON 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
2 discharge of chlorofluorocarbon compounds that reach the
3 stratosphere are likely to be causing depletion of the protective
4 ozone layer. The ozone layer in the stratosphere provides the
5 earth's protective shield against the hazardous ultraviolet
6 radiation of the sun. Depletion of even a small percentage of this
7 ozone layer will predictably allow greater intensities of solar
8 radiation to strike the earth's surface, causing a greater incidence
9 of skin cancer, damage to plant life, and other hazardous effects.

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

3 CHAPTER 94D.

4 The Ozone Protection Act

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

8 1. "Commissioner" the Commissioner of the Department of
9 Public Health.

10 2. "Non-hydrogenated" means containing no hydrogen.

11 3. "Ozone" means an allotropic, triatomic form of oxygen,
12 chemically described as O₃.

13 4. "Restricted use of chlorofluorocarbon compound" means
14 trichloromonofluoromethane (CFCl₃) and dichlorodi-
15 fluoremethane (CF₂Cl₂), those related non-hydrogenated
16 chlorofluorocarbons with similar physical and chemical proper-
17 ties, which the commissioner finds is likely to contribute to the
18 depletion of the ozone layer and by virtue of such depletion
19 creates a present or future risk of harmful effects to man or other
20 forms of life.

21 *Section 2a.* No person shall distribute, sell or expose for sale in
22 the Commonwealth any aerosol spray can containing a restricted
23 use chlorofluorocarbon compound unless it is plainly labelled, in
24 lettering at least one-quarter inch high: "This aerosol can contains
25 restricted use chlorofluorocarbons which may cause damage to
26 the environment".

27 This section shall be effective six months after the enactment of
28 this statute. The provisions of this sub-section shall be in full
29 force and effect until such time as the federal government adopts
30 and places into effect requirements for nationwide labelling of
31 aerosol cans informing the public of the presence of any restricted
32 chlorofluorocarbon compound.

33 *b.* The Attorney General is directed to petition on behalf of the
34 state, as soon as practicable, appropriate federal agencies to
35 promulgate nationwide labelling requirements for aerosol spray
36 cans containing chlorofluorocarbon compounds.

37 *Section 3.* The Commissioner shall by Jan. 1, 1978, after public
38 notice and hearings, determine whether the distribution, sale or
39 offer or exposure for sale of restricted use of chlorofluorocarbon
40 compounds is likely to create significant environmental or public
41 health hazards.

42 *Section 4.* If an affirmative finding is made pursuant to section
43 3, the commissioner shall implement regulations developed
44 pursuant to section 5(c) of this sub-chapter limiting or prohibiting
45 the distribution, sale, offer or exposure for sale of any aerosol
46 can, air conditioner, or refrigerator containing restricted use
47 chlorofluorocarbon compounds as of July 1, nineteen hundred and
48 seventy-eight, except as authorized by the commissioner pursuant
49 to section 5(b) of this sub-chapter.

50 *Section 5. Powers and Duties of Commissioner*

51 1. The commissioner is hereby authorized:

52 (a) after hearings, to promulgate a list of restricted use
53 chlorofluorocarbon compounds the distribution, sale, offer and
54 exposure for sale of which in this state shall be restricted as
55 determined pursuant to sections 3 and 4.

56 (b) to determine, after a hearing whether any uses, including
57 but not limited to medical uses, of restricted use chlorofluorocar-
58 bon compounds are so necessary to human life that they should
59 be exempted from the application of sections 3 and 4.

60 (c) to adopt, promulgate and issue such rules and regulations as
61 he or she may deem necessary to carry out and give full force and
62 effect to the provisions of this sub-chapter.

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

66 *Section 6. Notice of public hearings shall be by publication in*
67 newspapers likely to give notice to the people of the Com-
68 monwealth of such hearings at least once in each of three
69 successive weeks. In addition, the commissioner shall give notice
70 by letter to the manufacturers of restricted use chlorofluorocar-
71 bon compounds known to the commissioner whenever possible.

72 *Section 7. Any person who violates any of the provisions of or*
73 *who fails to perform any duty imposed by this Chapter, or by any*
74 *regulation promulgated hereunder, shall be liable for a civil*
75 *penalty of not more than twenty-five hundred dollars for each*
76 *such violation and an additional penalty of not more than five*
77 *hundred dollars for each day during which such violation*
78 *continues, and in addition thereto, such person may be enjoined*
79 *from continuing such violations. Penalties and injunctive relief*
80 *provided herein shall be recoverable in an action brought by the*
81 *Attorney General or any ten citizens of the Commonwealth*
82 *pursuant to G.L. Chapter 214, Section 10A. Any violation of this*
83 *section shall be actionable pursuant to G.L. 214, Section 10A.*
84 *The court issuing any final order in any action brought to enforce*
85 *the provisions of this sub-chapter, may award reasonable*
86 *attorneys' fees to any party whenever the court determines such*
87 *award is appropriate.*

1 SECTION 3. Every company manufacturing restricted use

2 chlorofluorocarbon compounds or products containing such
3 compounds for sale in the Commonwealth, may, and at the
4 request of the commissioner shall, on or before January first,
5 nineteen hundred and seventy-seven, and July first, nineteen
6 hundred and seventy-seven, inform the commissioner in writing
7 of the status and progress of research and development to provide
8 safe and effective substitutes for restricted use chlorofluorocar-
bon compounds in aerosol spray cans, refrigerators and air
conditioners.

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

1 SECTION 5. This Act shall take effect three months after
2 enactment.