

HOUSE BILL NO. 711

INTRODUCED BY COHEN, BRANDEWIE, MERCER, HARP,  
REAM, KADAS, MILES, C. SMITH, JONES, HARBIN,  
DARKO, ECK, NELSON, CONNELLY, HARPER,  
LYBECK, B. BROWN, PINSONEAULT, HARDING

IN THE HOUSE

February 7, 1985	Introduced and referred to Committee on Natural Resources.
February 21, 1985	Committee recommend bill do pass. Report adopted.  Statement of Intent attached.  Bill printed and placed on members' desks.
February 23, 1985	Second reading, do pass as amended.
February 25, 1985	Correctly engrossed.
February 26, 1985	Third reading, passed.  Transmitted to Senate.

IN THE SENATE

March 4, 1985	Introduced and referred to Committee on Public Health, Welfare and Safety.
March 7, 1985	On motion, taken from Committee on Public Health, Welfare and Safety and rereferred to Committee on Natural Resources. Motion adopted.
March 28, 1985	Committee recommend bill be concurred in as amended. Report adopted.  Statement of Intent amended.

March 29, 1985

On motion, rules temporarily suspended in order that all bills considered on second reading on the 70th Legislative Day advance to third reading that same day.

April 1, 1985

Second reading, concurred in as amended.

Third reading, concurred in.  
Ayes, 35; Noes, 15.

Returned to House with amendments and amended Statement of Intent.

#### IN THE HOUSE

April 2, 1985

Received from Senate.

April 8, 1985

Second reading, amendments and amended Statement of Intent concurred in.

On motion, rules suspended and bill placed on third reading this day.

Third reading, amendments and amended Statement of Intent concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 711 *Parsons*  
 2 INTRODUCED BY Chen Bramble *Mercer* *Henry*  
 3 Reyn Kadar Miles C. Smith *Johnston* *Marko* *Ed*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A GOVERNING *Wilson*  
 5 BODY OF A COUNTY TO PROHIBIT THE SALE AND DISTRIBUTION OF  
 6 CERTAIN PHOSPHORUS COMPOUNDS USED FOR CLEANING PURPOSES; *Connelly*  
 7 REQUIRING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL *Harper*  
 8 SCIENCES TO ADOPT A MODEL RULE; AND PROVIDING A DELAYED *Bob Barr*  
 9 EFFECTIVE DATE." *Harding*

10  
 11 WHEREAS, Montana's outstanding environmental and  
 12 economic values depend on maintaining excellent water  
 13 quality; and

14 WHEREAS, phosphorus is a nutrient that stimulates the  
 15 growth of algae and contributes to a decline in water  
 16 quality in certain lakes and rivers; and

17 WHEREAS, substantial amounts of phosphorus enter  
 18 Montana's aquatic ecosystems as a result of the use of  
 19 detergents; and

20 WHEREAS, many studies have shown that regional  
 21 restrictions on the use of nonessential detergent phosphorus  
 22 compounds have protected and enhanced water quality; and

23 WHEREAS, the Department of Health and Environmental  
 24 Sciences has determined that excessive amounts of culturally  
 25 derived phosphorus are jeopardizing water quality in some of

1 Montana's most outstanding waters; and  
 2 WHEREAS, the Department of Health and Environmental  
 3 Sciences has the expertise to develop a model rule to  
 4 effectively limit the amount of detergent phosphorus  
 5 compounds that will enter state waters; and

6 WHEREAS, a limitation on the sale and distribution of  
 7 certain detergent phosphorus compounds may best be enacted  
 8 to meet local needs and circumstances; and

9 WHEREAS, such a limitation will not cause additional  
 10 costs or burdens to consumers and retailers.

11 THEREFORE, the Legislature finds it appropriate to  
 12 allow county governments to protect and enhance water  
 13 quality by prohibiting the sale and distribution of certain  
 14 nonessential detergent phosphorus compounds, following the  
 15 technical standards established by the Department of Health  
 16 and Environmental Sciences.

17  
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 Section 1. Adoption and amendment of model rule on  
 20 sale and distribution of certain phosphorus compounds.  
 21 (1) The department [of health and environmental sciences]  
 22 shall adopt a model rule to provide standards that counties  
 23 may adopt under [section 4] to prohibit the sale and  
 24 distribution of certain phosphorus compounds used for  
 25 cleaning.



-2-  
 INTRODUCED BILL  
 HB 711

1 (2) The standards in the model rule must be designed  
2 to protect water quality and aquatic ecosystems by reducing  
3 the amount of phosphorus that will enter state waters.

4 (3) The department may amend the model rule to:

5 (a) reflect changing technology related to phosphorus  
6 compounds in cleaning products;

7 (b) incorporate new findings about the impacts of  
8 phosphorus compounds on water quality; or

9 (c) respond to other relevant information.

10 (4) The department shall follow the procedures of  
11 Title 2, chapter 4, part 3, in adopting or amending the  
12 model rule.

13 Section 2. Prohibition of enforcement by department.  
14 The department may not enforce any standard or provision of  
15 the model rule. As provided in [section 4], the governing  
16 body of a county may adopt and enforce as an ordinance the  
17 standards contained in the model rule or other standards  
18 more stringent than those in the model rule.

19 Section 3. Distribution of model rule. The department  
20 shall send to the governing body of each county a notice of  
21 any rulemaking proceeding or hearing under [section 1], a  
22 copy of the model rule, and a copy of any amendment proposed  
23 or adopted.

24 Section 4. County regulation of sale and distribution  
25 of certain phosphorus compounds. (1) The governing body of

1 a county may adopt, through the procedures of 7-5-103  
2 through 7-5-107, an ordinance prohibiting the sale and  
3 distribution of certain phosphorus compounds used for  
4 cleaning purposes.

5 (2) Any ordinance adopted by the governing body of a  
6 county must contain standards no less stringent than the  
7 standards in the model rule adopted by the department of  
8 health and environmental sciences under [section 1] and in  
9 effect at the time of the adoption of the county ordinance.

10 (3) Any ordinance adopted by the governing body of a  
11 county must be enforced by the county.

12 Section 5. Penalty. Violation of any ordinance adopted  
13 under [section 4] is a misdemeanor. Each day of violation  
14 is a separate offense.

15 Section 6. Effective date. This act is effective  
16 January 1, 1986.

-End-

APPROVED BY COMM. ON  
NATURAL RESOURCES

STATEMENT OF INTENT

HOUSE BILL 711

House Natural Resources Committee

(1) It is the intent of the legislature that the department of health and environmental sciences adopt a model rule with standards that may be adopted and enforced by a governing body of a county to prohibit the sale and distribution of certain phosphorus compounds used for cleaning purposes. The standards in the model rule must be designed to protect water quality and aquatic ecosystems by reducing the amount of phosphorus that enters state waters. In adopting the initial model rule, the department shall demonstrate strong consideration of the following provisions:

(a) Definitions:

(i) "Chemical water conditioner" means a water-softening chemical or other substance containing phosphorus intended to treat water for machine laundry use.

(ii) "Commercial establishment" means any premises used for the purpose of carrying on or exercising any trade, business, profession, vocation, or commercial or charitable activity, including but not limited to laundries, hospitals, hotels, motels, and food or restaurant establishments.

(iii) "Household cleaning product" means any product,

including but not limited to soaps and detergents, used for domestic or commercial cleaning purposes, including but not limited to the cleaning of fabrics, dishes, food utensils, and household and commercial premises. Household cleaning product does not mean foods, drugs, cosmetics, or personal care items such as toothpaste, shampoo, or hand soap.

(iv) "Person" means any individual, proprietor of a commercial establishment, corporation, municipality, the state or any department, agency, or subdivision of the state, and any partnership, unincorporated association, or other legal entity.

(v) "Phosphorus" means elemental phosphorus.

(vi) "Trace quantity" means an incidental amount of phosphorus which is not part of the household cleaning product formulation, is present only as a consequence of manufacturing, and does not exceed 0.5% of the content of the product by weight expressed as elemental phosphorus.

(b) Prohibitions and exceptions:

(i) Except as provided in (1)(b)(ii) through (1)(b)(iv), no household cleaning product may be distributed, sold, offered, or exposed for sale if it contains a phosphorus compound in concentrations in excess of a trace quantity.

(ii) No dishwashing detergent may be distributed, sold, offered, or exposed for sale if it contains a phosphorus

1 compound in excess of 8.7% by weight expressed as elemental  
2 phosphorus.

3 (iii) No chemical water conditioner which contains more  
4 than 20% phosphorus by weight may be distributed, sold,  
5 offered, or exposed for sale.

6 (iv) Cleaning agents used for industrial processes,  
7 cleaning food and beverage processing equipment, cleaning  
8 medical or surgical equipment, or cleaning dairy equipment  
9 are exempt from the provisions of this rule.

10 (2) It is the intent of the legislature that an  
11 ordinance with standards no less stringent than the  
12 standards of the model rule may be adopted at the option of  
13 a county government and, if adopted, must be enforced by the  
14 county government. Any ordinance applies only in a county  
15 that has adopted it through proper procedures. The  
16 department of health and environmental sciences may not  
17 enforce any standards or provisions of the model rule.

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7 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A GOVERNING  
 8 BODY OF A COUNTY TO PROHIBIT THE SALE AND DISTRIBUTION OF  
 9 CERTAIN PHOSPHORUS COMPOUNDS USED FOR CLEANING PURPOSES;  
 10 REQUIRING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL  
 11 SCIENCES TO ADOPT A MODEL RULE; AND PROVIDING A DELAYED  
 12 EFFECTIVE DATE."  
 13

14 WHEREAS, Montana's outstanding environmental and  
 15 economic values depend on maintaining excellent water  
 16 quality; and

17 WHEREAS, phosphorus is a nutrient that stimulates the  
 18 growth of algae and contributes to a decline in water  
 19 quality in certain lakes and rivers; and

20 WHEREAS, substantial amounts of phosphorus enter  
 21 Montana's aquatic ecosystems as a result of the use of  
 22 detergents; and

23 WHEREAS, many studies have shown that regional  
 24 restrictions on the use of nonessential detergent phosphorus  
 25 compounds have protected and enhanced water quality; and

1 WHEREAS, the Department of Health and Environmental  
 2 Sciences has determined that excessive amounts of culturally  
 3 derived phosphorus are jeopardizing water quality in some of  
 4 Montana's most outstanding waters; and

5 WHEREAS, the Department of Health and Environmental  
 6 Sciences has the expertise to develop a model rule to  
 7 effectively limit the amount of detergent phosphorus  
 8 compounds that will enter state waters; and

9 WHEREAS, a limitation on the sale and distribution of  
 10 certain detergent phosphorus compounds may best be enacted  
 11 to meet local needs and circumstances; and

12 WHEREAS, such a limitation will not cause additional  
 13 costs or burdens to consumers and retailers.

14 THEREFORE, the Legislature finds it appropriate to  
 15 allow county governments to protect and enhance water  
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 24 (1) The department [of health and environmental sciences]  
 25 shall adopt a model rule to provide standards that counties

1 may adopt under [section 4] to prohibit the sale and  
2 distribution of certain phosphorus compounds used for  
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4 (2) The standards in the model rule must be designed  
5 to protect water quality and aquatic ecosystems by reducing  
6 the amount of phosphorus that will enter state waters.

7 (3) The department may amend the model rule to:

8 (a) reflect changing technology related to phosphorus  
9 compounds in cleaning products;

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11 phosphorus compounds on water quality; or

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13 (4) The department shall follow the procedures of  
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16 under [section 4] is a misdemeanor. Each day of violation  
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18 Section 6. Effective date. This act is effective  
19 January 1, 1985.

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STATEMENT OF INTENT

HOUSE BILL 711

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including but not limited to soaps and detergents, used for domestic or commercial cleaning purposes, including but not limited to the cleaning of fabrics, dishes, food utensils, and household and commercial premises. Household cleaning product does not mean foods, drugs, cosmetics, or personal care items such as toothpaste, shampoo, or hand soap.

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(i) Except as provided in (1)(b)(ii) through (1)(b)(iv), no household cleaning product may be distributed, sold, offered, or exposed for sale if it contains a phosphorus compound in concentrations in excess of a trace quantity.

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8 (2) Any ordinance adopted by the governing body of a  
 9 county must contain standards no less stringent than the  
 10 standards in the model rule adopted by the department of  
 11 health and environmental sciences under [section 1] and in  
 12 effect at the time of the adoption of the county ordinance.

13 (3) Any ordinance adopted by the governing body of a  
 14 county must be enforced by the county.

15 Section 5. Penalty. ~~Violation of any ordinance adopted~~  
 16 ~~under--{section--4}~~ (1) A PERSON INVOLVED IN THE SALE OR  
 17 COMMERCIAL DISTRIBUTION OF ANY PHOSPHORUS COMPOUND  
 18 PROHIBITED BY AN ORDINANCE ADOPTED UNDER [SECTION 4] MUST BE  
 19 NOTIFIED BY THE COUNTY AND MUST BE GIVEN 30 DAYS FROM  
 20 RECEIPT OF SUCH NOTICE TO COMPLY WITH THE ORDINANCE. FAILURE  
 21 TO COMPLY WITH THE ORDINANCE FOLLOWING THIS 30-DAY PERIOD is  
 22 a misdemeanor. Each day of violation is a separate offense.

23 (2) THE PENALTY PROVIDED FOR IN SUBSECTION (1) APPLIES  
 24 ONLY TO PERSONS ENGAGED IN THE SALE OR COMMERCIAL  
 25 DISTRIBUTION OF PROHIBITED PHOSPHORUS COMPOUNDS. THE COUNTY

1 MAY NOT PROSECUTE OR OTHERWISE PENALIZE A PERSON FOR USING A  
2 PHOSPHORUS COMPOUND REGULATED BY AN ORDINANCE ADOPTED UNDER  
3 [SECTION 4].  
4 Section 6. Effective date. This act is effective  
5 January 1, 1986.

-End-

SENATE

STANDING COMMITTEE REPORT

MARCH 28 1985

MARCH 28 1985

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE BILL No. 711

THIRD reading copy (BLUE) (HARDING) color

ALLOWING COUNTIES TO ADOPT DHES MODEL RULE BANNING DETERGENT PHOSPHATES

Respectfully report as follows: That HOUSE BILL No. 711

be amended as follows:

1. Statement of Intent. Page 3, lines 11 and 12. Following: "standards" on line 11 Strike: "no less stringent than the standards of" Insert: "designated by"

2. Statement of Intent. Page 3. Following: line 17 Insert: "(3) It is the intent of the legislature that standards in the model rule may not include standards that would adversely affect public health through the restriction of any cleaning agent necessary for food and beverage processing or for health care services or facilities and, may not include standards that would restrict the use of detergents or other phosphorus compounds necessary for agricultural operations or industrial processes."

3. Page 3, lines 20 and 21. Following: "rule" Strike: remainder of line 20 through "rule" on line 21

(continued)

4. Page 4, line 8. Following: line 7 Insert: "(2) An ordinance prohibiting the sale and distribution of certain phosphorus compounds used for cleaning purposes may only be adopted if the county has a natural lake, whether or not the lake is fitted with a dam, for which the department of health and environmental sciences or the governing body of the county has determined that eutrophication enhanced by human activity is occurring and that phosphorus is the limiting factor."

Renumber: subsequent subsections

5. Page 4, lines 9 and 10. Following: "standards" Strike: "no less stringent than the standards in" Insert: "designated by"

6. Page 5, line 5. Strike: "January 1" Insert: "July 1"

KB

AND, AS AMENDED BE CONCURRED IN

(STATEMENT OF INTENT AMENDED)

XXXXXX

XXXXXXXX

SENATOR DOROTHY ECK Chairman

SENATOR DOROTHY ECK

# SENATE COMMITTEE OF THE WHOLE AMENDMENT

Apr 1, 1985  
DATE

8:00  
TIME

MR. CHAIRMAN: I MOVE TO AMEND \_\_\_\_\_ HOUSE BILL \_\_\_\_\_ No. 711

third reading copy ( blue ) as follows:  
Color

1. Page 4, line 7.  
Following: "purposes."  
Insert: "The governing body may rescind, modify, or repeal such ordinance at anytime by use of the same procedures."

2. AMEND SENATE NATURAL RESOURCES COMMITTEE REPORT OF 3/28 ON HOUSE BILL NO.711 AS FOLLOWS:

Amendment No. 4.

Strike: inserted material in its entirety

Insert: "(2) An ordinance prohibiting the sale and distribution of certain phosphorus compounds used for cleaning purposes may only be adopted if:

(a) the county has a natural lake, whether or not it is fitted with a dam, for which the department of health and environmental sciences or the governing body of the county has determined that eutrophication enhanced by human activity is occurring and that phosphorus is the limiting factor; and

(b) other efforts are being undertaken in the county to reduce the amount of phosphorus entering surface waters."

PC3HB711.691

KB

ADOPT

REJECT

  
GAGE

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 711

3 House Natural Resources Committee  
4

5 (1) It is the intent of the legislature that the  
6 department of health and environmental sciences adopt a  
7 model rule with standards that may be adopted and enforced  
8 by a governing body of a county to prohibit the sale and  
9 distribution of certain phosphorus compounds used for  
10 cleaning purposes. The standards in the model rule must be  
11 designed to protect water quality and aquatic ecosystems by  
12 reducing the amount of phosphorus that enters state waters.  
13 In adopting the initial model rule, the department shall  
14 demonstrate strong consideration of the following  
15 provisions:

## 16 (a) Definitions:

17 (i) "Chemical water conditioner" means a  
18 water-softening chemical or other substance containing  
19 phosphorus intended to treat water for machine laundry use.

20 (ii) "Commercial establishment" means any premises used  
21 for the purpose of carrying on or exercising any trade,  
22 business, profession, vocation, or commercial or charitable  
23 activity, including but not limited to laundries, hospitals,  
24 hotels, motels, and food or restaurant establishments.

25 (iii) "Household cleaning product" means any product,

1 including but not limited to soaps and detergents, used for  
2 domestic or commercial cleaning purposes, including but not  
3 limited to the cleaning of fabrics, dishes, food utensils,  
4 and household and commercial premises. Household cleaning  
5 product does not mean foods, drugs, cosmetics, or personal  
6 care items such as toothpaste, shampoo, or hand soap.

7 (iv) "Person" means any individual, proprietor of a  
8 commercial establishment, corporation, municipality, the  
9 state or any department, agency, or subdivision of the  
10 state, and any partnership, unincorporated association, or  
11 other legal entity.

12 (v) "Phosphorus" means elemental phosphorus.

13 (vi) "Trace quantity" means an incidental amount of  
14 phosphorus which is not part of the household cleaning  
15 product formulation, is present only as a consequence of  
16 manufacturing, and does not exceed 0.5% of the content of  
17 the product by weight expressed as elemental phosphorus.

18 (b) Prohibitions and exceptions:

19 (i) Except as provided in (1)(b)(ii) through  
20 (1)(b)(iv), no household cleaning product may be  
21 distributed, sold, offered, or exposed for sale if it  
22 contains a phosphorus compound in concentrations in excess  
23 of a trace quantity.

24 (ii) No dishwashing detergent may be distributed, sold,  
25 offered, or exposed for sale if it contains a phosphorus



1 compound in excess of 8.7% by weight expressed as elemental  
 2 phosphorus.

3 (iii) No chemical water conditioner which contains more  
 4 than 20% phosphorus by weight may be distributed, sold,  
 5 offered, or exposed for sale.

6 (iv) Cleaning agents used for industrial processes,  
 7 cleaning food and beverage processing equipment, cleaning  
 8 medical or surgical equipment, or cleaning dairy equipment  
 9 are exempt from the provisions of this rule.

10 (2) It is the intent of the legislature that an  
 11 ordinance with standards ~~no--less--stringent---than---the~~  
 12 ~~standards--of~~ DESIGNATED BY the model rule may be adopted at  
 13 the option of a county government and, if adopted, must be  
 14 enforced by the county government. Any ordinance applies  
 15 only in a county that has adopted it through proper  
 16 procedures. The department of health and environmental  
 17 sciences may not enforce any standards or provisions of the  
 18 model rule.

19 (3) IT IS THE INTENT OF THE LEGISLATURE THAT STANDARDS  
 20 IN THE MODEL RULE MAY NOT INCLUDE STANDARDS THAT WOULD  
 21 ADVERSELY AFFECT PUBLIC HEALTH THROUGH THE RESTRICTION OF  
 22 ANY CLEANING AGENT NECESSARY FOR FOOD AND BEVERAGE  
 23 PROCESSING OR FOR HEALTH CARE SERVICES OR FACILITIES AND MAY  
 24 NOT INCLUDE STANDARDS THAT WOULD RESTRICT THE USE OF  
 25 DETERGENTS OR OTHER PHOSPHORUS COMPOUNDS NECESSARY FOR

1 AGRICULTURAL OPERATIONS OR INDUSTRIAL PROCESSES.

1                   HOUSE BILL NO. 711  
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6  
 7   A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A GOVERNING  
 8   BODY OF A COUNTY TO PROHIBIT THE SALE AND DISTRIBUTION OF  
 9   CERTAIN PHOSPHORUS COMPOUNDS USED FOR CLEANING PURPOSES;  
 10   REQUIRING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL  
 11   SCIENCES TO ADOPT A MODEL RULE; AND PROVIDING A DELAYED  
 12   EFFECTIVE DATE."  
 13

14       WHEREAS, Montana's outstanding environmental and  
 15   economic values depend on maintaining excellent water  
 16   quality; and

17       WHEREAS, phosphorus is a nutrient that stimulates the  
 18   growth of algae and contributes to a decline in water  
 19   quality in certain lakes and rivers; and

20       WHEREAS, substantial amounts of phosphorus enter  
 21   Montana's aquatic ecosystems as a result of the use of  
 22   detergents; and

23       WHEREAS, many studies have shown that regional  
 24   restrictions on the use of nonessential detergent phosphorus  
 25   compounds have protected and enhanced water quality; and

1       WHEREAS, the Department of Health and Environmental  
 2   Sciences has determined that excessive amounts of culturally  
 3   derived phosphorus are jeopardizing water quality in some of  
 4   Montana's most outstanding waters; and

5       WHEREAS, the Department of Health and Environmental  
 6   Sciences has the expertise to develop a model rule to  
 7   effectively limit the amount of detergent phosphorus  
 8   compounds that will enter state waters; and

9       WHEREAS, a limitation on the sale and distribution of  
 10   certain detergent phosphorus compounds may best be enacted  
 11   to meet local needs and circumstances; and

12       WHEREAS, such a limitation will not cause additional  
 13   costs or burdens to consumers and retailers.

14       THEREFORE, the Legislature finds it appropriate to  
 15   allow county governments to protect and enhance water  
 16   quality by prohibiting the sale and distribution of certain  
 17   nonessential detergent phosphorus compounds, following the  
 18   technical standards established by the Department of Health  
 19   and Environmental Sciences.

20  
 21   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22       Section 1. Adoption and amendment of model rule on  
 23   sale and distribution of certain phosphorus compounds.  
 24   (1) The department [of health and environmental sciences]  
 25   shall adopt a model rule to provide standards that counties

1 may adopt under [section 4] to prohibit the sale and  
2 distribution of certain phosphorus compounds used for  
3 cleaning.

4 (2) The standards in the model rule must be designed  
5 to protect water quality and aquatic ecosystems by reducing  
6 the amount of phosphorus that will enter state waters.

7 (3) The department may amend the model rule to:

8 (a) reflect changing technology related to phosphorus  
9 compounds in cleaning products;

10 (b) incorporate new findings about the impacts of  
11 phosphorus compounds on water quality; or

12 (c) respond to other relevant information.

13 (4) The department shall follow the procedures of  
14 Title 2, chapter 4, part 3, in adopting or amending the  
15 model rule.

16 Section 2. Prohibition of enforcement by department.  
17 The department may not enforce any standard or provision of  
18 the model rule. As provided in [section 4], the governing  
19 body of a county may adopt and enforce as an ordinance the  
20 standards contained in the model rule ~~or other standards~~  
21 ~~more stringent than those in the model rule.~~

22 Section 3. Distribution of model rule. The department  
23 shall send to the governing body of each county a notice of  
24 any rulemaking proceeding or hearing under [section 1], a  
25 copy of the model rule, and a copy of any amendment proposed

1 or adopted.

2 Section 4. County regulation of sale and distribution  
3 of certain phosphorus compounds. (1) The governing body of a  
4 county may adopt, through the procedures of 7-5-103 through  
5 7-5-107, an ordinance prohibiting the sale and distribution  
6 of certain phosphorus compounds used for cleaning purposes.  
7 THE GOVERNING BODY MAY RESCIND, MODIFY, OR REPEAL SUCH  
8 ORDINANCE AT ANY TIME BY USE OF THE SAME PROCEDURES.

9 ~~(2) AN ORDINANCE PROHIBITING THE SALE AND DISTRIBUTION~~  
10 ~~OF CERTAIN PHOSPHORUS COMPOUNDS USED FOR CLEANING PURPOSES~~  
11 ~~MAY ONLY BE ADOPTED IF THE COUNTY HAS A NATURAL LAKE,~~  
12 ~~WHETHER OR NOT THE LAKE IS FITTED WITH A DAM, FOR WHICH THE~~  
13 ~~DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES OR THE~~  
14 ~~GOVERNING BODY OF THE COUNTY HAS DETERMINED THAT~~  
15 ~~EUTROPHICATION ENHANCED BY HUMAN ACTIVITY IS OCCURRING AND~~  
16 ~~THAT PHOSPHORUS IS THE LIMITING FACTOR.~~

17 (2) AN ORDINANCE PROHIBITING THE SALE AND DISTRIBUTION  
18 OF CERTAIN PHOSPHORUS COMPOUNDS USED FOR CLEANING PURPOSES  
19 MAY ONLY BE ADOPTED IF:

20 (A) THE COUNTY HAS A NATURAL LAKE, WHETHER OR NOT IT  
21 IS FITTED WITH A DAM, FOR WHICH THE DEPARTMENT OF HEALTH AND  
22 ENVIRONMENTAL SCIENCES OR THE GOVERNING BODY OF THE COUNTY  
23 HAS DETERMINED THAT EUTROPHICATION ENHANCED BY HUMAN  
24 ACTIVITY IS OCCURRING AND THAT PHOSPHORUS IS THE LIMITING  
25 FACTOR; AND

1 (B) OTHER EFFORTS ARE BEING UNDERTAKEN IN THE COUNTY  
 2 TO REDUCE THE AMOUNT OF PHOSPHORUS ENTERING SURFACE WATERS.

3 ~~{2}~~{3} Any ordinance adopted by the governing body of  
 4 a county must contain standards ~~no-less-stringent-than-the~~  
 5 ~~standards-in~~ DESIGNATED BY the model rule adopted by the  
 6 department of health and environmental sciences under  
 7 [section 1] and in effect at the time of the adoption of the  
 8 county ordinance.

9 ~~{3}~~{4} Any ordinance adopted by the governing body of  
 10 a county must be enforced by the county.

11 Section 5. ~~Penalty. Violation-of-any-ordinance-adopted~~  
 12 ~~under--{section--4}~~ {1} A PERSON INVOLVED IN THE SALE OR  
 13 COMMERCIAL DISTRIBUTION OF ANY PHOSPHORUS COMPOUND  
 14 PROHIBITED BY AN ORDINANCE ADOPTED UNDER [SECTION 4] MUST BE  
 15 NOTIFIED BY THE COUNTY AND MUST BE GIVEN 30 DAYS FROM  
 16 RECEIPT OF SUCH NOTICE TO COMPLY WITH THE ORDINANCE. FAILURE  
 17 TO COMPLY WITH THE ORDINANCE FOLLOWING THIS 30-DAY PERIOD IS  
 18 a misdemeanor. Each day of violation is a separate offense.

19 {2} THE PENALTY PROVIDED FOR IN SUBSECTION (1) APPLIES  
 20 ONLY TO PERSONS ENGAGED IN THE SALE OR COMMERCIAL  
 21 DISTRIBUTION OF PROHIBITED PHOSPHORUS COMPOUNDS. THE COUNTY  
 22 MAY NOT PROSECUTE OR OTHERWISE PENALIZE A PERSON FOR USING A  
 23 PHOSPHORUS COMPOUND REGULATED BY AN ORDINANCE ADOPTED UNDER  
 24 [SECTION 4].

25 Section 6. Effective date. This act is effective

1 January JULY 1, 1986.

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