

1991 Assembly Bill 402

Date of enactment: **March 5, 1992**
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1991 WISCONSIN ACT 115

AN ACT *to renumber and amend* 100.28 (4); *to amend* 100.28 (2) (intro.); and *to create* 100.28 (2m), 100.28 (4) (am) and 100.28 (4) (b) to (d) of the statutes, **relating to**: sale of cleaning agents and water conditioners containing phosphorus and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 100.28 (2) (intro.) of the statutes is amended to read:

100.28 (2) (title) RESTRICTIONS; RETAIL SALES. (intro.) Except as provided under sub. (3), no person may sell or offer to sell at retail:

SECTION 2. 100.28 (2m) of the statutes is created to read:

100.28 (2m) RESTRICTIONS; SALE TO RETAILER. Except as provided under sub. (3), no person may sell or offer to sell to a retailer:

(a) *General restriction; 0.5%.* Any cleaning agent which contains more than 0.5% phosphorus by weight, other than a cleaning agent for machine dishwashing or cleansing of medical and surgical equipment.

(b) *Restriction for machine dishwashing or cleansing of medical equipment; 8.7%.* Any cleaning agent for machine dishwashing or cleansing of medical and surgical equipment which contains more than 8.7% phosphorus by weight.

(c) *Restriction for water conditioner; 20%.* Any chemical water conditioner which contains more than 20% phosphorus by weight.

SECTION 3. 100.28 (4) of the statutes is renumbered 100.28 (4) (a) and amended to read:

100.28 (4) (title) PENALTY; ENFORCEMENT. (a) A person who violates this section shall forfeit not ~~more~~ less than \$100 ~~\$25~~ nor more than \$25,000 for each violation. Each day on which the person sells or offers to sell in

violation of this section constitutes a separate violation. Each place at which the person sells or offers to sell in violation of this section constitutes a separate violation.

SECTION 3m. 100.28 (4) (am) of the statutes is created to read:

100.28 (4) (am) If a court imposes a forfeiture under par. (a) on the manufacturer of a chemical water conditioner or cleaning agent for a violation of sub. (2m), the court may order the manufacturer to accept the return of the chemical water conditioner or cleaning agent that is the subject of the violation and to refund the purchase price to the retailer who purchased that chemical water conditioner or cleaning agent.

SECTION 4. 100.28 (4) (b) to (d) of the statutes are created to read:

100.28 (4) (b) In lieu of or in addition to forfeitures under par. (a), the department may seek an injunction restraining any person from violating this section.

(c) The department of justice or any district attorney, upon the request of the department, may commence an action in the name of the state under par. (a) or (b).

(d) Any action on a violation of this section may be commenced in the circuit court for the county in which the violation occurred, or in the case of multiple violations by a single defendant, in the circuit court for the county in which any of the violations occurred.

SECTION 5. Initial applicability. The treatment of section 100.28 (2) (intro.), (2m) and (4) (am) of the statutes and the renumbering and amendment of section 100.28 (4) of the statutes first apply to sales of chemical

– 2 –

1991 Assembly Bill 402

water conditioners and cleaning agents that occur on the effective date of this SECTION.
