

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

A Bill

DRAFT MGF/JLS
HOUSE BILL

5 By: Representative Mauch
6

For An Act To Be Entitled

8 AN ACT TO CREATE THE ARKANSAS WATER ADDITIVE
9 ACCOUNTABILITY ACT; TO ESTABLISH CRITERIA FOR
10 SUBSTANCES ADDED TO PUBLIC DRINKING WATER FOR
11 PURPOSES UNRELATED TO POTABILITY; AND FOR OTHER
12 PURPOSES.
13
14

Subtitle

15 THE ARKANSAS WATER ADDITIVE
16 ACCOUNTABILITY ACT.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 17, Chapter 51 is amended to add an
23 additional subchapter to read as follows:

24 Subchapter 3 – Arkansas Water Additive Accountability Act
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26 17-51-301. Title.

27 This subchapter shall be known as and may be cited as the "Arkansas
28 Water Additive Accountability Act".
29

30 17-51-302. Findings.

31 The General Assembly finds that:

32 (1) The United States Environmental Protection Agency gave up
33 all enforceable oversight responsibilities for direct water additives in
34 1988, so that there are now no federal safety standards;

35 (2) The industry-established standard, known as American
36 National Standards Institute/NSF International Standard 60, that has been

1 adopted by the State of Arkansas under Public Water System Regulation § VII.F
2 is established and administered by a nongovernmental body with no direct
3 responsibility to health agencies or consumers;

4 (3) Public policy discussions of the prospects of adding lithium
5 to the public water to alter human mood imbalances, and statin drugs to
6 affect human cholesterol, rather than making water more potable, have
7 increased along with water operators initiating the use of, halting the use
8 of, and making changes in the use of, fluoridation products;

9 (4) Chemical products are now more frequently sourced from
10 China, Japan, Russia, and Mexico with no state requirement for batch testing
11 for content and impurities or disclosure of origin; and

12 (5) It is essential that the contents and impurities of any
13 chemical transported to and stored in a community in its raw undiluted state
14 be fully identified for first responders, emergency remediation and response
15 teams, risk management, homeland security, environmental impact, and for
16 accurate assessments for both contaminant quality controls and appropriate
17 permitting.

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19 17-51-303. Duty of a water system operator.

20 (a) To ensure that a water supplier operating a public water system
21 that services residents of the State of Arkansas selects a product that is
22 consistent with state law for treating disease or so affecting the bodily
23 functions of the consumer as to prevent disease, rather than making water
24 more potable, a water system operator shall purchase and administer
25 substances for treating disease or affecting the bodily functions of the
26 consumer to prevent disease only from a chemical manufacturer or responsible
27 entity in the chain of delivery of the product that provides the following
28 declaration for the product:

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30 "This specific product, as it is constituted and inclusive of
31 contaminants, and when ingested by consumers in dilution amounts
32 consistent with concentration goals in water established by safe
33 drinking water regulations for the product:

34 (a) Is effective at treating the legislatively-identified
35 specific disease or health condition or affects the bodily functions
36 to prevent specific adverse health condition in consumers, consistent

1 with fulfilling the stated legislative intent for this product's use; and

2 (b) Is safe for the full range of expected human consumption at
 3 these dilution ranges, without known or anticipated adverse health
 4 effects over a lifetime, including for infants, children, the elderly,
 5 and other populations afforded equal protection."

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 7 (b) A water system operator that makes purchases under subsection (a)
 8 of this section shall make the notice required under subsection (a) of this
 9 section readily accessible to the public.

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 11 17-51-304. Transparency – Disclosure.

12 (a) A public water system operator that services residents of the
 13 State of Arkansas shall require as a condition of purchase that the
 14 manufacturer of a specific product that the water system operator adds or
 15 intends to add to the public drinking water for purposes of treating or
 16 affecting the bodily functions of consumers shall:

17 (1) Provide a list of all published and unpublished
 18 toxicological studies known to the manufacturer that deal with health and
 19 behavioral effects of continued use of the specific product;

20 (2) Identify the country or countries of origin of all or any
 21 part of the product, including any blending; and

22 (3) If toxicological studies known to the manufacturer on health
 23 and behavioral effects were performed on a different manufacturer's product
 24 of the same chemical classification, identify the manufacturing source of the
 25 product that was studied and provide a comparison of content and contaminant
 26 concentrations between the studied product and the product to be delivered.

27 (b)(1) A water operator shall require that an update of the list of
 28 toxicological studies on the health and behavioral effects of the continued
 29 use of each product content and contaminant required under subsection (a) of
 30 this section be provided annually by the responsible party in the chain of
 31 delivery.

32 (2) A water system operator shall make the submissions by the
 33 manufacturer or responsible party in the chain of product delivery required
 34 under subsection (a) of this section readily accessible to the public.

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 36 17-51-305. Product declaration – Publication.

1 (a) To ensure that a public water system operator that services
2 residents of the State of Arkansas has selected and administers a water
3 additive product intended to treat or affect the bodily functions of
4 consumers that meets all Arkansas laws, rules, and regulations, the water
5 system operator, as a condition of purchase, shall obtain a complete, dated,
6 and correct copy of the manufacturer's product declaration in force at the
7 time of contract that the manufacturer of the product is required under
8 Arkansas Public Water System Regulation VII.F to submit to NSF International
9 to meet American National Standards Institute/NSF International Standard 60
10 General Requirements Section 3.2.1.

11 (b)(1) A water system shall make readily accessible to the public the
12 document required under subsection (a) of this section.

13 (2) Notification to the public under this subdivision (b)(2)
14 shall include at a minimum:

15 (A) A proposed maximum use level for the product;

16 (B) The composition of the formulation, in percentage by
17 volume or parts by weight, for each chemical in the formulation;

18 (C) The reaction mixture used to manufacture the chemical,
19 if applicable;

20 (D) The chemical abstract number, the chemical name, and
21 the name of the supplier for each chemical present in the formulation;

22 (E) A list of known or suspected impurities within the
23 treatment chemical formulation and the maximum percentage by volume or parts
24 by weight of each impurity;

25 (F) A description or classification of the process by
26 which the treatment chemical is manufactured, handled, and packaged;

27 (G) Any selected spectra that have been required,
28 including without limitation UV-Visible or infrared; and

29 (F) A list of published and unpublished toxicological
30 studies known to the manufacturer that are relevant to the treatment chemical
31 and to the chemicals and impurities present in the treatment chemical.

32
33 17-51-306. Conformity with industry standards.

34 (a) A public water system operator that services residents of the
35 State of Arkansas shall select and add to the public drinking water only
36 products intended to treat and affect the bodily functions of consumers that

1 meet, at a minimum, the applicable published American Water Works Association
2 standard for those product's specific chemical classifications.

3 (b)(1) To ensure fulfillment of the American Water Works Association
4 standards, the public water system operator shall obtain from the
5 manufacturer or other responsible party in the chain of delivery an
6 independent analysis by an American National Standards Institute or an NSF
7 International certified laboratory determining the content and specific
8 concentrations of each contaminant and of each shipment of the product that
9 the analysis shall correlate with the product declaration that the
10 manufacturer of the product is required to submit under Arkansas Public Water
11 System Regulation VII.F, including data required under § 17-51-305(b)(2)(E).

12 (2) The analyses required under subdivision (b)(1) of this
13 section and any reports on a delivery of a product shall be maintained and
14 made immediately accessible to the public by the water system operator.

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16 17-51-307. Violation – Penalties.

17 (a) A violation of this subchapter is a public nuisance that may be
18 abated in the same manner as any public nuisance.

19 (b) A water operator who violates this subchapter may be assessed a
20 reasonable attorney's fee and court costs of a successful action to enforce
21 this subchapter.

22 (c) This subchapter does not limit other remedies at law for
23 violations of public water safety laws, rules, or regulations.

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