

Department of Legislative Services  
Maryland General Assembly  
2007 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 766

(Senator Frosh)

Education, Health, and Environmental Affairs

Environmental Matters

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Environment - Phosphorus - Dishwashing Detergent

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This bill prohibits, beginning January 1, 2010, a person from using, selling, manufacturing, or distributing for use or sale within the State any detergent for use in a household dishwashing machine that contains more than 0.5% phosphorus by weight. The bill requires the Maryland Department of the Environment (MDE) to report to the Governor and the General Assembly, by December 1, 2008, on the prospective availability of low phosphorus commercial dishwashing detergents and a recommended date by which the use of such detergents may be reasonably required.

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Fiscal Summary

**State Effect:** MDE could enforce the bill on a complaint basis and submit the required report using existing budgeted resources.

**Local Effect:** By reducing the level of phosphorus in wastewater influent, the bill would likely cause owners of wastewater treatment plants, most of which are local governments, to adjust their operations. This may or may not reduce operating costs.

**Small Business Effect:** Minimal.

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Analysis

**Current Law:** Current law prohibits a person from using, selling, manufacturing, or distributing for use or sale within the State any “cleaning agent” that contains more than 0.0% phosphorus by weight expressed as elemental phosphorus except for an amount not exceeding 0.5% phosphorus that is incidental to manufacturing. The term “cleaning

agent” does not apply to several specified cleaning products. Current law exempts detergents used in a dishwashing machine, whether commercial or household, from the prohibition.

**Background:** While the Chesapeake Bay is America’s largest and most productive estuary, its health has declined significantly over the past several decades due to nutrient (nitrogen and phosphorus) and sediment pollution. In 1999, the U.S. Environmental Protection Agency (EPA) identified the bay as an impaired water body. In 2000, the Chesapeake Bay partners (the bay states, the District of Columbia, the Chesapeake Bay Commission, and EPA) negotiated the Chesapeake 2000 Agreement (C2K), which specified restoration goals to improve the bay and remove it from the EPA’s List of Impaired Waters. As part of C2K, specific pollution reduction goals have been allocated to the various bay states. Maryland’s reduction goals are summarized in **Exhibit 1**.

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**Exhibit 1**  
**Maryland’s Pollutant Reduction Goals**

| <b><u>Pollutant</u></b>     | <b><u>1985 Loads</u></b> | <b><u>2004 Loads</u></b> | <b><u>2010 Goal</u></b> |
|-----------------------------|--------------------------|--------------------------|-------------------------|
| Nitrogen (million lbs/yr)   | 82.4                     | 56.9                     | 37.3                    |
| Phosphorus (million lbs/yr) | 6.8                      | 3.8                      | 2.9                     |
| Sediment (million tons/yr)  | 1.3                      | 1.0                      | 0.7                     |

Source: U.S. Environmental Protection Agency’s Chesapeake Bay Program

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Any efforts to reduce phosphorus loading to the bay will help the State achieve its goals under C2K.

Washington State enacted legislation in 2006 to prohibit the sale of dishwashing detergent that contains 0.5% or more phosphorus by weight after July 1, 2008 in certain areas. Beginning July 1, 2010, the restriction will apply statewide.

The Soap and Detergent Association (SDA) advises that there are currently no phosphate-free alternatives to *commercial* dishwashing detergent. Although several *household* phosphate-free dishwashing detergents are available, SDA reports that they represent less than 1% of the market. In addition, the Association of Home Appliance Manufacturers (AHAM) reports that, in response to other proposals to limit the phosphorus content in dishwashing detergent, manufacturers have tested dishwashing detergents with only trace amounts of phosphorus, and a number of issues have arisen relating to product

performance and reliability. Both SDA and AHAM advise that the detergent industry has determined that it will need until at least July 1, 2010, to produce a suitable alternative.

**Small Business Effect:** Any small business that uses household dishwashing detergent could be affected to the extent that alternatives cost more than the detergents currently purchased. It is assumed that detergent manufacturers would not be considered small businesses. Small businesses that sell dishwashing detergent should not be significantly impacted; the effective date of the prohibition should give those entities enough time to sell off existing stocks.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1131 (Delegates Hubbard and Frush) – Environmental Matters.

**Information Source(s):** Maryland Department of the Environment, Maryland Municipal League, Soap and Detergent Association, Association of Home Appliance Manufacturers, Department of Legislative Services

**Fiscal Note History:** First Reader - February 28, 2007  
ncs/ljm Revised - Senate Third Reader - March 23, 2007  
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