

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

# A Bill

HOUSE BILL 1205

4 By: Representative Mauch

5  
6 Filed with: Arkansas Legislative Council  
7 pursuant to A.C.A. §10-3-217.

## 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.

## Subtitle

13 THE ARKANSAS WATER ADDITIVE  
14 ACCOUNTABILITY ACT.

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18 SECTION 1. Arkansas Code Title 17, Chapter 51 is amended to add an  
19 additional subchapter to read as follows:

20 Subchapter 3 – Arkansas Water Additive Accountability Act

21 17-51-301. Title.

22 This subchapter shall be known as and may be cited as the "Arkansas  
23 Water Additive Accountability Act".

24 17-51-302. Findings.

25 The General Assembly finds that:

26 (1) The United States Environmental Protection Agency gave up  
27 all enforceable oversight responsibilities for direct water additives in  
28 1988, so that there are now no federal safety standards;

1           (2) The industry-established standard, known as American  
2 National Standards Institute/NSF International Standard 60, that has been  
3 adopted by the State of Arkansas under Public Water System Regulation § VII.F  
4 is established and administered by a nongovernmental body with no direct  
5 responsibility to health agencies or consumers;

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

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

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

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21       17-51-303. Duty of a water system operator.

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

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

1           (a) Is effective at treating the legislatively-identified  
2           specific disease or health condition or affects the bodily functions  
3           to prevent specific adverse health condition in consumers, consistent  
4 with fulfilling the stated legislative intent for this product's use; and

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

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

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14          17-51-304. Transparency – Disclosure.

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

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

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

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

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

1           (2) A water system operator shall make the submissions by the  
2 manufacturer or responsible party in the chain of product delivery required  
3 under subsection (a) of this section readily accessible to the public.  
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5           17-51-305. Product declaration – Publication.

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

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

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

- 20                   (A) A proposed maximum use level for the product;
- 21                   (B) The composition of the formulation, in percentage by  
22 volume or parts by weight, for each chemical in the formulation;
- 23                   (C) The reaction mixture used to manufacture the chemical,  
24 if applicable;
- 25                   (D) The chemical abstract number, the chemical name, and  
26 the name of the supplier for each chemical present in the formulation;
- 27                   (E) A list of known or suspected impurities within the  
28 treatment chemical formulation and the maximum percentage by volume or parts  
29 by weight of each impurity;
- 30                   (F) A description or classification of the process by  
31 which the treatment chemical is manufactured, handled, and packaged;
- 32                   (G) Any selected spectra that have been required,  
33 including without limitation UV-Visible or infrared; and
- 34                   (F) A list of published and unpublished toxicological  
35 studies known to the manufacturer that are relevant to the treatment chemical  
36 and to the chemicals and impurities present in the treatment chemical.

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17-51-306. Conformity with industry standards.

(a) A public water system operator that services residents of the State of Arkansas shall select and add to the public drinking water only products intended to treat and affect the bodily functions of consumers that meet, at a minimum, the applicable published American Water Works Association standard for those product's specific chemical classifications.

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

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

17-51-307. Violation – Penalties.

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

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

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

Referral requested by: Representative Loy Mauch  
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