

1 INTERIM STUDY PROPOSAL 2013-057

2 State of Arkansas
3 89th General Assembly
4 Regular Session, 2013

As Engrossed: S3/5/13

A Bill

SENATE BILL 255

5
6 By: Senator B. King

7 Filed with: Interim Senate Committee on Public Health, Welfare and Labor
8 pursuant to A.C.A. §10-3-217.

9 **For An Act To Be Entitled**

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

15
16
17 **Subtitle**

18 THE ARKANSAS WATER ADDITIVE
19 ACCOUNTABILITY ACT.

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

23
24 SECTION 1. Arkansas Code Title 17, Chapter 51 is amended to add an
25 additional subchapter to read as follows:

26 Subchapter 3 – Arkansas Water Additive Accountability Act

27
28 17-51-301. Title.

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

31
32 17-51-302. Findings.

33 The General Assembly finds that:

34 (1) The United States Environmental Protection Agency gave up
35 all enforceable oversight responsibilities for direct water additives in
36 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)(A) Public policy, under Act 197 of 2011, has mandated
7 fluoride be added to potable water by Water Districts serving cities or
8 consecutive systems serving a population of five thousand (5,000) or more.

9 (B) Any discussion of adding other substances to the
10 public water supply that does not pertain to making the water more potable
11 would also be subject to the requirements stipulated in this subchapter;

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

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

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22 17-51-303. Duty of a water district.

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

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32 "This specific product, as it is constituted and inclusive of
33 contaminants, 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;
5 and

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

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

14
15 17-51-304. Transparency – Disclosure.

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

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

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

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

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

1 (2) A water district 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 water district that services residents of the
7 State of Arkansas has selected and administers a water additive product
8 intended to treat or affect the bodily functions of consumers that meets all
9 Arkansas laws, rules, and regulations, the water district, as a condition of
10 purchase, shall obtain a complete, dated, and correct copy of the
11 manufacturer’s product declaration in force at the time of contract that the
12 manufacturer of the product is required under Arkansas Public Water System
13 Regulation VII.F to submit to NSF International to meet American National
14 Standards Institute/NSF International Standard 60 General Requirements
15 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 ultraviolet-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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2 17-51-306. Conformity with industry standards.

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

8 (b)(1) To ensure fulfillment of the association's standards, the water
9 district shall obtain from the manufacturer or other responsible party in the
10 chain of delivery an independent analysis by an American National Standards
11 Institute or an NSF International-certified laboratory determining the
12 content and specific concentrations of each contaminant and of each shipment
13 of the product that the analysis shall correlate with the product declaration
14 that the manufacturer of the product is required to submit under Arkansas
15 Public Water System Regulation VII.F, including data required under § 17-51-
16 305(b)(2)(E).

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

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21 17-51-307. Violation – Penalties.

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

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

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

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30 */s/B. King*

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33 Referred by the Arkansas Senate

34 Prepared by: MGF/VJF