

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
89th General Assembly  
Regular Session, 2013

*As Engrossed: S3/5/13*  
**A Bill**

SENATE BILL 255

By: Senator B. King

### **For An Act To Be Entitled**

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

### **Subtitle**

THE ARKANSAS WATER ADDITIVE ACCOUNTABILITY ACT.

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

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

Subchapter 3 – Arkansas Water Additive Accountability Act

17-51-301. Title.

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

17-51-302. Findings.

The General Assembly finds that:

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

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



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

(3)(A) Public policy, under Act 197 of 2011, has mandated fluoride be added to potable water by Water Districts serving cities or consecutive systems serving a population of five thousand (5,000) or more.

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

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

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

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

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

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

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

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

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

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

17-51-304. Transparency – Disclosure.

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

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

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

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

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

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

17-51-305. Product declaration – Publication.

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

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

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

- (A) A proposed maximum use level for the product;
- (B) The composition of the formulation, in percentage by volume or parts by weight, for each chemical in the formulation;
- (C) The reaction mixture used to manufacture the chemical, if applicable;
- (D) The chemical abstract number, the chemical name, and the name of the supplier for each chemical present in the formulation;
- (E) A list of known or suspected impurities within the treatment chemical formulation and the maximum percentage by volume or parts by weight of each impurity;
- (F) A description or classification of the process by which the treatment chemical is manufactured, handled, and packaged;
- (G) Any selected spectra that have been required, including without limitation ultraviolet-visible or infrared; and
- (F) A list of published and unpublished toxicological studies known to the manufacturer that are relevant to the treatment chemical and to the chemicals and impurities present in the treatment chemical.

17-51-306. Conformity with industry standards.

(a) A water district 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 products' specific chemical classifications.

(b)(1) To ensure fulfillment of the association's standards, the water district 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 district.

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 district 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 or rules or regulations.

*/s/B. King*