

SECOND REGULAR SESSION

# HOUSE BILL NO. 1125

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES WILDBERGER (Sponsor), ROORDA, MOORE, SCHAAF,  
WHORTON, BAKER (25) AND YOUNG (Co-sponsors).

Pre-filed December 14, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3492L.01I

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### AN ACT

To amend chapter 191, RSMo, by adding thereto nine new sections relating to poison prevention.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 191, RSMo, is amended by adding thereto nine new sections, to be  
2 known as sections 191.1000, 191.1003, 191.1006, 191.1009, 191.1012, 191.1015, 191.1018,  
3 191.1021, and 191.1024, to read as follows:

**191.1000. As used in sections 191.1000 to 191.1024, the following terms mean:**

2 **(1) "Drug":**

3 **(a) Articles recognized as drugs in the official United States Pharmacopoeia, official**  
4 **National Formulary, official Homeopathic Pharmacopoeia, other drug compendium or any**  
5 **supplement to any of them;**

6 **(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or**  
7 **prevention of disease in a human or other animal;**

8 **(c) Articles (other than food) intended to affect the structure or any function of the**  
9 **body of humans or other animals; and**

10 **(d) Articles intended for use as a component of any articles specified in paragraph**  
11 **(a), (b), or (c) of this subdivision;**

12 **(2) "Household product", any product intended for use under any of the following**  
13 **circumstances:**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 (a) In, on, or around any structure, vehicle, article, surface, or area associated with  
15 the household, including but not limited to nonagricultural outbuildings, noncommercial  
16 greenhouses, pleasure boats, and recreational vehicles;

17 (b) In or around any preschool or child care facility;

18 (3) "Task force", the poison prevention task force;

19 (4) "Toxic household product", any product listed in section 191.1006 that is  
20 customarily produced or distributed for sale for use in or about the household or is  
21 customarily stored by individuals in or about the household.

191.1003. Any toxic household product that is listed in section 191.1006 and is  
2 manufactured on or after January 1, 2007, and sold in this state, shall include an aversive  
3 agent approved by the poison prevention task force within the product in a concentration  
4 so as to render the product unpalatable.

191.1006. 1. The following toxic household products shall comply with section  
2 191.1003:

3 (1) Antifreeze containing ten percent or more ethylene glycol by weight;

4 (2) Windshield washer fluid containing four percent or more methyl alcohol  
5 (methanol) by weight.

6 2. The following toxic household products are exempted from the requirements of  
7 section 191.1003:

8 (1) Pesticide products subject to registration under sections 281.210 to 281.310,  
9 RSMo, or under the Federal Insecticide, Fungicide, Rodenticide Act;

10 (2) Any drug defined in section 191.1000 or defined in the Federal Food, Drug and  
11 Cosmetic Act (21 U.S.C. § 301 et seq.)

191.1009. 1. A manufacturer, distributor or seller of a toxic household product that  
2 is required to contain an aversive agent under section 191.1006 is not liable to any person  
3 for any personal injury, death, or property damage that results from the inclusion of the  
4 aversive agent in the toxic household product.

5 2. The limitation on liability provided by this section is only applicable if the  
6 aversive agent is included in the toxic household product in concentrations approved by  
7 the poison prevention task force.

8 3. The limitation on liability provided by this section does not apply if the personal  
9 injury, death, or property damage results from willful and wanton misconduct by the  
10 manufacturer, distributor, or seller of the toxic household product.

191.1012. 1. There is hereby created the "Poison Prevention Task Force" within  
2 the department of health and senior services, and shall consist of the following five  
3 members:

4           (1) The director of the department of health and senior services, who shall serve as  
5 chairperson;

6           (2) A pediatrician licensed under chapter 334, RSMo, appointed by the governor  
7 with the advice and consent of the senate;

8           (3) A chemist from an academic institution, appointed by the governor with the  
9 advice and consent of the senate;

10          (4) A representative of a manufacturer of toxic household products, appointed by  
11 the governor with the advice and consent of the senate.

12          2. Each member of the task force shall serve a term of four years. Members of the  
13 task force may be reappointed. Members shall serve without compensation, but may be  
14 reimbursed for actual and necessary expenses incurred in the performance of their duties  
15 as members of the task force.

16          3. The task force shall meet as considered necessary by the chairperson or on the  
17 call of three members of the task force.

18          4. The task force shall meet for the purposes of reviewing, granting or denying  
19 requests for exemptions from and extensions of the requirements of sections 191.1000 to  
20 191.1024.

21          5. The task force shall obtain and evaluate statewide poisoning incidence and  
22 severity data over a period of every two years for the purpose of making recommendations  
23 for the addition or deletion of products to section 191.1006.

191.1015. 1. The poison prevention task force may request efficacy and toxicity  
2 data, or other pertinent data it considers necessary, from the manufacturer of any toxic  
3 household product. The information shall be made available by the manufacturer to the  
4 task force upon request and shall remain confidential, if so requested.

5          2. The task force may request data from and utilize the technical expertise of other  
6 state agencies or health care providers, or both, to evaluate the incidence and severity of  
7 poisoning, drug overdose and toxic exposure.

191.1018. The poison prevention task force shall report to the general assembly as  
2 necessary with recommendations for the addition or deletion of products from the list set  
3 forth in section 191.1006. The task force shall report to the general assembly any  
4 additional recommended measures which shall include reducing the incidence and severity  
5 of poisoning, poison prevention education activities, and child resistant closure  
6 effectiveness.

191.1021. Any person may bring a civil action in a court of competent jurisdiction  
2 to enforce the requirements of sections 191.1000 to 191.1024. The court may grant

3 injunctive relief, or award punitive damages and reasonable attorney fees in any action  
4 brought under this section.

191.1024. 1. Any person who distributes or sells a toxic household product or  
2 causes a toxic household product to be distributed or sold in this state that does not meet  
3 the requirements of sections 191.1000 to 191.1024 shall be liable for a civil penalty not to  
4 exceed five thousand dollars for each day of violation, which shall be assessed and  
5 recovered in a civil action brought by the department of health and senior services.

6 2. The prohibition contained in subsection 1 of this section does not apply to a  
7 person engaged in the business of wholesale or retail distribution of a toxic household  
8 product, unless the person is engaged in the manufacture of the product, or has knowledge  
9 that a toxic household product which the person is distributing or selling is in violation of  
10 sections 191.1000 to 191.1024.

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