

House Bill 193

By: Representative Moore of the 91st

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 provide that persons doing business in this state shall not expose individuals to chemicals
3 known to cause cancer or reproductive toxicity without first giving clear and reasonable
4 warning nor discharge such chemicals into drinking water; to provide for the content and
5 manner of the giving of such warnings; to provide for exceptions; to provide that the
6 Governor shall publish lists of such chemicals; to authorize the Attorney General and, under
7 specified conditions, district attorneys and other persons to seek injunctions and civil
8 penalties; to provide for the Safe Drinking Water and Toxic Enforcement Fund and its
9 purposes and funding; to provide for definitions; to provide a short title; to provide for
10 related matters; to provide a contingent effective date; to repeal conflicting laws; and for
11 other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding
15 a new chapter to read as follows:

H. B. 193

- 1 -

16 "CHAPTER 5517 31-55-1.

18 This chapter shall be known and may be cited as the 'Safe Drinking Water and Toxic
19 Enforcement Act of 2025.' This chapter may also be known and may be cited as the
20 'Georgia Proposition 25 Act.'

21 31-55-2.22 As used in this chapter, the term:

23 (1) 'Person' means an individual, trust, firm, joint stock company, corporation, company,
24 partnership, limited liability company, or association.

25 (2) 'Person in the course of doing business' shall not include any person employing fewer
26 than ten employees in his or her business; any city, county, or school district or any
27 department or agency thereof; the state or any department or agency thereof; the federal
28 government or any department or agency thereof; or any entity in its operation of a public
29 water system as defined in Code Section 12-5-172.

30 (3) 'Reproductive toxicity' means the potential risk from a given chemical, physical, or
31 biological agent to adversely affect both male and female fertility as well as offspring
32 development. Such term may include adverse effects on sexual function, ovarian
33 function, and fertility as well as developmental toxicity in the offspring. Lowered
34 effective fertility related to such term relates to both male and female effects alike and
35 is reflected in decreased sperm counts, semen quality, and ovarian failure.

36 (4) 'Significant amount' means any detectable amount except an amount which would
37 meet the exemption test in Code Section 31-55-8 if an individual were exposed to such
38 an amount in drinking water.

39 (5) 'Source of drinking water' means either a present source of drinking water or water
40 which is identified or designated as being suitable for domestic or municipal uses.

41 (6) 'Threaten to violate' means to create a condition in which there is a substantial
42 probability that a violation will occur.

43 (7) 'Warning' within the meaning of Code Section 31-55-4 need not be provided
44 separately to each exposed individual and may be provided by general methods such as
45 labels on consumer products, inclusion of notices in mailings to water customers, posting
46 of notices, placing notices in public news media, and the like; provided, however, that the
47 warning accomplished is clear and reasonable. In order to minimize the burden on retail
48 sellers of consumer products including foods, regulations implementing Code
49 Section 31-55-4 shall to the extent practicable place the obligation to provide any
50 warning materials such as labels on the producer or packager rather than on the retail
51 seller, except where the retail seller itself is responsible for introducing a chemical known
52 to the state to cause cancer or reproductive toxicity into the consumer product in question.

53 31-55-3.

54 No person in the course of doing business shall knowingly discharge or release a chemical
55 known to the state to cause cancer or reproductive toxicity into water or onto or into land
56 where such chemical passes or probably will pass into any source of drinking water,
57 notwithstanding any other provision or authorization of law except as provided in Code
58 Section 31-55-7.

59 31-55-4.

60 No person in the course of doing business shall knowingly and intentionally expose any
61 individual to a chemical known to the state to cause cancer or reproductive toxicity without
62 first giving clear and reasonable warning to such individual except as provided in Code
63 Section 31-55-8.

64 31-55-5.

65 (a) A person that violates or threatens to violate Code Section 31-55-3 or 31-55-4 may be
66 enjoined in any court of competent jurisdiction in this state.

67 (b)(1) A person that has violated Code Section 31-55-3 or 31-55-4 shall be liable for a
68 civil penalty not to exceed \$2,500.00 per day for each violation in addition to any other
69 penalty established by law. Such civil penalty may be assessed and recovered in a civil
70 action brought in any court of competent jurisdiction in this state.

71 (2) In assessing the amount of a civil penalty for a violation of this chapter, the court
72 shall consider all of the following:

73 (A) The nature and extent of the violation;

74 (B) The number and severity of the violations;

75 (C) The economic effect of the penalty on the violator;

76 (D) Whether the violator took good faith measures to comply with this chapter;

77 (E) The willfulness of the violator's misconduct;

78 (F) The deterrent effect that the imposition of the penalty would have on both the
79 violator and the regulated community as a whole; and

80 (G) Any other factor that justice may require.

81 (c) Actions pursuant to this Code section may be brought by the Attorney General, by a
82 district attorney, or as provided in subsection (d) of this Code section.

83 (d) Actions pursuant to this Code section may be brought by a person in the public interest
84 if both of the following requirements are met:

85 (1) The private action is commenced more than 60 days from the date that the person has
86 given notice of an alleged violation of Code Section 31-55-3 or 31-55-4 that is the subject
87 of the private action to the Attorney General, the district attorney of the judicial circuit
88 in which the alleged violator is located, and the alleged violator. If the notice alleges a
89 violation of Code Section 31-55-4, the notice of the alleged violation shall include a
90 certificate of merit executed by the attorney for the noticing party or by the noticing

91 party, if the noticing party is not represented by an attorney. The certificate of merit shall
92 state that the person executing the certificate has consulted with one or more persons with
93 relevant and appropriate experience or expertise who have reviewed facts, studies, or
94 other data regarding the exposure to the listed chemical that is the subject of the action,
95 and that, based on that information, the person executing the certificate believes there is
96 a reasonable and meritorious case for the private action. Factual information sufficient
97 to establish the basis of the certificate of merit, including the information identified in
98 paragraph (2) of subsection (h) of this Code section, shall be attached to the certificate
99 of merit that is served on the Attorney General; and

100 (2) Neither the Attorney General nor the district attorney has commenced and is
101 diligently prosecuting an action against the violation.

102 (e)(1)(A) If, after reviewing the factual information sufficient to establish the basis for
103 the certificate of merit and meeting and conferring with the noticing party regarding the
104 basis for the certificate of merit, the Attorney General believes there is no merit to the
105 action, the Attorney General shall serve a letter to the noticing party and the alleged
106 violator stating the Attorney General believes there is no merit to the action.

107 (B) If the Attorney General does not serve a letter pursuant to subparagraph (A) of this
108 paragraph, this shall not be construed as an endorsement by the Attorney General of the
109 merit of the action.

110 (2) A person bringing an action in the public interest pursuant to subsection (d) of this
111 Code section and a person filing an action in which a violation of this chapter is alleged
112 shall notify the Attorney General that the action has been filed. Neither this subsection
113 nor the procedures provided in subsections (f), (g), (h), (i), (j), and (k) of this Code
114 section shall affect the requirements imposed by statute concerning whether a person
115 filing an action in which a violation of this chapter is alleged is required to comply with
116 the requirements of subsection (d) of this Code section.

117 (f)(1) A person filing an action in the public interest pursuant to subsection (d) of this
118 Code section, a private person filing an action in which a violation of this chapter is
119 alleged, or a private person settling a violation of this chapter alleged in a notice given
120 pursuant to paragraph (1) of subsection (d) of this Code section shall, after the action or
121 violation is subject either to a settlement or to a judgment, submit to the Attorney General
122 a reporting form that includes the results of that settlement or judgment and the final
123 disposition of the case, even if dismissed. At the time of the filing of a judgment
124 pursuant to an action brought in the public interest pursuant to subsection (d) of this Code
125 section, or an action brought by a private person in which a violation of this chapter is
126 alleged, the plaintiff shall file an affidavit verifying that the report required by this
127 subsection has been accurately completed and submitted to the Attorney General.

128 (2) A person bringing an action in the public interest pursuant to subsection (d) of this
129 Code section or a private person bringing an action in which a violation of this chapter
130 is alleged shall, after the action is either subject to a settlement, with or without court
131 approval, or to a judgment, submit to the Attorney General a report that includes
132 information on any corrective action being taken as a part of the settlement or resolution
133 of the action.

134 (3) The Attorney General shall develop a reporting form that specifies the information
135 that shall be reported, including, but not limited to, for purposes of paragraph (2) of
136 subsection (e) of this Code section, the date the action was filed and the nature of the
137 relief sought, and, for purposes of this subsection, the amount of the settlement or civil
138 penalty assessed, other financial terms of the settlement, and any other information the
139 Attorney General deems appropriate.

140 (4) If there is a settlement of an action brought by a person in the public interest under
141 subsection (d) of this Code section, the plaintiff shall submit the settlement, other than
142 a voluntary dismissal in which no consideration is received from the defendant, to the

143 court for approval upon noticed motion, and the court may approve the settlement only
144 if the court makes all of the following findings:

145 (A) The warning that is required by the settlement complies with this chapter;

146 (B) The award of attorney's fees is reasonable under Georgia law; and

147 (C) The penalty amount is reasonable based on the criteria set forth in paragraph (2)
148 of subsection (b) of this Code section.

149 (5) The plaintiff subject to paragraph (4) of this subsection has the burden of producing
150 evidence sufficient to sustain each required finding. The plaintiff shall serve the motion
151 and all supporting papers on the Attorney General, who may appear and participate in a
152 proceeding without intervening in the case.

153 (6) Neither this subsection nor the procedures provided in paragraph (2) of subsection (e)
154 and subsections (g), (h), (i), (j), and (k) of this Code section shall affect the requirements
155 imposed by statute concerning whether claims raised by a person or public prosecutor not
156 a party to the action are precluded by a settlement approved by the court.

157 (g) The Attorney General shall maintain a record of the information submitted pursuant
158 to subsections (e) and (f) of this Code section and shall make this information available to
159 the public.

160 (h)(1) The basis for the certificate of merit required by subsection (d) of this Code
161 section shall be discoverable only to the extent that the information is relevant to the
162 subject matter of the action and not subject to the attorney-client privilege, the attorney
163 work product privilege, or any other legal privilege.

164 (2) Upon the conclusion of an action brought pursuant to subsection (d) of this Code
165 section with respect to a defendant, if the trial court determines that there was no actual
166 or threatened exposure to a listed chemical, the court may, upon the motion of that
167 alleged violator or upon the court's own motion, review the basis for the belief of the
168 person executing the certificate of merit, expressed in the certificate of merit, that an
169 exposure to a listed chemical had occurred or was threatened. The information in the

170 certificate of merit, including the identity of the persons consulted with and relied on by
171 the certifier and the facts, studies, or other data reviewed by those persons, shall be
172 disclosed to the court in an in-camera proceeding at which the moving party shall not be
173 present. If the court finds that there was no credible factual basis for the certifier's belief
174 that an exposure to a listed chemical had occurred or was threatened, then the action shall
175 be deemed frivolous within the meaning of Code Section 9-15-14. The court shall not
176 find a factual basis credible on the basis of a legal theory of liability that is frivolous
177 within the meaning of Code Section 9-15-14.

178 (i) The Attorney General may provide the factual information submitted to establish the
179 basis of the certificate of merit on request to a district attorney within whose judicial circuit
180 the violation is alleged to have occurred or to any other state or federal government agency,
181 but, in all other respects, the Attorney General shall maintain and ensure that all recipients
182 maintain the submitted information as confidential official information to the full extent
183 authorized.

184 (j) In an action brought by the Attorney General or a district attorney pursuant to this
185 chapter, the Attorney General or district attorney may seek and recover costs and attorney's
186 fees on behalf of a party who provides a notice pursuant to subsection (d) of this Code
187 section and who renders assistance in that action.

188 (k) Any person who serves a notice of alleged violation pursuant to paragraph (1) of
189 subsection (d) of this Code section for an exposure identified in such paragraph, as
190 appropriate, shall provide to the alleged violator at the time the notice of alleged violation
191 is served a notice of special compliance procedure and proof of compliance form pursuant
192 to subsection (l) of this Code section and shall not file an action for that exposure against
193 the alleged violator, or recover from the alleged violator in a settlement any payment in lieu
194 of penalties or any reimbursement for costs and attorney's fees, if all of the following
195 conditions have been met:

196 (1) The notice given pursuant to paragraph (1) of subsection (d) of this Code section was
197 served on or after January 1, 2027, and alleges that the alleged violator failed to provide
198 clear and reasonable warning as required under Code Section 31-55-4 regarding one or
199 more of the following:

200 (A) An exposure to alcoholic beverages that are consumed on the alleged violator's
201 premises to the extent onsite consumption is permitted by law;

202 (B) An exposure to a chemical known to the state to cause cancer or reproductive
203 toxicity in a food or beverage prepared and sold on the alleged violator's premises
204 primarily intended for immediate consumption on or off premises, to the extent of both
205 of the following:

206 (i) The chemical was not intentionally added; and

207 (ii) The chemical was formed by cooking or similar preparation of food or beverage
208 components necessary to render the food or beverage palatable or to avoid
209 microbiological contamination;

210 (C) An exposure to environmental tobacco smoke caused by entry of persons, other
211 than employees, on premises owned or operated by the alleged violator where smoking
212 is permitted at any location on the premises; or

213 (D) An exposure to chemicals known to the state to cause cancer or reproductive
214 toxicity in engine exhaust, to the extent the exposure occurs inside a facility owned or
215 operated by the alleged violator and primarily intended for parking noncommercial
216 vehicles;

217 (2) Within 14 days after service of the notice, the alleged violator has done all of the
218 following:

219 (A) Corrected the alleged violation;

220 (B)(i) Agreed to pay a civil penalty for the alleged violation of Code Section 31-55-4
221 in the amount of \$500.00, to be adjusted every five years pursuant to division (ii) of
222 this subparagraph, per facility or premises where the alleged violation occurred, of

223 which 75 percent shall be deposited in the Safe Drinking Water and Toxic
224 Enforcement Fund, and 25 percent shall be paid to the person that served the notice
225 as provided in Code Section 31-55-9.

226 (ii) On April 1, 2031, and at each five-year interval thereafter, the dollar amount of
227 the civil penalty provided pursuant to this subparagraph shall be adjusted by the
228 Judicial Council of Georgia based on the change in the annual Georgia Consumer
229 Price Index for All Urban Consumers published by the Bureau of Labor Statistics of
230 the United States Department of Labor for the most recent five-year period ending on
231 December 31 of the year preceding the year in which the adjustment is made, rounded
232 to the nearest \$5.00. The Judicial Council of Georgia shall every five years publish
233 the dollar amount of the adjusted civil penalty provided pursuant to this subparagraph,
234 together with the date of the next scheduled adjustment; and

235 (C) Notified, in writing, the person that served the notice of the alleged violation that
236 the violation has been corrected. The written notice shall include the notice of special
237 compliance procedure and proof of compliance form specified in subsection (l) of this
238 Code section, which was provided by the person serving notice of the alleged violation
239 and which shall be completed by the alleged violator as directed in the notice; and

240 (3) The alleged violator shall deliver the civil penalty to the person that served the notice
241 of the alleged violation within 30 days of service of that notice, and the person that served
242 the notice of violation shall remit the portion of the penalty due to the Safe Drinking
243 Water and Toxic Enforcement Fund within 30 days of receipt of the funds from the
244 alleged violator.

245 (l) The Attorney General shall promulgate a form for the notice which is required to be
246 provided to an alleged violator pursuant to subsection (k) of this Code section by April 1,
247 2027. Such notice shall provide for identification of the persons bringing the notice and
248 provide a contact individual with an address for mail and electronic communications with
249 such persons; a statement of intent to pursue private action if the public enforcement

250 agencies do not commence or diligently pursue an action to rectify the problem complained
251 of; a summary of the provisions of this chapter; a statement of the alleged violation; the
252 number and duration of the alleged violations; a specific identification of the product which
253 is the subject of the complaint; the chemical allegedly causing the exposure; the routes of
254 such exposure; the types of harm resulting from such exposure; a demand for preservation
255 of evidence by all noticed recipients to include all documents relating to the presence of
256 the chemical in the product; purchase and sales information for the product, which shall
257 include, but not be limited to, purchasers and suppliers, quantities sold and in inventory,
258 the identity of the manufacturers, producers, packagers, importers, suppliers, and
259 distributors, quantity sold or distributed per transaction, as well as the suppliers of the raw
260 material, and the current inventory of the product in Georgia; efforts to comply with the
261 provisions of this chapter with respect to the product, and communications with any person
262 relating to the presence or potential presence of the chemical in the product.

263 (m) An alleged violator may satisfy the conditions set forth in subsection (k) of this Code
264 section only one time for a violation arising from the same exposure in the same facility
265 or on the same premises.

266 (n) Nothing in subsection (k) of this Code section shall prevent the Attorney General or
267 a district attorney in whose judicial circuit a violation is alleged to have occurred from
268 filing an action pursuant to subsection (c) of this Code section against an alleged violator.
269 In any such action, the amount of any civil penalty for a violation shall be reduced to
270 reflect any payment made by the alleged violator for the same alleged violation pursuant
271 to subparagraph (k)(2)(B) of this Code section.

272 (o) If a violation of this chapter is alleged or the application or construction of provisions
273 of this chapter is at issue in a proceeding in the Supreme Court or the Court of Appeals,
274 each party shall serve a copy of the party's brief or petition and brief on the Attorney
275 General. Service on the Attorney General shall be accomplished by serving the brief, or
276 petition and brief, at the service address designated by the Attorney General. A brief shall

277 not be accepted or filed unless the proof of service shows service on the Attorney General.
278 A party failing to comply with this subsection shall be given a reasonable opportunity to
279 cure the failure before the court imposes sanction, and, in that instance, the court shall
280 allow the Attorney General reasonable additional time to file a brief in the matter.

281 31-55-6.

282 (a) On or before January 1, 2027, the Governor shall cause to be published a list of those
283 chemicals known to the state to cause cancer or reproductive toxicity as provided in this
284 chapter, and the Attorney General shall cause such list to be revised and republished in
285 light of additional knowledge at least once per year thereafter. Such list shall include at a
286 minimum those substances listed as human or animal carcinogens by the International
287 Agency for Research on Cancer, as amended, and those substances within the scope of the
288 federal Hazard Communication Standard, 29 C.F.R. Section 1910.1200, as amended.

289 (b) A chemical is known to the state to cause cancer or reproductive toxicity within the
290 meaning of this chapter if, in the opinion of the state's qualified experts, it has been clearly
291 shown through scientifically valid testing according to generally accepted principles to
292 cause cancer or reproductive toxicity; if a body considered to be authoritative by such
293 experts has formally identified it as causing cancer or reproductive toxicity; or if an agency
294 of the state or federal government has formally required it to be labeled or identified as
295 causing cancer or reproductive toxicity.

296 (c) On or before January 1, 2027, and at least once per year thereafter, the Governor shall
297 cause to be published a separate list of those chemicals that at the time of publication are
298 required by state or federal law to have been tested for potential to cause cancer or
299 reproductive toxicity but that the state's qualified experts have not found to have been
300 adequately tested as required.

301 (d) The Governor shall identify and consult with the state's qualified experts as necessary
302 to carry out his or her duties under this Code section.

303 (e) In carrying out the duties of the Governor under this Code section, the Governor and
304 his or her designees shall not be considered to be adopting or amending a regulation within
305 the meaning of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

306 31-55-7.

307 (a) Code Section 31-55-3 shall not apply to any discharge or release that takes place less
308 than 20 months subsequent to the listing of the chemical in question on the list required to
309 be published under subsection (a) of Code Section 31-55-6.

310 (b)(1) Code Section 31-55-3 shall not apply to any discharge or release that meets both
311 of the following criteria:

312 (A) The discharge or release will not cause any significant amount of the discharged
313 or released chemical to enter any source of drinking water; and

314 (B) The discharge or release is in conformity with all other laws and with every
315 applicable regulation, permit, requirement, and order.

316 (2) In any action brought to enforce Code Section 31-55-3, the burden of showing that
317 a discharge or release meets the criteria of this subsection shall be on the defendant.

318 31-55-8.

319 (a) Code Section 31-55-4 shall not apply to any of the following:

320 (1) An exposure for which federal law governs warnings in a manner that preempts state
321 authority;

322 (2) An exposure that takes place less than 12 months subsequent to the listing of the
323 chemical in question on the list required to be published under subsection (a) of Code
324 Section 31-55-6; and

325 (3) An exposure for which the person responsible can show that the exposure poses no
326 significant risk assuming lifetime exposure at the level in question for substances known
327 to the state to cause cancer, and that the exposure will have no observable effect assuming

328 exposure at 1,000 times the level in question for substances known to the state to cause
329 reproductive toxicity, based on evidence and standards of comparable scientific validity
330 to the evidence and standards which form the scientific basis for the listing of such
331 chemical pursuant to subsection (a) of Code Section 31-55-6.

332 (b) In any action brought to enforce Code Section 31-55-4, the burden of showing that an
333 exposure meets the criteria of this Code section shall be on the defendant.

334 31-55-9.

335 (a) The Governor shall designate a lead agency and other agencies that may be required
336 to implement this chapter, including this Code section. Each agency so designated may
337 adopt and modify rules and regulations, standards, and permits as necessary to conform
338 with and implement this chapter and to further its purposes.

339 (b) The Safe Drinking Water and Toxic Enforcement Fund is hereby established in the
340 state treasury. The director of the lead agency designated by the Governor to implement
341 this chapter may expend the funds in the Safe Drinking Water and Toxic Enforcement
342 Fund, upon appropriation by the General Assembly, to implement and administer this
343 chapter. The lead agency designated by the Governor under this Code section shall submit
344 a report to the Governor, Lieutenant Governor, and Speaker of the House of
345 Representatives on December 1 of each calendar year detailing the revenues and expenses
346 of such fund.

347 (c) In addition to any other money that may be deposited in the Safe Drinking Water and
348 Toxic Enforcement Fund, all of the following amounts shall be deposited in the fund:

349 (1) Seventy-five percent of all civil and criminal penalties collected pursuant to this
350 chapter; and

351 (2) Any interest earned upon the money deposited into the Safe Drinking Water and
352 Toxic Enforcement Fund.

353 (d) Twenty-five percent of all civil and criminal penalties collected pursuant to this chapter
354 shall be paid to the office of the Attorney General or the district attorney, whichever office
355 brought the action, or, in the case of an action brought by a person under subsection (d) of
356 Code Section 31-55-5, to that person.

357 31-55-10.

358 Nothing in this chapter shall alter or diminish any legal obligation otherwise required in
359 common law or by statute or regulation, and nothing in this chapter shall create or enlarge
360 any defense in any action to enforce such legal obligation. Penalties and sanctions imposed
361 under this chapter shall be in addition to any penalties or sanctions otherwise prescribed
362 by law.

363 31-55-11.

364 The Department of Economic Development shall post in a conspicuous location on its
365 public website, and include with any informational materials provided to businesses
366 relating to a business's obligations under state law, a disclaimer that states the following:

367 'The Safe Drinking Water and Toxic Enforcement Act of 2025 requires businesses to
368 provide a clear and reasonable warning before knowingly and intentionally exposing
369 anyone to chemicals that are known to the state to cause cancer or birth defects or other
370 reproductive harm. It is important to know that a product that receives certification from
371 the United States Food and Drug Administration, or another federal agency or state
372 agency, is not necessarily exempt from Georgia requirements for chemical exposure
373 warnings. Businesses should be aware of the levels of harmful chemicals in their
374 products and of applicable requirements under the Safe Drinking Water and Toxic
375 Enforcement Act of 2025.'

376

SECTION 2.

377 This Act shall become effective on January 1, 2027, if a constitutional amendment is adopted
378 by the electors at the 2026 General Election authorizing the creation of the Safe Drinking
379 Water and Toxic Enforcement Fund. If such constitutional amendment is not adopted at the
380 2026 General Election, then this Act shall not become effective and shall be repealed by
381 operation of law on such date.

382

SECTION 3.

383 All laws and parts of laws in conflict with this Act are repealed.