



Technical Bulletin
New Illinois Law Regulating Sale of Caustic Materials
(1/2012)

On January 1, 2012, a new State of Illinois criminal law took effect, regulating the purchase of corrosive or caustic acid. Among other things, the law appears to require that a Vendor:

1. Check a customer's driver's license or other government-issued identification.
2. Maintain a log documenting (1) the name and address of the customer; (2) the date and time of the transaction; and (3) the brand, product name, and net weight of the item.

The OateySCS and Harvey Products affected are listed below:

- Hercules
 - Septic Tank and Cesspool Cleaner
 - Liquid Glug[®] for Bathrooms
 - Liquid Glug[®] for Kitchens
 - Glug[®] Crystals
 - Sizzle[®]
 - Clobber[®]
 - Septic Tank Cleaner
 - Cloroben Open Wide[®]
 - Cloroben Cloroclean[®]
 - Cloroben DE[®]
 - Cloroben Drain Snake[®]
- Harvey
 - Granular Drain Cleaner/Opener

For the full text of the law, and penalties for non-compliance, see Illinois Public Act 097-0565, which is attached.

Please contact Oatey Technical Service if you have any questions or need additional information.

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Criminal Code of 1961 is amended by adding Sections 12-37 and 12-38 as follows:

(720 ILCS 5/12-37 new)

Sec. 12-37. Possession and sale of caustic and noxious substances.

(a) Except as provided in subsection (b), it is unlawful for any person knowingly to have in his or her possession or to carry about any of the substances which are regulated by Title 16 CFR Section 1500.129 of the Federal Caustic Poison Act and are required to contain the words "causes severe burns" as the affirmative statement of principal hazard on its label.

(b) Provided that the product is not used to threaten, intimidate, injure, or cause distress to another, the restrictions of subsection (a) do not apply to:

(1) persons while engaged in the legitimate commercial manufacture, distribution, storage, or use of the specified substances;

(2) persons while engaged in legitimate scientific or medical research, study, teaching or treatment involving the use of such substances, including without limitation

physicians, pharmacists, scientists, teachers, students, and employees of regularly established laboratories, manufacturing and wholesale pharmacies, retail pharmacies, medical treatment facilities, schools, colleges, and universities;

(3) persons who have procured any of the specified substances for medicinal purposes upon a prescription of a physician licensed to practice medicine in all its branches under the Medical Practice Act of 1987;

(4) commercial or consumer products that contain any of the specified substances found in subsection (a) including, but not limited to, batteries;

(5) production agriculture as defined in Section 3-5 of the Use Tax Act;

(6) persons while engaged in the possession or transportation, or both, of a commercial product containing any of the substances specified in subsection (a) for retail sale;

(7) persons while engaged in the possession, transportation, or use, unrelated to a retail sale, of any of the substances specified in subsection (a); or

(8) persons engaged in the possession, transportation, or use of a commercial product containing any of the substances specified in subsection (a).

(c) Sentence. A violation of this Section is a Class 4 felony.

(d) The regulation of the possession and carrying of caustic and noxious substances under this Section is an exclusive power and function of the State. A home rule unit may not regulate the possession and carrying of caustic and noxious substances and any ordinance or local law contrary to this Section is declared void. This is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(720 ILCS 5/12-38 new)

Sec. 12-38. Restrictions on purchase or acquisition of corrosive or caustic acid.

(a) A person seeking to purchase a substance which is regulated by Title 16 CFR Section 1500.129 of the Federal Caustic Poison Act and is required to contain the words "causes severe burns" as the affirmative statement of principal hazard on its label, must prior to taking possession:

(1) provide a valid driver's license or other government-issued identification showing the person's name, date of birth, and photograph; and

(2) sign a log documenting the name and address of the person, date and time of the transaction, and the brand, product name and net weight of the item.

(b) Exemption. The requirements of subsection (a) do not apply to batteries.

(c) Rules and Regulations. The Illinois Department of State

Police shall have the authority to promulgate rules for the implementation and enforcement of this Section.

(d) Sentence. Any violation of this Section is a business offense for which a fine not exceeding \$150 for the first violation, \$500 for the second violation, or \$1,500 for the third and subsequent violations within a 12-month period shall be imposed.

(e) Preemption. The regulation of the purchase or acquisition, or both, of a caustic or corrosive substance and any registry regarding the sale or possession, or both, of a caustic or corrosive substance is an exclusive power and function of the State. A home rule unit may not regulate the purchase or acquisition of caustic or corrosive substances and any ordinance or local law contrary to this Section is declared void. This is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

Section 99. Effective date. This Act takes effect January 1, 2012.