

1 AN ACT concerning criminal law.

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

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

6 (720 ILCS 5/12-37 new)

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

9 (a) Except as provided in subsection (b), it is unlawful
10 for any person knowingly to have in his or her possession or to
11 carry about any of the substances which are regulated by Title
12 16 CFR Section 1500.129 of the Federal Caustic Poison Act and
13 are required to contain the words "causes severe burns" as the
14 affirmative statement of principal hazard on its label.

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

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

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

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

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

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

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

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

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

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

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

1 (d) The regulation of the possession and carrying of
2 caustic and noxious substances under this Section is an
3 exclusive power and function of the State. A home rule unit may
4 not regulate the possession and carrying of caustic and noxious
5 substances and any ordinance or local law contrary to this
6 Section is declared void. This is a denial and limitation of
7 home rule powers and functions under subsection (h) of Section
8 6 of Article VII of the Illinois Constitution.

9 (720 ILCS 5/12-38 new)

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

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

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

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

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

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

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

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

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

18 Section 99. Effective date. This Act takes effect January
19 1, 2012.