Date of Hearing: March 25, 2025

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS
Damon Connolly, Chair
AB 916 (Lee) – As Introduced February 19, 2025

SUBJECT: Safer Soap Act

SUMMARY: Prohibits, on and after January 1, 2028, a person from manufacturing or selling antibacterial consumer hand soap or body wash, as specified, and requires the Department of Toxic Substances Control (DTSC) to adopt regulations to implement and enforce the prohibition. Specifically, **this bill**:

Findings:
1) Makes legislative findings regarding the safety and effectiveness of antimicrobial chemicals in consumer hand soaps and body washes.

Definitions:
1) Defines "body wash" as a product that is intended to be used with water, designed for cleansing the human body, and manufactured, sold, or distributed in this state.

2) Defines "hand soap" as a product that is intended to be used with water, designed for hand washing by consumers, and manufactured, sold, or distributed in this state.

3) Defines "prohibited ingredient" as any of the following substances:
   a) Benzalkonium chloride (BZK);
   b) Benzethonium chloride (BZT); and,
   c) Chloroxylenol (PCMX).

Prohibition of antibacterial soaps and body washes:
1) Prohibits, on and after January 1, 2028, a person from manufacturing, selling, delivering, distributing, or offering for sale into commerce in this state a consumer hand soap or body wash that contains a prohibited ingredient.

2) Exempts from the prohibitions in this bill products intended for use in health care facilities, as defined.

Regulation of antibacterial soaps and body washes:
1) Requires DTSC to, on or before January 1, 2028, adopt regulations to implement, interpret, enforce, or make specific the provisions of this bill.

2) Requires a manufacturer of hand soap or body wash to, on or before July 1, 2028, and in the manner prescribed by DTSC pursuant to the regulations adopted pursuant to this bill, register with DTSC and provide to DTSC all of the following:

   a) The name and a description of each hand soap and body wash that it manufactures;

   b) The applicable registration charge; and,

c) A statement of compliance certifying that each hand soap and body wash that it manufactures is in compliance with the prohibitions in this bill.

3) Requires a manufacturer, upon request by DTSC, to provide technical documentation to demonstrate compliance with the provisions of this bill, including, but not limited to, analytical test results.

4) Requires DTSC, on or before January 1, 2028, to publish on its internet website a list of accepted testing methods for testing for the presence of prohibited ingredients in hand soap and body wash and appropriate third-party accreditations for laboratories. Authorizes DTSC to update the list of accepted testing methods as necessary.

5) Requires that certifications of compliance and analytical tests demonstrating compliance comply with the accepted testing methods published on DTSC's internet website.

6) Requires DTSC to specify by regulation the manner for manufacturers to register and the amount of the registration charge. Prohibits the registration charge from exceeding DTSC's actual and reasonable costs of implementing the provisions of this bill.

Enforcement:

1) Requires DTSC to issue a notice of violation to a person in violation of the prohibitions in this bill if any of the following occurs:

   a) DTSC's testing or a test result submitted to DTSC pursuant to the provisions of this bill indicates that a hand soap or body wash contains a prohibited ingredient;

   b) A label on a hand soap or body wash lists a prohibited ingredient as an ingredient; or,

   c) DTSC finds a violation of the provisions of this bill or of any regulation adopted pursuant to this bill.

2) Requires a notice of violation to indicate the nature of the violation and authorizes the violation to do any of the following:

   a) Assess an administrative or civil penalty against a person or entity in violation of the provisions of this bill; and,

   b) Require compliance with the provisions of this bill, including requiring the person to cease the manufacture, sale, or distribution of a hand soap or body wash in this state.

3) Authorizes DTSC to receive reports of alleged violations, including analytical test results, from any person and to verify those alleged reports through its own independent testing, verification, or inspection.

4) Provides that specific provisions of Hazardous Waste Control law in the Health and Safety Code do not apply to the provisions of this bill, except specific provisions about enforcement of misdemeanor violations.

5) Provides that a violation of the provisions of this bill is punishable by an administrative or civil penalty.

6) Requires DTSC to determine, on a case-by-case basis, the enforcement mechanism and the amount of any administrative or civil penalty assessed pursuant to the provisions of this bill.

7) Requires the minimum amount of an administrative or civil penalty assessed to $10,000 for the first and any subsequent violation. Authorizes penalties to be assessed for each violation of a separate provision or, for continuing violations, for each day that the violation continues.

8) Authorizes the court, in assessing the amount of a civil penalty for a violation of the provisions of this bill, to consider all of the following:
   a) The nature and extent of the violation;
   b) The number of violations and the severity of the violations;
   c) The economic effect of the penalty on the violator;
   d) Whether the violator took good faith measures to comply with provisions of this bill and when the measures were taken;
   e) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole; and,
   f) Whether there were contributing environmental factors about which a reasonable person knew or should have known.

9) Authorizes the Attorney General, on behalf of DTSC, to bring an action in superior court and requires that the court have jurisdiction upon hearing and for cause shown to grant a temporary or permanent injunction restraining any person from violating any provision of this bill.

10) Requires that a proceeding under provisions of this bill conform to specified injunction provisions of the Code of Civil Procedure, except that DTSC shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or to show or tending to show irreparable damage or loss.

11) Authorizes the Attorney General to bring actions pursuant to this bill in the name of the people of the state at the request of DTSC.

12) Requires that a prevailing plaintiff bringing an action pursuant to this bill be awarded attorney's fees and costs by the court.

Funding:

1) Requires that penalties collected pursuant to this bill be deposited in the Safer Soap Act Fund, which is hereby created in the State Treasury, to be used by DTSC, upon appropriation by the Legislature, for the purposes of enactment of this bill.

2) Provides that DTSC's duties to initiate, implement, or enforce any requirement of this bill are contingent upon sufficient funds in the Toxic Substances Control Account (TSCA), as determined by the Department of Finance, and an appropriation by the Legislature for the purposes of implementing and enforcing the requirements of this bill.

3) Provides that, upon appropriation by the Legislature, if funds in the TSCA are sufficient to finance the development of the regulations and the startup costs of DTSC's activities pursuant to this bill, funds may be used as a loan by DTSC for DTSC to carry out the provisions of this bill until the Safer Soap Act Fund generates revenues sufficient to fund DTSC's reasonable costs of implementing the provisions of this bill and to reimburse any outstanding loans made from the TSCA used to finance the development of the regulations and the startup costs of DTSC's activities pursuant to the provisions of this bill.

EXISTING LAW:

Under federal law:

1) Establishes the Federal Food, Drug, and Cosmetic Act, which authorizes the federal Food and Drug Administration (FDA) to oversee and regulate the production, sale, and distribution of food, drugs, medical devices, and cosmetics. Authorizes the FDA to mandate drug manufacturers to submit evidence of new drugs' safety and effectiveness before marketing and distribution to the general public. (21 United States Code § 301, et seq.)

Under state law:

1) Prohibits the manufacture or sale of a menstrual product that contains regulated perfluoroalkyl and polyfluoroalkyl substances (PFAS), as defined. (HSC § 25258.3) Requires DTSC, by January 1, 2029, to adopt regulations to implement, interpret, enforce, or make specific the PFAS prohibition. (HSC § 25258.1)

2) Prohibits, on or after January 1, 2026, the manufacture or sale of any juvenile's feeding, sucking, or teething product that contains any form of bisphenol above a limit determined by DTSC. (HSC § 108940 (a)) Authorizes DTSC or the Attorney General to enforce this prohibition (HSC § 108940 (f)(1)) and authorizes DTSC to adopt regulations to implement, enforce, interpret, or make specific this prohibition. (HSC § 108940 (g))

3) Prohibits, beginning January 1, 2025, the manufacture or sale of a cosmetic product containing specified intentionally added ingredients, including the quaternary ammonium compound (QAC), Quaternium-15. (HSC § 108980(a)(6))

4) Prohibits, beginning January 1, 2027, the manufacture or sale of a food product for human consumption that contains brominated vegetable oil, potassium bromate, propylparaben, or red dye 3. (HSC § 109025)

5) Prohibits, beginning January 1, 2030, the manufacture or sale of intravenous (IV) solution containers made with intentionally added Di(2-ethylhexyl) phthalate (DEHP). Additionally prohibits, beginning January 1, 2035, the manufacture or sale of IV tubing made with intentionally added DEHP. (HSC § 109052)

Under the California Environmental Contaminant Biomonitoring Program statutes:

1) Requires State Department of Public Health (DPH), in collaboration with the California Environmental Protection Agency, to establish the California Environmental Contaminant

Biomonitoring Program. Requires DPH to utilize biological specimens, as appropriate, to identify designated chemicals that are present in the bodies of Californians. (HSC § 105441)

2) Defines "designated chemicals" as those chemicals that are known to, or strongly suspected of, adversely impacting human health or development, based upon scientific, peer-reviewed animal, human, or in vitro studies, and according to certain parameters. (HSC § 105440 (c)) (Note: The entire class of QACs were included in the California Environmental Contaminant Biomonitoring Program's list of designated chemicals in March 2021).

Under the state Safer Consumer Products statutes:

1) Requires DTSC to adopt regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products that may be considered chemicals of concern, as specified. (HSC § 25252) (Note: The entire class of QACs was added to Safer Consumer Product's Candidate Chemicals List in March 2021).

2) Requires DTSC to adopt regulations to establish a process to evaluate chemicals of concern in consumer products, and their potential alternatives, to determine how to best limit exposure or to reduce the level of hazard posed by a chemical of concern. (HSC § 25253 (a))

3) Specifies, but does not limit, regulatory responses that DTSC can take following the completion of an alternatives analysis, ranging from no action, to a prohibition of the chemical in the product. (HSC § 25253)

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill: According to the author, "Companies manufacturing antibacterial soaps have had over 8 years to prove that these soaps are safe and effective. Yet, they continue to profit while failing to provide evidence that antibacterial soaps are more effective than regular soap and water at preventing illness. Centers for Disease Control and Prevention (CDC) and the Food and Drug Administration (FDA) have reported that the chemicals added to antibacterial soap offer no proven health benefits over regular soap and water. Even worse, studies suggest that antibacterial soaps may contribute to antibiotic resistance, pollute waterways, and irritate skin. AB 916 will prioritize public health and safety by banning the sale of hand soaps and body washes containing benzalkonium chloride, benzethonium chloride, and chloroxylenol, which have not been proven safe or more effective in preventing illness."

What is soap? According to the FDA, ordinary soap is made by combining fats or oils and an alkali, such as lye. The fats and oils, which may be from animal, vegetable, or mineral sources, are degraded into free fatty acids, which then combine with the alkali to form crude soap. In the past, people commonly made their own soap using animal fats and lye that had been extracted from wood ashes.

The FDA notes that today there are very few true soaps on the market. Most body cleansers, both liquid and solid, are synthetic detergent products. Many of these detergent products are marketed as "soap" but are not true soap, according to the regulatory definition of the word. At the federal level, the regulatory definition of "soap" is complex, and over the counter cleansing

products, many of which are marketed as "soap," may be regulated as soap, cosmetics, or drugs, depending on how they are made and how they are intended to be used.

The FDA describes the three conditions that must be met for a cleansing product to be considered a soap under FDA's regulatory definition as follows:

- What it is made of: To be regulated as "soap," the product must be composed mainly of the "alkali salts of fatty acids."
- Which ingredients cause its cleaning action: To be regulated as "soap," the "alkali salts of fatty acids" must be the only material that results in the product's cleaning action. If the product contains synthetic detergents, it's a cosmetic, not a soap.
- How it is intended to be used: To be regulated as "soap," the product must be labeled and marketed only for use as soap. If the product is intended for other purposes, such as moisturizing the skin, imparting fragrance to the user, or deodorizing the user's body, it is regulated as a cosmetic. If the product is intended to treat or prevent disease, such as by killing germs, or treating skin conditions such as acne or eczema, it's regulated as a drug.

The regulation of cleansing products: Cleansing products are regulated by different federal agencies, depending on which definition the product falls under. If a cleansing product meets the FDA's regulatory definition of soap, it's regulated by the Consumer Product Safety Commission (CPSC). If a cleansing product meets the definition of a cosmetic, it's regulated by the FDA. If a cleansing product is defined as a drug, it's also regulated by the FDA. The Federal Food, Drug, and Cosmetic Act defines drugs, in part, as "articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in an or other animals" and "articles (other than food) intended to affect the structure or any function of the body of man or other animals." [Federal Food, Drug, & Cosmetic Act § 201(g)(1)]. Antibacterial soaps and body washes are regulated as drugs by the FDA.

Antibacterial soaps: According to the FDA, antibacterial soaps, sometimes called antimicrobial or antiseptic soaps, contain certain active ingredients not found in plain soaps. Those ingredients are added with the intent of reducing or preventing bacterial infection. For nonprescription drugs, antibacterial products generally have the word "antibacterial" on the label and may contain benzalkonium chloride, benzethonium chloride, or chloroxylenol, the ingredients prohibited by this bill. Also, a Drug Facts label on a soap or body wash is a sign that a product contains antibacterial ingredients.

Are antibacterial cleansing products more effective than regular soap? According to both the FDA and the United States Centers for Disease Control and Prevention (CDC), antibacterial soaps are no better than regular soaps at preventing the spread of diseases and infections. The FDA states, "Currently there isn't sufficient evidence to show that over-the-counter (OTC) antibacterial soaps are better at preventing illness than washing with plain soap and water." Theresa M. Michele, M.D., of the FDA, regarding antibacterial soaps proclaims on the FDA website, "There's no data demonstrating that these drugs provide additional protection from diseases and infections. Using these products might give people a false sense of security… Following simple handwashing practices [washing with plain soap and clean, running water] is one of the most effective ways to prevent the spread of many types of infection and illness at home, at school and elsewhere. We can't advise this enough. It's simple, and it works." The FDA additionally says, "[M]illions of Americans use antiseptic hand soaps and body washes each day, but these products have not yet been shown to be more effective at preventing illness

than plain soap and water. Additionally, emerging data have raised concerns that long-term, daily use of these products may outweigh their presumed benefits."

The CDC states, "Studies have not found any added health benefit from using antibacterial soap, other than for professionals in healthcare settings. In 2016, FDA banned over-the-counter sale of antibacterial soaps that contain certain ingredients because these soaps are no better than plain soap at preventing people from getting sick and their ingredients may not be safe for long-term, daily use. Some studies have shown that using antibacterial soap may contribute to antibiotic resistance."

Federal action on antibacterial chemicals in cleansing products: The FDA explains that, through a rulemaking process (referred to as a monograph), it compares the risks and benefits of antiseptic active ingredients under specified conditions of use to determine whether that active ingredient is "generally recognized as safe and effective" (GRASE), and not misbranded. On September 2, 2016, the FDA issued a final rule (2016 final rule) establishing that over-the-counter consumer antiseptic wash products containing one or more of 19 specific active ingredients, including the most commonly used ingredients at the time, triclosan and triclocarban, "are not generally recognized as safe and effective and are misbranded." The 2016 rule included antiseptic wash products that are intended for use with water, and that are rinsed off after use (ie. soaps and body washes). The 2016 final rule does not affect consumer hand "sanitizers" or wipes, or antibacterial products used in health care settings. In issuing the 2016 final rule, the FDA stated that, "Companies will no longer be able to market antibacterial washes with these ingredients because manufacturers did not demonstrate that the ingredients are both safe for long-term daily use and more effective than plain soap and water in preventing illness and the spread of certain infections."

Leading to up to the issuance of the 2016 final rule, the FDA, in 2013, issued a proposed rule after data suggested that long-term exposure to certain active ingredients, such as triclosan (liquid soaps) and triclocarban (bar soaps), used in antibacterial products could pose health risks, including bacterial resistance or hormonal effects. Under the proposed rule, manufacturers were required to provide the agency with additional data on the safety and effectiveness of the ingredients used in over-the-counter consumer antibacterial washes if they wanted to continue marketing antibacterial products containing those ingredients. The required information included data from clinical studies demonstrating that these products were superior to non-antibacterial washes in preventing human illness or reducing infection.

The FDA states that antibacterial hand and body wash manufacturers did not provide the necessary data to establish safety and effectiveness for the 19 active ingredients addressed in the final 2016 rulemaking. For these ingredients, either no additional data were submitted or the data and information that were submitted were not sufficient for the FDA to find that these ingredients are generally recognized as safe and effective.

During the 2016 final rulemaking proceedings, however, the FDA, in response to comments submitted by industry, deferred rulemaking for one year on three active ingredients used in consumer wash products – benzalkonium chloride, benzethonium chloride, and chloroxylenol chloroxylenol (the chemicals prohibited by this bill)– to allow for the development and submission of new safety and effectiveness data for these ingredients. Consumer antibacterial washes containing these specific ingredients may be marketed during the time that data are being collected.

Nearly nine years have passed since the issuance of the 2016 final rule, and consumer antibacterial washes containing benzalkonium chloride, benzethonium chloride, and chloroxylenol are still on the market. A final rule finding consumer antibacterial washes containing these three active ingredients as generally recognized as safe and effective has still not been issued.

Concerns about antibacterial active ingredients in consumer cleansing products: While the FDA has still not issued a final rule regarding the safety or effectiveness of consumer washes containing these last three allowable antibacterial active ingredients, concerns about these ingredients continue to grow. Benzalkonium chloride and benzethonium chloride, two of the allowed antibacterial active ingredients, are members of the chemical class of quaternary ammonium compounds (QACs). A May 2023, article in the journal *Environmental Science and Technology*, "Quaternary Ammonium Compounds: A Chemical Class of Emerging Concern" (QAC article), describes QACs as a large class of chemicals, including high production volume substances, that have been used for decades as antimicrobials, preservatives, and antistatic agents. The QAC article reports that suspected or known adverse health outcomes of QAC exposure include dermal and respiratory effects, developmental and reproductive toxicity, disruption of metabolic function such aslipid homeostasis, and impairment of mitochondrial function. The article also points to adverse ecological effects of QACs, including acute and chronic toxicity to susceptible aquatic organisms, with concentrations of some QACs approaching levels of concern.

Chloroxylenol, the third allowable antibacterial active ingredient in cleansing products, is an organohalogen compound. Proponents of the bill argue that most well-studied organohalogens have been found to be harmful to people, ecosystems, and especially to children. According to the United States Environmental Protection Agency (US EPA), widespread use of organohalogens have led to global environmental contamination, with human exposures occurring through multiple pathways such as direct skin contact, inhalation, drinking water, and food. US EPA states that exposure to these persistent organic pollutants has been implicated in myriad human health effects, including reproductive, neurological, immunological, endocrine, behavioral, and carcinogenic effects in both wildlife and humans. The US EPA argues, "Based on their use pattern and their persistent chemical properties, it can be predicted that human exposure to these compounds will continue. Hence, understanding human health effects and taking preventive measures for such exposures are necessary."

In addition to the human health and environmental concerns listed above, the authors of the QAC article argue that QACs' role in antimicrobial resistance has been demonstrated. The CDC states, "Some studies have shown that using antibacterial soap may contribute to antibiotic resistance."

This bill: This bill prohibits, on and after January 1, 2028, a person from manufacturing, selling, delivering, distributing, or offering for sale into commerce in this state a consumer hand soap or body wash that contains any of the last three antibacterial active ingredients allowed in these products: benzalkonium chloride, benzethonium chloride, and chloroxylenol. This bill exempts from the prohibitions in this bill antibacterial hand soaps and body washes intended for use in health care facilities, which include hospitals, skilled nursing facilities, intermediate care facilities, congregate living health facilities, correctional treatment centers, and hospice facilities.

Additional regulatory responses to antibacterial chemicals in cleansing products: The QAC article explains that in recent years, a number of jurisdictions in the United States and the European Union (EU) have taken action regarding QACs. For example, the EU no longer allows the use of certain QACs (benzylalkyldimethyl ammonium compounds- a class of chemicals that includes benzalkonium chloride and benzethonium chloride) in consumer hand and body washes. California, through AB 2762 (Muratsuchi, Chapter 314, Statutes of 2020), and the EU banned the QAC Quaternium 15 from cosmetics. In 2021, all QACs were identified as designated chemicals (chemicals that are known to, or strongly suspected of, adversely impacting human health or development) through the California Environmental Contaminant Biomonitoring Program, making them subject to regulation under California's Safer Consumer Product program. Also in 2021, the Massachusetts Toxics Use Reduction Institute Science Advisory Board recommended listing certain QACs as toxic or hazardous substances. If adopted, this listing will require annual use reporting and reduction planning by businesses. In December 2024, DTSC released, under its Safer Consumer Products program, its document summarizing its preliminary findings on QACs in cleaning, beauty, personal care, and hygiene products (including antibacterial soaps and body washes). The release of this document is part of DTSC's public engagement process, which helps it determine whether to conduct additional research or to initiate the formal rulemaking process by listing one or more products containing QACs as Priority Products. The authors of the QAC article argue that these recent actions signal growing concern about the use and potential for exposure to certain QACs, and whether human and ecological health are sufficiently protected under current policies and regulations.

Chemical bans and the Safer Consumer Products Program: In 2008, California enacted AB 1879 (Feuer and Huffman, Chapter 559, Statutes of 2008) to establish a science-based regulatory process for identifying and prioritizing chemicals of concern in consumer products, to create methods for analyzing alternatives to existing hazardous chemicals, and to ultimately take regulatory action to reduce the level of harm from the chemicals in those products. DTSC did this by promulgating the Safer Consumer Products regulations (sometimes referred to as the Green Chemistry regulations), which took effect in October 2013.

While the intent of AB 1879 is to establish a robust and thorough regulatory process for chemicals in consumer products, it has long been recognized that DTSC does not have the resources to evaluate and take action on all, or even a significant portion of, chemicals in every consumer product application. The permutations of product and chemical combinations are virtually limitless. To that end, the Safer Consumer Products statute does not preclude the Legislature from taking action on the use of chemicals in consumer products, which, when there is credible scientific evidence to support a change in state policy to protect public health or the environment, the Legislature can do more expeditiously than can DTSC. Since AB 1879 was enacted, the Legislature has enacted many policies on various chemical-product applications, including a ban on intravenous solution containers made with DEHP (AB 2300, Wilson, Chapter 562, Statutes of 2024); a ban on menstrual products containing PFAS (AB 2515, Papan, Chapter 1008, Statutes of 2024); a ban on food products that contain brominated vegetable oil, potassium bromate, propylparaben, and red dye 35 (AB 418, Gabriel, Chapter 328, Statutes of 2023); a ban on cosmetic products that contain PFAS (AB 2771, Friedman, Chapter 804, Statutes of 2022); a ban on food packaging that contains PFAS (AB 1200, Ting, Chapter 503, Statutes of 2021); a ban on flame retardants in children's products, mattresses, and upholstered furniture (AB 2998, Bloom, Chapter 924, Statutes of 2018); a ban on BPA in toddler sippy cups and bottles (AB 1319, Butler, Chapter 467, Statutes of 2011); a ban on the sale of jewelry with cadmium at certain levels (AB 929, Pavley, Chapter 313, Statutes of 2010); and, a ban on the sale of brake

pads containing copper in exceedances of certain levels (SB 346, Kehoe, Chapter 307, Statutes of 2010); among others.

DTSC, in fact, wrote in support of AB 1319 (Butler) stating: "DTSC does not believe that the [Safer Consumer Products] regulations should ever be viewed as excluding action that the Legislature might take to address specific product related concerns that are brought to its attention. Not only have the regulations taken longer to adopt than originally anticipated, DTSC also expects that the process to be represented in the regulations will be subject to time and resource constraints. There may be circumstances that warrant more timely action than DTSC can accommodate through its process."

This bill: This bill includes a regulatory and enforcement framework for DTSC to implement the prohibition on the manufacture and sale of antibacterial chemicals in consumer soaps and body washes in the state. Specifically, this bill requires DTSC to, on or before January 1, 2028, adopt regulations to implement, interpret, enforce, or make specific the prohibition. It also requires a manufacturer of hand soap or body wash to, on or before July 1, 2028, and in the manner prescribed by DTSC by regulation, register with DTSC and provide to DTSC specific information regarding their products.

For enforcement, *this bill* requires DTSC to issue a notice of violation to a person in violation of the prohibitions in this bill under certain circumstances. It also provides that a violation of the prohibition is punishable by an administrative or civil penalty of $10,000 for the first and any subsequent violation. This bill authorizes penalties to be assessed for each violation of a separate provision or, for continuing violations, for each day that the violation continues. Additionally, this bill authorizes the Attorney General, on behalf of DTSC, to bring an action in superior court.

Arguments in support: A coalition of 24 supporting organizations, largely environmental, public health, and consumer safety organizations, including the Green Science Policy Institute, Breast Cancer Prevention Partners, and the Natural Resources Defense Council (NRDC), argue that AB 916, if passed, would be a, "[C]ritical step in protecting the public from hand soap and body wash ingredients that have known human health risks and environmental harm and no evidence of benefit." They say,

> "Quaternary ammonium compounds like [benzalkonium chloride and benzethonium chloride] have been linked to reproductive effects like reduced fertility, respiratory conditions like asthma, and skin problems like dermatitis. New research also links these chemicals to neurological harms.
>
> …[Chloroxylenol] is an organohalogen compound and a potential hormone disruptor. Most well-studied organohalogens have been found to be harmful to people, ecosystems, and especially to children.
>
> …Studies suggest that exposure of bacteria to these chemicals can result in an increase in antimicrobial resistance, both to the chemicals themselves and clinically relevant antibiotics. For example, a substantial body of evidence points to quaternary ammonium compounds as exacerbating resistance in pathogens of concern like Pseudomonas aeruginosa. In the United States alone, there are more than 2.8 million antimicrobial-resistant infections each year that result in tens of thousands of deaths.

> …The use of antimicrobial chemicals comes with environmental harm. When people use products containing QACs, they enter and remain in water, soil, and sediment, and eventually make their way into the water supply network and food chain.
>
> …Both the FDA and Centers for Disease Control and Prevention (CDC) say that soaps with these chemicals are no more effective in preventing disease than non-antibacterial soap and water, and discourage their use due to serious public health and environmental concerns discussed above."

Arguments in opposition: A coalition of nine opposing organizations, largely industry groups including the American Chemistry Council, the Personal Care Products Association, and the American Cleaning Institute, argue that AB 916, if passed, "could have wide ranging negative impacts to consumers, immunocompromised individuals, food handlers, and others who depend on effective bacteria-killing products to stop the spread of disease." They say,

> …"Californians with weakened immune systems (e.g., elderly, those with chronic diseases) depend on antimicrobials to kill bacteria that may remain on the skin after handwashing. With more healthcare practices moving to the home environment (e.g., telehealth), consumer antiseptics ensure that home healthcare practitioners have access to the same hygiene products available to healthcare settings. Antimicrobials are also beneficial to prevent cross contamination in the home during food preparation and cooking. Consumer antimicrobial products also have many applications in California institutions such as schools, day care centers, and nursing homes.
>
> …By banning antimicrobial soaps, the food supply chain would be more vulnerable to food borne disease spread… [L]imiting the tools available to food handlers by choosing to ban the use of antimicrobial soaps would likely jeopardize safety of employees and consumers in certain circumstances.
>
> …[DTSC] recently initiated its first step in gathering information about the use of these ingredients and will consider a more holistic, and scientifically-sound policy for addressing the chemicals that AB 916 would ban… The Legislature would be remiss to sidestep the scientific process the State of California uses to ensure protection of the public when reviewing candidate chemicals.
>
> …21 U.S.C. § 379r – The Federal Food, Drug, and Cosmetic Act dictates that no state may establish any requirement that "relates to the regulation of a drug that is not subject to the requirements of section… and that is otherwise not identical with a requirement under this chapter." Banning these ingredients would run counter to federal law that considers these as lawfully marketed drugs and preempted from state regulations."

Recent related legislation:

1. AB 2300 (Wilson, Chapter 562, Statutes of 2024). Prohibits, beginning January 1, 2030, the manufacture or sale of intravenous (IV) solution containers made with intentionally DEHP. Additionally prohibits, beginning January 1, 2035, the manufacture or sale of IV tubing made with intentionally added DEHP.

2. AB 2515 (Papan, Chapter 1008, Statutes of 2024). Prohibits the manufacture or sale of a menstrual product that contains regulated PFAS, as defined. Requires DTSC, by January 1, 2029, to adopt regulations to implement, interpret, enforce, or make specific the PFAS prohibition.

3. SB 1266 (Limon, Chapter 790, Statutes of 2024). Revises the existing prohibition on bisphenol A (BPA) in a juvenile bottle or cup to instead prohibit the manufacture or sale of any juvenile's feeding, sucking, or teething product that contains any form of bisphenol above the practical quantitation limit to be determined by DTSC. Authorizes DTSC to enforce the BPA prohibition and to adopt regulations to implement, enforce, interpret, or make specific the BPA prohibition.

4. AB 347 (Ting, Chapter 932, Statutes of 2024). Requires DTSC to enforce and ensure compliance with three existing laws that set limits for PFAS in food packaging, textiles, and juvenile products.

5. AB 418 (Gabriel, Chapter 328, Statutes of 2023). Prohibits, beginning January 1, 2027, the manufacture or sale of a food product for human consumption that contains brominated vegetable oil, potassium bromate, propylparaben, or red dye 3.

6. AB 2762 (Muratsuchi, Chapter 314, Statutes of 2020). Prohibits, beginning January 1, 2025, the manufacturing or sale of a cosmetic product containing specified intentionally added ingredients, including the QAC, Quaternium-15.

REGISTERED SUPPORT / OPPOSITION:

Support

Active San Gabriel Valley
Alliance of Nurses for Healthy Environments
American Congress of Obstetricians & Gynecologists - District Ix
Breast Cancer Prevention Partners
California Black Health Network
California Nurses for Environmental Health & Justice
California Product Stewardship Council
Children Now
Clean Earth 4 Kids
Clean Water Action
Facts: Families Advocating for Chemical & Toxics Safety
GMO Science
Green Science Policy Institute
Long Beach Alliance for Clean Energy
National Product Stewardship Council
Natural Resources Defense Council
Nontoxic Neighborhoods
Physicians for Social Responsibility - San Francisco Bay Area Chapter
Recolte Energy
Safer Made
San Francisco Baykeeper

Sonoma County Climate Activist Network
Sonoma Safe Agriculture Safe Schools
Women's Voices for The Earth

Opposition

American Chemistry Council
American Cleaning Institute
Arxada LLC
California Chamber of Commerce
California Grocers Association
California League of Food Producers
California Manufacturers & Technology Association
California Restaurant Association
California Retailers Association
Household and Commercial Products Association
Personal Care Products Council

Analysis Prepared by: Shannon McKinney / E.S. & T.M. / (916) 319-3965