

NEW JERSEY STATE INDUSTRIAL UNION COUNCIL, AFL-CIO

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April 25, 1992

TO: Amy Bahruth, CWA
Jerry Balter, PILCOP
Ken Estes, Ind. Oil Workers
Bill Flynn, FMBA
Mark Lyons, CATA
Robin Mama, PHILAPOSH
Jane Nogaki, Coalition Co-Chair
Eric Scherzer, Coalition Co-Chair
Richard Shapiro
Susan Silver, Public Advocate
Marian Wise, INFORM
Bennet Zurofsky

FROM: Rick Engler, IUC

RE: N.J. RIGHT-TO-KNOW LAW "REFORM"

Enclosed please find a copy of A1232 that would "reform" the N.J. Right-to-Know law. Among many bad provisions, it eliminates universal labeling. It has been introduced by Assembly Minority Leader Doria and Assemblyman Robert Shinn (R-Burlington). It has been referred to the Assembly Policy & Rules Committee (Franks, Collins, Azzolina, Farragher, Frelinghuysen, Martin, Ogden, Shinn, Bryant, Doria, Pascrell). As of 4/24 there was no introduced Senate version. Hal Bozarth and I talked about this bill. He said that he was not fully familiar with it, that it was incomplete, and that this was a more likely vehicle for farmworker RTK than was the Roma bill. Another source said that this was primarily a Doria bill, not a Republican initiative. No committee action has been scheduled **but this could occur at any time.**

I ask you to carefully read this bill and to develop **WRITTEN** comments ASAP so they can be shared within the RTK Coalition. If you write them, I will edit/collate and distribute them.

Among the questions to also be addressed are:

1) What is the impact of this bill on public sector workers and farmworkers NOT covered by the OSHA Hazard Communication standard?

National Advisory Panel

Morton Bahr, CWA
William Bywater, IUE
Thomas Fricano, UAW
Jay Mazur, ILGWU
Lenore Miller, RWDSU
Jack Sheinkman, ACTWU
Howard Samuel, IUD

- 1) What is the impact on Spanish speaking non-farm workers?
- 3) What prospects are there for new litigation claiming OSHA pre-emption (again) if the labeling provisions are changed - even if they appear to have a stronger public protection focus?
- 4) What are the implications of changes in the lists, including on trade secrets?
- 5) What are the realistic prospects for negotiating over this bill in order to get farmworker right-to-know? (For this question to be answered, the prospects of achieving the Roma bill or DEPE regulation and the status of EPA or OSHA farmworker standards must be known).

Obviously there are many basic strategic questions to be discussed in dealing with this bill. But the process must start with a analysis by representatives of each impacted group:

- private sector workers
- public sector workers
- farmworkers
- R&D workers
- firefighters & emergency responders
- community residents
- affected Departments
- unions representing employees in affected Departments (i.e. DOH RTK unit).

If you have questions regarding current implementation of the state RTK law in DOH, you might call Rich Willinger at 609 984-2202.

Finally, I am going to assume that the Coalition is opposed to this bill until we have a Coalition meeting (I hope soon) to take a formal position. The elimination of universal labeling or Spanish language information alone provides enough basis for this position.

Again, please prepare a written analysis ASAP so that we may effectively prepare for a broader mobilization to deal with this "reform."

ASSEMBLY, No. 1232
STATE OF NEW JERSEY

INTRODUCED APRIL 6, 1992

By Assemblymen SHINN and DORIA

1 **AN ACT** concerning the regulation of hazardous substances,
2 amending P.L.1983, c.315, and supplementing P.L.1971, c.176,
3 (C.13:1F-1 et seq.).

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. Section 3 of P.L.1983, c.315 (C.34:5A-3) is amended to read
8 as follows:

9 3. As used in this act:

10 a. "Chemical Abstracts Service number" means the unique
11 identification number assigned by the Chemical Abstracts Service
12 to chemicals.

13 b. "Chemical name" means the scientific designation of a
14 chemical in accordance with the nomenclature system developed
15 by the International Union of Pure and Applied Chemistry or the
16 Chemical Abstracts Service rules of nomenclature.

17 c. "Common name" means any designation or identification
18 such as a code name, code number, trade name, brand name or
19 generic name used to identify a chemical other than by its
20 chemical name.

21 d. "Container" means a receptacle used to hold a liquid, solid,
22 or gaseous substance, including, but not limited to, bottles,
23 pipelines, bags, barrels, boxes, cans, cylinders, drums, cartons,
24 vessels, vats, and stationary or mobile storage tanks.
25 "Container" shall not include process containers or any container
26 which is generally available for retail sale in New Jersey.

27 e. "Council" means the Right to Know Advisory Council
28 created pursuant to section 18 of this act.

29 f. "County health department" means a county health agency
30 established pursuant to P.L.1975, c.329 (C.26:3A2-1 et seq.), or
31 the office of a county clerk in a county which has not established
32 a department.

33 g. "Employee representative" means a certified collective
34 bargaining agent or an attorney whom an employee authorizes to
35 exercise his rights to request information pursuant to the
36 provisions of this act, or a parent or legal guardian of a minor
37 employee.

38 h. "Employer" means any person, partnership or corporation
39 in the State engaged in business operations which has a Standard
40 Industrial Classification, as designated in the Standard Industrial
41 Classification Manual prepared by the federal Office of
42 Management and Budget, within the following Major Group

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 Numbers, Group Numbers, or Industry Numbers, as the case may
2 be, except as otherwise provided herein: Major Group Number 07
3 (Agricultural Services), only Industry Number 0782--Lawn and
4 garden services; Major Group Numbers 20 through 39 inclusive
5 (manufacturing industries); Major Group Number 42 (Motor
6 Freight Transportation and Warehousing), only Industry Number
7 4225-- General Warehousing and Storage (but excepting
8 Warehousing, Self Storage); Major Group Number 45
9 (Transportation by Air), only Industry Number 4511--Air
10 Transportation, certified carriers, and Group Number 458--Air
11 Transportation Services; Major Group Number 46 (Pipelines,
12 Except Natural Gas); Major Group Number 47 (Transportation
13 Services), only Group Numbers 471--Freight Forwarding,
14 474--Rental of Railroad Cars, and 478--Miscellaneous Services
15 Incidental to Transportation; Major Group Number 48
16 (Communication), only Group Numbers 481--Telephone
17 Communication, and 482--Telegraph Communication; Major
18 Group Number 49 (Electric, Gas and Sanitary Services); Major
19 Group Number 50 (Wholesale Trade--Durable Goods), only
20 Industry Numbers 5085--Industrial Supplies, 5087--Service
21 Establishment Equipment and Supplies, and 5093--Scrap and
22 Waste Materials; Major Group Number 51 (Wholesale trade,
23 nondurable goods), only Group Numbers 512--Drugs, Drug
24 Proprietaries and Druggist's Sundries, 516--Chemicals and Allied
25 Products, 517--Petroleum and petroleum products, 518--Beer,
26 Wine and Distilled Alcoholic Beverages, and 519--Miscellaneous
27 Nondurable Goods; Major Group Number 55 (Automobile Dealers
28 and Gasoline Service Stations), only Group Numbers 551--Motor
29 Vehicle Dealers (New and Used), 552--Motor Vehicle Dealers
30 (Used only), and 554--Gasoline Service Stations; Major Group
31 Number 72 (Personal Services), only Industry Numbers 7216--Dry
32 Cleaning Plants, Except Rug Cleaning, 7217--Carpet and
33 Upholstery Cleaning, and 7218--Industrial Launderers; Major
34 Group Number 73 (Business Services), only Industry Number
35 7397--Commercial testing laboratories; Major Group Number 75
36 (Automotive repair, services, and garages), only Group Number
37 753--Automotive Repair Shops; Major Group Number 76
38 (miscellaneous repair services), only Industry Number
39 7692--Welding Repair; Major Group Number 80 (health services),
40 only Group Number 806--Hospitals; Major Group Number 82
41 (educational services), only Group Numbers 821--Elementary and
42 Secondary Schools and 822--Colleges and Universities, and
43 Industry Number 8249--Vocational Schools. Except for the
44 purposes of section 26 of this act, "employer" means the State
45 and local governments, or any agency, authority, department,
46 bureau, or instrumentality thereof, or any non-profit, non-public
47 school, college or university. "Employer" shall not include any
48 person, partnership, or corporation engaged in the operation of a
49 research and development laboratory.

50 If the federal Office of Management and Budget modifies the
51 Standard Industrial Classification Manual, the Department of
52 Labor may add to or delete from the specific Major Group
53 Numbers, Group Numbers, or Industry Numbers enumerated in

1 this subsection, provided that the Department of Labor shall
2 include those employers whose operations primarily involve the
3 use of environmental hazardous substances and shall not include
4 employers whose operations involve only the incidental use of
5 environmental hazardous substances.

6 i. "Environmental hazardous substance" means any substance
7 on the environmental hazardous substance list.

8 j. "Environmental hazardous substance list" means the list of
9 environmental hazardous substances [developed] published by the
10 Department of Environmental Protection pursuant to section 4 of
11 this act.

12 k. "[Environmental] Community Right to Know survey" means
13 a written form prepared by the Department of Environmental
14 Protection and transmitted to an employer, on which the
15 employer shall provide certain information concerning each of
16 the environmental hazardous substances at his facility, including,
17 but not limited to, the following:

18 (1) The chemical name and Chemical Abstracts Service
19 number of the environmental hazardous substance;

20 (2) A description of the use of the environmental hazardous
21 substance at the facility;

22 (3) The quantity of the environmental hazardous substance
23 produced at the facility;

24 (4) The quantity of the environmental hazardous substance
25 brought into the facility;

26 (5) The quantity of the environmental hazardous substance
27 consumed at the facility;

28 (6) The quantity of the environmental hazardous substance
29 shipped out of the facility as or in products;

30 (7) The maximum inventory of the environmental hazardous
31 substance stored at the facility, the method of storage, and the
32 frequency and methods of transfer;

33 (8) The total stack or point-source emissions of the
34 environmental hazardous substance;

35 (9) The total estimated fugitive or nonpoint-source emissions
36 of the environmental hazardous substance;

37 (10) The total discharge of the environmental hazardous
38 substance into the surface or groundwater, the treatment
39 methods, and the raw wastewater volume and loadings;

40 (11) The total discharge of the environmental hazardous
41 substance into publicly owned treatment works;

42 (12) The quantity, and methods of disposal, of any wastes
43 containing an environmental hazardous substance, the method of
44 on-site storage of these wastes, the location or locations of the
45 final disposal site for these wastes, and the identity of the hauler
46 of the wastes;

47 (13) The total quantity of environmental hazardous substances
48 generated at the facility, including hazardous substances
49 generated as nonproduct output;

50 (14) The quantity of environmental hazardous substances
51 recycled on-site and off-site; and

52 (15) Information pertaining to pollution prevention activities
53 at the facility.

54 As used in this subsection, "pollution prevention" and

1 "nonproduct output" shall have the same meaning as set forth in
2 section 3 of P.L.1991, c.235 (C.13:1D-37).

3 l. "Facility" means the building, equipment and contiguous area
4 at a single location used for the conduct of business [. Except for
5 the purposes of subsection c. of section 13, section 14, and
6 subsection b. of section 25 of this act, "facility"] except that
7 facility shall not include a research and development laboratory.

8 m. ["Hazardous substance" means any substance, or substance
9 contained in a mixture, included on the workplace hazardous
10 substance list developed by the Department of Health pursuant to
11 section 5 of this act, introduced by an employer to be used,
12 studied, produced, or otherwise handled at a facility. "Hazardous
13 substance" shall not include:

14 (1) Any article containing a hazardous substance if the
15 hazardous substance is present in a solid form which does not
16 pose any acute or chronic health hazard to an employee exposed
17 to it;

18 (2) Any hazardous substance constituting less than 1% of a
19 mixture unless the hazardous substance is present in an aggregate
20 amount of 500 pounds or more at a facility;

21 (3) Any hazardous substance which is a special health hazard
22 substance constituting less than the threshold percentage
23 established by the Department of Health for that special health
24 hazard substance when present in a mixture; or

25 (4) Any hazardous substance present in the same form and
26 concentration as a product packaged for distribution and use by
27 the general public to which an employee's exposure during
28 handling is not significantly greater than a consumer's exposure
29 during the principal use of the toxic substance] Deleted by
30 amendment, P.L...., C.

31 n. "Hazardous substance fact sheet" means a written document
32 [prepared] authorized by the Department of Health for each
33 hazardous substance and transmitted by the department to
34 employers pursuant to the provisions of this act, or a Material
35 Safety Data Sheet, which shall include, but not be limited to, the
36 following information:

37 (1) The chemical name, the Chemical Abstracts Service
38 number, the trade name, and common names of the hazardous
39 substance;

40 (2) A reference to all relevant information on the hazardous
41 substance from the most recent edition of the National Institute
42 for Occupational Safety and Health's Registry of Toxic Effects
43 of Chemical Substances;

44 (3) The hazardous substance's solubility in water, vapor
45 pressure at standard conditions of temperature and pressure, and
46 flash point;

47 (4) The hazard posed by the hazardous substance, including its
48 toxicity, carcinogenicity, mutagenicity, teratogenicity,
49 flammability, explosiveness, corrosivity and reactivity, including
50 specific information on its reactivity with water;

51 (5) A description, in nontechnical language, of the acute and
52 chronic health effects of exposure to the hazardous substance,
53 including the medical conditions that might be aggravated by
54 exposure, and any permissible exposure limits established by the

1 federal Occupational Safety and Health Administration;

2 (6) The potential routes and symptoms of exposure to the
3 hazardous substance;

4 (7) The proper precautions, practices, necessary personal
5 protective equipment, recommended engineering controls, and
6 any other necessary and appropriate measures for the safe
7 handling of the hazardous substance, including specific
8 information on how to extinguish or control a fire that involves
9 the hazardous substance; and

10 (8) The appropriate emergency and first aid procedures for
11 spills, fires, potential explosions, and accidental or unplanned
12 emissions involving the hazardous substance.

13 o. "Label" means a sign, emblem, sticker, or marker affixed to
14 or stenciled onto a container listing the information required
15 pursuant to section 14 of this act.

16 p. "Mixture" means a combination of two or more substances
17 not involving a chemical reaction.

18 q. "Process container" means a container, excluding a
19 pipeline, the content of which is changed frequently; a container
20 of 10 gallons or less in capacity, into which substances are
21 transferred from labeled containers, and which is intended only
22 for the immediate use of the employee who performs the
23 transfer; a container on which a label would be obscured by heat,
24 spillage or other factors; or a test tube, beaker, vial, or other
25 container which is routinely used and reused.

26 r. "Research and development laboratory" means a specially
27 designated area or facility used primarily for research,
28 development, and testing activity, and not primarily involved in
29 the production of goods for commercial sale, in which hazardous
30 substances or environmental hazardous substances are used by or
31 under the direct supervision of a technically qualified person.
32 "Research and development laboratory" shall include pilot
33 facilities and quality control laboratories.

34 s. ["Special health hazard substance" means any hazardous
35 substance on the special health hazard substance list.] (Deleted
36 by amendment, P.L...., c....)

37 t. ["Special health hazard substance list" means the list of
38 special health hazard substances developed by the Department of
39 Health pursuant to section 5 of this act for which an employer
40 may not make a trade secret claim.] (Deleted by amendment,
41 P.L...., c.)

42 u. "Trade secret" means any formula, plan, pattern, process,
43 production data, information, or compilation of information,
44 which is not patented, which is known only to an employer and
45 certain other individuals, and which is used in the fabrication and
46 production of an article of trade or service, and which gives the
47 employer possessing it a competitive advantage over businesses
48 who do not possess it, or the secrecy of which is certified by an
49 appropriate official of the federal government as necessary for
50 national defense purposes. [The chemical name and Chemical
51 Abstracts Service number of a substance shall be considered a
52 trade secret only if the employer can establish that the substance
53 is unknown to competitors.] In determining whether a trade
54 secret is valid pursuant to section 15 of this act, the Department

1 of Health, or the Department of Environmental Protection, as the
2 case may be, shall consider material provided by the employer
3 concerning (1) the extent to which the information for which the
4 trade secret claim is made is known outside the employer's
5 business; (2) the extent to which the information is known by
6 employees and others involved in the employer's business; (3) the
7 extent of measures taken by the employer to guard the secrecy of
8 the information; and (4) the value of the information, to the
9 employer or the employer's competitor; (5) the amount of effort
10 or money expended by the employer in developing the
11 information; and (6) the ease or difficulty with which the
12 information could be disclosed by analytical techniques,
13 laboratory procedures, or other means].

14 v. "Trade secret registry number" means a code number
15 temporarily or permanently assigned to the identity of a
16 substance in a container by the Department of Health pursuant to
17 section 15 of this act.

18 w. "Trade secret claim" means a written request, made by an
19 employer pursuant to section 15 of this act, to withhold the
20 public disclosure of information on the grounds that the
21 disclosure would reveal a trade secret.

22 x. ["Workplace hazardous substance list" means the list of
23 hazardous substances developed by the Department of Health
24 pursuant to section 5 of this act.] Deleted by amendment, P.L.....,
25 c. ...)

26 y. ["Workplace survey" means a written document, prepared
27 by the Department of Health and completed by an employer
28 pursuant to this act, on which the employer shall report each
29 hazardous substance present at his facility.] Deleted by
30 amendment, P.L....., c. ...)

31 z. "Hazardous Material Warning System" means those symbols
32 and designations utilized in the National Fire Protection
33 Association Warning System -- NFPA 704 -- or the Hazardous
34 Material Information System -- HMIS, as selected by the
35 employer in consultation with the local emergency response
36 coordinator.

37 aa. "Chemical Warning Symbol" means the Hazardous Material
38 Warning System logo signifying the most potentially lethal or
39 most potentially environmentally-hazardous substance contained
40 in the building, area or field, as the case may be, on which the
41 Chemical Warning Symbol is to be displayed.

42 bb. "Chemical Inventory Placard" means an array of
43 information set forth on a 3" x 5" label for each environmental
44 hazardous substance, constituting more than 1% of a mixture
45 unless the hazardous substance is present in an aggregate amount
46 of 250 pounds or more at the facility, in a building, area or field,
47 as the case may be, at which the Chemical Inventory Placard is
48 to be displayed and which shall include the following information:
49 chemical name and common trade name; health hazards;
50 necessary personal protective equipment and practices; and
51 recommended first aid procedures, provided that the Chemical
52 Inventory Placard used for farm operations shall also include the
53 respective reentry time for each pesticide applied at the farm.

54 cc. "Quality control laboratory" means a laboratory used for

1 the ordinary testing or inspection of materials or products for
2 quality control.

3 dd. "Pilot facility" means a facility or designated area of a
4 facility used for pilot scale development of products or processes.
5 (cf: P.L.1991, c. 235, s.17)

6 2. Section 4 of P.L.1983, c.315 (C.34:5A-4) is amended to read
7 as follows:

8 4. a. The Department of Environmental Protection shall
9 [develop] publish an environmental hazardous substance list which
10 shall [include the list of] be limited to all chemical substances
11 [developed and used by the department for the purposes of the
12 Industrial Survey Project, established pursuant to P.L.1970, c.33
13 (C.13:1D-1 et seq.), and any substance on the list established by
14 the United States Environmental Protection Agency for reporting
15 pursuant to 42 U.S.C. §11023 and may include other substances
16 which the department, based on documented scientific evidence,
17 determines pose a threat to the public health and safety.]
18 enumerated in the following designated source lists:

19 (1) Occupational Safety and Health Administration Toxic and
20 Hazardous Substances - 29 CFR 1910.1000 through 29 CFR
21 1910.1101, Subpart Z - relating to toxic and hazardous substances.

22 (2) The elements and compounds, including petroleum products,
23 which are listed as hazardous substances by the United States
24 Environmental Protection Agency pursuant to section 311 of the
25 federal Water Pollution Control Act Amendments of 1972, Pub.L.
26 92-500, as amended by the Clean Water Act of 1977, Pub.L.
27 95-217 (33 U.S.C. §1251 et seq.) or designated by Congress or the
28 United States Environmental Protection Agency as toxic
29 pollutants pursuant to section 307 of that act or contained in the
30 list of hazardous substances adopted by the United States
31 Environmental Protection Agency pursuant to section 101 of the
32 "Comprehensive Environmental Response, Compensation and
33 Liability Act of 1980," Pub. L. 96-510 (42 U.S.C. §9601 et seq.).

34 b. The department shall develop [an environmental] a
35 community right to know survey, which shall be designed to
36 enable employers to report information about environmental
37 hazardous substances at their facilities.

38 c. [The department shall prepare and, upon request, make
39 available to employers, county health departments, or the public
40 a Spanish translation of the environmental survey. The
41 department shall also prepare and make available a Spanish
42 translation of any written material prepared by the department
43 to inform the public of the information available pursuant to the
44 provisions of this act.

45 d.]Three months prior to the effective date of this act the
46 department shall adopt, pursuant to the "Administrative
47 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the
48 environmental hazardous substance list. Within three months
49 following the effective date of P.L.1992, c. (pending before the
50 Legislature as this bill), the department shall revise the
51 environmental hazardous substance list promulgated pursuant to
52 this section.

53 (cf: P.L.1991, c. 235, s. 18)

1 3. Section 5 of P.L.1983, c.315 (C.34:5A-5) is amended to read
2 as follows:

3 5. [a. The Department of Health shall develop a workplace
4 hazardous substance list which shall include:

5 (1) Any substance or substance contained in a mixture
6 regulated by the federal Occupational Safety and Health
7 Administration under Title 29 of the Code of Federal
8 Regulations, Part 1910, subpart z;

9 (2) Any environmental hazardous substance; and

10 (3) Any other substance which the department, based on
11 documented scientific evidence, determines poses a threat to the
12 health or safety of an employee.

13 b. The department shall develop a special health hazard
14 substance list comprising hazardous substances which, because of
15 their known carcinogenicity, mutagenicity, teratogenicity,
16 flammability, explosiveness, corrosivity, or reactivity pose a
17 special hazard to health and safety, and for which an employer
18 shall not be permitted to make a trade secret claim.

19 c. The department shall develop a workplace survey designed
20 to facilitate the reporting by employers of those hazardous
21 substances present at their facilities. The workplace survey shall
22 include a copy of the special health hazard substance list.

23 d.] The [department] Department of Health shall [develop]
24 authorize a hazardous substance fact sheet for each
25 environmental hazardous substance on the [workplace]
26 environmental hazardous substance list.

27 [e. The department shall prepare and, upon request, make
28 available to employers, county health departments, and the public
29 a Spanish translation of the workplace survey and each hazardous
30 substance fact sheet. The department shall also prepare and
31 make available a Spanish translation of any written material
32 prepared by the department to inform employees of their rights
33 under this act.

34 f. Three months prior to the effective date of this act, the
35 department shall adopt, pursuant to the "Administrative
36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a
37 workplace hazardous substance list.]
38 (cf: P.L.1983, c.315, s.5)

39 4. Section 6 of P.L.1983, c.315 (C.34:5A-6) is amended to read
40 as follows:

41 6. [a. Within five days of the effective date of this act, the
42 Department of Health shall transmit copies of the workplace
43 survey to the Department of Labor. Upon receipt of the
44 workplace survey, the Department of Labor shall transmit the
45 workplace survey to each employer in the State.

46 b. Within five days of the effective date of this act, the] The
47 Department of Environmental Protection annually shall transmit
48 [an environmental] a community right to know survey to each
49 employer whose business activities, according to criteria
50 developed by the department, warrant the reporting of the
51 information required on the [environmental] community right to
52 know survey. The department may transmit [an environmental]
53 community right to know survey to every employer.

54 (cf: P.L.1983, c.315, s.6)

1 5. Section 7 of P.L.1983, c.315 (C.34:5A-7) is amended to read
2 as follows:

3 7. [a. Except as otherwise provided in section 15 of this act,
4 an employer shall have until October 30, 1985, or within 90 days
5 of the employer's receipt of the workplace survey, whichever is
6 later, to complete the survey and transmit a copy of the
7 completed survey to the Department of Health, the health
8 department of the county in which the employer's facility is
9 located, the local fire department, and the local police
10 department. If an employer has reason to believe that a mixture
11 present at his facility contains a hazardous substance as a
12 component, but is unable to obtain from the manufacturer or
13 supplier of the mixture the chemical names and Chemical
14 Abstracts Service numbers of the components of the mixture, he
15 shall list the mixture by its common name in the space provided
16 on the survey. The department shall have the responsibility to
17 obtain the chemical names and Chemical Abstracts Service
18 numbers of the components of the mixture so listed, and, upon
19 obtaining this information, shall transmit it to the employer along
20 with any appropriate hazardous substance fact sheet or sheets
21 and directions to the employer on how to communicate this
22 information to his employees.

23 b.] Except as otherwise provided in section 15 of this act, an
24 employer shall transmit a copy of the completed environmental
25 survey to the Department of Environmental Protection and the
26 health department of the county in which the employer's facility
27 is located, and pertinent sections of the survey to the local fire
28 department and the local police department on the date on which
29 Toxic Chemical Release Forms are due to be transmitted to the
30 United States Environmental Protection Agency pursuant to 42
31 U.S.C. §11023.

32 (cf: P.L.1991, c.235, s.19)

33 6. Section 8 of P.L.1983, c.315 (C.34:5A-8) is amended to read
34 as follows:

35 8. a. Upon receipt of a completed [workplace] community
36 right to know survey from an employer, the Department of
37 [Health] Environmental Protection shall [transmit to that] notify
38 the employer [a] that an authorized hazardous substance fact
39 sheet is required for each environmental hazardous substance
40 reported by the employer on the [workplace] survey. [If an
41 employer makes a trade secret claim for information on the
42 workplace survey pursuant to section 15 of this act, the
43 department shall transmit a hazardous substance fact sheet for
44 that substance with the identity of the substance concealed.]

45 b. Any employer whose [workplace] community right to know
46 survey transmitted to the Department of [Health] Environmental
47 Protection pursuant to section 7 of this act indicates that no
48 environmental hazardous substances are present at the facility
49 shall be exempt from the provisions of this act for that facility,
50 except for the requirement to annually update the [workplace]
51 community right to know survey pursuant to section [10] 9 of this
52 act, and except for the provisions of section 33 of this act. Any
53 employer exempted from the provisions of this act pursuant to
54 this subsection who transmits to the Department of [Health]

1 Environmental Protection an update of the [workplace]
2 community right to know survey which indicates that [a] an
3 environmental hazardous substance is present at the employer's
4 facility shall immediately be subject to the provisions of this act.
5 (cf: P.L.1985, c.534, s.1)

6 7. Section 9 of P.L.1983, c.315 (C.34:5A-9) is amended to read
7 as follows:

8 9. a. The Department of Environmental Protection shall
9 maintain a file of all completed [environmental] community right
10 to know surveys received from employers. Each [environmental]
11 community right to know survey received by the department shall
12 be retained by the department for 30 years.

13 b. The department may require an employer to submit
14 information clarifying any statement made on the
15 [environmental] community right to know survey. The
16 department, subject to the provisions of section 15 of this act if
17 applicable, shall transmit this clarifying information to the
18 appropriate county health department, local fire department, and
19 local police department as it deems necessary.

20 c. The department shall require every employer to update the
21 [environmental] community right to know survey for his facility
22 every other year. If there is any significant change during a
23 nonreporting year in the information reported on his
24 [environmental] community right to know survey, the employer
25 shall inform the department of the change. The department may
26 require an employer to update the [environmental] community
27 right to know survey for his facility every year.

28 d. Any person may request in writing from the department a
29 copy of [an environmental] a community right to know survey for
30 a facility, and the department shall transmit any survey so
31 requested within 30 days of the request therefor.

32 (cf: P.L.1983, c.315, s.9)

33 8. Section 11 of P.L.1983, c.315 (C.34:5A-11) is amended to
34 read as follows:

35 11. [a.] An employer shall, upon request, provide an employee
36 [whose native language is Spanish] with a [Spanish translation of a
37 workplace survey,] hazardous substance fact sheet, and, if
38 applicable, an environmental survey obtained from the
39 Department [of Health or the Department] of Environmental
40 Protection [, as the case may be]. An employer shall, upon
41 request, provide employees whose native language is Spanish with
42 the education and training program required pursuant to section
43 13 of this act.

44 [b. A county health department shall, upon request, provide
45 copies of the environmental survey and the workplace survey in a
46 Spanish translation provided by the Department of Health and
47 Department of Environmental Protection.]

48 (cf: P.L.1983, c.315, s.11)

49 9. Section 12 of P.L.1983, c.315 (C.34:5A-12) is amended to
50 read as follows:

51 12. a. Every employer shall establish and maintain a central
52 file at his facility in which he shall retain [a workplace survey for
53 the facility,] appropriate hazardous substance fact sheets, and, if
54 applicable, a copy of the [environmental] community right to

1 know survey for the facility. Every employer shall post on
2 bulletin boards readily accessible to employees a notice of the
3 availability of the information in the file. [Every employer
4 employing employees whose native language is Spanish shall also
5 post the notice in Spanish.] Every employer shall supply
6 employees with any material designed and provided by the
7 [Department of Health, the] Department of Environmental
8 Protection, or the Department of Labor to inform employees of
9 their rights under this act.

10 An employer shall provide an employee with access to [a
11 workplace survey,] appropriate hazardous substance fact sheets,
12 and, if applicable, [an environmental] a community right to know
13 survey, within five working days of a request therefor.

14 b. Not later than the 120th day following the effective date of
15 P.L.1992, c. (pending before the Legislature as this bill), each
16 employer shall post outside the main points of entry of any
17 building, area or field in which environmental hazardous
18 substances are used or stored as more than 1% of a mixture,
19 unless the environmental hazardous substance is present in an
20 aggregate amount of 250 pounds or more in the building, area or
21 field, as the case may be, the Chemical Warning Symbol for the
22 environmental hazardous substances. In addition, the employer
23 shall post either outside the main points of entry or immediately
24 inside the point of entry a Chemical Inventory Placard for the
25 environmental hazardous substances stored or used in the
26 building, area or field.

27 (cf: P.L.1983, c.315, s.12)

28 10. Section 13 of P.L.1983, c.315 (C.34:5A-13) is amended as
29 follows:

30 13. a. Every employer shall have until October 30, 1985 to
31 establish an education and training program for his employees,
32 which shall be designed to inform employees in writing and orally
33 of the nature of the environmental hazardous substances to which
34 they are exposed in the course of their employment and the
35 potential health risks which the hazardous substances pose, and to
36 train them in the proper and safe procedures for handling the
37 environmental hazardous substances under all circumstances.
38 The program shall also include training in the use and
39 understanding of Chemical Inventory Placards and Chemical
40 Warning Symbols. An employer shall provide his employees with
41 the program not later than December 31, 1985, and annually
42 thereafter.

43 Any person who becomes an employee after the conclusion of
44 the initial program shall be provided with the program within the
45 first month of employment. Prior to entering an employment
46 agreement with a prospective employee an employer shall notify
47 a prospective employee of the availability of [workplace]
48 community right to know surveys and appropriate hazardous
49 substance fact sheets for the facility at which the prospective
50 employee will be employed[; except that this notification
51 requirement shall not be applicable to employers before
52 December 31, 1985].

53 b. Any employer who has established an employee education
54 and training program for hazardous substances prior to the

1 effective date of this act may request the Department of Health
2 to certify that education and training program, which
3 certification shall constitute compliance with subsection a. of
4 this section.

5 c. Every employer shall establish an education and training
6 program for his employees who work in a research and
7 development laboratory, which shall be designed to inform
8 employees in writing and orally of the nature of the
9 environmental hazardous substances to which they are exposed in
10 the course of their employment and the potential health risks
11 which the environmental hazardous substances pose, and to train
12 them in the proper and safe procedures for handling the
13 environmental hazardous substances under all circumstances. An
14 employer shall provide his employees with the program not later
15 than December 31, 1985, and annually thereafter. Any person who
16 becomes an employee after the conclusion of the initial program
17 shall be provided with the program within the first month of
18 employment.

19 d. The Department of Health shall establish a program for the
20 certification of education and training programs provided to
21 employers, for remuneration, for purposes of compliance with
22 this act. The certification shall be valid for at least 12 months,
23 shall provide for provisional and permanent certification, and
24 shall be renewable.

25 e. The Department of Health shall establish a program for the
26 certification of persons who are paid pursuant to the terms of a
27 contract by employers to conduct education and training
28 programs for purposes of compliance with this act. The
29 certification shall be valid for at least 12 months, shall provide
30 for provisional and permanent certification, and shall be
31 renewable.

32 f. A person paid pursuant to the terms of a contract by an
33 employer to conduct or provide an education and training
34 program for purposes of compliance with this act shall be
35 required to be certified pursuant to subsection d. or e. of this
36 section, as appropriate, prior to conducting or providing the
37 program.

38 g. The fee for certification for a 12-month period and the fee
39 for a renewal of a certification each shall not exceed \$500.00.
40 The fee for the certification and renewal shall be established
41 pursuant to rules and regulations adopted by the Department of
42 Health. All revenues from fees for the issuance or renewal of
43 certifications shall be credited to the "Worker and Community
44 Right to Know Fund" created pursuant to section 26 of this act.
45 Applications for certification shall be made to the Commissioner
46 of Health in the manner and on a form as the commissioner shall
47 prescribe by rule or regulation.

48 h. The Department of Health shall adopt, pursuant to the
49 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
50 seq.), rules and regulations to implement the provisions of this
51 section.

52 i. Any person required to be certified by the Department of
53 Health pursuant to this section who violates the provisions of
54 subsection f. of this section, or any rule or regulation adopted

1 pursuant thereto, shall be guilty of a disorderly persons offense.

2 j. The Commissioner of Health, upon making a finding that a
3 person granted certification has violated any provision of this
4 section or any rules or regulations adopted pursuant thereto, may
5 revoke, suspend, or modify any certification issued pursuant to
6 subsection d. or e. of this section. A person whose certification
7 is to be revoked, suspended, or modified pursuant to this
8 subsection shall be entitled to a hearing, pursuant to the
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.), to contest that action.

11 (cf: P.L.1989, c. 155, s.1)

12 11. Section 14 of P.L.1983, c.315 (C.34:5A-14) is amended to
13 read as follows:

14 14. [a.] Every employer shall have until October 30, [1985]
15 1991 to take any action necessary to assure that every container
16 requiring a label under federal law at his facility containing [a
17 hazardous] an environmental hazardous substance shall bear a
18 label [indicating the chemical name and Chemical Abstracts
19 Service number of the hazardous substance or the trade secret
20 registry number assigned to the hazardous substance] in
21 compliance with the provisions of that law. [Employers may label
22 containers in a research and development laboratory by means of
23 a code or number system, if the code or number system will
24 enable an employee to readily make a cross-reference to a
25 hazardous substance fact sheet which will provide the employee
26 with the chemical name and Chemical Abstracts Service number
27 of the hazardous substance contained in the container, or the
28 trade secret registry number assigned to the hazardous
29 substance. The code or number system shall be designed to allow
30 the employee free and ready access at all times to the chemical
31 name and Chemical Abstracts Service number of the hazardous
32 substance in the container, shall be designed to allow the
33 employee access to this information without the permission or
34 assistance of management, and shall be available to the employee
35 at close proximity to his specific job location or locations.
36 Employers shall be required to label pipelines only at the valve or
37 valves located at the point at which a hazardous substance enters
38 a facility's pipeline system, and at normally operated valves,
39 outlets, vents, drains and sample connections designed to allow
40 the release of a hazardous substance from the pipeline.

41 b. Within two years of the effective date of this act, every
42 employer shall take any action necessary to assure that every
43 container at his facility bears a label indicating the chemical
44 name and Chemical Abstracts Service number of the substance in
45 the container, except as provided in subsection d. of this section,
46 or the trade secret registry number assigned to the substance.
47 Employers may label containers in a research and development
48 laboratory by means of a code or number system, if the code or
49 number system will enable an employee to readily make a
50 cross-reference to documentary material retained on file by the
51 employer at the facility which will provide the employee with the
52 chemical name and Chemical Abstracts Service number of the
53 substance contained in the container, except as provided in
54 subsection d. of this section, or the trade secret registry number

1 assigned to the substance. The code or number system shall be
2 designed to allow the employee free and ready access at all times
3 to the chemical name and Chemical Abstracts Service number of
4 the substance in the container, shall be designed to allow the
5 employee access to this information without the permission or
6 assistance of management, and shall be available to the employee
7 at close proximity to his specific job location or locations. If a
8 container contains a mixture, an employer shall be required to
9 insure that the label identify the chemical names and Chemical
10 Abstracts Service numbers, except as provided in subsection d. of
11 this section, or the trade secret registry numbers, of the five
12 most predominant substances contained in the mixture. The
13 provisions of this subsection shall not apply to any substance
14 constituting less than 1% of a mixture unless the substance is
15 present at the facility in an aggregate amount of 500 pounds or
16 more. Employers shall be required to label pipelines only at the
17 valve or valves located at the point at which a substance enters a
18 facility's pipeline system, and at normally operated valves,
19 outlets, vents, drains and sample connections designed to allow
20 the release of a substance from the pipeline. One year after the
21 effective date of this act the Department of Health shall
22 establish criteria for containers which, because of the finished
23 and durable characteristics of their contents, shall be exempt
24 from the provisions of this subsection. These standards shall be
25 consistent with the intent of this subsection to provide for the
26 labeling of every container which may contain a substance which
27 is potentially hazardous.

28 c. The labeling requirements of subsections a. and b. of this
29 section shall not apply to containers labeled pursuant to the
30 "Federal Insecticide, Fungicide, and Rodenticide Act," 61 Stat.
31 163 (7 U.S.C. § 121 et al.). The Department of Health may, by
32 rule and regulation, certify containers labeled pursuant to any
33 other federal act as labeled in compliance with the provisions of
34 this section.

35 d. One year after the effective date of this act the
36 Department of Health shall adopt, pursuant to the
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
38 seq.), a list of substances the containers of which may be labeled
39 with the common names and Chemical Abstracts Service numbers
40 of their contents. The department shall include on the list
41 adopted pursuant to this subsection only substances which are
42 widely recognized by their common names. An employer shall
43 provide the chemical name of a substance in a container labeled
44 pursuant to this subsection within five working days of the
45 request therefor.]

46 (cf: P.L.1985, c.216, s.3)

47 12. Section 15 of P.L.1983, c.315 (C.34:5A-15) is amended to
48 read as follows:

49 15. a. If an employer believes that disclosing information
50 required by this act will reveal a trade secret, he may file with
51 the appropriate department a trade secret claim as herein
52 provided. As used in this section, "department" means either
53 the Department of Health or Department of Environmental
54 Protection, as the case may be.

1 b. If an employer claims that disclosing information on [either
2 the workplace survey or the environmental] the community right
3 to know survey would reveal a trade secret, he shall file with the
4 [appropriate department] Department of Environmental
5 Protection a trade secret claim within 90 days of receipt of the
6 survey. [An employer making a trade secret claim shall submit
7 two copies of the survey to the department, one with the
8 information for which a trade secret claim is being made
9 concealed, and one in an envelope marked "Confidential"
10 containing the information for which a trade secret claim is
11 being made, which the department, during the pendency of the
12 trade secret claim, shall keep in a locked file or room.] On the
13 copies of the survey sent to the county health department, local
14 fire department, and local police department, and retained on
15 file at the facility, the employer shall conceal the information
16 for which he is making a trade secret claim.

17 c. If an employer claims that labeling a container pursuant to
18 the provisions of section 14 of this act would reveal a trade
19 secret, he shall file a trade secret claim with the Department of
20 Health. Upon receipt of the trade secret claim, the department
21 shall assign a trade secret registry number to the claim, and
22 transmit the trade secret registry number to the employer. Upon
23 receipt of the trade secret registry number, the employer shall
24 affix the trade secret registry number to each container
25 containing a substance for which the trade secret claim was made.

26 d. The department [shall] may act to make a determination on
27 the validity of a trade secret claim when a request is made
28 pursuant to the provisions of this act for the disclosure of the
29 information for which the trade secret claim was made, or at any
30 time that the department deems appropriate. Upon making a
31 determination [on] to investigate the validity of a trade secret
32 claim, the department shall inform the employer of the
33 determination by certified mail and shall request the information
34 necessary to make a final determination of the validity of the
35 claim. The employer shall submit in response to the
36 department's request an envelope marked "Confidential"
37 containing the information for which a trade secret claim is
38 being made, which the department, during the pendency of the
39 trade secret claim, shall keep in a locked file or room. If the
40 department determines that the employer's trade secret claim is
41 not valid, the employer shall have 45 days from the receipt of the
42 department's determination to file with the department a
43 written request for an administrative hearing on the
44 determination. If the employer does not file such a request
45 within 45 days, the department shall take action to provide that
46 the information for which the trade secret claim was made be
47 disclosed pursuant to the provisions of this act. If an employer
48 requests an administrative hearing pursuant to the provisions of
49 this subsection, the department shall refer the matter to the
50 Office of Administrative Law, for a hearing thereon. At the
51 hearing the employer shall have the burden to show that the
52 trade secret claim is valid. Within 45 days of receipt of the
53 administrative law judge's recommendation, the department
54 shall affirm, reject, or modify the recommendation. The

1 department's action shall be considered the final agency action
2 for the purposes of the "Administrative Procedure Act,"
3 P.L.1968, c.410 (C.52:14B-1 et seq.), and shall be subject only to
4 judicial review as provided in the Rules of Court. The
5 department shall inform the employer of its decision on the
6 administrative law judge's recommendation by certified mail. If
7 the department determines that the trade secret claim is not
8 valid, the employer shall have 45 days to notify the department
9 in writing that he has filed to appeal the department's decision in
10 the courts. If the employer does not so notify the department,
11 the department shall take action to provide that the information
12 for which the trade secret claim was made be disclosed pursuant
13 to the provisions of this act.

14 e. The department shall provide any information for which a
15 trade secret claim is pending or has been approved pursuant to
16 this section to a physician or osteopath when such information is
17 needed for medical diagnosis or treatment. The department
18 shall require the physician or osteopath to sign an agreement
19 protecting the confidentiality of information disclosed pursuant
20 to this subsection.

21 f. Any [workplace survey or environmental] community right
22 to know survey containing information for which a trade secret
23 claim is pending or has been approved shall be made available to
24 the public with that information concealed.

25 g. The subject of any trade secret claim pending or approved
26 shall be treated as confidential information. Except as provided
27 in subsection e. of this section, the department shall not disclose
28 any confidential information to any person except an officer or
29 employee of the State in connection with the official duties of
30 the officer or employee under any law for the protection of
31 public health, or to the contractors of the State and their
32 employees if in the opinion of the department the disclosure is
33 necessary for the completion of any work contracted for in
34 connection with the implementation of this act. Any officer or
35 employee of the State, contractor of the State, physician or
36 osteopath, or employee of a county health department, local fire
37 department, or local police department who has access to any
38 confidential information, and who willingly and knowingly
39 discloses the confidential information to any person not
40 authorized to receive it, is guilty of a crime of the third degree.

41 h. The provisions of this section shall not apply to the
42 disclosure of information concerning emissions, and shall not
43 apply to the disclosure of any information required pursuant to
44 any other act.

45 i. The Department of Health and the Department of
46 Environmental Protection shall jointly adopt rules and regulations
47 to implement the
48 provisions of this section.

49 j. All information on trade secrets stored by the department as
50 trade secret information on or before January 1, 1993 shall be
51 returned, upon request of the employer, to the appropriate chief
52 executive officer or his authorized representative.

53 (cf: P.L.1983, c.315, s.15)

54 13. (New section) a. Within nine months of the effective date

1 of P.L. , c. (C.)(pending in the Legislature as this bill),
2 the Department of Environmental Protection shall prepare, and
3 provide to all farm owners or lessees, pesticide application record
4 forms on which farm owners or lessees shall insert the following
5 information: the crop, the pesticide applied to that crop, reentry
6 time and date for safe reentry to treated fields, and the exact
7 date and location of application. The headings on this form shall
8 be printed in the primary language of the workers on the farm. In
9 lieu of the form prepared by the department, a farm owner or
10 lessee may develop a form, subject to the approval by the
11 department.

12 b. Every farm owner or lessee shall complete a record of
13 application on the forms prepared pursuant to this section.

14 c. Every farm owner or lessee shall maintain the completed
15 pesticide application record forms in a location on the farm
16 accessible to farmworkers.

17 d. Every farm owner or lessee shall post a Chemical Warning
18 Symbol and a Chemical Inventory Placard at a central location on
19 the farm and at each field, as appropriate. As used in this
20 subsection, "Chemical Warning Symbol" and "Chemcial Inventory
21 Placard" shall have the same meaning as set forth in section 3 of
22 P.L.1983, c.315 (C.34:5A-3).

23 14. (New section) Every farm owner or lessee shall maintain a
24 Material Safety Data Sheet, prepared pursuant to the federal
25 Occupational Safety and Health Administration, for each
26 pesticide product and a fact sheet authorized by the Department
27 of Environmental Protection on each pesticide active ingredient
28 used on crops or stored, which shall be made available to the
29 farmworkers upon request. The fact sheet shall be written in the
30 primary language of the workers at the farm and shall include the
31 following information: chemical name and common trade name,
32 acute and chronic health hazards, symptoms of poisonings,
33 necessary personal protective equipment and practices, reentry
34 time, and recommended emergency first aid procedures.

35 Within 18 months of the effective date of P.L...., c. ... (C.)
36 (pending in the Legislature as this bill), each farm owner or lessee
37 shall have on file fact sheets on the 40 pesticide active
38 ingredients most commonly used at the farm, and within 30
39 months shall prepare fact sheets on the remainder of pesticide
40 active ingredients.

41 For the purposes of sections 13-17 of P.L. , c. (C.)(pending
42 in the Legislature as this bill), "farm worker" means any person
43 who works in the fields on a farm, or who mixes, loads, applies, or
44 stores pesticides, or who works in a packing house on the farm
45 premises.

46 15. (New section) a. Within two years of the effective date of
47 P.L. , c. (C.)(pending in the Legislature as this bill), the
48 department, in consultation with the Department of Health, shall
49 prepare pamphlets concerning pesticides written at a fifth grade
50 reading level in the primary language of the workers at the farm
51 and shall provide copies of these pamphlets to farm owners or
52 lessees. The health topics in the pamphlets shall be developed
53 cooperatively by the Department of Environmental Protection
54 and the Department of Health. The pamphlet shall include, but

1 not be limited to the following:

2 (1) General pesticide health and safety information, preventive
3 practices in the field and farm worker residential area, signs and
4 symptoms of pesticide poisoning, first aid and medical care, and
5 methods for seeking assistance from State and federal agencies if
6 a pesticide problem occurs;

7 (2) The names and addresses of health providers in the vicinity
8 who are trained in pesticide evaluation; and

9 (3) The rights of farmworkers to obtain the information and
10 training provided pursuant to P.L.1971, c.176 (C.13:1F-1 et seq.),
11 as well as rights under other State and federal laws.

12 b. Except as provided in section 17 of P.L. , c. (C.)
13 (pending in the Legislature as this bill), every farm owner or
14 lessee shall provide to all farmworkers on the first day of
15 employment the pamphlets prepared by the department pursuant
16 to this section.

17 16. (New section) a. Within two years of the effective date of
18 P.L. , c. (C.) (pending in the Legislature as this bill), the
19 Department of Environmental Protection shall adopt, pursuant to
20 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
21 et seq.), rules and regulations establishing a training program for
22 farmworkers. The training shall be compatible with United
23 States Environmental Protection Agency and Occupational Safety
24 and Health Administration regulations and shall be conducted in
25 the primary language of the farm worker. The level of training
26 for farmworkers shall vary in relation to the potential exposure
27 thereof to pesticides and at a minimum shall include, but not be
28 limited to, the following topics:

29 (1) Health hazards of pesticides;

30 (2) Steps to employ to avoid exposure, such as workplace
31 practices, and the use of personal protective clothing and
32 equipment;

33 (3) Steps to employ if exposed, such as recognizing signs and
34 symptoms of exposure, the provision of first aid and emergency
35 response, and seeking medical care;

36 (4) Identification of the pesticides being applied by using the
37 completed pesticide application record forms, pesticide fact
38 sheets, container labels and Material Safety Data Sheets;

39 (5) General explanation of the content included on every fact
40 sheet; and

41 (6) Hazard communication (written information and training),
42 protection from exposure to pesticides, and field sanitation;

43 (7) Agencies responsible for enforcing State and federal laws
44 regulating the use of pesticides; and

45 (8) Procedures for filing complaints to, and obtaining
46 information from, these agencies.

47 b. Except as provided in section 17 of P.L. , c. (C.)
48 (pending in the Legislature as this bill), every farm owner or
49 lessee shall be responsible for training his farmworkers on their
50 first day of employment.

51 17. (New section) a. The department may, by rule or
52 regulation adopted pursuant to the "Administrative Procedure
53 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), establish alternate
54 methods and procedures for conducting training and providing

1 written information to day haul workers and other workers in
2 similar situations. Crew leaders may be held responsible for such
3 training and for providing written information as deemed
4 necessary by the department. As used in this section, "day haul
5 workers" means farmworkers who are transported daily in crews
6 to a farm by a crew leader and are paid daily.

7 b. The requirements provided in this act shall not apply to
8 farm owners or lessees who demonstrate in writing, to the
9 satisfaction of the department, that they do not use pesticides.

10 18. This act shall take effect immediately.

11 12 STATEMENT

13
14 This bill would revise the reporting and labeling requirements
15 of the "Worker and Community Right To Know Act" (P.L.1983,
16 c.315), and would provide farm workers with education and
17 training concerning the exposure to, and the use and application
18 of, pesticides.

19 Specifically concerning the "Worker and Community Right To
20 Know Act," this bill would:

21 (1) add motor freight general warehousing and storage facilities
22 to the list of facilities covered under the law;

23 (2) exempt research and development laboratories, quality
24 control laboratories, and pilot plants from the provisions of the
25 law;

26 (3) allow a Material Safety Data Sheet, instead of a hazardous
27 substance fact sheet prepared by the Department of Health, to be
28 used by an employer for purposes of hazard communication;

29 (4) exempt from the labeling requirement of the law any
30 container generally available for retail sale in the State;

31 (5) replace the container labeling system established in the law
32 with a requirement that all containers be labeled as required by
33 Federal law, and that appropriate areas of a facility be posted
34 with chemical warning symbols and chemical inventory placards;

35 (6) delete the requirement in the law that employers complete
36 workplace surveys, and rename the environmental survey the
37 community right to know survey;

38 (7) provide that the list of environmental hazardous substances
39 (on which the community right to know survey is based) would
40 consist only of substances on certain federal lists of hazardous
41 substances; and

42 (8) delete the requirement in the law that certain information
43 required to be reported or provided be reported or provided in
44 Spanish.

45 This bill would also require farm owners to maintain records of
46 all pesticide applications, and to post chemical warning symbols
47 and chemical inventory placards at appropriate areas of the
48 farm. In addition, farmowners would be required to provide
49 farmworkers with fact sheets on the health effects of exposure to
50 pesticides, as well as pamphlets and training sessions concerning
51 the safe use of pesticides.

52
53
54
55 Amends Right to Know Act; regulates use of pesticides on farms.

DORIA TRIES TO ELIMINATE OUR RIGHT TO KNOW!

Come to an emergency meeting on **Tuesday, May 26 at 6:30 P.M. at the Rutgers Labor Ed. Center, New Brunswick**, to mobilize against proposed legislation that would gut our state chemical right-to-know law and thus endanger the health and lives of workers (including firefighters) and community residents. *Call 609 866-9405 or 908 381-3920 or return the enclosure to indicate attendance.*

Bill 1232, introduced at the initiative of Democratic Assembly Minority Leader Joe Doria (Bayonne & Jersey City) and also sponsored by Republican Assemblyman Robert Shinn (Burlington Co.), pretends to "reform" the 1983 N.J. Worker & Community Right-to-Know law.

WHAT THIS BILL WOULD REALLY DO

- Eliminate chemical, oil, and pharmaceutical companies from coverage! Exxon, Ciba-Geigy, Merck, American Cyanamid, Mobil, Coastal, and thousands more would no longer be covered.
- Eliminate companies from coverage completely if they have a research and development or quality control lab!
- Endanger firefighters and other emergency responders by restricting labeling by state law to the one "most potentially lethal" chemical per site!
- Eliminate all public sector coverage! Public employees would no longer have a right to chemical labeling, training, or hazardous substance factsheets. Public employees aren't covered by OSHA's Hazard Communication rule. Thus they would have no right-to-know at all!
- Allow employers to hide the true identity of chemicals on labels!
- Eliminate requirements for information and training in Spanish!
- Allow cancer and birth-defect agents to be considered trade secrets!
- Likely eliminate creation of Hazardous Substance Factsheets which provide reliable information on chemical hazards to workers and the public!

The bill adds farmworker coverage in return for gutting protection for other workers and the environment. We support a farmworker right-to-know bill that has already been released from Assembly Committee. A1232 is in the Assembly Policy & Rules Committee. **Committee action is possible at any time.**

OVER

PROTECT OUR RIGHT-TO-KNOW!

- ✓ *Attend the Coalition meeting on Tuesday, May 26.*
- ✓ *Pass a resolution against all attacks on Right-to-Know.*
- ✓ *Write and then call the Assemblypersons below. Tell them that A1232 will cause more cancer, birth defects, toxic fires and explosions. Tell them that the citizens of our state will not tolerate gutting of such basic protective legislation.*

Write these Members of the Assembly Policy & Rules Committee

Robert D. Franks (R-22), Chairman, 219 South Street, New Providence, N.J. 07974 908 665-7777 FAX 908 665-0903 Aide: Karin Miller

Jack Collins (R-3), Vice-Chair, 63 East Avenue, Woodstown, N.J. 08098 609 769-3633 FAX 609 769-0049 Aide: Becky Facemyer

Joseph Azzolina (R-13), 1 Arin Park Building, 1715 Highway 35, Suite 102, Middletown, N.J. 07748 908 671-4906 FAX 908 671-5260 Aide: Matthew Low

Clare M. Farragher (R-12), Broad St. Professional Plaza, Suite 4, Freehold 07728 908 462-9009 FAX 908 462-5467 Aide: Maureen McGannon

Rodney P. Frelinghuysen (R-25), 10 Park Place, Suite 312, Morristown, N.J. 07960 201 993-1300 FAX 201 993-1300 Aide: Jane Sanderson

Robert J. Martin (R-26), 101 Gibraltar Drive, Suite 2D, Morris Plains, N.J. 07950 201 984-0922 FAX 201 984-8094 Aide: Sally Anne Welsh-Biesty

Maureen Ogden (R-21), 266 Essex St., Millburn, N.J. 07041 201 467-5153 FAX 201 467-0398 Aide: Cynthia Fuller

Robert C. Shinn (R-8) **SPONSOR**, Larchmont Commons, 3111-23 Route 38, Mount Laurel, N.J. 08054 609 234-8080 Aide: William P. Naulty

Joseph Doria(D-31) **SPONSOR**, 235 Broadway, Bayonne, N.J. 07002 District 201 437-5150/Business 201 915-9083 FAX 201 437-1749 Aide: Adam Kaufman

Wayne R. Bryant (D-5), 309 Market St., Camden, N.J. 08102 609 757-0552 Aide: Valerie Wallace

William J. Pascrell (D-35), 470 Chamberlain Avenue, Suite 2, Paterson, N.J. 07522 201 942-7755 FAX 201 942-1765 Aide: Cherie Magna

Issued by the N.J. Right to Know & Act Coalition, an alliance of 160 environmental, emergency response, labor, and community organizations.

For more information call:

Jane Nogaki, NJEF 609 767-1110
Eric Scherzer, OCAW 908 381-3920
Rick Engler, IUC 609 866-9405

PRESS ADVISORY
FROM THE RIGHT-TO-KNOW & ACT COALITION

Contact: Jane Nogaki
(609) 767-1110

**PRESS CONFERENCE TO BLAST BILL THAT WOULD REPEAL NEW
JERSEY WORKER & COMMUNITY RIGHT-TO-KNOW LAW**

For Immediate Release, July 20, 1992:

The New Jersey Right-to-Know & Act Coalition, an alliance of 160 labor, community, firefighter, environmental, and public health organizations, will hold a press conference Wednesday, July 22, 1992 at 11 A.M. in Room 9 of the Legislative Office Building, Trenton to denounce a bill that would essentially repeal the New Jersey Worker & Community Right-to-Know Act. A-1232, introduced by Robert Shinn (R-8) and Joseph Doria (D-31), will be characterized as "the right-to-know nothing." A detailed analysis of how A-1232 endangers public school students, teachers, firefighters, police, chemical, factory, and public workers will be distributed at the press conference. Press conference speakers include to-date:

- *Jane Nogaki, New Jersey Environmental Federation
- *Steve Vreeland, New Jersey Fireman's Mutual Benevolent Association
- *John Hall, Chemical Workers Association (duPont)
- *Drew Kodjak, N.J. Public Interest Research Group
- *Ivey Williams, Intl. Chemical Workers Local 155
- *Marie Curtis, N.J. Environmental Lobby
- *Amy Bahruth, Communication Workers Local 1031 (Member, Governor's Right-to-Know Advisory Council)

NEWS FROM THE NEW JERSEY RIGHT-TO-KNOW & ACT COALITION

Contact: Jane Nogaki
(609) 767-1110
Eric Scherzer
(908) 381-3920

ORGANIZATIONS BLAST BILL TO REPEAL STATE WORKER & COMMUNITY RIGHT-TO-KNOW LAW

EMBARGOED FOR RELEASE UNTIL 11 A.M. WEDNESDAY, JULY 22, 1992:

The New Jersey Right-to-Know and Act Coalition, an alliance of 160 firefighter, labor, environmental, and community organizations, today blasted Assembly Bill #1232 as a major threat to public health and safety. Introduced by Robert Shinn (R-8) and Joseph Doria (D-31), A1232 would effectively repeal New Jersey's pioneering 1983 Worker and Community Right-to-Know law. At a Trenton press conference, Coalition leaders asked Governor Florio and Assembly Speaker Haytaian to oppose A1232 because that said it would lead to a toxic chemical cover-up.

The Worker & Community Right-to-Know Act helps prevent chemical exposures. It requires that all chemicals be labeled and that firefighters and police be trained about toxic hazards. Companies must reveal what they dump into our air and water.

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The Act has been upheld in court despite industry challenges and many companies are in compliance.

Representatives from a wide array of organizations made the following points in opposition to A1232:

*** Jane Nogaki, Chairperson of the 80,000 member New Jersey Environmental Federation and Coalition Co-Chair, said "This bill should be called The Right-to-Know Nothing. We cannot allow the citizens of our state to be put back in the dark ages when it comes to knowledge of toxic substances."**

*** Archer Cole, President of the 200,000 member New Jersey Industrial Union Council, AFL-CIO said "This bill will endanger hundreds of thousands of New Jersey workers by allowing management to hide the true chemical name of toxic substances with codes or trade names. Many containers would not have to be labeled at all because A1232 eliminates the essential "universal labeling" provision."**

*** Pietro M. Petino, Director of Organization for the Newark Teachers Union Teachers, AFT Local 481, AFL-CIO, said "Not only do public school teachers, para-professional and**

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maintenance staff need to know the true names of chemicals in labs, shops, and art areas -- so do the students. This bill would subject our children to unconscionable risks."

*** Steve Vreeland, Chairman of Health and Safety for the New Jersey Fireman's Mutual Benevolent Association, the state's largest firefighter union, said "Firefighters have extremely dangerous jobs in part because they are routinely exposed to toxic substances. This bad bill would make ours jobs even more dangerous by requiring labeling of just the single most potentially lethal chemical per site, ignoring the dangers of other chemicals." Labeling of all chemical containers is particularly important for pre-fire planning inspections. The FMBA membership voted unanimously to oppose A1232.**

*** Amy Bahruth, a Staff Representative of Communications Workers Local 1031 and a member of the Governor's Right-to-Know Advisory Council said that "One of the worst parts of this bill is that it eliminates right-to-know for some 200,000 public employees potentially exposed to chemical hazards. Since public workers are not protected at all by the federal OSHA Hazard Communication standard, A1232 would wipe out their ability to learn anything at all about their toxic exposures."**

*** Mark Lyons, Education Coordinator of CATA (the Farmworkers**

Support Committee) said that "A1232, in one of its most mean-spirited provisions, would endanger Spanish-speaking citizens by ending the requirement that the N.J. Department of Health produce information about toxic substances in Spanish."

*** John Hall, a rank and file worker and member of the Chemical Workers Association (affiliated with the International Brotherhood of duPont Workers) at the state's largest chemical plant, duPont in Deepwater, noted that "Many New Jersey firms, including duPont, are already in compliance with this law, including the universal labeling provisions. Why gut it, impose different requirements, and increase business costs?"**

*** Drew Kodjak, Environmental Attorney with the New Jersey Public Interest Research Group, said "The comprehensive labeling of toxic substances is vital. It helps lead to awareness about potential dangers to both human health and our environment and that prevention of chemical exposures is key."**

*** Eric Scherzer of the Oil, Chemical, and Atomic Workers Union and Coalition Co-Chair said "It's ironic our state legislature just passed new job training laws to upgrade the knowledge of our workforce while at the same time Assemblymen Shinn and Doria are promoting a bill that would decrease worker knowledge of their everyday**

job conditions."

*** Marie Curtis, Executive Director for the New Jersey Environmental Lobby, said "The citizens of New Jersey should act to protect their health by contacting their legislators to express their opposition to this attempted cover-up of chemical hazards."**

*** Ivey Williams, President of International Chemical Workers Local 155 based in Trenton said "Workers all over the nation -- and in my workplace -- have gotten sick because they didn't know what the health effects of their exposures were. Asbestos is just one example of when industry has covered-up such hazards. We can't let legislators take away our right-to-know."**

Coalition Co-Chair Jane Nogaki also said "Any minor problems that may exist with our right-to-know law can be addressed through the regulatory process and by the Right to Know Advisory Council which includes industry and public representatives."

A1232 has been referred to the Assembly Policy and Rules Committee where action could take place at any time.

The Right-to-Know and Act Coalition was formed in 1982 and won passage of the Right-to-Know law in 1983.

NEW JERSEY COMMUNITY RIGHT TO KNOW ACT RESOLUTION

WHEREAS exposure to hazardous substances has been linked to health problems such as cancer; heart, lung and kidney disease; nervous system disorders; birth defects; and reproductive problems. And these health problems may develop *without prior symptoms* many years after exposure.

WHEREAS the New Jersey Worker and Community Right to Know Act (Right to Know Act) has reduced exposure to hazardous substances and increased public awareness through such requirements as: universal labeling; employee training programs on hazardous substances; and Hazardous Substance Factsheets to provide information about hazardous substances to employers, workers, firefighters and other emergency responders, and the public.

WHEREAS A. 1232 will endanger the community by allowing management to hide the true chemical name of toxic substances with code or trade names, thus severely compromising the effectiveness of the labeling requirement.

WHEREAS A. 1232 will endanger firefighters, the police and other emergency responders by requiring labeling by state law of only the single "most potentially lethal" chemical per site, ignoring the fact that many chemicals are dangerous.

WHEREAS A. 1232 will endanger public school students and personnel by eliminating requirements that chemical containers be labeled in chemistry labs and shops.

WHEREAS A. 1232 will endanger public employees who would no longer have a right to proper training, or hazardous substance factsheets, or labeling because they are not covered by the Occupational Safety and Health Act's Hazardous Communication rule.

WHEREAS modifications of the Right to Know Act are under the jurisdiction of the Right to Know Advisory Council (Council), and the Council has already recommended regulations concerning the

implementation of the universal labeling provisions of the Right to Know Act.

WHEREAS A. 1232 is a legislative action intended to amend the Right to Know Act, and is therefore inconsistent with the procedural process already set out by law.

BE IT THEREFORE RESOLVED that _____ (name of organization) opposes A. 1232 for all the abovementioned reasons.

BE IT FURTHER RESOLVED THAT: _____ (name of organization) shall communicate our opposition to the sponsors of A.1232, Policy and Rules Committee Chair Robert Franks, and Assembly Speaker Garabed "Chuck" Haytaian.



NJ RIGHT TO KNOW & ACT COALITION

10 Rutgers Place Trenton, NJ 08618 (609)695-3232

CO-CHAIRS

Jane Nogaki
New Jersey Environmental Federation

Eric Scherzer
Oil Chemical & Atomic Workers, Local 8-149

STEERING COMMITTEE

* Elsa Bynoe-Andriolo
Jersey City Environmental Commission
* Amy Bahruth
Communication Workers of America
* Valorie Caffee
NJ Rainbow Coalition
* Arnold Cohen
Ironbound Committee Against Toxic Wastes
* Marie Curtis
NJ Environmental Lobby
* Clara Dasher
A. Phillip Randolph Institute
* Rick Engler
Industrial Union Council, AFL-CIO
* Bill Flynn
NJ Firemen's Mutual Benevolent Association
* Ben Forest
Monmouth County Friends of Clearwater
* Neal Gorfinkle
White Lung Association
* Ray Graves
NJ Police Benevolent Assoc.
* John Hall
Chemical Workers Assoc.-
Int'l Brotherhood of Dupont Workers
* Mark Herzberg
NJ Environmental Lobby
* Shelley Hill
Citizens Against Pollution
* Carolyn Holmes
American Fed. of StateCounty & Municipal Employees, Council 71
* Bill Kane
United Auto Workers, Region 9
* Mary Lamielle
National Center for Environmental Health Strategies
* Paul Mack
Delaware Valley Clean Air Council
* Rob Mahedy
Stockton Action Volunteers for the Environment
* Robin Mama
Philadelphia Area Project on Occupational Safety & Health
* Waheedah Muhammad
Int'l Fed. of Professional & Technical Employees #195 - Tatawa
* Peter Montague
Environmental Research Foundation
* Harold Morrison
International Union of Electronics Workers, District 3
* Juliana Moton
Communication Workers of America
* Eileen Nic
Citizens Commission on Bhopal
* Ray Peterson
NJ State Federation of Teachers
* Dolores Phillips
NJ Environmental Federation
* Peter Shuchter
NJ Citizen Action
* Ira Stern
International Ladies' Garment Workers Union
* Trudi Thornton
NJ Education Association
* Ivey Williams
International Chemical Workers, Region 3
* Marian Wise
NJ Public Interest Research Group

COUNSEL

David Tykulska
Ira Jay Katz
Bennet Zurofsky

August 30, 1992

Letters to the Editor
The Newark Star-Ledger
Star Ledger Plaza
Newark, New Jersey 07101

To the Editor:

The death of Sea Isle City Police Officer Michael Cullinane, 30, on August 26, is another tragic example of why training and information about toxic chemicals is so vitally important to public health.

To prevent toxic exposures, in 1983 the New Jersey legislature passed the Worker and Community Right-to-Know Law, sponsored by then Senator Dan Dalton. This law requires that all chemical containers be labeled and that firefighters, police, and public employees potentially exposed to chemicals be trained about toxic hazards. Companies must also reveal what they release into our air and water. Our law has been widely recognized as a national model.

But now proposed legislation would eliminate our right-to-know. Assembly Bill #1232, introduced by Assemblymen Robert Shinn of Burlington County and Joseph Doria of Hudson County, would encourage industry to cover-up chemical hazards like they did in the past. Chemicals in public school chemistry labs would no longer have to be labeled. The requirement that all chemical containers be labeled -- "universal labeling" -- would be eliminated. Neighbors, students, firefighters, police, first aid, chemical, factory, and public workers could all be put at risk.

This bill would gut a law that has helped protect health and prevent pollution for almost a decade. It would, in part:

● Endanger all of us by allowing management to hide the true chemical name of toxic substances with codes or trade names. Many containers would not have to be labeled at all because the bill eliminates "universal labeling."

● Endanger public school students and personnel by eliminating requirements that chemical containers be labeled in chemistry labs and shops.

Hazard Elimination through Local Participation HELP-NJ

NI RIGHT TO KNOW & ACT COALITION

* Action to Save the Environment * Allied Citizens Opposing Pollution! (ACOP) * Aluminum, Brick & Glass Workers 514 * Amalgamated Clothing and Textile Workers Union 1298 & Central & South Jersey Joint Board * Amalgamated Transit Union 825 * American Association of University Professors- Faculty Association of Monmouth College & Rutgers Council of AAUP Chapters * American Federation of State, County & Municipal Employees- Councils 1, 52, 71 & 73 and Locals 1761 & 1911 * Americans for Democratic Action- NJ Chapter * Association To Improve Health Benefits, Inc. * Bayonne Citizens for Clean Air * Bergen County Central Trades & Labor Council, AFL-CIO * Boilermakers 777 * Borg's Woods Preservation Coalition * Burlington County Central Labor Council, AFL-CIO * Camden-Gloucester Central Labor Union, AFL-CIO * Central Jersey Environmental Task Force * Chemical Workers Assoc.- International Brotherhood of Dupont Workers * Citizens Against Pollution (CAP) * Citizens Commission on Bhopal * Clean Ocean Action * Clean Water Action * Coalition Against Toxics * Comite Apoyo Trabajadores Agricolas (CATA) * Committee of Interns & Residents * Communications Workers of America, District 1 and Locals 1000, 1001, 1002, 1006, 1007, 1009, 1021, 1031, 1032, 1033, 1034, 1037, 1038, 1039, 1040, 1058, 1060, 1065, 1066, 1080, 1081, 1082, 1085, 1087, 1088 * Concerned Citizens of Maywood * Cornucopia Network of NJ * Council of NJ State College Locals, AFT * Cumberland-Salem Central Labor Union, AFL-CIO * Delaware Valley Clean Air Council * Delaware Valley Toxics Coalition * District 65, UAW * Environmental Research Foundation * Environmental Response Network- Atlantic City * Essex-West Hudson Labor Council, AFL-CIO * Food & Water * Grass Roots Environmental Organization (GREO) * Gray Panthers of South Jersey * Hotel Employees Restaurant Employees 54 * Hometowns Against Shutdowns * Independent Laboratory Employees' Union * Independent Oil Workers * International Assoc. of Machinists 329, 677, 1018, 1455, 1812 * International Brotherhood of Electrical Workers 827-Unit 1 & 327 * Internat'l Chemical Workers Union, Region 3, Locals 9, 155, 527 * International Federation Professional Technical Employees 195 * International Ladies' Garment Workers' Union, AFL-CIO- Bergen/Hudson, Essex/Central, Phila/So. Jersey District Councils * International Union of Electronics Workers District 1 * IUE Locals 134, 401, 417, 440 * IUE- Furniture Workers Division-76B * Ironbound Committee Against Toxic Wastes * Jersey City Environmental Commission * Jersey City State College Fed. of Teachers, AFT 1839 * JNESO * Labor Association of Rutgers University * Lawyers Encouraging Government and Law (LEGAL) * Mercer County Labor Union Council, AFL-CIO * Middlesex County Central Labor Council, AFL-CIO * Middlesex County Environmental Coalition * Mobilab Union, Inc. * Monmouth County Friends of Clearwater * National Assoc. Retired Federal Employees- Cherry Hill * National Center for Environmental Health Strategies * National Toxics Campaign * Network for Environmental & Economic Responsibility of the United Church of Christ * NJ Citizen Action * NJ Coalition of Labor Union Women * NJ Education Association * NJ Environmental Federation * NJ Environmental Lobby * NJ Industrial Union Council, AFL-CIO * NJ Public Interest Research Group (PIRG) * NJ Rainbow Coalition * NJ State Federation of Teachers, AFT * NJ State Firemen's Mutual Benevolent Association (FMBA) * NJ State Policemen's Benevolent Association (PBA) * The Newspaper Guild 10 * Ocean County Citizens for Clean Water * Office & Professional Employees International Union 32 * Oil, Chemical and Atomic Workers, District 8 Council and Locals 8-149, 8-397, 8-575, 8-5570, 8-760 * Passaic County Labor Council, AFL-CIO * People United for a Klean Environment * Perth Amboy Federation of Teachers, AFT 857 * Philadelphia Area Project on Occupational Safety & Health * Residents for Environmental Preservation and Protection * Retail, Wholesale & Department Store Union 108, 1034 * River Edge Environmental Commission * Rutgers University- Labor Education Center * United Auto Workers, Region 9 and Local 950 * United Auto Workers Local 731 Retirees Chapter * United Electrical, Radio & Machine Workers District 3 * United Paper Workers International Union * United Rubber Workers- District 2, Local 514 * United Steelworkers of America, District 9 & Local 2026 * United Textile Workers of America 276 * Utility Co-Workers' Association * Save-the-Hawk * Service Employees International Union 455 * Stockton Action Volunteers for the Environment- S.A.V.E. * Stop the RocAjet Incinerator Project (STRIP) * White Lung Association * Winslow Township Environmental Commission *

- Endanger Firefighters and other emergency responders by requiring labeling by state law of only the single "most potentially lethal" chemical per site, ignoring the fact that many chemicals can be dangerous.

- Endanger public employees who would no longer have a right to labeling, proper training, or hazardous substance factsheets. Public employees aren't covered by OSHA's Hazard Communication rule. Thus they would have no right-to-know at all!

- Endanger Spanish speaking citizens by ending rules for information in Spanish.

- Endanger research and development and quality control workers who face unknown chemical hazards by eliminating these facilities from coverage by the Act.

Many New Jersey companies already comply with this law, including universal labeling. Gutting it and mandating unworkable alternatives will increase the cost of doing business in these tough economic times. A.1232 will also unnecessarily increase costs for state government.

The fact that people are still dying from toxic exposure is an argument for strengthening not weakening our right-to-know laws. A.1232 --"the-right-to-know nothing" -- should be rejected by the New Jersey legislature.

Sincerely,

Rick Engler
Vice-President
New Jersey Industrial Union,
AFL-CIO

Jane Nogaki
Chair
N.J. Environmental Federation

(Moorestown)

(Atco)

Further information may be obtained from Rick Engler at 609 866-9405 or Jane Nogaki at 609 767-1110.



NEW JERSEY BUSINESS & INDUSTRY ASSOCIATION

LEGISLATIVE BRIEF

Issue: Amends Right to Know Act; regulates use of pesticides on farms.

Bill#: A-1232 (Shinn)

Status: Introduced April 13, 1992

Description: The bill would revise the reporting and labeling requirements of the "Worker and Community Right to Know Act" (P.L. 1983, c. 315), and would provide farm workers with education and training concerning the exposure to, and the use and application of, pesticides.

Specifically concerning the "Worker and Community Right to Know Act," this bill would:

- (1) add motor freight general warehousing and storage facilities to the list of facilities covered under the law;
- (2) exempt research and development laboratories, quality control laboratories, and pilot plants from the provisions of the law;
- (3) allow a Material Safety Data Sheet, instead of a hazardous substance fact sheet prepared by the Department of Health to be used by an employer for purposes of hazard communication;
- (4) exempt from the labeling requirement of the law any container generally available for retail sale in the State;
- (5) replace the container labeling system established in the law with a requirement that all containers be labeled as required by federal law, and that appropriate areas of a facility be posted with chemical warning symbols and chemical inventory placards;
- (6) delete the requirement in the law that employers complete workplace surveys, and rename the environmental survey the community right to know survey;
- (7) provide that the list of environmental hazardous substances (on which the community right to know survey is based) would consist only of substances on certain federal lists of hazardous substances; and

This bill would also require farm owners to maintain records of all pesticide applications, and to post chemical warning symbols and chemical inventory placards at appropriate areas of the farm. In addition, farm owners would be required to provide farm workers with fact sheets on the health effects of exposure to pesticides, as well as pamphlets and training sessions concerning the safe use of pesticides.

10. Ann Engler
From: Marie Curtis

AMENDMENTS TO A-1232

9/18/92
BIA
Amend.

Page 3, Section 1, 3.k., Line 16 After "hazardous substances" and before "at his facility" insert "present in excess of the threshold quantities established pursuant to 42 USC 11021(b)"

Rationale

Under the current zero threshold many substances present in very small quantities are being listed which creates volumes of paperwork which must be sifted through to arrive at those substances which truly pose a threat to the community's health and safety. Rather than present an immediate danger to the surrounding community or to responders in the event of an emergency, the inclusion of small quantities of hazardous substances in the survey can actually hinder the effective response of emergency personnel in the event of a fire or other incident. How is a volunteer responder supposed to determine what substances may be present in a quantity that would present an immediate danger to himself and other responders from a list of hundreds of substances.

Page 3, Section 1, 3.k., Lines 16-17 After "including" and before "the following" delete "but not limited to"

Rationale

The NJDEPE is required to develop a "Community Right to Know" survey. According to the definition of "Community Right to Know" survey, there is no limit to what the NJDEPE can specify. This could ultimately be used as loophole for retaining the current labeling requirements.

Page 4, Section 1, 3.n., Line 33 After "each" and before "hazardous substance" insert "environmental"

Rationale

Technical amendment to mesh with other changes

Page 5, Section 1, 3.p., Line 16 Insert definition of "Material Safety Data Sheet" per OSHA

Rationale

Used on Page 4, Lines 34-35 but undefined in the bill.

Page 5, Section 1, 3.r., Line 29 After "sale" and before "in" insert "except in a de minimus manner"

Rationale

While clinical studies on potential products are required by FDA and are a part of the R&D process, the NJDEPE has not historically considered clinical manufacturing to be an R&D process. The insertion of this language would make the definition consistent with that in the Federal Clean Air Act.

Page 6, Section 1, 3.aa., Line 38 After "most" delete "lethal" insert "dangerous"

Page 6, Section 1, 3.bb., Lines 42-53 delete and replace with:
"Chemical Inventory Placard" means a 3"x5" card, label or paper that contains the following information for each environmental hazardous substance present as such, or in a mixture at more than 1.0%, at the facility, in a building, area or field, as the case may be: chemical name and common trade name; health hazards; necessary personal protective equipment and practices; and recommended first aid procedures, provided that the Chemical Inventory Placard used for farm operations shall also include the respective reentry time for each pesticide applied at the farm. Only one Chemical Inventory Placard is required for each environmental hazardous substance, regardless of whether a substance is present in more than one container. No Chemical Inventory Placard shall be required for any environmental hazardous substance present in an aggregate amount of 250 pounds or less at the facility.

Page 7, Section 2, 4.a., Lines 8-33 Delete these lines. Instead we believe the Environmental Hazardous Substance List in this paragraph should be limited to the SARA 313 list (42 USC 11023).

Rationale

By limiting the list to the SARA 313 list New Jersey will join other states in a consistent reporting requirement. This will enhance compliance by New Jersey's industries and, by extension, allow the state to achieve its goal of learning about products manufactured in other states. Moreover, this would be consistent with the federal right-to-know reporting requirements and, more importantly, bring this statute into line with New Jersey's Pollution Prevention Act, which specifies the 313 List of Materials to be addressed in pollution prevention planning.

Page 11, Section 9, 12.b., Lines 22-26 After "substances" delete remainder of paragraph

After Line 27, add the following:

c. Notwithstanding the foregoing, an employer shall not be required to meet the requirements of section b above, if the employer submits alternative requirements to the Local Emergency Planning Committee (LEPC) with jurisdiction over its facility, and the LEPC approves the alternative requirements. The requirements of such a system could be met by any suitable combination, but not limited to: the current labeling system, batch reactor-batch recipe sheets, Chemical Inventory Placard, area and field chemical warning symbols, federal labeling requirements, 24-hour facility manning with immediate access to material identification and MSDS or their equivalent, or preparation of maps and listing the location of materials, which could be made available to response personnel as part of the SARA 312 submission currently provided.

Rationale

Each facility presents unique challenges to providing the appropriate information to the emergency responders. In addition, each responding organization may have preferences as to what information it requires and in what format. Therefore, we propose that we concentrate on "emergency responder hazard communication systems" which would be subject to LEPC approval, since appropriate meetings with response personnel held to review the hazards associated with materials used and the locations of their use is already a requirement of SARA III. Emphasis should be on the ability of a flexible system to optimize the effectiveness of emergency communication required by the unique combination of each facility and responding organization. Let the emergency responders have more of a say in how they want the agreed to vital information to be communicated to them. If the responders cannot get to or understand the communication, then the communication is worthless.

Page 11, Section 10, 13.a. Lines 38-40

After "of" and before "An" delete "Chemical Inventory Placards and Chemical Warning Symbols" and instead insert "the designated system pursuant to sections b and c above".

Rationale

Technical amendment to mesh with other changes.

Page 16, New Section 14, Line 54

Insert the following:

"Section 26 of P.L. 1983, c.315 (C:34:5A-16) is amended to read as follows:

26. a. There is established in the Department of the Treasury a nonlapsing, revolving fund to be known as the "Worker Community Right To Know Fund." The "Worker and Community Right To Know Fund" shall be credited with all fees collected pursuant to paragraph (1) of subsection b. of this section and interest on moneys in the "Worker Community Right To Know Fund" and all moneys in the "Worker and Community Right To Know Fund" are appropriated for the purposes of the "Worker and Community Right To Know Fund, and no moneys shall be expended for those purposes without the specific appropriation thereof by the Legislature. The State Treasurer shall be the administrator of the "Worker Community Right To Know Fund," and all disbursements from the "Worker and Community Right To Know Fund" shall be made by the State Treasurer upon the warrant of the Director of the Division of Budget and Accounting.

b. (1) The Department of Labor shall annually assess each employer a fee of not less than \$50.00 nor more than an amount equal to \$2.00 per employee to provide for the implementation of the provisions of this act. All fees collected by the department pursuant to this paragraph shall be deposited in the "Worker Community Right To Know Fund."

(2) The Department of Labor shall annually assess each employer a fee of \$2.00 per employee for the implementation of P.L.1991, c.235 (C.13:1D-35 et seq.). All fees collected by the department pursuant to this paragraph shall be deposited in the "Pollution Prevention Fund" established pursuant to section 16 of P.L.1991, c.235 (C.13:1D-50), and shall be used only for the implementation of P.L.1991, c.235 (C.1D:35 et seq.).

c. The moneys in the "Worker Community Right To Know Fund" shall be disbursed only for the following purposes:

(1) Expenses approved by the Director of the Division of Budget and Accounting and incurred by the Department of Health, the Department of Environmental Protection, the Department of Labor, the Department of the Treasury, and the county health departments in implementing the provisions of this act; and

(2) Repayment to the General Fund of any moneys appropriated by law in order to implement the provisions of this act.

d. The State Treasurer shall annually disburse the moneys the "Worker Community Right To Know Fund" for expenditures approved by the Director of the Division of Budget and Accounting pursuant to paragraph (1) of subsection c. of this section, but no case in an amount to the several departments that is greater than the following percentages of "Worker Community Right To Know Fund" available in any one year: [the Department of Health, 40%; the Department of Environmental Protection, 20%; the county health departments, 15%; the Department of Labor, 15%; and the Department of Treasury, 10%.] The Local Emergency Planning Committees, 50%; the New Jersey State Police, 30%; and the Department of Environmental Protection and Energy, 20%.

e. Beginning two years after the effective date of the act, the State Treasurer shall make an annual audit of the "Worker Community Right To Know Fund" to determine the adequacy of moneys deposit in the "Worker Community Right To Know Fund" to support the implementation of the provisions of the act. If the State Treasurer, in consultation with the Department of Health, the Department of Environmental Protection, and the Department of Labor makes a determination that the revenues in the "Worker Community Right To Know Fund" are sufficient to warrant a reduction in the fees imposed pursuant to paragraph (1) of subsection b. of this section for the ensuing year, he may reduce the amount of the fee imposed during that year by an amount warranted by the balance in the "Worker Community Right To Know Fund" at the time of the determination.

Rationale

This language attempts to reallocate monies to those agencies and organizations who actually implement and run the emergency response system within the state.

Page 18, Section 16, New 9., Line 47

After "agencies" insert new paragraph "(9) The respective reentry time for each pesticide applied at the farm."

Rationale

Reemphasizes and reiterates the importance of farm worker protection and right to know. Makes language consistent with language found on Page 6 Lines 52-53.



State of New Jersey
Department of Environmental Protection and Energy
Policy and Planning
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Trenton, NJ 08625-0418
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Scott A. Welner
Commissioner

Richard V. Sinding
Assistant Commissioner

September 18, 1992

Ms. Jane Nogaki
Right to Know and Act Coalition
223 Park Avenue
Atco, New Jersey 08004

Dear Ms. ^{JANE} ~~Nogaki~~:

As we discussed at our recent meeting, the DEPE is looking at a number of areas of the Community Right to Know program to determine how the overall program can be improved. We believe that some of these issues, such as streamlining the list of covered chemicals, can be resolved by revising current regulations. The areas listed below, however, cannot easily be remedied via the regulatory process. These problems are inherent in the Act, and would, in our view, require legislation:

1. **REGULATED FACILITIES** - The Act specifies coverage by listed Standard Industrial Classification (SIC) Codes. This has proved to be problematic because many companies using or storing hazardous substances have SIC codes that are not covered under the Worker and Community Right to Know Act. Bulk chemical terminals and solvent reclaimers are examples of businesses not presently covered under the Act. In addition, the assignment of an SIC code is presently based on the business owner's description of the primary activity at the facility. Some companies seize upon this loophole to claim that their primary activity has changed (from manufacturing, for example, to warehousing) and are therefore assigned an uncovered SIC code. Coverage under the Act needs to be broadened to close loopholes and capture all facilities having chemical inventories.
2. **THRESHOLDS** - The Act does not explicitly provide DEPE authority to set thresholds for reporting. The program has been advised that, because the Act is silent on this issue, information must be collected for environmental hazardous substances at zero threshold. The Act does, however, allow specific exemptions for hazardous substances, defined as substances to be reported on the Department of Health's now-defunct

Page 2

Workplace Survey. The exemptions allowed are based on potential risk to workers due to exposure. The Act exempts from regulation as hazardous substances (and hence the need to be reported) solid substances that pose no acute or chronic risks, substances constituting less than one percent of a mixture unless the substance is present at the facility in amounts greater than 500 pounds, and consumer products. These exemptions are not included in the definition of environmental hazardous substance (EHS) which must be reported on DEPE's Environmental Survey (now known as the Community Right to Know Survey and the Release and Source Reduction Report), lending support to the argument that employers must report EHSs at zero threshold. We believe we must look closely at the issue of thresholds and strike a balance between collecting useful information and being inundated by lists of one pack of matches, one bottle of nail polish remover and other minutia which subject the Act to ridicule and undermine its credibility.

3. REDEFINING THE SURVEY - The Act requires the DEPE to collect certain chemical inventory and environmental release information on an Environmental Survey. In response to the enactment of Title III of the 1986 Superfund Amendments and Reauthorization Act (SARA), the Department split the Environmental Survey into two parts that parallel federal Right to Know reporting requirements. The Act should be changed to reflect the existence of the Community Right to Know Survey and the Release and Source Reduction Report. This is especially important because the Department intends to use the Release and Source Reduction Report for reporting under the Pollution Prevention Act.
4. DUE DATES FOR REPORTING - Recent amendments to the Worker and Community Right to Know Act, made when the Pollution Prevention Act was passed, changed the due date for the Environmental Survey from 90 days after the forms are transmitted to July 1, the date the Toxic Chemical Release Inventory forms are due to USEPA. As noted above, the program developed two separate forms to collect the information required on the Environmental Survey. These forms mirror the federal reporting requirements under sections 312 and 313 of SARA. By changing the due date for submittal of the Environmental Survey to July 1, the validity and enforceability of the March 1 due date (which is also the Section 312 due date) for the Community Right to Know Survey is in question. A statutory amendment is recommended to redefine the Environmental Survey and assign due dates to the Community Right to Know Survey and the Release and Source Reduction Report, since the recent change to the Act also clearly establishes the requirement for one survey and one due date.
5. EMPLOYERS VS. FACILITY OWNER/OPERATOR - The Act sets requirements for "employers" because it was designed to provide for worker safety. Use of the term "employer," rather than facility owner/operator, has been problematic for several reasons. First, businesses in covered SIC codes that have no employees or lease their employees are technically not employers and, therefore, not identified by the Department of Labor (DOL) as being covered under the Act. These businesses are currently not

Page 3

assessed Right to Know fees, even though they may use, manufacture or store substances that are plainly intended to be covered under the Act. Second, the federal RTK program and most other environmental programs regulate facility owner/operators. A statutory amendment is needed to regulate facility owner/operators rather than employers. This would make the state and federal programs more consistent and enable the Department to use sources other than DOL lists to identify facilities subject to the Act.

6. TRANSMIT VS. SUBMIT - The Act requires the DEPE to "transmit" reporting forms. Before an enforcement action is taken for noncompliance, proof of transmittal is needed. Establishing this proof is expensive and time-consuming (all forms must be sent by certified return-receipt mail), and hampers enforcement efforts. By changing the requirement that the Department transmit the survey to requiring that the employer (or facility owner/operator) "submit" the survey to the Department, the onus of compliance is on the employer, rather than the Department, as it is with most environmental programs.
7. FEES/OSHA PREEMPTION - The current apportionment of RTK fees does not reflect the change in duties brought about by the preemption of most of the Department of Health's responsibilities by OSHA. This can only be resolved in a statutory amendment which acknowledges the present distribution of the RTK program responsibilities as they are now implemented by state agencies.
8. FINES/PENALTIES - A statutory amendment is needed to allow collected RTK penalties to be deposited in the Right to Know Trust Fund. Since the Act is silent on this point, collected penalties are deposited in the General Fund. With the number of employees in covered businesses decreasing, the addition of these funds to the Right to Know Trust Fund is needed for program support.

The issues listed above have been identified as hampering the effective implementation of the DEPE's Community Right to Know program. I know that the Department of Health shares some of these concerns, and has other concerns of its own with the current law. I ask for your support in recognizing and remedying these problems which are not addressed in A-1232. I look forward to meeting with you to discuss these and other issues raised by A-1232.

Sincerely,



Richard V. Sinding
Assistant Commissioner
Policy and Planning

from DEP 10/92

	ISSUES	CURRENT LAW	DIF. BET. LAW & CURRENT PRACTICE	A-1232 W/O AMENDMENTS	A-1232 WITH AMENDMENTS
1	SIC Codes	Coverage Specific	Same as law all SIC codes covered under SARA at 10,000 lb. threshold	Same	Not SIC code specific at established thresholds
2	Thresholds	None	Same as law	None	Establishes thresholds for inventory reporting; Pollution Prevention vs. 313 for release reporting
3	List of covered chemicals	EHS (includes SARA 313)	EHS & USDOT Tables (OSHA HAZ COM for SARA covered facilities)	New Lists (No SARA 313)	Release reporting: 313 list Tiered approach for inventory reporting: 10,000 pounds or more - OSHA standard 1,000 - 10,000 pounds - 313 list 500 pounds or TPQ, whichever is less, 302 list

	ISSUES	CURRENT LAW	DIF. BET. LAW & CURRENT PRACTICE	A-1232 W/O AMENDMENTS	A-1232 WITH AMENDMENTS
4	Covered Universe	Public employers (10,000) & Private (33,000) report ES to DEPE	Public employers report workplace survey to DOH, Private employers report CRTK survey to DEPE	Requires public employers to report to DEPE	< 13,800 public & private facilities covered under law
5	Due Date	7/1 for Environmental Survey	3/1 for CRTK Survey 7/1 for DEQ-114	Not addressed	Survey redefined & given due dates
6	Employers regulated vs Facility o/o	Employer	Same	Same	Facilities o/o regulated
7	"Transmit"	DEPE shall "transmit" surveys	Same	Not addressed	Facilities shall submit surveys
8	Fees	\$2.00 per employee \$ allotted to each department (%)	Same SARA facilities do not pay fees	Not addressed	New fee system* needed
9	Definition of survey	Environmental survey Workplace survey	CRTK DEQ-114, SARA (Form R). Regs have ESIS and Workplace Survey (public sector)	Changes Environmental Survey to CRTK (No DEQ-114) Eliminates Workplace Survey	Redefine ES as CRTK, R&PPR (DEQ- 114)
10	Trade Secret	Company must submit survey (sanitized/ unsanitized)-no fee	Same	Only submits confidential info. on request - no fee	Always submit confidential information (same as now)

	ISSUES	CURRENT LAW	DIF. BET. LAW & CURRENT PRACTICE	A-1232 W/O AMENDMENTS	A-1232 WITH AMENDMENTS
11	LEPC/SERC other SARA requirements	Not addressed	exist in reality under SARA - DEPE has no SARA enforcement authority	Not addressed	Define LEPC; recognize SERC; enforcement authority?
12	R&D	Allows exemption with eligibility requirement	Same	Extends exemption to entire facility, eliminates eligibility requirements, adds QA labs pilot plants	No pilot plants included Added language ensure only R&D lab is exempt.
13	Preemption Issues	Original language still exists- never changed after pre-emption	Pre-emption implemented	Does not consider preemption	Change language to account for preemption
14	Farmworker RTK	Farmworkers requirements in Pesticide Act since 1985	Same	Adds RTK for farmworkers	Adds RTK for farmworkers
15	Labeling	Specific	Same	Eliminates current system in favor of federal system - HMIS	_____
16	Placarding for building	Not addressed	Same	Adds requirement	_____

Major Problems - to be resolved

- 1) Incorporation of SARA without funding
(state - local issue)
- 2) GAC vs SERC
- 3) Overhaul of funding mechanism
- 4) Penalty distribution general fund vs program
- 5) Feelers to Industry/Env. Community (Unions, Emergency Responders)



State of New Jersey
Department of Environmental Protection and Energy

Policy and Planning

CN 418

Trenton, NJ 08625-0418

Tel. # 609-292-1254

Fax # 609-777-0942

Scott A. Weiner
Commissioner

Richard V. Sinding
Assistant Commissioner

September 18, 1992

Ms. Jane Nogaki
Right to Know and Act Coalition
223 Park Avenue
Atco, New Jersey 08004

Dear Ms. ^{Jane} ~~Nogaki~~:

As we discussed at our recent meeting, the DEPE is looking at a number of areas of the Community Right to Know program to determine how the overall program can be improved. We believe that some of these issues, such as streamlining the list of covered chemicals, can be resolved by revising current regulations. The areas listed below, however, cannot easily be remedied via the regulatory process. These problems are inherent in the Act, and would, in our view, require legislation:

1. **REGULATED FACILITIES** - The Act specifies coverage by listed Standard Industrial Classification (SIC) Codes. This has proved to be problematic because many companies using or storing hazardous substances have SIC codes that are not covered under the Worker and Community Right to Know Act. Bulk chemical terminals and solvent reclaimers are examples of businesses not presently covered under the Act. In addition, the assignment of an SIC code is presently based on the business owner's description of the primary activity at the facility. Some companies seize upon this loophole to claim that their primary activity has changed (from manufacturing, for example, to warehousing) and are therefore assigned an uncovered SIC code. Coverage under the Act needs to be broadened to close loopholes and capture all facilities having chemical inventories.

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Page 2

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- (R)
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- (S) 50
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- (R) n) low burden def of law
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assessed Right to Know fees, even though they may use, manufacture or store substances that are plainly intended to be covered under the Act. Second, the federal RTK program and most other environmental programs regulate facility owner/operators. A statutory amendment is needed to regulate facility owner/operators rather than employers. This would make the state and federal programs more consistent and enable the Department to use sources other than DOL lists to identify facilities subject to the Act.

- R*
disagree
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Sincerely,

Ric

Richard V. Sinding
Assistant Commissioner
Policy and Planning

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September 25, 1992

Commissioner Scott Weiner
State of New Jersey
Department of Environmental Protection
and Energy
CN 418
Trenton, New Jersey 08625-0418

Dear Commissioner Weiner:

I just don't get it. We come out of a what we felt was a very positive meeting with you that resulted in a strategy of how to handle A1232 (the "right-to-know nothing bill") through the **regulatory process**.

Then Jane Nogaki shows me Assistant Commissioner Sinding's September 18 letter to her saying that "These problems are inherent in the Act, and would, in our view, require **legislation**." This letter, or a similar one, may have been given to industry.

As I explained, in light of the Gade decision and the current legislative process, the IUC will not support amendments to the law. We are willing to identify issues in concert with a regulatory adjustment strategy.

Has your approach to this changed? If not, have you reached out to Joe Doria to discuss making changes through regulation? And when will a task force to identify issues be convened?

Sincerely,

Rick Engler
Vice-President

cc: Jane Nogaki
Eric Scherzer
Archer Cole

NEW JERSEY STATE
INDUSTRIAL UNION COUNCIL, AFL-CIO
Occupational Safety and Health Office

452 East Third Street • Moorestown, NJ 08057
(609) 866-9405 FAX: (609) 866-9708



JAN PIERCE
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Vice-President
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IUE
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ACTWU
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AFT
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AFSCME
Emanuel Leventhal
ILGWU
Robert Meade
ICWU
Richard Outlaw
ATU
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IAM
Leslie Roberts
UAW
Michael Roccia
RWDSU
John Ronches
CIR
Eric Scherzer
OCAW
William Terrell
UAW
Kenneth O. Test
UPIU
Vince Trivelli
CWA
Rudy Thomas
IFPTE
Pat Tully
OPEIU
Ann Twomey
HPAE
Raymond Walling
IUE
Chester Wierzbowski
URW
Ivey Williams
ICWU
Max Wolf
SEIU
Frank DeMaria
Asst.-to-President

September 25, 1992

Assemblyman Robert Shinn
Larchmont Commons
3111-23 Route 38
Mount Laurel, New Jersey 08054

Dear Assemblyman Shinn:

There have been some new legal developments concerning the potential impact of proposed changes to the New Jersey Worker and Community Right-to-Know law and specifically A.1232. The IUC would be most appreciative if we could arrange a meeting with you to discuss these developments and to follow-up our earlier conversations concerning this issue.

Thank you for your consideration.

Sincerely,

Rick Engler
Vice-President

National Advisory Panel

Morton Bahr, CWA
William Bywater, IUE
Thomas Fricano, UAW
Jay Mazur, ILGWU
Lenore Miller, RWDSU
Jack Sheinkman, ACTWU
Howard Samuel, IUD



NEW JERSEY GENERAL ASSEMBLY

ASSEMBLY DEMOCRATIC LEADER

JOSEPH V. DORIA, JR.

31ST LEGISLATIVE DISTRICT

235 BROADWAY

BAYONNE, NJ 07002

201-437-5150, 5151

FAX 201-437-1749

ASSEMBLY DEMOCRATIC LEADER

STATE HOUSE CN098

TRENTON, NJ 08625

609-777-0973

September 30, 1992

Ms. Janet Cahill
452 E. Third Street
Moorestown, NJ 08057

Dear Ms. Cahill:

Thank you for contacting me concerning A-1232. As I'm sure you are aware, I'm a prime co-sponsor to this legislation. The purpose of this legislation is to clarify the New Jersey Right to Know Laws and to make them more effective. It is NOT to create more problems that might cause cancer or birth defects in the state.

The members of the legislature are extremely concerned that the bureaucracy in the state is getting out of hand and for that reason we need to provide more clear guidelines on the implementation of legislation such as the Right to Know Act.

We need to have a Right to Know Act and we need to continue to provide the citizens of the state with the information the Right to Know Act requires us to provide them. However, we need also to guarantee that we do not create excessive bureaucratic red tape or bureaucratic requirements that in the end do not benefit the citizens of the state and instead just cost more money to everyone involved.

Please be assured that I share your concerns about the environment and I share your concerns about the citizens Right to Know what he/she is working with in their place of employment. I feel that this legislation that is being proposed will be of benefit to all the citizens of the state and will help to protect our environment while at the same time cutting back on bureaucratic red tape.

Thank you again for contacting me.

Sincerely,

A handwritten signature in cursive script that reads "Joseph V. Doria, Jr.".

Joseph V. Doria, Jr.
Assembly Democratic Leader

JVD:mcb

NEW JERSEY STATE
INDUSTRIAL UNION COUNCIL, AFL-CIO
Occupational Safety and Health Office

452 East Third Street • Moorestown, NJ 08057
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JAN PIERCE
First Vice-President

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Dominick Critelli
IFPTE
Clara Dasher
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Robert DiBianco
USWA
Rick Engler
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Sal Giardina
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Rosalie Griffiths
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Michael Lanni
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Emanuel Leventhal
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Robert Meade
ICWU
Richard Outlaw
ATU
Robert Roach
IAM
Leslie Roberts
UAW
Michael Roccia
RWDSU
John Ronches
CIR
Eric Scherzer
OCAW
William Terrell
UAW
Kenneth O. Test
UPIU
Vince Trivelli
CWA
Rudy Thomas
IFPTE
Pat Tully
OPEIU
Ann Twomey
HPAE
Raymond Walling
IUE
Chester Wierzbowski
URW
Ivey Williams
ICWU
Max Wolf
SEIU

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Morton Bahr, CWA
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Jay Mazur, ILGWU
Lenore Miller, RWDSU
Jack Sheinkman, ACTWU
Howard Samuel, IUD

October 9, 1992

Assemblyman Robert Shinn
Larchmont Commons
3111-23 Route 38
Mount Laurel, New Jersey 08054

Dear Assemblyman Shinn:

As requested in my letter of September 25, 1992 I would still be most appreciative if we could arrange a meeting with you to discuss new developments concerning A1232 and to follow-up our earlier conversations concerning this legislation.

Thank you again for your consideration.

Sincerely,

Rick Engler
Vice-President



NEW JERSEY LEGISLATIVE OFFICES

C. WILLIAM HAINES
SENATOR

8TH DISTRICT
LARCHMONT COMMONS SHOPPING CENTER
3111-23 ROUTE 38
MT. LAUREL, NJ 08054
609-234-8080

HAROLD L. COLBURN, M.D.
ASSEMBLYMAN
ROBERT C. SHINN, JR.
ASSEMBLYMAN

November 4, 1992

Rick Engler
Vice President
Industrial Union Council
452 East Third Street
Moorestown, NJ 08057

Dear Mr. Engler:

Thank you for your recent letter concerning Assembly Bill No. 1232. As you know, there is a public hearing on this bill on Friday, November 6th.

Please be assured that I will listen to your views on this particular bill and certainly will review any written testimony that you may have on the proposed legislation. The November 6th meeting is just that - it is to take testimony and to review any suggestions which I am sure will come out of the meeting.

Sincerely,

A handwritten signature in cursive script, reading "Robert C. Shinn, Jr.", written over a large, loopy flourish.

Robert C. Shinn, Jr.
Assemblyman

RCS:dw

PRESS ADVISORY
FROM THE RIGHT-TO-KNOW & ACT COALITION

Contact: Rick Engler
(609) 866-9405
Eric Scherzer
(908) 381-3920

**ORGANIZATIONS TO BLAST BILL THAT WOULD GUT
NEW JERSEY WORKER & COMMUNITY TOXIC RIGHT-TO-
KNOW LAW AT ASSEMBLY POLICY & RULES COMMITTEE
MEETING THIS FRIDAY**

For Immediate Release, Thursday, November 5, 1992:

The New Jersey Right-to-Know & Act Coalition, an alliance of 160 labor, community, firefighter, environmental, and public health organizations, will denounce a bill that would gut the New Jersey Worker & Community Right-to-Know Act at a Assembly Policy & Rules Committee meeting Friday, November 6 at 10 A.M. in Room 319 of the Statehouse. A-1232, introduced by Robert Shinn (R-8) and Joseph Doria (D-31), will be characterized as "the right-to-know nothing." An analysis of how A-1232 endangers public school students, teachers, firefighters, police, chemical, factory, and public workers will be distributed. Representatives of groups placed at risk by this legislation, including workers and firefighters exposed to toxic chemicals, will testify. **Visuals will include chemical containers (with right-to-know labeling) and simulated toxic chemicals.**

Note: Coalition spokespersons are available to debate industry representatives on TV and radio programs.

Dear Governor Florio, Senate President DiFrancesco,
and Assembly Speaker Haytaian:

We ask you to speak out against Assembly Bill #1232 which purports to "reform" the New Jersey Worker and Community Right-to-Know Act. In fact, this bill would **repeal** many of core provisions of this law that has helped protect worker and public health since 1983.

Assembly Bill 1232, sponsored by Assemblypersons Robert Shinn and Joseph Doria, would:

- *Endanger **all of us** by allowing management to hide the true chemical name of toxic substances with codes or trade names. Many containers would not have to be labeled at all because the bill eliminates "universal labeling."*
- *Endanger **public school students, teachers, and other personnel** by eliminating requirements that chemical containers be labeled in chemistry labs and shops.*
- *Endanger **firefighters and other emergency responders** by requiring labeling by state law of only the **single** "most potentially lethal" chemical per site, ignoring the fact that many chemicals can be dangerous.*
- *Endanger **public employees** who would no longer have a right to labeling, training, or hazardous substance factsheets. Public employees aren't covered by OSHA's Hazard Communication rule. Thus the over 200,000 public employees potentially exposed to toxic substances would have no right-to-know at all!*
- *Endanger **Spanish speaking citizens** by ending rules for information in Spanish.*
- *Endanger **research and development and quality control workers** who face unknown chemical hazards by eliminating these facilities from coverage by the Act.*

A1232 would also allow cancer and birth-defect agents to be considered trade secrets! And it would eliminate the Health Department's production of nationally recognized "Hazardous Substance Factsheets" which provide unbiased information on chemicals to the public.

Yet many New Jersey companies **already** comply with this law, including universal labeling. Gutting it and mandating unworkable alternatives will increase the cost of doing business in these tough economic times.

➡ A.1232 will also increase costs for state government which would have to analyze and approve up to one million different company produced material safety data sheets! Ending universal labeling will also cause the state to face more expensive litigation related to federal OSHA law pre-emption.

True, A1232 would provide farmworkers some new right-to-know rights -- in return for gutting protection for other workers and the environment. That's why CATA, the Farmworkers Support Committee, opposes this bill and supports the real farmworker right-to-know bill (A-865).

Streamlining and strengthening the Right-to-Know rules can be addressed by the Right to Know Advisory Council, which includes industry and public representatives, and by regulation. We will participate in that process.

But we will not allow the chemical industry -- or its allies in the legislature -- to endanger New Jersey workers, firefighters, and other citizens through passage of A1232. Please speak out against this dangerous legislation.

Sincerely,

SAVE RIGHT-TO-KNOW!

Dear Governor Florio & Legislative Leaders:

Toxic chemicals in school chemistry labs, art rooms, shops and other areas can be hazardous. The Right-to-Know Law **prevents** hazards by requiring schools to label chemicals, train staff, and keep chemical inventory lists. ***Our law means safer schools for students, teachers, and staff.***

Please OPPOSE Assembly Bill 1232 which would take away right-to-know from public school students, staff, and other citizens.

NameSchool[illegible]

Return when completed to Right-to-Know Coalition, 223 Park Avenue, Atco, N.J. 08004.



OPPOSE A.#1232: "THE RIGHT-TO-KNOW NOTHING"

To prevent toxic exposures, in 1983 the state legislature passed the Worker and Community Right-to-Know Law, sponsored by then Senator Dan Dalton. This law requires that all chemical containers be labeled and that firefighters, police, and other public employees be trained about toxic hazards. Companies must also reveal what they release into our air and water. Our law has been widely recognized as a national model.



But now proposed legislation would eliminate our right-to-know. Assembly Bill #1232 (Shinn/Doria) would encourage industry to cover-up chemical hazards like they did in the past. Chemicals in public school chemistry labs would no longer have to be labeled. The requirement that all chemical containers be labeled -- "universal labeling" -- would be eliminated. Neighbors, students, firefighters, police, first aid, chemical, factory, and public workers could all be put at risk.

This bill would gut a law that has helped protect health and prevent pollution for almost a decade. It would, in part:

- ***Endanger all of us*** by allowing management to hide the true chemical name of toxic substances with codes or trade names. Many containers would not have to be labeled at all because the bill eliminates "universal labeling."
- ***Endanger public school students and personnel*** by eliminating requirements that chemical containers be labeled in chemistry labs and shops.
- ***Endanger firefighters and other emergency responders*** by requiring labeling by state law of only the **single** "most potentially lethal" chemical per site, ignoring the fact that many chemicals can be dangerous.
- ***Endanger public employees*** who would no longer have a right to labeling, proper training, or hazardous substance factsheets. Public employees aren't covered by OSHA's Hazard Communication rule. Thus they would have no right-to-know at all!
- ***Endanger Spanish speaking citizens*** by ending rules for information in Spanish.

A1232: COVERING UP TOXIC HAZARDS



● *Endanger research and development and quality control workers who face unknown chemical hazards by eliminating these facilities from coverage by the Act.*

A1232 would also allow cancer and birth-defect agents to be considered trade secrets! And it would eliminate the Health Department's production of "Hazardous Substance Factsheets" which provide unbiased information on chemicals to the public.

In fact, if this bill passed, thousands of chemical, oil, drug, and other companies wouldn't have to comply with any part of our right-to-know law!



➡ *Yet many New Jersey companies already comply with this law, including universal labeling. Gutting it and mandating unworkable alternatives will increase the cost of doing business in these tough economic times.*

➡ *A.1232 will also increase costs for state government which would have to analyze and approve over 575,000 different company produced material safety data sheets! Ending universal labeling will also cause the state to face more expensive litigation related to federal OSHA law pre-emption.*

The bill would give farmworkers the right-to-know for the first time -- in return for gutting protection for all other workers and the environment. That's why CATA, the Farmworkers Support Committee, opposes this bill and supports the true farmworker right-to-know bill (A-865). Strengthening the Right-to-Know rules can be addressed by the Right to Know Advisory Council, which includes industry and public representatives, and by the regulatory process.

Please oppose this "right-to-know nothing" -- and any other bill that would cover-up the dangers of toxic chemicals to children, workers, firefighters, and neighbors.

Issued in June 1992 by the New Jersey Right-to-Know and Act Coalition, an alliance of 160 community, firefighter, labor, and environmental organizations that helped win passage of the 1983 Right-to-Know law. Support for the points made in this factsheet can be found in a detailed analysis of A.1232 prepared by the Coalition.

[TNG10/AFL-CIO]

*To Residents and Employees in Legislative District 8**



SAVE OUR RIGHT-TO-KNOW!

Toxic chemicals in workplaces and neighborhoods can make people sick. Sometimes people die.

In 1983 our state legislature passed the Worker & Community Right-to-Know law to *prevent* chemical exposures. This law requires that all chemicals be labeled. And that firefighters and police be trained about toxic hazards. Companies must also reveal what they release into our air and water.

But now legislation has been introduced that would take away your right-to-know.



Sponsored by our Assemblyman Robert Shinn, Bill #1232 would encourage industry to hide chemical hazards like they did in the past. Chemicals in public school labs would no longer have to be labeled. *Neighbors, students, firefighters, police, chemical, factory, and public workers could all be put at risk.*



ACT TO PROTECT YOUR HEALTH

☛ ***Call Assemblyman Shinn today at 609 234-8080. Ask him to "withdraw his sponsorship of Assembly Bill #1232." Also write him at Larchmont Commons, 3111-23 Route 38, Mt. Laurel, N.J. 08054***

☛ ***Distribute this flyer at workplaces and schools. Return the coupon on the other side to get copies and to get more involved.***

Issued by the New Jersey Right-to-Know & Act Coalition, an alliance of 160 environmental, union, community, firefighter, police, and student organizations and New Jersey Citizen Action, which unites 67,000 members to work for a better quality of life.

**The 8th District: Evesham, Hainesport, Lumberton, Medford, Medford Lakes, Moorestown, Mt. Laurel, Shamong, Southampton, Chesilhurst, Waterford, Winslow, Hammonton, & Folsom.*



THE 'RIGHT-TO-KNOW NOTHING'



Assembly Bill 1232, introduced by Republican Robert Shinn, claims to "reform" the state Right-to-Know law. Untrue! If passed it would gut a law that has protected our health and environment for almost a decade. It would:

- *Endanger all of us by allowing management to hide the true chemical name of toxic substances with secret codes or trade names. Many containers would not have to be labeled at all because the bill eliminates the vital "universal labeling" provision.*
- *Endanger public school students and personnel by eliminating requirements that chemical containers be labeled in chemistry labs and shops.*
- *Endanger firefighters and other emergency responders by requiring labeling by state law of only the single "most potentially lethal" chemical per site, ignoring the fact that many chemicals can be dangerous.*
- *Endanger public employees who would no longer have a right to labeling, proper training, or hazardous substance factsheets. Public employees aren't covered by OSHA's Hazard Communication rule. Thus they would have no right-to-know at all!*
- *Endanger Spanish speaking citizens by ending rules for information in Spanish.*

In fact, if this bill passed, thousands of chemical, oil, and other companies would not have to comply with any part of our state right-to-know law!

HELP SAVE THE REAL RIGHT-TO-KNOW!

Return to New Jersey Right to Know & Act Coalition, 223 Park Avenue, Atco, N.J. 08004
Questions? Call Jane Nogaki (Marlton) 767-1110 or Rick Engler (Moorestown) 866-9405.

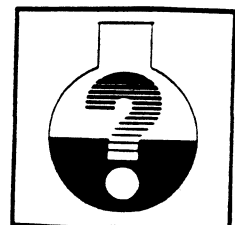


Name _____ Phone # _____

Address _____ City _____ State _____ ZIP _____

Organization / Union (if any) _____

Please call me about: ☐ How I can help protect our right-to-know law.
[6/92TNG10] ☐ Using right-to-know laws to protect my health.



FIRE FIGHTERS FOR RIGHT-TO-KNOW

As members of the fire service in New Jersey, we urge Governor Florio, Assemblymen Shinn and Doria, and leaders of the New Jersey Assembly and Senate to maintain the current state system of labeling chemical containers with the chemical name of the contents. Fire fighters need the right-to-know! Please oppose Assembly Bill Number 1232.

Name

Fire Department

Daniel KaluHiokalani

AIRCO Special Gases

Dave Gray

Mission, Sta. 321

Doug Benty

Bordentown Twp PD

Brian Schoed

CHESTERFIELD

PATRICK MCCORISTON

BOROUGH OF MEDFORD LAKES

Paul Turoi

Riverside Twp. E.M.C.

M. E. Clark

Washington, TWP.

BEVERLY BERTHMEIER

Emerg Mgt - Lumb Twp.

JAMES S. BARNHARTER SR.

Burl. County Mobile Emergency
UNIT

Thomas R. Huider

Burl. Co. Off. Emerg. Management

JOE STETSON

JACKSON

Phil Longo

Henriest Emerg. Management

William D. Clark

Castamington P.M.S.

FIRE FIGHTERS FOR RIGHT-TO-KNOW

As members of the fire service in New Jersey, we urge Governor Florio, Assemblymen Shinn and Doria, and leaders of the New Jersey Assembly and Senate to maintain the current state system of labeling chemical containers with the chemical name of the contents. Fire fighters need the right-to-know! Please oppose Assembly Bill Number 1232.

Name

Fire Department

TIM TEO

DELRAN EMS

J. APPLETON

MT. LAUREL TWP.

W. MILLER

CINNARINSON

Philips

Hempstead

Richard J. Warrell

Tabernacle

William L. Rowley

EMT Sta 139

Robert Bellan

Delanco CEM

Calvin

Washington Fire Co. Delanco NJ

Copied to
6 program
"act to be"
flyer

As members of the fire service in New Jersey, we urge
Governor Florio, Assemblymen Babin and Doris, and leaders
of the New Jersey Assembly and Senate to maintain the
state's fire service and to support the fire service.

SAMPLE LETTER OPPOSING A - 1232

TO: ASSEMBLYMAN ROBERT SHINN
LARCHMONT COMMONS
3111-23 RT. 38
MT. LAUREL, NJ 08054

DEAR ASSEMBLYMAN SHINN:

PLEASE OPPOSE ASSEMBLY BILL 1232, WHICH WOULD ENDANGER PUBLIC SCHOOL STUDENTS AND PERSONNEL BY ELIMINATING REQUIREMENTS THAT CHEMICAL CONTAINERS BE LABELED IN CHEMISTRY LABS, ART ROOMS AND SHOPS. I WANT YOU TO PRESERVE RIGHT- TO -KNOW FOR THE SAFETY OF OUR CHILDREN, FIREFIGHTERS, AND THE COMMUNITY.

SINCERELY,

YOUR NAME, ADDRESS

DEAR ASSEMBLYMAN SHINN:

A-1232 IS A BILL THAT WOULD TAKE AWAY MY RIGHT TO KNOW CHEMICAL HAZARDS IN THE COMMUNITY AND IN MY CHILD'S SCHOOL. PLEASE OPPOSE A-1232.

SINCERELY,

DEAR ASSEMBLYMAN SHINN:

AS A FIREFIGHTER, I AM SHOCKED THAT A-1232 TAKES AWAY UNIVERSAL LABELING OF CHEMICAL SUBSTANCES IN WORKPLACES, AND PUBLIC SCHOOLS. MY JOB IS VERY DANGEROUS, AND THIS BILL WOULD MAKE IT EVEN MORE SO. PLEASE OPPOSE A-1232.

DEAR ASSEMBLYMAN SHINN:

AS A PUBLIC EMPLOYEE WHO WOULD NO LONGER HAVE A RIGHT TO LABELING, PROPER TRAINING, OR HAZARDOUS SUBSTANCE FACTSHEETS, I URGE YOU TO OPPOSE A-1232. IT TAKES AWAY MY RIGHT -TO-KNOW PROTECTIONS.



LOCAL 1031

AFL-CIO

COMMUNICATIONS WORKERS OF AMERICA

84 Culver Road, Monmouth Junction, NJ 08852

(908) 274-2171

FAX (908) 274-0154

December 2, 1992

Assemblyman Joeseeph V. Doria
235 Broadway
Bayonne, NJ 07002

Assemblyman Robert C. Shinn, Jr.
Larchmont Commons Shopping Center
23 Route 38
Mount Laurel, NJ 08054

RE: A1232 Right to Know Amendments

Dear Assemblymen Doria and Shinn:

Unfortunately I was unable to present testimony on November 6, 1992 opposing Assembly bill A1232. There are many reasons why I am in opposition to this piece of legislation, however, the reason I need to address in this letter is how A1232 will virtually eliminate right to know protections in the public sector.

While A1232 does not eliminate public workplaces by virtue of the "employer" definition, it does significantly curtail public employee rights for the following reasons:

A. it eliminates the workplace survey, which is currently filled out by 10,400 public facilities (Section 5 c. of P.L. 1983, c.315 and page 8 of A1232);

B. it eliminates the requirement for the development of a workplace hazardous substance list, which currently includes any substance or substance contained in a mixture regulated by OSHA, any environmental hazardous substance and; any substance that the department determines a threat to the health and safety of an employee (Section 5 a. of P.L. 1983, c. 315 and page 7 of A1232);

C. it eliminates the development of a special health hazard substance list comprising hazardous substances which, because of their known carcinogenicity, mutagenicity, teratogenicity, flammability, explosiveness, corrosivity, or reactivity pose a

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A1232 bill
12-2-92

special hazard to health and safety (Section 5 b. of P.L. 1983, c.315 and page 7-8 of A1232);

D. it limits education and training requirements to only environmentally hazardous substances that would be on the new "environmental hazardous substance list" and eliminates education and training requirements for hazardous workplace chemicals that are not on that newly created list (Section 13 a. of P.L. 1983, c. 315 and page 11 of A1232);

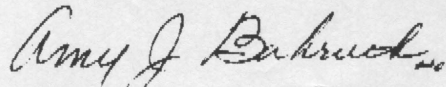
E. it eliminates the development of Hazardous Substance Fact Sheets for hazardous substances and replaces them with the Department of Health "authorizing" a type of factsheet for environmentally hazardous substances only (Section 5 d. of P.L. 1983, c. 315, and page 8 of A1232);

F. Additionally, and most importantly, A1232 would completely eliminate labeling requirements in the public sector because public workers ARE NOT covered by the Federal OSHA law, which is what the current labeling requirements are replaced with (Section 14 a. and b. of P.L. 1983, c. 315 and pages 12 and 13 of A1232). This would leave 200,000 public workers once again in the dark about the substances they might be exposed to in the course of doing their jobs.

Although this might not be the intent of this bill and of the legislature, it is in fact what the bill clearly states. For this reason, amongst many, CWA strongly opposes this bill.

I hope this clarifies this issue and I look forward to any response you may have regarding these facts. Thank you for your time and consideration in this matter.

Sincerely,



Amy J. Bahruth, M.S., I.H.
Staff Representative and
Health & Safety Coordinator
CWA, Local 1031

cc: Governor Jim Florio

NEW JERSEY POISON INFORMATION AND EDUCATION SYSTEM

201 Lyons Avenue Newark, New Jersey 07112

Steven Marcus, M.D., Executive Director
Diplomate, American Board of Medical Toxicology

Emergency : 1-800-962-1253
Facsimile : 1-201-926-0013
Office : 1-201-926-7443
TTY : 1-201-926-8008

December 4, 1992

Joseph Doria
Assembly Minority Leader
New Jersey State Assembly
235 Broadway
Bayonne NJ 07002

Robert Shinn
Assemblyman
New Jersey State Assembly
Larchmont Shopping Center
3111-23 Route 38
Mt. Laurel NJ 08054

Dear Assemblyman Doria and Shinn:

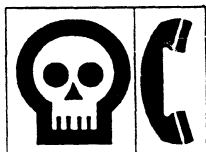
A mother calls the poison control center when her child ingests substance XYZ whose label does not list what is in it. The PCC is unable to find a listing of the substance on its computer and cannot ascertain the toxic component. The PCC attempts to call the company, it's name and address is listed on the container, but it is after hours and the company has no after hours office.

A worker is exposed to substance Y in the workplace, it splashes in its eye. The worker calls the PCC because the substance has the brand name, but has no constituents listed on it. The PCC attempts to look it up, but again finds nothing on its computer and cannot reach the manufacture because it is after hours.

These are just two of the possible scenarios that, as we read Assembly Bill 1232, we foresee occurring in the future if Assembly Bill 1232 is passed.

Over the past years the ability to deal with the exposed individual has improved dramatically because of the passage of the community and worker right to know laws. The PCC has been fighting for its own existence over the years because of funding problems and now fights not just for its own existence, but for the ability to serve the public when the public calls the PCC because of potential lack of proper labeling.

The PCC has already had experiences with companies who have attempted to maintain confidentiality of "trade secrets" and hindered the ability of the PCC to provide consultation to treating physicians. On at least one occasion a Connecticut company first refused to give information on the ingredients



The Regional Drug and Poison Information Center for New Jersey, Designated as a Regional Poison Control Center and a Member, American Association Of Poison Control Centers

page 2 of 2

Joseph Doria
Assembly Minority Leader
New Jersey State Assembly
235 Broadway
Bayonne NJ 07002

Robert Shinn
Assemblyman
New Jersey State Assembly
Larchmont Shopping Center
3111-23 Route 38
Mt. Laurel NJ 08054

of its product and then finally gave information, but refused to let the PCC give that information to the treating physician in total lack of understanding of the function of the PCC. When the PCC did release that information to the treating physician the company brought a complaint against the PCC to the Department of Labor.

After investigation, the Department of Labor felt that the company acted out of line and supported the PCC's position. It took several days of time from the Executive Director of the PCC's busy schedule to iron out the problems.

As a result of Assembly Bill 1232 this problem may increase many fold. It is thus, that I write asking you to please rethink this legislation and withdraw it. I believe that it is counter to the tenants of occupational safety and health and will lead to potential problems in the non-work related exposure area as well.

We hope that the bill will not be passed in the legislature and if it does happen to pass we do hope that the governor will veto this bill since it appears that such a bill will put the worker and the public of New Jersey at an increased risk.

Please do not hesitate to call for any data concerning potential exposure to substances that will no longer require labeling under a A1232 and its impact on the population of New Jersey.

Respectfully submitted,


Steven M. Marcus, MD

cc: Governor Jim Florio

NEW JERSEY RIGHT TO KNOW & ACT COALITION

December 29, 1992

Assemblyman Robert Shinn
Larchmont Commons Shopping Center
3111-23 Route 38
Mount Laurel, NJ 08054

Dear Assemblyman Shinn:

We are writing to you once again concerning Assembly Bill 1232. We want to clearly explain our position and specifically why we have not submitted proposed amendments to A1232.

We are concerned that changes to the existing statute would inevitably lead to a new round of legal challenges that could effectively nullify the Act in its entirety. Such legal challenges could be based on the Supreme Court's recent decision in GADE which expands the scope of Federal OSHA Standard pre-emption.

Enclosed is a memo prepared by our Legal Counsel arguing that, despite GADE, the New Jersey Right to Know law now remains fully in force. Also enclosed is a memo written by the Public Advocate summarizing the extensive history of litigation involving the law. Both documents support our position that the statute should not be changed.

As you know, we support changing the regulations implementing the Act. We have already had a number of meetings with both NJDOH and NJDEPE in support of rule changes to reduce employer burdens without endangering public health.

If the essential issue is truly how to make the right to know program more efficient and effective, we believe this can be accomplished through regulatory change.

We again ask to meet with you to discuss your views and plans concerning A1232.

Sincerely,

Eric Scherzer

Jane Nogaki

Co-Chairs

Enclosure

P.S. Please address your reply to Jane Nogaki at 223 Park Avenue,
Atco, New Jersey 08004

cc: Assemblyman Joe Doria
Secretary of State Dan Dalton