By Senator BAER


BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

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

3. As used in this act:

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

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

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

   d. "Container" means a receptacle used to hold a liquid, solid, or gaseous substance, including, but not limited to, bottles, pipelines, bags, barrels, boxes, cans, cylinders, drums, cartons, vessels, vats, and stationary or mobile storage tanks. "Container" shall not include process containers.

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

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

   g. "Employee representative" means a certified collective bargaining agent or an attorney whom an employee authorizes to

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

Matter underlined thus is new matter.
exercise his rights to request information pursuant to the provisions of
this act, or a parent or legal guardian of a minor employee.

h. "Employer" means any person or corporation in the State
engaged in business operations which has a Standard Industrial
Classification, as designated in the Standard Industrial Classification
Manual prepared by the federal Office of Management and Budget,
within the following Major Group Numbers, Group Numbers, or
Industry Numbers, as the case may be, except as otherwise provided
herein:

Major Group Number 07 (Agricultural Services), only Industry
Number 0782--Lawn and garden services; Major Group Numbers 20
through 39 inclusive (manufacturing industries); Major Group Number
42 (Motor Freight Transportation and Warehousing), only Industry
Numbers 4221--Farm Product Warehousing and Storage,
4225--General Warehousing and Storage, and 4226--Special
Warehousing and Storage, Not Elsewhere Classified; Major Group
Number 45 (Transportation by Air), only Industry Number 4511--Air
Transportation, certified carriers, and Group Number 458--Air
Transportation Services; Major Group Number 46 (Pipelines, Except
Natural Gas); Major Group Number 47 (Transportation Services),
only Group Numbers 471--Freight Forwarding, 474--Rental of
Railroad Cars, and 478--Miscellaneous Services Incidental to
Transportation; Major Group Number 48 (Communication), only
Group Numbers 481--Telephone Communication, and 482--Telegraph
Communication; Major Group Number 49 (Electric, Gas and Sanitary
Services); Major Group Number 50 (Wholesale Trade--Durable
Goods), only Industry Numbers 5085--Industrial Supplies,
5087--Service Establishment Equipment and Supplies, and
5093--Scrap and Waste Materials; Major Group Number 51
(Wholesale trade, nondurable goods), only Group Numbers
512--Drugs, Drug Proprietaries and Druggist's Sundries,
516--Chemicals and Allied Products, 517--Petroleum and petroleum
products, 518--Beer, Wine and Distilled Alcoholic Beverages, and
519--Miscellaneous Nondurable Goods; Major Group Number 55
(Automobile Dealers and Gasoline Service Stations), only Group
Numbers 551--Motor Vehicle Dealers (New and Used), 552--Motor
Vehicle Dealers (Used only), and 554--Gasoline Service Stations;
Major Group Number 72 (Personal Services), only Industry Numbers
7216--Dry Cleaning Plants, Except Rug Cleaning, 7217--Carpet and
Upholstery Cleaning, and 7218--Industrial Launderers; Major Group
Number 73 (Business Services), only Industry Number 7397
Commercial testing laboratories; Major Group Number 75 (automotive
repair, services, and garages), only Group Number 753--Automotive
Repair Shops; Major Group Number 76 (miscellaneous repair
services), only Industry Number 7692--Welding Repair; Major Group
Number 80 (health services), only Group Number 806--Hospitals; and
Major Group Number 82 (educational services), only Group Numbers 821--Elementary and Secondary Schools and 822--Colleges and Universities, and Industry Number 8249--Vocational Schools. Except for the purposes of section 26 of this act, "employer" means the State and local governments, or any agency, authority, department, bureau, or instrumentality thereof, or any non-profit, non-public school, college or university.

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

j. "Environmental hazardous substance list" means the list of environmental hazardous substances developed by the Department of Environmental Protection pursuant to section 4 of this act.

k. "Environmental survey" means a written form prepared by the Department of Environmental Protection and transmitted to an employer, on which the employer shall provide certain information concerning each of the environmental hazardous substances at his facility, including, but not limited to, the following:

1. The chemical name and Chemical Abstracts Service number of the environmental hazardous substance;
2. A description of the use of the environmental hazardous substance at the facility;
3. The quantity of the environmental hazardous substance produced at the facility;
4. The quantity of the environmental hazardous substance brought into the facility;
5. The quantity of the environmental hazardous substance consumed at the facility;
6. The quantity of the environmental hazardous substance shipped out of the facility as or in products;
7. The maximum inventory of the environmental hazardous substance stored at the facility, the method of storage, and the frequency and methods of transfer;
8. The total stack or point-source emissions of the environmental hazardous substance;
9. The total estimated fugitive or nonpoint-source emissions of the environmental hazardous substance;
10. The total discharge of the environmental hazardous substance into the surface or groundwater, the treatment methods, and the raw wastewater volume and loadings;
11. The total discharge of the environmental hazardous substance into publicly owned treatment works;
12. The quantity, and methods of disposal, of any wastes containing an environmental hazardous substance, the method of on-site storage of these wastes, the location or locations of the final disposal site for these wastes, and the identity of the hauler of the wastes;
(13) The total quantity of environmental hazardous substances generated at the facility, including hazardous substances generated as nonproduct output;

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

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

As used in this subsection, "pollution prevention" and "nonproduct output" shall have the same meaning as set forth in section 3 of P.L.1991, c.235 (C.13:1D-37).

1. "Facility" means the building, equipment and contiguous area at a single location used for the conduct of business. Except for the purposes of subsection c. of section 13, section 14, [and] subsection b. of section 25 of this act, and section 3 of P.L.1995, c. (now before the Legislature as this bill), "facility" shall not include a research and development laboratory.

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

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

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

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

(4) Any hazardous substance present in the same form and concentration as a product packaged for distribution and use by the general public to which an employee's exposure during handling is not significantly greater than a consumer's exposure during the principal use of the toxic substance.

n. "Hazardous substance fact sheet" means a written document prepared by the Department of Health for each hazardous substance and transmitted by the department to employers pursuant to the provisions of this act, which shall include, but not be limited to, the following information:

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

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

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

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

(5) A description, in nontechnical language, of the acute and chronic health effects of exposure to the hazardous substance, including the medical conditions that might be aggravated by exposure, and any permissible exposure limits established by the federal Occupational Safety and Health Administration;

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

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

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

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

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

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

r. "Research and development laboratory" means a specially designated area used primarily for research, development, and testing activity, and not primarily involved in the production of goods for commercial sale, in which hazardous substances or environmental hazardous substances are used by or under the direct supervision of a technically qualified person.

s. "Special health hazard substance" means any hazardous substance on the special health hazard substance list.

t. "Special health hazard substance list" means the list of special health hazard substances developed by the Department of Health pursuant to section 5 of this act for which an employer may not make
a trade secret claim.

u. "Trade secret" means any formula, plan, pattern, process, production data, information, or compilation of information, which is not patented, which is known only to an employer and certain other individuals, and which is used in the fabrication and production of an article of trade or service, and which gives the employer possessing it a competitive advantage over businesses who do not possess it, or the secrecy of which is certified by an appropriate official of the federal government as necessary for national defense purposes. The chemical name and Chemical Abstracts Service number of a substance shall be considered a trade secret only if the employer can establish that the substance is unknown to competitors. In determining whether a trade secret is valid pursuant to section 15 of this act, the Department of Health, or the Department of Environmental Protection, as the case may be, shall consider material provided by the employer concerning

(1) the extent to which the information for which the trade secret claim is made is known outside the employer's business; (2) the extent to which the information is known by employees and others involved in the employer's business; (3) the extent of measures taken by the employer to guard the secrecy of the information; (4) the value of the information, to the employer or the employer's competitor; (5) the amount of effort or money expended by the employer in developing the information; and (6) the ease or difficulty with which the information could be disclosed by analytical techniques, laboratory procedures, or other means.

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

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

x. "Workplace hazardous substance list" means the list of hazardous substances developed by the Department of Health pursuant to section 5 of this act.

y. "Workplace survey" means a written document, prepared by the Department of Health and completed by an employer pursuant to this act, on which the employer shall report each hazardous substance present at his facility.

(cf: P.L.1991, c.235, s.17)

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

4. a. The Department of Environmental Protection shall develop an environmental hazardous substance list which shall include the list
of substances developed and used by the department for the purposes
of the Industrial Survey Project, established pursuant to P.L.1970,
c.33 (C.13:1D-1 et seq.), any substance on the United States
Department of Transportation Hazardous Materials List established
pursuant to 49 C.F.R 172.101-102, and any substance on the list
established by the United States Environmental Protection Agency for
reporting pursuant to 42 U.S.C. §11023 and may include other
substances which the department, based on documented scientific
evidence, determines pose a threat to the public health and safety.

b. The department shall develop an environmental survey, which
shall be designed to enable employers to report information about
environmental hazardous substances at their facilities.

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

d. Three months prior to the effective date of this act the
department shall adopt, pursuant to the "Administrative Procedure
Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the environmental
hazardous substance list.

e. An employer shall report on the environmental survey any
quantity of an environmental hazardous substance present at each
facility during the reporting period.

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

3. Section 7 of P.L.1983, c.383 (C.52:27D-198) is amended to
read as follows:

7. a. The commissioner shall promulgate, in accordance with the
and after consulting with the fire safety commission, regulations
to insure the maintenance and operation of buildings and equipment in
such a manner as will provide a reasonable degree of safety from fire
and explosion.

Regulations promulgated pursuant to this section shall include a
uniform fire safety code primarily based on the standards established
by the Life Safety Code (National Fire Protection Association 101)
and any other fire codes of the National Fire Protection Association
and the Building Officials and Code Administrators International
(BOCA) Basic Fire Prevention Code, both of which may be adopted
by reference. The regulations may include modifications and
amendments the commissioner finds necessary.

b. The code promulgated pursuant to this section shall include the
requirements for fire detection and suppression systems, elevator
systems, emergency egresses and protective equipment reasonably
necessary to the fire safety of the occupants or intended occupants of
new or existing buildings subject to this act, including but not limited
to electrical fire hazards, maintenance of fire protection systems and
equipment, fire evacuation plans and fire drills, [and] all components
of building egress, and the requirements of section 4 of P.L.____, c.__
(now before the Legislature as this bill). In addition, the
regulations issued and promulgated pursuant to this section which are
applicable to new or existing buildings shall include, but not be limited
to fire suppression systems, built-in fire fighting equipment, fire
resistance ratings, smoke control systems, fire detection systems, and
fire alarm systems including fire service connections.

c. When promulgating regulations, the commissioner shall take into
account the varying degrees of fire safety provided by the different
types of construction of existing buildings and the varying degrees of
hazard associated with the different types and intensity of uses in
existing buildings. When preparing regulations which require the
installation of fire safety equipment and devices, the commissioner
shall consult with the fire safety commission and shall take into
account, to the greatest extent prudent, the economic consequences of
the regulations and shall define different use groups and levels of
hazard within more general use groups, making corresponding
distinctions in fire safety requirements for these different uses and
levels of hazard. The commissioner shall also take into account the
desirability of maintaining the integrity of historical structures to the
extent that it is possible to do so without endangering human life and
safety. The regulations established pursuant to this subsection shall
apply to secured vacant buildings only to the extent necessary to
eliminate hazards affecting adjoining properties.

d. Except as otherwise provided in this act, including rules and
regulations promulgated hereunder, all installations of equipment and
other alterations to existing buildings shall be made in accordance with
the technical standards and administrative procedures established by
the commissioner pursuant to the "State Uniform Construction Code
Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and shall be subject to
plan review and inspection by the local construction and subcode
officials having jurisdiction over the building, who shall enforce the
regulations established pursuant to this act applicable to the
installation or other alteration along with the regulations established
pursuant to the "State Uniform Construction Code Act."

e. The commissioner shall, by regulation, establish standards,
procedures and fees for the certification of persons engaged in the
business of installing fire suppression systems, for the warranting of
those systems, and for the establishment, funding and operation of a
warranty security program. A fire suppression system installed in a
building subject to this act shall be warranted in accordance with those
standards and procedures, shall be required to be covered by the
warranty security program, and shall be installed by a person certified
in accordance with those standards and procedures.
(cf: P.L.1983, c.383, s.7)

4. (New section) a. Except as otherwise provided in this section,
every employer shall post in plain view, either outside the main points
of entry or immediately inside the point of entry of any facility and any
area within a facility in which environmental hazardous substances are
used or stored, a United States Department of Transportation
Hazardous Materials Warning Placard which corresponds to the
hazard presented by the environmental hazardous substances located
within the facility, and which further displays, to the extent possible,
the United Nations or North American Identification Numbers
established pursuant to 49 C.F.R. 172.101 and 172.102.
b. Notwithstanding the requirements of subsection a. of this
section, every employer engaged in business operations which has a
Standard Industrial Classification, as designated in the Standard
Industrial Classification Manual prepared by the federal Office of
Management and Budget, within the Major Group Number 42 (Motor
Freight Transportation and Warehousing), and within Industry
Numbers 4221--Farm Product Warehousing and Storage,
4225--General Warehousing and Storage, and 4226--Special
Warehousing and Storage, Not Elsewhere Classified, shall:
(1) Post in plain view, either outside the main points of entry or
immediately inside the point of entry of any facility and any area within
a facility in which environmental hazardous substances are stored, a
United States Department of Transportation Hazardous Materials
Warning Placard which corresponds to the hazard presented by any
environmental hazardous substance that will be stored within the
facility or area for at least 72 hours, and which further displays, to the
extent possible, the United Nations or North American Identification
Numbers established pursuant to 49 C.F.R. 172.101 and 172.102;
(2) If the environmental hazardous substance will be stored for less
than 72 hours, (a) post in plain view, at or near the main points of
entry of any facility and any area within the facility in which the
environmental hazardous substances are stored, a United States
Department of Transportation Hazardous Materials Warning Placard
which contains the word "Dangerous" in large print; (b) immediately
report to the municipality in which the facility is located the quantity
and type of environmental hazardous substance being stored; and (c)
designate one employee as an official contact person, who shall be
available at all times and shall be able to provide up-to-date
information on the types and quantities of environmental hazardous
substances in the facility in the event of an emergency.
c. Notwithstanding the requirements of subsection a. of this
section, every secondary and elementary school, vocational school,
university, college and county college shall post in plain view, at or
near the main points of entry of any area within a facility in which
environmental hazardous substances are stored, a United States
Department of Transportation Hazardous Materials Warning Placard
which corresponds to the hazard class of materials located within the
facility, and which further displays, to the extent possible, the United
Nations (UN) or North American (NA) Identification Numbers
established pursuant to 49 C.F.R. 172.101 and 172.102.

5. This act shall take effect immediately.

STATEMENT

This bill would amend the "Worker and Community Right to Know
Act," P.L. 1983, c.315 (C.34:5A-1 et seq.), to add owners or operators
of warehouses to the list of owners or operators of facilities required
to report the use or storage of environmental hazardous substances
under the act. The bill would add the United States Department of
Transportation Hazardous Materials List established pursuant to 49
C.F.R 172.101-102, to the list of environmental hazardous substances
required to be reported pursuant to the act. The bill would also
require employers covered under the act to report any quantity of an
environmental hazardous substance used or stored in the prior year in
the annual Community Right to Know Survey. Currently, Department
of Environmental Protection (DEP) regulations only require reporting
if there is at least 500 pounds of an environmental hazardous substance
present in the aggregate at the facility, unless federal law, rule or
regulation provides for a lower threshold.

The bill would also require that all employers covered under the act
post placards, at or near the point of entry of a facility and any area
within a facility, indicating the type of hazardous chemical used or
stored within that facility or area. The placards would be in
conformance with the United States Department of Transportation
Hazardous Materials Warning Placard system, in conjunction with the
United Nations or North American Hazardous Materials Identification
System, which designates a four-digit number for certain hazardous
substances.

Owners or operators of warehouses, which typically move goods in
and out over short periods of time, would be required to post such
placards indicating the hazard associated with a particular
environmental hazardous substance which is located within the facility
and any area within the facility and which will be stored in the facility
or area for at least 72 hours. Owners of warehouses in which
environmental hazardous substances will be stored for less than 72
hours would be required to post a placard with the word "Dangerous"
printed on it. In addition, owners of warehouses with less than 72 hour turnover of EHSs would be required to report immediately the quantity and type of such substances to the municipality in which they are located, as well as designate an official contact person who would be available to provide up-to-date information on EHSs within the facility on an around-the-clock basis.

Elementary and secondary schools, vocational schools, colleges, county colleges and universities would be required to post placards at the area within a facility used for storage of environmental hazardous substances.

The bill also amends the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.), to require that the uniform fire safety code include the placarding requirements of the bill. The code already includes similar safety elements such as the maintenance of fire protection systems and equipment, fire evacuation plans and fire suppression systems.

Requires warehouses to report under Worker and Community Right to Know Act; establishes placarding requirement.