

52:27D-222 to 52:27D-228

1/15/87

LEGISLATIVE HISTORY CHECKLIST

NJSA: 52:27D-222 to 52:27D-228

(Hazardous and volatile materials--report use to county fire marshalls and local fire departments)

LAWS OF: 1986

CHAPTER 142

BILL NO: A666

Sponsor(s): Rooney

Date Introduced: Pre-filed

Committee: Assembly: Law, Public Safety and Defense; Regulatory, Efficiency and Oversight.

Senate: Law, Public Safety and Defense

Amended during passage: Yes

Amendments during passage denoted by asterisks.

Date of Passage:

Assembly:

May 5, 1986

Senate:

September 18, 1986

Date of Approval:

November 6, 1986

Following statements are attached if available:

Sponsor statement:

Yes

Committee statement:

Assembly

Yes

1-23-86 and 3-6-86

Senate

Yes

Fiscal Note:

No

Veto Message:

No

Message on Signing:

Yes

Following were printed:

Reports:

No

Hearings:

No

See newspaper clipping--attached:

"Governor signs transfer..." 11-8-86 Star Ledger

11-6-86

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ASSEMBLY, No. 666

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman ROONEY

AN ACT ******[requiring certain users of substances which become unusually hazardous in the event of a fire to report certain facts regarding those substances to county fire marshals **or appropriate county officials** and]****** ***establishing a procedure for the preparation of an emergency response plan by*** local fire departments and supplementing Title 52 of the Revised Statutes.

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

1 1. As used in this act:
2 a. "Business entity" means any person or corporation in the
3 State engaged in business operations ******[having]****** ***which has***
4 a Standard Industrial Classification, as designated in the Stan-
5 dard Industrial Classification Manual prepared by the federal
6 Office of Management and Budget, within ******[Major Group num-
7 bers 20 through 39 inclusive (manufacturing industries), numbers
8 46 through 49 inclusive (pipelines, transportation services, com-
9 munications, and electric, gas and sanitary services), number 51
10 (wholesale trade, nondurable goods), number 75 (automotive re-
11 pair, services, and garages), number 76 (miscellaneous repair
12 services), number 80 (health services), number 82 (educational
13 services), and number 84 museums, art galleries, botanical and
14 zoological gardens]****** ***the following Major Group Numbers,*
15 *Group Numbers, or Industry Numbers, as the case may be: Major*
16 *Group Number 07 (Agricultural Services), only Industry Number*
17 *0782-Lawn and garden services; Major Group Numbers 20 through*
18 *39 inclusive (manufacturing industries); Major Group Number*
19 *45 (Transportation by Air), only Industry Number 4511-Air*

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted January 27, 1986.

**—Assembly committee amendments adopted March 6, 1986.

20 Transportation, certified carriers, and Group Number 458-Air
 21 Transportation Services; Major Group Number 46 (Pipelines,
 22 Except Natural Gas); Major Group Number 47 (Transportation
 23 Services), only Group Numbers 471-Freight Forwarding, 474-
 24 Rental of Railroad Cars, and 478-Miscellaneous Services Inci-
 25 dental to Transportation; Major Group Number 48 (Communica-
 26 tion), only Group Numbers 481-Telephone Communication, and
 27 482-Telegraph Communication; Major Group Number 49 (Elec-
 28 tric, Gas and Sanitary Services); Major Group Number 50
 29 (Wholesale Trade-Durable Goods), only Industry Numbers 5085-
 30 Industrial Supplies, 5087-Service Establishment Equipment and
 31 Supplies, and 5093-Scrap and Waste Materials; Major Group
 32 Number 51 (Wholesale trade, nondurable goods), only Group
 33 Numbers 512-Drugs, Drug Proprietaries and Druggist's Sundries,
 34 516-Chemicals and Allied Products, 517-Petroleum and petroleum
 35 products, 518-Beer, Wine and Distilled Alcoholic Beverages, and
 36 519-Miscellaneous Nondurable Goods; Major Group Number 55
 37 (Automobile Dealers and Gasoline Service Stations), only Group
 38 Numbers 551-Motor Vehicle Dealers (New and Used), 552-Motor
 39 Vehicle Dealers (Used only), and 554-Gasoline Service Stations;
 40 Major Group Number 72 (Personal Services), only Industry Num-
 41 bers 7216-Dry Cleaning Plants, Except Rug Cleaning, 7217-Carpet
 42 and Upholstery Cleaning, and 7218-Industrial Launderers; Major
 43 Group Number 73 (Business Services), only Industry Number
 44 7397 Commercial testing laboratories; Major Group Number 75
 45 (automotive repair, services, and garages), only Group Number
 46 753-Automotive Repair Shops; Major Group Number 76 (mis-
 47 cellaneous repair services), only Industry Number 7692-Welding
 48 Repair; Major Group Number 80 (health services), only Group
 49 Number 806-Hospitals; and Major Group Number 82 (educa-
 50 tional services), only Group Numbers 821-Elementary and Sec-
 51 ondary Schools and 822-Colleges and Universities, and Industry
 52 Number 8249-Vocational Schools**. "Business entity" also means
 53 the State and local governments, or any agency, authority, de-
 54 partment, bureau, or instrumentality thereof.

55 b. "Emergency response plan" means a written document, de-
 56 veloped by a county fire marshal **or appropriate county official**
 57 and a municipal fire department or fire district in cooperation with
 58 a business entity and updated as necessary, which establishes pro-
 59 cedures for dealing with fires at facilities that store, manufac-
 60 ture, distribute or warehouse ****[large quantities of]**** substances
 61 identified by the Department of Environmental Protection as un-
 62 usually hazardous. The purpose of the plan and its process of

63 development is to ensure that emergency response personnel have
 64 adequate knowledge of the location and identity of unusually haz-
 65 ardous substances and pre-established procedures for handling
 66 an emergency.

67 e. "Facility" means the building, equipment and contiguous
 68 area at a single location used for the conduct of business.

69 d. "Unusually hazardous" means likely to explode due to a
 70 highly volatile nature, a propensity to produce toxic fumes, or
 71 a tendency to react with water or common firefighting chemicals
 72 and any other property which the Department of Environmental
 73 Protection determines will make a substance an uncommon danger
 74 to firefighters and the surrounding community in the event of its
 75 exposure to a fire.

1 2. a. The Department of Environmental Protection, in con-
 1A sultation with the Department of Community Affairs, shall develop
 2 a list of substances ***and their quantities (1)*** which are not
 3 ***normally*** hazardous to the health and safety of a person in
 4 their common chemical state ***but*** which become unusually haz-
 5 ardous to firefighters and the surrounding community in the event
 6 of the exposure of the substance to a fire ***and (2) which are not*
 7 *already covered by the Emergency Services Information Survey*
 8 *which is developed and distributed pursuant to the "Worker and*
 9 *Community Right to Know Act" (P. L. 1983, c. 315; C. 34:5A-1*
 10 *et seq.)***. ****[The list developed by the department under this**
 11 **section shall not contain a substance included on the workplace**
 12 **hazardous substance list under section 5 of P. L. 1983, c. 315 (C.**
 13 **34:5A-5).]****

14 b. The department shall develop a fact sheet for each substance
 15 contained on the list. The fact sheet shall describe (1) the un-
 16 usually hazardous nature of a substance to firefighters or the
 17 surrounding community, or both, in the event of the exposure
 18 of the substance to a fire, and (2) the steps necessary to neutralize
 19 the hazard.

20 c. ****[The department shall develop a survey form designed to**
 21 **enable business entities to report the existence and location at**
 22 **their facility of a substance contained on the list. The survey form**
 23 **shall provide the common name of a substance]**** ***The depart-*
 24 *ment shall include the list of unusually hazardous substances,*
 25 *using their common names, on the Emergency Services Informa-*
 26 *tion Survey***. The purpose of ****[this]**** ***including this list on*
 27 *the*** survey is to require business entities to report the manu-
 28 facture, distribution, storage or warehousing of ****[large quan-**

29 tities of **]** objects comprised of substances identified by the de-
 30 partment as unusually hazardous to firefighters or the surrounding
 31 community in the event of the exposure of the substance to fire.
 32 It is not the intent of this act to require the reporting of materials
 33 that are commonly used in the normal conduct of business in-
 34 cluding, but not limited to, desks, paneling, flooring, piping and
 35 rugs.

36 d. The department shall adopt the list **[,]** *and* fact sheet
 37 **[and survey form]** developed under this section no later than
 38 three months prior to the effective date of this act.

1 **[3. a.** No later than five days after the effective date of this
 2 act, the Department of Environmental Protection shall transmit a
 3 copy of the survey form developed under section 2 of this act to
 4 each business entity in this State.

5 b. Within 90 days of the receipt of a survey form, a business
 6 entity shall complete the form and transmit a copy of the com-
 7 pleted form to the county fire marshal *or appropriate county of-*
 8 *ficial* in the county where the business entity's facility is located
 9 and the municipal fire department or the fire district which serves
 10 the area where the facility is located. The county fire marshal *or*
 11 *appropriate county official* and municipal fire department or fire
 12 district shall maintain a record of completed survey forms. No
 13 county fire marshal *or appropriate county official,* municipal fire
 14 department or fire district receiving survey forms shall make the
 15 forms available to the public.]

16 **[c.]** *3.* A municipal fire department or fire district in
 17 coordination with the county fire marshal *or appropriate county*
 18 *official* shall *have the exclusive authority to* determine, after
 19 a review of **[a survey]** *an Emergency Services Information*
 20 *Survey* form, if an emergency response plan is to be required
 21 for a business entity. In order to develop an emergency response
 22 plan, a municipal fire department or fire district and the county
 23 fire marshal *or appropriate county official* may require a business
 24 entity to participate in a pre-planning conference. An emergency
 25 response plan may include:

26 **[(1)]** *a.* An **[off-site]** *on-site* review of operating
 27 facilities.

28 **[(2)]** *b.* A description of the work area in which the
 29 unusually hazardous substance is normally stored.

30 **[(3)]** *c.* Facility plant plans or building layout.

31 **[(4)]** *d.* The internal and external access routes.

32 **[(5)]** *e.* The location and inventory of emergency re-
 33 sponse equipment and resources.

34 **[(6)]** *f.* The location of unusually hazardous substances.

35 **[(7)]** *g.* The name and phone number of the emergency
36 response coordinator.

37 **[(8)]** *h.* The establishment of a site emergency response
38 command post.

39 **[(9)]** *i.* Any special equipment needed to respond to an
40 emergency.

41 **[(10)]** *j.* An evacuation plan.

42 **[(11)]** *k.* An examination of existing knowledge and
43 techniques used to respond to emergencies dealing with all un-
44 usually hazardous substances located at the facility.

45 **[(12)]** *l.* A review of all survey information.

46 **[(13)]** *m.* Any additional hazards present on site.

47 An emergency response plan shall be updated periodically or
48 when necessary to reflect any significant changes which have
49 occurred. Information discussed at a preplanning conference or
50 contained in an emergency response plan shall not be disclosed by
51 fire company personnel without the express written approval of the
52 business entity.

1 4. A person who violates a provision of this act shall be subject
2 to a penalty of not more than \$5,000.00 for each offense. The fine
3 shall be collected in a summary proceeding under "the penalty en-
4 forcement law" (N. J. S. 2A:58-1 et seq.) instituted by the enforce-
5 ment agency responsible for the enforcement of the "Uniform Fire
6 Safety Act," P. L. 1983, c. 383 (C. 52:27D-192 et seq.), in the county,
7 municipality or fire district in which the facility of the business
8 entity is located.

1 5. Based on the information obtained in section 3 of this act, a
2 member of a fire company shall wear a self-contained positive
3 pressure breathing apparatus when responding to or abating a
4 fire or an explosion.

1 6. No later than 30 days after the effective date of this act, the
2 Department of Community Affairs shall transmit, after a public
3 hearing pursuant to the "Administrative Procedure Act," P. L.
4 1968, c. 410 (C. 52:141-1 et seq.) a copy of the fact sheet developed
5 under section 2 of this act to each county fire marshal *or appro-*
6 *priate county official,** municipal fire department and fire district
7 in this State. The county fire marshals *or appropriate county*
8 *officials,** municipal fire departments and fire districts shall main-
9 tain a record of the fact sheet.

1 7. The Department of Environmental Protection, in consultation
2 with the Department of Community Affairs, shall revise the list and
3 fact sheet developed under section 2 of this act in accordance with

4 further scientific information concerning substances which are in-
5 cluded or should be included thereon.

1 8. This act shall take effect one year after enactment but the
2 Department of Environmental Protection shall take any action
3 prior to the effective date of this act to implement the provisions
4 of this act.

FIREMEN AND FIRE SAFETY

Provides mechanism for informing firefighters of hazardous sub-
stances at business facilities.

5 ing substances which are included or should be included thereon.
1 ***[6.]*** *8.* This act shall take effect one year after enactment
2 but the Department of Environmental Protection shall take any
3 action prior to the effective date of this act to implement the
4 provisions of this act.

STATEMENT

This bill establishes a procedure whereby business entities are to report to firefighters the presence and location at a business facility of substances which are not intrinsically harmful but which become dangerous in the event of fire. The intent of the bill is to adequately prepare firefighters when confronting a fire.

In this bill, "business entity" is defined in terms of Standard Industrial Classification Manual prepared by the federal Office of Management and Budget. "Unusually hazardous" is defined as likely to explode or to cause toxic fumes or to react with water or firefighting chemicals in a way that make the substance an uncommon danger to firefighters.

The bill requires the Department of Environmental Protection, in consultation with the Department of Community Affairs, to develop a list of substances which become unusually hazardous in the event of fire and to develop a fact sheet on each substance showing the unusually hazardous nature of the substance and the steps necessary to neutralize the hazard. The fact sheet is to be sent to each county fire marshal and municipal fire department or fire district which serves the area.

The bill requires the development of an emergency response plan by a county fire marshal and a municipal fire entity. The emergency response plan is to establish procedures for handling emergencies at business facilities that store, manufacture, distribute and warehouse large quantities of substances identified by the Department of Environmental Protection as unusually hazardous. The bill sets forth information which may be included in the plan.

ASSEMBLY LAW, PUBLIC SAFETY, DEFENSE AND
CORRECTIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 666

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 23, 1986

The Assembly Law, Public Safety, Defense and Corrections Committee reports favorably Assembly Bill No. 666 with amendments.

As amended by the Assembly Law, Public Safety, Defense and Corrections Committee, Assembly Bill No. 666 establishes a procedure according to which business entities would report to firefighters the presence and local at a business facility of substances which are not intrinsically harmful but which become a danger in the event of fire. The intent of the bill is to adequately prepare firefighters when confronting a fire.

In this bill, "business entity" is defined in terms of the Standard Industrial Classification Manual prepared by the federal Office of Management and Budget. "Unusually hazardous" is defined as likely to explode, to cause toxic fumes, or to react with water or firefighting chemicals in a way that would make the substance an uncommon danger to firefighters.

The bill requires the Department of Environmental Protection (DEP), in consultation with the Department of Community Affairs (DCA), to develop a list of substances which become unusually hazardous in the event of fire and to develop a fact sheet on each substance showing the unusually hazardous nature of the substance and the steps necessary to neutralize the hazard. The list will not contain substances included on the workplace hazardous substance list in the Worker and Community Right to Know Act (P. L. 1983, c. 315). The fact sheet is to be sent to each county fire marshal or appropriate county official and municipal fire department or fire district.

DEP is also to develop a survey form designed to enable business entities to report the existence and location of their facilities of a substance on DEP's hazardous substances list. Businesses would be required to report on the survey only substances identified by DEP as unusually hazardous to firefighters or the surrounding community in the event of fire. Materials that are commonly used in the normal conduct of business, such as desks, paneling, flooring, piping or rugs, are not required to be reported.

DEP is to transmit a survey form to each business entity in the State within the specified time periods. The business entity is to complete the form and send a copy to the county fire marshal or appropriate county official and the municipal fire department or fire district where the business facility is located. The survey forms are not to be made available to the public by firefighting or other emergency personnel.

Based on the information obtained in the survey forms, a member of a fire company is to wear a self-contained positive pressure breathing apparatus when responding to a fire.

Upon the receipt of a survey form, a municipal fire department, in coordination with the county fire marshal or appropriate county official, is required to develop an emergency response plan. The emergency response plan is to establish procedures for handling emergencies at business facilities that store, manufacture, distribute and warehouse large quantities of substances identified by DEP as unusually hazardous. The bill sets forth information which may be included in the plan. The information elicited for the development of the plan and contained in the plan cannot be publicly disclosed by emergency personnel without the express written approval of the business entity.

A person who violates any provision of the bill would be subject to a penalty of not more than \$5,000.00 for each offense.

The committee amended the bill to insert the words "or appropriate county official" after each reference in the bill to a county fire marshal because some counties do not have fire marshals.

This bill was pre-filed for introduction in the 1986 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

ASSEMBLY REGULATORY EFFICIENCY AND
OVERSIGHT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 666

[OFFICIAL COPY REPRINT]

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 6, 1986

The Assembly Regulatory Efficiency and Oversight Committee reports favorably and with committee amendments Assembly Bill No. 666 (OCR).

As amended by the Assembly Regulatory Efficiency and Oversight Committee, Assembly Bill No. 666 (OCR) establishes a procedure for the preparation of an emergency response plan by local fire departments. In the bill, "emergency response plan" is defined as a written document, developed by a local fire department and a county fire marshal or appropriate county official in cooperation with a business entity, which establishes procedures for dealing with fires at facilities that store, manufacture, distribute or warehouse substances identified by the Department of Environmental Protection as unusually hazardous and an uncommon danger to firefighters and the surrounding community in the event of a fire.

The bill requires the Department of Environmental Protection (DEP), in consultation with the Department of Community Affairs (DCA), to develop a list of these substances and their quantities which are not normally hazardous but become unusually hazardous to firefighters and the surrounding community in the event of fire, and which are not already covered by the Emergency Services Information Survey, which is now developed, distributed to employers, and returned to local fire departments pursuant to the "Worker and Community Right to Know Act" (P. L. 1983, c. 315; C. 34:5A-1 et seq.). DEP is also required to develop a fact sheet for each substance describing the hazardous nature of the substance and the steps necessary to neutralize the hazard.

In the bill as referred to the committee, DEP was directed to develop a survey form which would require business entities to report the presence of substances on the list. The committee amended the bill to direct DEP to include the substances on the Emergency Services In-

formation Survey. "Business entity" was amended to make the definition completely consistent with the current definition of "employer" in that act.

The committee added language to make clear that a local fire department, in coordination with the county fire marshal or appropriate county official, shall have the exclusive authority to determine, after a review of an Emergency Services Information Survey, if an emergency response plan is to be required for a business entity.

In order to develop an emergency response plan, a business entity may be required to participate in a preplanning conference. The bill sets forth information which may be included in the plan, and prohibits the disclosure by fire company personnel of any information discussed at a preplanning conference or contained in a plan without the express written approval of the business entity.

Based on the information obtained in the survey forms, a member of a fire company is to wear a self-contained positive pressure breathing apparatus when responding to a fire.

A person who violates any provision of the bill would be subject to a penalty of not more than \$5,000.00 for each offense.

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 666

[SECOND OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: MAY 19, 1986

The Senate Law, Public Safety and Defense Committee favorably reports Assembly Bill No. 666 2nd OCR.

This bill establishes a procedure by which fire fighters will be notified of the presence at business facilities of substances that become unusually hazardous to fire fighters and the surrounding community in the event of fire.

The bill requires the Department of Environmental Protection (DEP) in consultation with the Department of Community Affairs (DCA) to develop a list of these substances that are not already included on the Emergency Services Information Survey developed and distributed under the "Worker and Community Right to Know Act," P. L. 1983, c. 315 (C. 34:5A-1 et seq.), along with the quantities of these substances necessary to make them unusually hazardous. DEP also is required to develop a fact sheet for each substance on the list, describing its unusually hazardous nature and the steps necessary to neutralize the hazard. Then the list of unusually hazardous substances is to be included on the Emergency Services Information Survey developed under the "Worker and Community Right to Know Act" so that the act's provisions requiring employer reporting and fire department notification can be utilized.

After reviewing an Emergency Services Information Survey, a local fire department, in coordination with the county fire marshal or other appropriate county official, will have the exclusive authority to determine whether an emergency response plan will be required of a business. The business may be required to participate in a preplanning conference to develop an emergency response plan. The amended bill sets forth information that may be included in the plan and prohibits disclosure by fire department personnel of any information discussed at a conference or contained in a plan without the business's written approval.

A penalty of not more than \$5,000.00 for each offense will be imposed upon a person who violates any of the bill's provisions.

S-298, sponsored by Assemblyman Wayne Dumont, R-Warren and Assemblyman Chuck Haytaian, R-Warren, increases the minimum annual salary necessary for membership in the Public Employees Retirement System from from \$500 to \$1,500.

The legislation is effective immediately.

A-666, sponsored by Assemblyman John Rooney, R-Bergen, requires certain businesses which have at their facilities substances identified by the Department of Environmental Protection as unusually hazardous in the event of a fire to report information concerning those substances to local fire departments.

The legislation gives local officials the exclusive authority to require a business to cooperate in the establishment of an emergency response plan for the facility.

This legislation is effective one year after enactment.

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