

LEGISLATIVE HISTORY CHECKLIST

NJSA: 34:5A-3 "Worker and Community
Right to Know Act"--
various amendments

LAWS OF: 1985 **CHAPTER** 543

BILL NO: S3435

Sponsor(s): Dalton

Date Introduced: 1985

Committee: Assembly: -----
Senate: -----

Amended during passage: Yes Amendments during passage denoted by
asterisks.

Date of Passage: **Assembly:** January 13, 1986
Senate: December 12, 1985

Date of Approval: January 21, 1986

Following statements are attached if available:

Sponsor statement: Yes Attached: Senate
amendments, adopted
12-9-85 (with statement).

Committee statement: **Assembly** No
Senate No

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

1-21-86

[OFFICIAL COPY REPRINT]
SENATE, No. 3435

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 18, 1985

By Senator DALTON

(Without Reference)

AN ACT concerning employers covered under the "Worker and Community Right to Know Act," and amending P. L. 1983, c. 315.

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

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

3 3. As used in this act:

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

7 b. "Chemical name" **[is]** *means* the scientific designation of a
 8 chemical in accordance with the nomenclature system developed
 9 by the International Union of Pure and Applied Chemistry or the
 10 Chemical Abstracts Service rules of nomenclature.

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

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

20 e. "Council" means the Right to Know Advisory Council cre-
 21 ated pursuant to section 18 of this act.

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:

***—Senate amendments adopted December 9, 1985.**

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

26 g. "Employee representative" means a certified collective bar-
 27 gaining agent or an attorney whom an employee authorizes to
 28 exercise his rights to request information pursuant to the provi-
 29 sions of this act, or a parent or legal guardian of a minor employee.

30 h. "Employer" means any person or corporation in the State
 31 engaged in business operations [having] which has a Standard
 32 Industrial Classification, as designated in the Standard Industrial
 33 Classification Manual prepared by the federal Office of Manage-
 34 ment and Budget, within the following Major Group Numbers,
 35 Group Numbers, or Industry Numbers, as the case may be: Major
 36 Group Number 07 (Agricultural Services), only Industry * [Num-
 37 bers 0711-Soil preparation services, 0721-Crop planting and pro-
 38 tection, and] * *Number* 0782-Lawn and garden services; * [Major
 39 Group Number 08 (Forestry), only Group Number 0825-Forestry
 39A Services;] *

40 Major Group [numbers] Numbers 20 through 39 inclusive (manu-
 41 facturing industries) * [.] * *; * * [numbers 46 through 49 inclusive
 42 (pipelines, transportation services, communications, and electric,
 43 gas, and sanitary services).] * * [Major Group Number 42 (Motor
 44 Freight, Transportation and Warehousing), only Industry Num-
 45 bers 4225-General Warehousing and Storage, 4226-Special Ware-
 46 housing and Storage, not elsewhere classified and 4231-Trucking
 47 Terminal Facilities;] * Major Group Number 45 (Transportation
 48 by Air), only Industry Number 4511-Air Transportation, certified
 49 carriers, and Group Number 458-Air Transportation Services; Ma-
 50 jor Group Number 46 (Pipelines, Except Natural Gas); Major
 51 Group Number 47 (Transportation Services), only Group Numbers
 52 471-Freight Forwarding, 474-Rental of Railroad Cars, and 478-
 53 Miscellaneous Services Incidental to Transportation; Major Group
 54 Number 48 (Communication), only Group Numbers 481-Telephone
 55 Communication, *and* 482-Telegraph Communication* [and 489-
 56 Communication Services not elsewhere classified] *; Major Group
 57 Number 49 (Electric, Gas and Sanitary Services); Major Group
 58 Number 50 (Wholesale Trade-Durable Goods), only Industry Num-
 59 bers 5085-Industrial Supplies, 5087-Service Establishment Equip-
 60 ment and Supplies, and 5093-Scrap and Waste Materials; [num-
 61 ber] Major Group Number 51 (Wholesale trade, nondurable
 62 goods), only Group Numbers 512-Drugs, Drug Proprietaries and
 63 Druggist's Sundries, 516-Chemicals and Allied Products, 517-

64 *Petroleum and petroleum products, 518–Beer, Wine and Distilled*
 65 *Alcoholic Beverages, and 519–Miscellaneous Nondurable Goods;*
 66 *Major Group Number 55 (Automobile Dealers and Gasoline Service*
 67 *Stations), only Group Numbers 551–Motor Vehicle Dealers (New*
 68 *and Used), 552–Motor Vehicle Dealers (Used only), and 554–Gasoline*
 69 *Service Stations: ***[**Major Group Number 59 (Miscellaneous*
 70 *Retail), only Industry Numbers 5983–Fuel Oil Dealers, and 5984–*
 71 *Liquified Petroleum Gas (Bottled Gas) Dealers;**]*** Major*
 72 *Group Number 72 (Personal Services), only Industry Num-*
 73 *bers 7216–Dry Cleaning Plants, Except Rug Cleaning, 7217–*
 74 *Carpet and Upholstery Cleaning, and 7218–Industrial Launderers;*
 75 *Major Group Number 73 (Business Services), only Industry*
 76 ****[**Numbers 7342–Disinfecting and exterminating, and **]*** *Num-*
 76A *ber* 7397 Commercial testing laboratories; **[**number**]** Major*
 77 *Group Number 75 (automotive repair, services, and garages), only*
 78 *Group Number 753–Automotive Repair Shops; **[**number**]** Major*
 79 *Group Number 76 (miscellaneous repair services), only Industry*
 80 *Number 7692–Welding Repair; **[**number**]** Major Group Number*
 81 *80 (health services), only Group Number 806–Hospitals; **[**number**]***
 82 *and Major Group Number 82 (educational services), only Group*
 83 *Numbers 821–Elementary and Secondary Schools and 822–Colleges*
 84 *and Universities, and Industry Number 8249–Vocational Schools*
 85 ***[**and number 84 museums, art galleries, botanical and zoological*
 86 *gardens**]**. Except for the purposes of section 26 of this act, “em-*
 87 *ployer” means the State and local governments, or any agency,*
 88 *authority, department, bureau, or instrumentality thereof.*

89 i. “Environmental hazardous substance” means any substance
 90 on the environmental hazardous substance list.

91 j. “Environmental hazardous substance list” means the list of
 92 environmental hazardous substances developed by the Department
 93 of Environmental Protection pursuant to section 4 of this act.

94 k. “Environmental survey” means a written form prepared by
 95 the Department of Environmental Protection and transmitted to
 96 an employer, on which the employer shall provide certain informa-
 97 tion concerning each of the environmental hazardous substances
 98 at his facility, including, but not limited to, the following:

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

101 (2) A description of the use of the environmental hazardous
 102 substance at the facility;

103 (3) The quantity of the environmental hazardous substance
 104 produced at the facility;

105 (4) The quantity of the environmental hazardous substance
 106 brought into the facility;

107 (5) The quantity of the environmental hazardous substance
108 consumed at the facility;

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

111 (7) The maximum inventory of the environmental hazardous
112 substance stored at the facility, the method of storage, and the
113 frequency and methods of transfer;

114 (8) The total stack or point-source emissions of the environ-
115 mental hazardous substance;

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

118 (10) The total discharge of the environmental hazardous sub-
119 stance into the surface or groundwater, the treatment methods,
120 and the raw wastewater volume and loadings;

121 (11) The total discharge of the environmental hazardous sub-
122 stance into publicly owned treatment works;

123 (12) The quantity, and methods of disposal, of any wastes
124 containing an environmental hazardous substance, the method of
125 on-site storage of these wastes, the location or locations of the
126 final disposal site for these wastes, and the identity of the hauler
127 of the wastes.

128 1. "Facility" means the building, equipment and contiguous
129 area at a single location used for the conduct of business. Except
130 for the purposes of subsection c. of section 13, section 14, and sub-
131 section b. of section 25 of this act, "facility" shall not include a
132 research and development laboratory.

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

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

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

145 (3) Any hazardous substance which is a special health hazard
146 substance constituting less than the threshold percentage estab-
147 lished by the Department of Health for that special health hazard
148 substance when present in a mixture; or

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

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

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

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

165 (3) The hazardous substance's solubility in water, vapor pres-
166 sure at standard conditions of temperature and pressure, and
167 flash point;

168 (4) The hazard posed by the hazardous substance, including
169 its toxicity, carcinogenicity, mutagenicity, teratogenicity, flamma-
170 bility, explosiveness, corrosivity and reactivity, including specific
171 information on its reactivity with water;

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

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

179 (7) The proper precautions, practices, necessary personal pro-
180 tective equipment, recommended engineering controls, and any
181 other necessary and appropriate measures for the safe handling
182 of the hazardous substance, including specific information on how
183 to extinguish or control a fire that involves the hazardous sub-
184 stance; and

185 (8) The appropriate emergency and first aid procedures for
186 spills, fires, potential explosions, and accidental or unplanned emis-
187 sions involving the hazardous substance.

188 o. "Label" means a sign, emblem, sticker, or marker affixed to
189 or stenciled onto a container listing the information required pur-
190 suant to section 14 of this act.

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

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

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

207 s. "Special health hazard substance" means any hazardous sub-
208 stance on the special health hazard substance list.

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

213 u. "Trade secret" means any formula, plan, pattern, process,
214 production data, information, or compilation of information, which
215 is not patented, which is known only to an employer and certain
216 other individuals, and which is used in the fabrication and produc-
217 tion of an article of trade or service, and which gives the employer
218 possessing it a competitive advantage over businesses who do not
219 possess it, or the secrecy of which is certified by an appropriate
220 official of the federal government as necessary for national defense
221 purposes. The chemical name and Chemical Abstracts Service
222 number of a substance shall be considered a trade secret only if
223 the employer can establish that the substance is unknown to com-
224 petitors. In determining whether a trade secret is valid pursuant
225 to section 15 of this act, the Department of Health, or the Depart-
226 ment of Environmental Protection, as the case may be, shall con-
227 sider material provided by the employer concerning (1) the extent
228 to which the information for which the trade secret claim is made
229 is known outside the employer's business; (2) the extent to which
230 the information is known by employees and others involved in the
231 employer's business; (3) the extent of measures taken by the em-
232 ployer to guard the secrecy of the information; (4) the value of
233 the information, to the employer or the employer's competitor;

234 (5) the amount of effort or money expended by the employer in
235 developing the information; and (6) the ease or difficulty with which
236 the information could be disclosed by analytical techniques, labora-
237 tory procedures, or other means.

238 v. "Trade secret registry number" means a code number tempo-
239 rarily or permanently assigned to the identity of a substance in
240 a container by the Department of Health pursuant to section 15
241 of this act.

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

246 x. "Workplace hazardous substance list" means the list of haz-
247 ardous substances developed by the Department of Health pursuant
248 to section 5 of this act.

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

1 2. This act shall take effect immediately*, *except that in the*
2 *case of an employer required to comply with the provisions of*
3 *P. L. 1983, c. 315 (C. 34:5A-1 et al.) pursuant to section 1 of this*
4 *amendatory act, this act shall take effect 270 days following enact-*
5 *ment. The Department of Environmental Protection, Department*
6 *of Health, and Department of Labor shall take any action necessary*
7 *for the timely implementation of this act prior to its effective date*.*

234 (5) the amount of effort or money expended by the employer in
 235 developing the information; and (6) the ease or difficulty with which
 236 the information could be disclosed by analytical techniques, labora-
 237 tory procedures, or other means.

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 251 to this act, on which the employer shall report each hazardous
 252 substance present at his facility.

1 2. This act shall take effect immediately.

STATEMENT

This bill would amend the "Worker and Community Right to Know Act," Pub. L. 1983, c. 315 (C. 34:5A-1 et al.) to delete certain employers now covered under the act and to add certain other employers not now covered under the act. Both the deletions and the additions contained in this bill concern employers in the non-manufacturing sector, which is not covered by the federal Occupational Health and Safety Administration's Hazard Communication regulation and was not affected by the litigation concerning the preemption of the New Jersey law by the federal standard.

The additions and deletions are as follows:

Additions	Deletions
1. Pesticide Applicators	1. Travel agents
2. Lawn, Garden Soil and Forestry Services	2. Radio broadcasting
3. General and Special Warehousing and Storage Facilities	3. Television broadcasting
4. Air transportation carriers and terminal service facilities	4. All wholesale trade (non-durable goods) facilities except for drugs, chemicals, oil, and alcoholic beverages
	5. Car rental businesses
	6. Truck rental businesses

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Additions

5. Industrial supply wholesalers
6. Service Establishment Equipment and supplies
7. Scrap and waste material facilities
8. New and used car dealers
9. Gasoline service stations
10. Fuel oil dealers
11. Liquefied Petroleum Gas Dealers
12. Dry cleaning plants
13. Carpet and upholstery cleaning plants
14. Industrial launderers
15. Disinfecting and exterminating services
16. Commercial testing laboratories
17. Trucking Terminals

Deletions

7. Trailer rental businesses
 8. Parking lot businesses
 9. Car washing businesses
 10. Electrical repair shops
 11. Refrigeration repair shops
 12. Watch, clock and jewelry repair shops
 13. Reupholstery and furniture repair shops
 14. Physicians' offices
 15. Dentists' offices
 16. Osteopaths' and chiropractors' offices
 17. Optometrists' offices
 18. Nursing homes
 19. Medical and Dental laboratories
 20. Outpatient care and health service facilities
 21. Libraries
 22. Correspondence and data processing schools
 23. Educational service businesses
 24. Museums, art galleries, and botanical and zoological gardens
-

Senate Amendments

to

Senate Bill No. 3435

Amend:

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Sec.

Line

STATEMENT

These amendments would provide that soil preparation and crop protection services, forestry services, truck terminal and warehousing businesses, fuel oil dealers, bottled gas dealers, and disinfecting and exterminating services would not be added to those employers covered under the "Worker And Community Right To Know Act," P.L. 1983, c. 315 (C. 34:5A-1 et al.), would delete cable television businesses from those employers now covered under the act, and would provide that employers required to comply with the act pursuant to the provisions of this bill would have 9 months in which to comply.