

34:5A-1 to 34:5A-31

LEGISLATIVE HISTORY CHECKLIST

NJSA: 34:5A-1 to 34:5A-31; 40A:4-45.20; 48:2-21.10 (Worker and Community Right to know Act)

LAWS OF: 1983

CHAPTER: 315

Bill No: S1670

Sponsor(s): Dalton

Date Introduced: September 16, 1982

Committee: Assembly: -----

Senate: Energy and Environment; Revenue and Appropriations

Amended during passage: Yes Senate Committee substitute (3rd OCR) enacted. Substituted for A3318 (original bill & 4th OCR attached)

Date of Passage: Assembly: June 27, 1983

Senate: June 23, 1983

Date of Approval: August 29, 1983

Following statements are attached if available:

Sponsor statement: Yes Also attached: Senate amendments adopted 6/23/83 (with statement)

Committee statement: Assembly No  
Senate Yes 4/25/83, 6/16/83, 3/7/83

Fiscal Note: Yes

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: Yes

974.90 New Jersey. Legislature. Senate. Committee on Energy and Environment.  
P777 Public hearing, held 10/6/83, 10/13/83 & 10/20/83.  
1982n Trenton, 1983. (OVER)

974.90 New Jersey. Occupational Health Program.  
P777 Workers and Community right to know; basis and background with  
1984a environmental hazardous substance list... March, 1984.  
New Jersey Office of Science and Research, Trenton, 1984  
(See NJR, March 19, 1984)

See newspaper clipping files under "New Jersey-Hazardous Substances 1983" in New Jersey Reference Department.

See Also: 113 NJLJ231, Hartnett, Georgia Howell, "The Worker and Community Right to know act" (3/1/84)

8-29-83

[THIRD OFFICIAL COPY REPRINT]  
 SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 1670**

**STATE OF NEW JERSEY**

ADOPTED MARCH 7, 1983

AN ACT concerning certain hazardous substances in the workplace  
 and the community\*\*, *and making an appropriation\*\*.*

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

1 1. This act shall be known and may be cited as the "Worker and  
 2 Community Right To Know Act."

1 2. The Legislature finds and declares that the proliferation of  
 2 hazardous substances in the environment poses a growing threat  
 3 to the public health, safety, and welfare; that the constantly  
 4 increasing number and variety of hazardous substances, and the  
 5 many routes of exposure to them make it difficult and expensive  
 6 to adequately monitor and detect any adverse health effects attribu-  
 7 table thereto; that individuals themselves are often able to detect  
 8 and thus minimize effects of exposure to hazardous substances if  
 9 they are aware of the identity of the substances and the early symp-  
 10 toms of unsafe exposure; and that individuals have an inherent  
 11 right to know the full range of the risks they face so that they can  
 12 make reasoned decisions and take informed action concerning their  
 13 employment and their living conditions.

14 The Legislature further declares that local health, fire, police,  
 15 safety and other government officials require detailed information  
 16 about the identity, characteristics, and quantities of hazardous  
 17 substances used and stored in communities within their jurisdic-  
 18 tions, in order to adequately plan for, and respond to, emergencies,  
 19 and enforce compliance with applicable laws and regulations con-  
 20 cerning these substances.

21 The Legislature further declares that the extent of the toxic  
 22 contamination of the air, water, and land in this State has caused

**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 committee amendments adopted April 25, 1983.**

**\*\*—Senate committee amendments adopted June 16, 1983.**

**\*\*\*—Senate amendments adopted June 23, 1983.**

23 a high degree of concern among its residents; and that much of  
24 this concern is needlessly aggravated by the unfamiliarity of these  
25 substances to residents.

26 The Legislature therefor determines that it is in the public  
27 interest to establish a comprehensive program for the disclosure  
28 of information about hazardous substances in the workplace and  
29 the community, and to provide a procedure whereby residents of  
30 this State may gain access to this information.

1 3. As used in this act:

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

5 b. "Chemical name" is the scientific designation of a chemical  
6 in accordance with the nomenclature system developed by the  
7 International Union of Pure and Applied Chemistry or the Chemi-  
8 cal Abstracts Service rules of nomenclature.

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

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

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

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

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

28 h. "Employer" means any person or corporation in the State  
29 engaged in business operations having a Standard Industrial  
30 Classification, as designated in the Standard Industrial Classifica-  
31 tion Manual prepared by the Federal Office of Management and  
32 Budget, within Major Group numbers 20 through 39 inclusive  
33 (manufacturing industries), numbers 46 through 49 inclusive (pipe-  
34 lines, transportation services, communications, and electric, gas,  
35 and sanitary services), number 51 (wholesale trade, nondurable  
36 goods), number 75 (automotive repair, services, and garages),

37 number 76 (miscellaneous repair services), number 80 (health  
38 services), number 82 (educational services), and number 84 muse-  
39 ums, art galleries, botanical and zoological gardens). Except for  
40 the purposes of section 26 of this act, "employer" means the  
41 State and local governments, or any agency, authority, department,  
42 bureau, or instrumentality thereof.

43 i. "Environmental hazardous substance" means any substance  
44 on the **\*\*[Environmental]\*\*** *\*\*environmental\*\** hazardous sub-  
44A stance list.

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

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

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

55 (2) A description of the use of the environmental hazardous  
56 substance at the facility;

57 (3) The quantity of the environmental hazardous substance  
58 produced at the facility;

59 (4) The quantity of the environmental hazardous substance  
60 brought into the facility;

61 (5) The quantity of the environmental hazardous substance  
61A consumed at the facility;

61B (6) The quantity of the environmenetal hazardous substance  
62 shipped out of the facility as or in products;

63 (7) The maximum inventory of the environmental hazardous  
64 substance stored at the facility, the method of storage, and the  
65 frequency and methods of transfer;

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

68 (9) The total estimated fugitive or non point-source emissions  
69 of the environmental hazardous substance;

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

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

75 (12) The quantity, and methods of disposal, of any wastes  
76 containing an environmental hazardous substance, the method of

77 on-site storage of these wastes, the location or locations of the  
78 final disposal site for these wastes, and the identity of the hauler  
79 of the wastes.

80 l. "Facility" means the building, equipment and contiguous  
81 area at a single location used for the conduct of business\*\*[, but  
82 shall not include a research and development laboratory]\*\*.

82A \*\*\**Except for the purposes of subsection c. of section 13, section 14,*  
82B *and subsection b. of section 25 of this act, "facility" shall not include*  
82C *a research and development laboratory.*\*\*\*

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

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

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

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

99-101 (4) Any hazardous substance present in the same form and  
102 concentration as a product packaged for distribution and use by  
103 the general public to which an employee's exposure during han-  
104 dling is not significantly greater than a consumer's exposure during  
105 the principal use of the toxic substance.

106 n. "Hazardous substance fact sheet" means a written document  
107 prepared by the Departmenet of Health for each hazardous sub-  
108 stance and transmitted by the department to employers pursuant  
109 to the provisions of this act, which shall include, but not be limited  
110 to, the following information :

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

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

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

120 (4) The hazard posed by the hazardous substance, including  
 121 its toxicity, carcinogenicity, mutagenicity, teratogenicity, flamma-  
 122 bility, explosiveness, corrosivity and reactivity, including specific  
 123 information on its reactivity with water;

124 (5) A description, in nontechnical language, of the acute and  
 125 chronic health effects of exposure to the hazardous substance, in-  
 126 cluding the medical conditions that might be aggravated by ex-  
 127 posure, and any permissible exposure limits established by the  
 128 federal Occupational Safety and Health Administration;

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

131 (7) The proper precautions, practices, necessary personal pro-  
 132 tective equipment, recommended engineering controls, and any  
 133 other necessary and appropriate measures for the safe handling  
 134 of the hazardous substance, including specific information on how  
 135 to extinguish or control a fire that involves the hazardous sub-  
 136 stance; and

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

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

142A **\*\*p.** *"Mixture" means a combination of two or more substances*  
 142B *not involving a chemical reaction.\*\**

143 **\*\*[p.]\*\*** **\*\*q.\*\*** "Process container" means a container, excluding  
 144 a pipeline, the content of which is changed frequently; a container  
 145 of 10 gallons or less in capacity, into which substances are trans-  
 146 ferred from labeled containers, and which is intended only for the  
 147 immediate use of the employee who performs the transfer; a con-  
 148 tainer on which a label would be obscured by heat, spillage or other  
 149 factors; or a test tube, beaker, vial, or other container which is  
 150 routinely used and reused.

150A **\*\*\*r.** *"Research and development laboratory" means a specially*  
 150B *designated area used primarily for research, development, and*  
 150C *testing activity, and not primarily involved in the production of*  
 150D *goods for commercial sale, in which hazardous substances or*  
 150E *environmental hazardous substances are used by or under the*  
 150F *direct supervision of a technically qualified person.\*\*\**

151 **\*\*[q.** "Research and development laboratory" means a specially  
 152 designated area used primarily for research, development, and  
 153 testing activity, and not primarily involved in the production of

154 goods for commercial sale, in which hazardous substances or en-  
 155 vironmental hazardous substances are used by or under the direct  
 156 supervision of a technically qualified person.】\*\*

157 \*\*\*【r.】\*\*\* \*\*s.\*\*\* “Special health hazard substance” means any  
 158 hazardous substance on the special health hazard substance list.

159 \*\*\*【s.】\*\*\* \*\*t.\*\*\* “Special health hazard substance list” means  
 160 the list of special health hazard substances developed by the Depart-  
 161 ment of Health pursuant to section 5 of this act for which an em-  
 162 ployer may not make a trade secret claim.

163 \*\*\*【t.】\*\*\* \*\*u.\*\*\* “Trade secret” means any formula, plan,  
 164 pattern, process, production data, information, or compilation of in-  
 165 formation, which is not patented, which is known only to an em-  
 166 ployer and certain other individuals, and which is used in the  
 167 fabrication and production of an article of trade or service, and  
 168 which gives the employer possessing it a competitive advantage over  
 169 businesses who do not possess it, or the secrecy of which is certified  
 170 by an appropriate official of the federal government as necessary  
 171 for national defense purposes. The chemical name and Chemical  
 172 Abstracts Service number of a substance shall be considered a trade  
 173 secret only if the employer can establish that the substance is un-  
 174 known to competitors \*\*【and that the identity of the substance  
 175 cannot be discovered by analytical techniques, laboratory pro-  
 176 cedures, or other means available to a competitor at a reasonable  
 177 expense】\*\*. *\*\*In determining whether a trade secret is valid pur-  
 178 suant to section 15 of this act, the Department of Health, or the  
 179 Department of Environmental Protection, as the case may be, shall  
 180 consider material provided by the employer concerning (1) the  
 181 extent to which the information for which the trade secret claim is  
 182 made is known outside the employer’s business; (2) the extent to  
 183 which the information is known by employees and others involved  
 184 in the employer’s business; (3) the extent of measures taken by the  
 185 employer to guard the secrecy of the information; (4) the value of  
 186 the information, to the employer or the employer’s competitor;  
 187 (5) the amount of effort or money expended by the employer in  
 188 developing the information; and (6) the ease or difficulty with which  
 189 the information could be disclosed by analytical techniques, labora-  
 190 tory procedures, or other means.\*\**

191 \*\*\*【u.】\*\*\* \*\*v.\*\*\* “Trade secret registry number” means a code  
 192 number temporarily or permanently assigned to the identity of a  
 193 substance in a container by the Department of Health pursuant to  
 194 section 15 of this act.



195 \*\*\*[v.]\*\*\* *w.*\*\*\* “Trade secret claim” means a written re-  
 196 quest, made by an employer pursuant to section 15 of this act, to  
 197 withhold the public disclosure of information on the grounds that  
 198 the disclosure would reveal a trade secret.

199 \*\*\*[w.]\*\*\* *x.*\*\*\* “Workplace hazardous substance list” means  
 200 the list of hazardous substances developed by the Department of  
 201 Health pursuant to section 5 of this act.

202 \*\*\*[x.]\*\*\* *y.*\*\*\* “Workplace survey” means a written docu-  
 203 ment, prepared by the Department of Health and completed by an  
 204 employer pursuant to this act, on which the employer shall report  
 205 each hazardous substance present at his facility.

1 4. a. The Department of Environmental Protection shall develop  
 2 an environmental hazardous substance list which shall include, but  
 3 not be limited to, substances used, manufactured, stored, packaged,  
 4 repackaged, or disposed of or released into the environment of the  
 5 State which, in the department’s determination, may be linked to  
 6 the incidence of cancer; genetic mutations; physiological malfunc-  
 7 tions, including malfunctions in reproduction; and other diseases;  
 8 or which, by virtue of their physical properties, may pose a threat  
 9 to the public health and safety. The department shall base the  
 10 environmental hazardous substance list on the list of 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. 13D-1 et seq.) and P. L. 1977, c. 74 (C. 58:10A-1 et seq.), and  
 14 may include other substances which the department, based on docu-  
 15 mented scientific evidence, determines pose a threat to the public  
 16 health and safety.

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

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

26 d. Three months prior to the effective date of this act the depart-  
 27 ment shall adopt, pursuant to the “Administrative Procedure Act,”  
 28 P. L. 1968, c. 410 (C. 52:14B-1 et seq.), the environmental hazardous  
 29 substance list.

1 5. a. The Department of Health shall develop a workplace  
 2 hazardous substance list which shall include :

3 (a) any substance which is known to be a carcinogen, as defined in section 14-2A of the Administrative Code, and which is used, manufactured, stored, packaged, repackaged, or disposed of or released into the environment of the State;

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

7 (2) Any environmental hazardous substance; and

8 (3) Any other substance which the department, based on docu-  
9 mented scientific evidence, determines poses a threat to the health  
10 or safety of an employee.

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

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

21 d. The department shall develop a hazardous substance fact  
22 sheet for each hazardous substance on the workplace hazardous  
23 substance list.

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

31 f. Three months prior to the effective date of this act, the depart-  
32 ment shall adopt, pursuant to the "Administrative Procedure Act,"  
33 P. L. 1968, c. 410 (C. 52:14B-1 et seq.), a workplace hazardous sub-  
34 stance list.

1 6. a. Within five days of the effective date of this act, the De-  
2 partment of Health shall transmit copies of the workplace survey  
3 to the Department of Labor, upon receipt of the workplace survey,  
4 the Department of Labor shall transmit the workplace survey to  
5 each employer in the State.

6 b. Within five days of the effective date of this act, the Depart-  
7 ment of Environmental Protection shall transmit an environmental  
8 survey to each employer who business activities, according to  
9 criteria developed by the department, warrant the reporting of the  
10 information required on the environmental survey. The depart-  
11 ment may transmit an environmental survey to every employer.

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

19 b. Except as otherwise provided in section 15 of this act, within  
20 90 days of receipt of an environmental survey, an employer shall  
21 complete the survey and transmit a copy of the completed survey  
22 to the Department of Environmental Protection and the health  
23 department of the county in which the employer's facility is located,  
24 and pertinent sections of the survey to the local fire department  
25 and the local police department.

1 8. **\*\*a.\*\*** Upon receipt of a completed workplace survey from an  
2 employer, the Department of Health shall transmit to that employer  
3 a hazardous substance fact sheet for each hazardous substance  
4 reported by the employer on the workplace survey. If an employer  
5 makes a trade secret claim for information on the workplace sur-  
6 vey pursuant to section 15 of this act, the department shall transmit  
7 a hazardous substance fact sheet for that substance with the  
8 identity of the substance concealed.

9 **\*\*b.** *Any employer having a Standard Industrial Classification*  
10 *within certain subgroups of Major Group numbers 20, 51, or 80, as*  
11 *designated by the Department of Health pursuant to the "Adminis-*  
12 *trative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.),*  
13 *whose workplace survey transmitted to the Department of Health*  
14 *pursuant to section 7 of this act indicates that no hazardous sub-*  
15 *stances are present at the facility, shall be exempt from the pro-*  
16 *visions of this act, except for the requirement to annually update*  
17 *the workplace survey pursuant to section 10 of this act, and except*  
18 *for the provisions of section 33 of this act. Any employer exempted*

19 *from the provisions of this act pursuant to this subsection who*  
 20 *transmits to the Department of Health an update of the workplace*  
 21 *survey which indicates that a hazardous substance is present at*  
 22 *the employer's facility shall immediately be subject to the pro-*  
 23 *visions of this act.\*\**

1 9. a. The Department of Environmental Protection shall main-  
 2 tain a file of all completed environmental surveys received from  
 3 employers. Each environmental survey received by the department  
 4 shall be retained by the department for 30 years.

5 b. The department may require an employer to submit informa-  
 6 tion clarifying any statement made on the environmental survey.  
 7 The department, subject to the provisions of section 15 of this act  
 8 if applicable, shall transmit this clarifying information to the  
 9 appropriate county health department, local fire department, and  
 10 local police department as it deems necessary.

11 c. The department shall require every employer to update the  
 12 environmental survey for his facility every other year. If there is  
 13 any significant change during a nonreporting year in the informa-  
 14 tion reported on his environmental survey, the employer shall in-  
 15 form the department of the change. The department may require  
 16 an employer to update the environmental survey for his facility  
 17 every year.

18 d. Any person may request in writing from the department a  
 19 copy of an environmental survey for a facility, and the department  
 20 shall transmit any survey so requested within 30 days of the re-  
 21 quest therefor.

1 10. a. The Department of Health shall maintain a file of all  
 2 completed workplace surveys received from employers. Each work-  
 3 place survey received shall be retained by the department for 30  
 4 years. The department shall also retain for 30 years each hazard-  
 5 ous substance fact sheet.

6 b. The department shall require every employer to annually  
 7 update the workplace survey for his facility, and shall supply each  
 8 employer with any necessary additional hazardous substance fact  
 9 sheets.

10 c. Upon request by the department, an employer shall provide  
 11 the department with copies of employee health and exposure rec-  
 12 ords, including those maintained for, and supplied to, the federal  
 13 government.

14 d. Any person may request in writing from the department a  
 15 copy of a workplace survey for a facility, together with the appro-  
 16 priate hazardous substance fact sheets, and the department shall  
 17 transmit any material so requested within 30 days of the request

18 therefor. Any request by an employee for material pertaining to  
19 the facility where he is employed made pursuant to this subsection  
20 shall be treated by the department as confidential.

1 11. a. An employer shall, upon request, provide an employee  
2 whose native language is Spanish with a Spanish translation of a  
3 workplace survey, hazardous substance fact sheet, and, if applica-  
4 ble, an environmental survey obtained from the Department of  
4A Health or the Department of Environmental Protection, as the  
5 case may be. An employer shall, upon request, provide employees  
6 whose native language is Spanish with the education and training  
7 program required pursuant to section 13 of this act in Spanish.

8 b. A county health department shall, upon request, provide  
9 copies of the environmental survey and the workplace survey in  
10 a Spanish translation provided by the Department of Health and  
11 Department of Environmental Protection.

1 12. Every employer shall establish and maintain a central file  
2 at his facility in which he shall retain a workplace survey for the  
3 facility, appropriate hazardous substance fact sheets, and, if ap-  
4 plicable, a copy of the environmental survey for the facility. Every  
5 employer shall post on bulletin boards readily accessible to em-  
6 ployees a notice of the availability of the information in the file.  
7 Every employer employing employees whose native language is  
8 Spanish shall also post the notice in Spanish. Every employer  
9 shall supply employees with any material designed and provided  
10 by the Department of Health, the Department of Environmental  
11 Protection, or the Department of Labor to inform employees of  
12 their rights under this act. An employer shall provide an employee  
13 with access to a workplace survey, appropriate hazardous sub-  
14 stance fact sheets, and, if applicable, an environmental survey,  
15 within five working days of a request therefor.

1 13. a. Every employer shall establish an education and training  
2 program for his employees, which shall be designed to inform em-  
3 ployees in writing and orally of the nature of the hazardous sub-  
4 stances to which they are exposed in the course of their employ-  
5 ment and the potential health risks which the hazardous substances  
6 pose, and to train them in the proper and safe procedures for  
7 handling the hazardous substances under all circumstances. An  
8 employer shall provide current employees with the education and  
9 training program within six months of the effective date of this  
10 act, and annually thereafter. Beginning six months after the ef-  
11 fective date of this act, all new employees shall be provided with  
12 the training and education program within the first month of em-

13 ployment. Prior to entering an employment agreement with a  
14 prospective employee an employer shall notify a prospective em-  
15 ployee of the availability of workplace surveys and appropriate  
16 hazardous substance fact sheets for the facility at which the pro-  
17 spective employee will be employed.

18 b. Any employer who has established an employee education  
19 and training program for hazardous substances prior to the ef-  
20 fective date of this act may request the Department of Health to  
21 certify that education and training program, which certification  
22 shall constitute compliance with subsection a. of this section.

23 *\*\*\*c. Every employer shall establish an education and training*  
24 *program for his employees who work in a research and development*  
25 *laboratory, which shall be designed to inform employees in writing*  
26 *and orally of the nature of the hazardous substances to which they*  
27 *are exposed in the course of their employment and the potential*  
28 *health risks which the hazardous substances pose, and to train them*  
29 *in the proper and safe procedure for handling the hazardous sub-*  
30 *stances under all circumstances. An employer shall provide current*  
31 *employees with the education and training program within six*  
32 *months of the effective date of this act, and annually thereafter.*  
33 *Beginning six months after the effective date of this date, all new*  
34 *employees shall be provided with the training and education pro-*  
35 *gram within the first month of employment.\*\*\**

1 14. a. Within six months of the effective date of this act, every  
2 employer shall take any action necessary to assure that every  
3 container at his facility containing a hazardous substance shall  
4 bear a label indicating the chemical name and Chemical Abstracts  
5 Service number of the hazardous substance or the trade secret  
6 registry number assigned to the hazardous substance. *\*\*\*Em-*  
6A *ployers may label containers in a research and development labo-*  
6B *ratory by means of a code or number system, if the code or number*  
6C *system will enable an employee to readily make a cross reference to*  
6D *a hazardous substance fact sheet which will provide the employee*  
6E *with the chemical name and Chemical Abstracts Service number of*  
6F *the hazardous substance contained in the container, or the trade*  
6G *secret registry number assigned to the hazardous substance. The*  
6H *code or number system shall be designed to allow the employee free*  
6I *and ready access at all times to the chemical name and Chemical*  
6J *Abstracts Service number of the hazardous substance in the con-*  
6K *tainer, shall be designed to allow the employee access to this in-*  
6L *formation without the permission or assistance of management, and*  
6M *shall be available to the employee at close proximity to his specific*

6N job location or locations.\*\*\* \*\*[\*Pipes leading into process con-  
 6O tainers shall only be labeled at the fluid control valves.]\*\*\* \*\*Em-  
 6P ployers shall be required to label pipelines only at the valve or  
 6Q valves located at the point at which a hazardous substance enters a  
 6R facility's pipeline system, and at normally operated valves, outlets,  
 6S vents, drains and sample connections designed to allow the release  
 6T of a hazardous substance from the pipeline.\*\*

7 b. Within two years of the effective date of this act, every em-  
 8 ployer shall take any action necessary to assure that every con-  
 9 tainer at his facility bears a label indicating the chemical name  
 10 and Chemical Abstracts Service number the substance in the  
 11 container, *\*\*except as provided in subsection d. of this section,\*\**  
 11A or the trade secret registry number assigned to the sub-  
 12 stance. *\*\*\*Employers may label containers in a research and develop-*  
 12A *ment laboratory by means of a code or number system, if the code*  
 12B *or number system will enable an employee to readily make a cross*  
 12C *reference to documentary material retained on file by the employer*  
 12D *at the facility which will provide the employee with the chemical*  
 12E *name and Chemical Abstracts Service number of the substance*  
 12F *contained in the container, except as provided in subsection d. of*  
 12G *this section, or the trade secret registry number assigned to the sub-*  
 12H *stance. The code or number system shall be designed to allow the*  
 12I *employee free and ready access at all times to the chemical name*  
 12J *and Chemical Abstracts Service number of the substance in the*  
 12K *container, shall be designed to allow the employee access to this in-*  
 12L *formation without the permission or assistance of management, and*  
 12M *shall be available to the employee at close proximity to his specific*  
 12N *job location or locations.\*\*\* \*\*If a container contains a mixture, an*  
 13 *employer shall be required to insure that the label identify the chem-*  
 14 *ical names and Chemical Abstracts Service numbers, except as pro-*  
 15 *vided in subsection d. of this section, or the trade secret registry*  
 16 *numbers, of the five most predominant substances contained in the*  
 17 *mixture. The provisions of this subsection shall not apply to any*  
 18 *substance constituting less than 1% of a mixture unless the sub-*  
 18A *stance is present at the facility in an aggregate amount of 500*  
 18B *pounds or more. Employers shall be required to label pipelines only*  
 18C *at the valve or valves located at the point at which a substance*  
 18D *enters a facility's pipeline system, and at normally operated valves,*  
 18E *outlets, vents, drains and sample connections designed to allow the*  
 18F *release of a substance from the pipeline.\*\** One year after the effec-  
 18G tive date of this act the Department of Health shall establish criteria  
 18H for containers which, because of the finished and durable character-

18I isties of their contents, shall be exempt from the provisions of this  
 18J subsection. These standards shall be consistent with the intent of  
 18K this subsection to provide for the labeling of every container which  
 18L may contain a substance which is potentially hazardous.

19 c. The labeling requirements of subsections a. and b. of this sec-  
 20 tion shall not apply to containers labeled pursuant to the "Federal  
 21 Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163\*\***[.]\*\***  
 22 (7 U.S.C. § 121 et al.). The Department of Health may, by rule and  
 23 regulation, certify containers labeled pursuant to any other federal  
 24 act as labeled in compliance with the provisions of this section.

25 *\*d. \*\***[**Although process containers are excluded from labeling  
 26 requirements, the employer shall post in a readily available place a  
 27 Workplace Hazardous Substance List indicating the chemical name,  
 28 Chemical Abstracts Service number or trade secret registry number  
 29 of all hazardous substances contained therein. Labeling of normally  
 30 operated vents to the atmosphere, sample connections and drains  
 31 in those areas is required.**]**\*\* \*\*One year after the effective date of  
 32 this act the Department of Health shall adopt, pursuant to the  
 33 "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1  
 34 et seq.), a list of substances the containers of which may be labeled  
 35 with the common name and Chemical Abstracts Service number of  
 36 their contents. The department shall include on the list adopted  
 37 pursuant to this subsection only substances which are widely  
 38 recognized by their common name. An employer shall provide the  
 39 chemical name of a substance in a container labeled pursuant to this  
 40 subsection within five working days of the request therefor.\*\**

1 15. a. If an employer believes that disclosing information re-  
 2 quired by this act will reveal a trade secret, he may file with the  
 3 appropriate department a trade secret claim as herein provided.  
 4 As used in this section, "department" means either the Department  
 5 of Health or Department of Environmental Protection, as the  
 6 case may be.

7 b. If an employer claims that disclosing information on either  
 8 the workplace survey or the environmental survey would reveal  
 9 a trade secret, he shall file with the appropriate department a trade  
 10 secret claim within 90 days of receipt of the survey. An employer  
 11 making a trade secret claim shall submit two copies of the survey  
 12 to the department, one with the information for which a trade  
 13 secret claim is being made concealed, and one in an envelope marked  
 14 "Confidential" containing the information for which a trade secret  
 15 claim is being made, which the department, during the pendency  
 16 of the trade secret claim, shall keep in a locked file or room. On



17 the copies of the survey sent to the county health department, local  
18 fire department, and local police department, and retained on file  
19 at the facility, the employer shall conceal the information for which  
20 he is making a trade secret claim.

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

30 d. The department shall act to make a determination on the  
31 validity of a trade secret claim when a request is made pursuant  
32 to the provisions of this act for the disclosure of the information  
33 for which the trade secret claim was made, or at any time that the  
34 department deems appropriate. Upon making a determination on  
35 the validity of a trade secret claim, the department shall inform  
36 the employer of the determination by certified mail. If the depart-  
37 ment determines that the employer's trade secret claim is not valid,  
38 the employer shall have 45 days from the receipt of the depart-  
39 ment's determination to file with the department a written request  
40 for an administrative hearing on the determination. If the em-  
41 ployer does not file such a request within 45 days, the department  
42 shall take action to provide that the information for which the trade  
43 secret claim was made be disclosed pursuant to the provisions of  
44 this act. If an employer requests an administrative hearing pur-  
45 suant to the provisions of this subsection, the department shall  
46 refer the matter to the Office of Administrative Law, for a hearing  
47 thereon. At the hearing the employer shall have the burden to  
48 show that the trade secret claim is valid. Within 45 days of re-  
49 ceipt of the administrative law judge's recommendation, the de-  
50 partment shall affirm, reject, or modify the recommendation. The  
51 department's action shall be considered the final agency action for  
52 the purposes of the "Administrative Procedure Act," P. L. 1968,  
53 c. 410 (C. 52:14B-1 et seq.), and shall be subject only to judicial  
54 review as provided in the Rules of Court. The department shall  
55 inform the employer of its decision on the administrative law  
56 judge's recommendation by certified mail. If the department de-  
57 termines that the trade secret claim is not valid, the employer shall  
58 have 45 days to notify the department in writing that he has filed

59 to appeal the department's decision in the courts. If the employer  
60 does not so notify the department, the department shall take action  
61 to provide that the information for which the trade secret claim  
62 was made be disclosed pursuant to the provisions of this act.

63 e. The department shall provide any information for which a  
64 trade secret claim is pending or has been approved pursuant to  
65 this section to a physician or osteopath when such information is  
66 needed for medical diagnosis or treatment. The department shall  
67 require the physician or osteopath to sign an agreement protecting  
68 the confidentiality of information disclosed pursuant to this sub-  
69 section.

70 f. Any workplace survey or environmental survey containing  
71 information for which a trade secret claim is pending or has been  
72 approved shall be made available to the public with that informa-  
73 tion concealed.

74 g. The subject of any trade secret claim pending or approved  
75 shall be treated as confidential information. Except as provided  
76 in subsection e. of this section, the department shall not disclose  
77 any confidential information to any person except an officer or  
78 employee of the State in connection with the official duties of the  
79 officer or employee under any law for the protection of public health,  
80 or to the contractors of the State and their employees if in the  
81 opinion of the department the disclosure is necessary for the com-  
82 pletion of any work contracted for in connection with the imple-  
83 mentation of this act. Any officer or employee of the State, con-  
84 tractor of the State, physician or osteopath, or employee of a  
85 county health department, local fire department, or local police  
86 department who has access to any confidential information, and  
87 who willingly and knowingly discloses the confidential information  
88 to any person not authorized to receive it, is guilty of a crime of  
89 the third degree.

90 h. The provisions of this section shall not apply to the disclosure  
91 of information concerning emissions, and shall not apply to the  
92 disclosure of any information required pursuant to any other act.

93 i. The Department of Health and the Department of Environ-  
94 mental Protection shall jointly adopt rules and regulations to im-  
95 plement the provisions of this section.

1 16. a. Any employee or employee representative may request,  
2 in writing, from his employer, a copy of a workplace survey, haz-  
3 ardous substance fact sheet, or, where applicable, an environmental  
4 survey filed pursuant to the provisions of this act for the facility at  
5 which he is employed. The employer shall supply this material  
6 within five working days of the request. Any employee or employee

7 representative may request, in writing, the chemical name and  
8 Chemical Abstracts Service number of the substance contained in  
9 any container which is not labeled pursuant to the provisions of sec-  
10 tion 14 of this act, and the employer shall supply the employee or  
11 employee representative with this information within five working  
12 days of the request. An employee shall have the right to refuse  
13 to work with a hazardous substance for which a request was made  
14 and not honored without loss of pay or forfeit of any other privi-  
15 lege until the request is honored.

16 b. Any employee or employee representative who believes that  
17 an employer has not complied with the provisions of subsection a.  
18 of this section may file a complaint with the Commissioner of the  
19 Department of Labor. Upon receipt of the complaint, the commis-  
20 sioner shall investigate the allegations contained in the complaint.  
21 If the commissioner, following an administrative hearing conducted  
22 pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410  
23 (C. 52:14B-1 et seq.), finds that the employer has violated the pro-  
24 visions of subsection a. of this section, he shall initiate a civil action  
25 by summary proceeding pursuant to "the penalty enforcement law"  
26 (N. J. S. 2A:58-1 et seq.). Any employer violating the provisions  
27 of subsection a. of this section is liable to a penalty of not less than  
28 \$2,500.00 for each offense.

1 17. a. No employer shall discharge, cause to be discharged, or  
2 otherwise discipline, penalize, or discriminate against any em-  
3 ployee because the employee or his employee representative has  
4 exercised any right established in this act.

5 b. Any employee who believes that he has been discharged, or  
6 otherwise disciplined, penalized, or discriminated against by an  
7 employer in violation of subsection a. of this section may, within  
8 30 days of the violation, or within 30 days of obtaining knowledge  
9 that a violation occurred, file a complaint with the Commissioner  
10 of the Department of Labor alleging the violation. Within 30 days  
11 of the receipt of a complaint, the commissioner shall conduct an  
12 investigation of the complaint. If after the investigation the com-  
13 missioner determines that there is probable cause that the com-  
14 plaint is valid, he may refer the complaint to the Office of Adminis-  
15 trative Law, which, upon the referral, shall commence an adjudi-  
16 catory proceeding on the complaint, to be conducted as a contested  
17 case pursuant to the "Administrative Procedure Act," P. L. 1968,  
18 c. 410 (C. 52:14B-1 et seq.), and P. L. 1978, c. 67 (C. 52:14F-1 et  
19 seq.). If the Commissioner of Labor or the employee introduces  
20 evidence that prior to the alleged violation the employee exercised  
21 any right provided in this act, the employer shall have the burden

22 to show just cause for his action by clear and convincing evidence.  
23 Within 45 days of the receipt of the recommendations of the ad-  
24 ministrative law judge, the commissioner shall adopt, reject, or  
25 modify the recommendations. The final decision of the commis-  
26 sioner shall be considered the final agency action thereon for the  
27 purposes of the “\***[Administrative]**\* *Administrative*\* Procedure  
28 Act” and shall be subject only to judicial review as provided in  
29 the Rules of Court.

1 18. a. There is established in the Department of Health a Right  
2 To Know Advisory Council, which shall consist of 11 members  
3 appointed by the Governor with the advice and consent of the  
4 Senate. Each of these members shall be appointed for a term of  
5 three years, provided that of the members of the council first ap-  
6 pointed by the Governor, four shall serve for terms of one year,  
7 four shall serve for terms of two years, and three shall serve for  
8 terms of three years. Of these members, one shall be appointed  
9 from persons having training and experience in industrial hygiene  
10 recommended by recognized labor unions; one from persons recom-  
11 mended by recognized environmental organizations; one from  
12 persons recommended by recognized public interest organizations;  
13 one from persons recommended by recognized organizations of  
14 chemical industries; one from persons recommended by recognized  
15 community organizations; one from persons recommended by rec-  
16 ognized organizations of petroleum industries; one from persons  
17 recommended by recognized organizations of firefighters; one from  
18 persons recommended by recognized business or trade organiza-  
19 tions; one from persons recommended by recognized organizations  
20 of small business; one from persons holding and M.D. degree recom-  
21 mended by recognized public health organizations; and one from  
22 persons with training and experience in environmental epidemi-  
23 ology recommended by recognized research or academic organiza-  
24 tions. In the event that no recommendations for a particular  
25 category of membership are made to the Governor three months  
26 prior to the effective date of this act in the case of the initial ap-  
27 pointments, or within 60 days of the date of the expiration of the  
28 term of office of any member or the occurrence of any vacancy in  
29 the case of subsequent appointments, the Governor shall appoint  
30 as a member for that category of membership a person whom he  
31 believes will be representative thereof.

32 b. A majority of the membership of the council shall constitute  
33 a quorum for the transaction of council business. Action may be  
34 taken and motions and resolutions adopted by the council at any  
35 meeting thereof by the affirmative vote of a majority of the mem-  
36 bers of the council present and voting.

37 c. The council shall meet regularly as it may determine, and  
 38 shall also meet at the call of the Commissioner of the Department  
 39 of Health, the Commissioner of the Department of Environmental  
 40 Protection, or the Commissioner of the Department of Labor.

41 d. The council shall appoint a chairman and other officers as may  
 42 be necessary from among its members. The council may, within  
 43 the limits of any funds appropriated or otherwise made available  
 44 to it for this purpose, appoint such staff or hire such experts as it  
 45 may require.

46 e. Members of the council shall serve without compensation, but  
 47 the council may, within the limits of funds appropriated or other-  
 48 wise made available to it for such purposes, reimburse its members  
 49 for necessary expenses incurred in the discharge of their official  
 50 duties.

1 19. The council shall:

2 a. Advise the Department of Health on the revision of the work-  
 3 place hazardous substance list and the Department of Environ-  
 4 mental Protection on the revision of the environmental hazardous  
 5 substance list.

6 b. Advise the Department of Environmental Protection, the De-  
 7 partment of Health, and the Department of Labor on the imple-  
 8 mentation of his act.

9 c. Review any matters submitted to it by the Department of  
 10 Health, Department of Environmental Protection, or the Depart-  
 11 ment of Labor, and state its position within 90 days.

1 20. The council may:

2 a. Review any aspect of the implementation of this act, and  
 3 transmit its recommendations to the appropriate department or  
 4 departments.

5 b. Hold public meetings or hearings within the State on any  
 6 matter or matters related to the provisions of this act.

7 c. Call to its assistance and avail itself of the services of such  
 8 employees of any State, county or municipal department, board,  
 9 **\*\*[commissions]\*\*** *\*\*commission\*\**, or agency as may be required  
 10 and made available for such purposes.

1 21. The Department of Health, the Department of Environ-  
 2 mental Protection, and the Department of Labor, in conjunction  
 3 with the council, shall jointly establish a procedure for annually  
 4 receiving information, advice, testimony, and recommendations  
 5 from the council, the public, and any other interested party, con-  
 6 cerning the implementation of this act. This procedure shall in-  
 7 clude a mechanism for revising the workplace hazardous substance  
 8 list and the environmental hazardous substance list. Any revision

9 of the workplace hazardous substance list or environmental hazard-  
10 ous substance list shall be based on documented scientific evidence.  
11 The Department of Health and Department of Environmental  
12 Protection shall publicly announce any revisions of the workplace  
13 hazardous substance list or the environmental hazardous *\*\*sub-*  
14 *stance\*\** list, and any such additions or revisions shall be made  
15 pursuant to the provisions of the "Administrative Procedure Act,"  
16 1968, c. 410 (C. 52:14B-1 et seq.).

1 22. Each county health department shall maintain a file of work-  
2 place surveys and environmental surveys transmitted to it pur-  
3 suant to the provisions of this act. These surveys, pursuant to the  
4 provisions of subsection f. of section 15 of this act, shall be made  
5 available to the public at reasonable hours and at a fee not to  
6 exceed the cost of reproducing the surveys.

1 23. Any person may bring a civil action in law or equity on his  
2 own behalf against any employer for a violation of any provision  
3 of this act or any rule and regulation promulgated pursuant thereto  
4 or against the Department of Environmental Protection or the  
5 Department of Health for failure to enforce the provisions of this  
6 act or any rule or regulation promulgated pursuant thereto. The  
7 Superior Court shall have jurisdiction over these actions. The  
8 court may award, whenever it deems appropriate, costs of litiga-  
9 tion, including reasonable attorney and expert witness fees.

1 24. Substances not included on the workplace hazardous sub-  
2 stance list or the environmental hazardous substance list shall not  
3 be subject to the reporting provisions of this act. However, the  
4 absence of any substance from the workplace hazardous substance  
5 list or the environmental hazardous substance list, or the provision  
6 of any information by an employer to an employee or any other  
7 person pursuant to the provisions of this act, shall not in any way  
8 affect any other liability of an employer with regard to safeguard-  
9 ing the health and safety of an employee or any other person ex-  
10 posed to the substance, nor shall it affect any other duty or  
11 responsibility of an employer to warn ultimate users of a substance  
12 of any potential health hazards associated with the use of the sub-  
13 stance pursuant to the provisions of any law or rule or regulation  
14 adopted pursuant thereto.

1 25. *\*\*\*a.\*\*\** No local police department or local fire department  
2 receiving workplace surveys or environmental surveys pursuant to  
3 the provisions of this act shall make the surveys available to the  
4 public. Any county health department, local police department, or  
5 local fire department may request from an employer submitting  
6 surveys to it further information concerning the surveys, and the

7 employer shall provide the additional information upon the request  
 8 therefor. The employer may require the requester to sign an agree-  
 9 ment protecting the confidentiality of any additional information  
 10 provided pursuant to this section.

11 *\*\*\*b. Every employer with a research and development labora-*  
 12 *tory at his facility shall establish a communications program with*  
 13 *the local fire department, which shall be designed to assist the fire*  
 14 *department in adequately preparing to respond to emergencies at*  
 15 *the research and development laboratory.\*\*\**

1 26. a. There is established in the Department of the Treasury  
 2 a nonlapsing, revolving fund to be known as the "Worker and  
 3 Community Right To Know Fund." The fund shall be credited  
 4 with all fees collected pursuant to this section and interest on  
 5 moneys in the fund shall be credited to the fund *\*and all moneys in*  
 6 *the fund are appropriated for the purposes of the fund, and no*  
 7 *moneys shall be expended for those purposes without the specific*  
 7A *appropriation thereof by the Legislature\**. The State Treasurer  
 7B shall be the administrator of the fund, and all disbursements from  
 7C the fund shall be made by the State Treasurer *\*upon the warrant*  
 7D *of the Director of the Division of Budget and Accounting\**.

8 b. The Department of Labor shall annually assess each employer  
 9 a fee of not less than \$50.00 nor more than an amount equal to  
 10 \$2.00 per employee to provide for the implementation of the pro-  
 11 visions of this act. All fees collected by the department pursuant  
 12 to this section shall be deposited in the fund.

13 c. The moneys in the fund shall be disbursed only for the follow-  
 14 ing purposes:

15 (1) Expenses *\*approved by the Director of the Division of*  
 16 *Budget and Accounting and\** incurred by the Department of Health,  
 17 the Department of Environmental Protection, the Department of  
 18 Labor, the Department of the Treasury, and the **\*\*[County Health**  
 18A **Departments]\*\*** *\*\*county health departments\*\** in implementing  
 18B the provisions of this act; and

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

21 d. The State Treasurer shall annually disburse the moneys in  
 22 the fund **\*[in accordance with the following schedule]\*** *\*for ex-*  
 23 *penditures approved by the Director of the Division of Budget and*  
 24 *Accounting pursuant to paragraph (1) of subsection c. of this*  
 25 *section, but in no case in an amount to the several departments that*  
 25A *is greater than the following percentages of the fund available in*  
 25B *any one year\**: the Department of Health, 40%; the Department of  
 25C Environmental Protection, 20%; the **\*\*[County Health Depart-**

25D ments] \*\* *county health departments* \*\*, 15%, the Department of  
 25E Labor, 15% ; and the Department of the Treasury, 10%.

26 e. Beginning two years after the effective date of this act, the  
 27 State Treasurer shall make an annual audit of the fund to deter-  
 28 mine the adequacy of moneys on deposit in the fund to support the  
 29 implementation of the provisions of this act. If the State Treasurer,  
 30 in consultation with the Department of Health, the Department of  
 31 Environmental Protection, and the Department of Labor makes a  
 32 determination that the revenues in the fund are sufficient to war-  
 33 rant a reduction in the fee imposed pursuant to this section for the  
 34 ensuing year, he may reduce the amount of the fee imposed during  
 35 that year by an amount warranted by the balance in the fund at  
 36 the time of the determination.

37 f. The provisions of this section shall expire five years following  
 38 the effective date of this act.

1 27. It is the intent of the Legislature that the program estab-  
 2 lished by this act for the disclosure of information concerning  
 3 hazardous substances to employees and the public constitute the  
 4 **["only such"]** *principal* program in this State. To this end,  
 5 no municipality or county shall enact any law or ordinance requir-  
 6 ing the disclosure of information about, or the identification of,  
 7 hazardous substances in the workplace or the environment to the  
 8 extent that the disclosure of information or identification is pro-  
 9 vided for under this act, and, further, the enactment of this act  
 10 shall supersede any municipal or county law or ordinance *enacted*  
 11 *subsequent to May 11, 1983* providing for **["the"]** *this*  
 12 disclosure or identification **["in effect on the effective date of this**  
 13 **act"]**.

1 28. The Board of Public Utilities shall consider all expenses in-  
 2 curred by a public utility in complying with the provisions of P. L.  
 3 , c. (C. ) (now pending before the Legislature  
 4 as Senate Committee Substitute for Senate Bill No. 1670 of 1982)  
 5 as a current expense of providing utility service, which shall be  
 6 charged to all ratepayers of the utility in the same manner as other  
 7 current operating expenses of providing utility service.

1 29. Any expenditure made by a county or municipality to comply  
 2 with the provisions of P. L. , c. (C. ) (now pend-  
 3 ing before the Legislature as Senate Committee Substitute for  
 4 Senate Bill No. 1670 of 1982) shall, for the purposes of P. L. 1976,  
 5 c. 68 (C. 40A:4-45.1 et seq.), be considered an expenditure man-  
 6 dated by State law.

1 30. Within two years of the effective date of this act the Depart-  
 2 ment of Health, the Department of Environmental Protection, and



3 the Department of Labor shall jointly prepare and submit to the  
 4 Governor and the Legislature a report evaluating the implementa-  
 5 tion of this act, together with any recommendations for legislative  
 6 or administrative action deemed necessary or appropriate.

1 31. a. The Department of Health shall have the right to enter  
 2 an employer's facility during the normal operating hours of the  
 3 facility to determine the employer's compliance with the provisions  
 4 of subsection a. of section 7, and sections 10, 11, 12, 13, and 14 of  
 5 this act, and any rules and any regulations adopted pursuant  
 6 thereto.

7 b. The Department of Environmental Protection shall have the  
 8 right to enter an employer's facility during the normal operating  
 9 hours of the facility to determine compliance with subsection b. of  
 10 section 7 and section 9 of this act, and any rules and any regula-  
 11 tions adopted pursuant thereto.

1 32. Except as otherwise provided in this act, the Department of  
 2 Health, the Department of Environmental Protection, the Depart-  
 3 ment of Labor and the Department of the Treasury shall adopt any  
 4 rules and regulations necessary to carry out their respective re-  
 5 sponsibilities under this act.

1 *\*\*33. a. Whenever, on the basis of information available to him,  
 2 the Commissioner of the Department of Environmental Protection  
 3 finds that an employer is in violation of subsection b. of section 7,  
 4 or of subsection b. or c. of section 9 of this act, or any rule and  
 5 regulation adopted pursuant thereto, or the Commissioner of the  
 6 Department of Health finds that an employer is in violation of sub-  
 7 section a. of section 7, or of sections 10, 11, 12, 13, or 14 of this act,  
 8 or any rule and regulation adopted pursuant thereto, the Commis-  
 9 sioner of the Department of Environmental Protection, or the  
 10 Commissioner of the Department of Health, as the case may be,  
 11 shall:*

12 *(1) Issue an order in accordance with subsection b. of this  
 13 section requiring the employer to comply;*

14 *(2) Bring a civil action in accordance with subsection c. of this  
 15 section;*

16 *(3) Levy a civil administrative penalty in accordance with sub-  
 17 section d. of this section; or*

18 *(4) Bring an action for a civil penalty in accordance with sub-  
 19 section e. of this section.*

20 *The exercise of any of the remedies provided in this section shall  
 21 not preclude recourse to any other remedy so provided.*

22 *b. Whenever, on the basis of information available to him, the  
 23 Commissioner of the Department of Environmental Protection*

24 finds that an employer is in violation of subsection b. of section 7,  
25 or of subsections b. or c. of section 9 of this act or any rule or  
26 regulation adopted pursuant thereto, or the Commissioner of the  
27 Department of Health finds that an employer is in violation of  
28 subsection a. of section 7, or of sections 10, 11, 12, 13, or 14 of this  
29 act, or any rule or regulation adopted pursuant thereto, the Com-  
30 missioner of the Department of Environmental Protection or the  
31 Commissioner of the Department of Health, as the case may be,  
32 may issue an order (1) specifying the provision or provisions of  
33 this act, or the rule or regulation adopted pursuant thereto of which  
34 the employer is in violation; (2) citing the action which caused  
35 the violation; (3) requiring companies with the provision of this  
36 act or the rules and regulations adopted pursuant thereto of which  
37 he is in violation; and (4) giving notice to the employer of his  
38 right to a hearing on the matters contained in the order.

39 c. The Commissioner of the Department of Environmental Pro-  
40 tection or the Commissioner of the Department of Health, as ap-  
41 propriate, is authorized to commence a civil action in Superior  
42 Court for appropriate relief from a violation of this act. This relief  
43 may include an assessment against the violator for the costs of any  
44 investigation, inspection, or monitoring survey which led to the  
45 discovery and establishment of the violation, and for the reasonable  
46 costs of preparing and litigating the case under this subsection.

47 d. The Commissioner of the Department of Environmental Pro-  
48 tection or the Commissioner of the Department of Health, as ap-  
49 propriate, is authorized to impose a civil administrative penalty of  
50 not more than \$2,500.00 for each violation and additional penalties  
51 of not more than \$1,000.00 for each day during which a violation  
52 continues after receipt of an order from the commissioner to cease  
53 the violation. Any amount imposed under this subparagraph shall  
54 fall within a range established by regulation by the commissioner  
55 for violations of similar type, seriousness, and duration. No civil  
56 administrative penalty shall be imposed until after the employer  
57 has been notified by certified mail or personal service. The notice  
58 shall include a reference to the section of the act, rule, regulation  
59 or order violated; a concise statement of the facts alleged to  
60 constitute a violation; a statement of the amount of the civil  
61 administrative penalties to be imposed; and a statement of the  
62 employer's right to a hearing. The employer shall have 20 days  
63 from receipt of the notice within which to deliver to the commis-  
64 sioner a written request for a hearing. Subsequent to the hearing  
65 and upon finding that a violation has occurred, the commissioner  
66 may issue a final order after imposing the amount of the fine speci-

67 *fied in the notice. If no hearing is requested, the notice shall become*  
 68 *a final order upon the expiration of the 20-day period. Payment of*  
 69 *the penalty is due when a final order is issued or when the notice*  
 70 *becomes a final order. The authority to levy a civil administrative*  
 71 *penalty is in addition to all other enforcement provisions in this*  
 72 *act, and the payment of a civil administrative penalty shall not be*  
 73 *deemed to affect the availability of any other enforcement provision*  
 74 *in connection with the violation for which the penalty is levied. A*  
 75 *civil administrative penalty imposed under this section may be*  
 76 *compromised by the commissioner upon the posting of a perform-*  
 77 *ance bond by the employer, or upon terms and conditions the com-*  
 78 *missioner may establish by regulation.*

79 *e. An employer who violates this act, an order issued pursuant*  
 80 *to subsection b. of this section, or a court order issued pursuant to*  
 81 *subsection c. of this section, or who fails to pay in full a civil ad-*  
 82 *ministrative penalty levied pursuant to subsection d. of this section,*  
 83 *shall be subject, upon order of a court, to a civil penalty not to*  
 84 *exceed \$2,500.00 for each day during which the violation continues.*  
 85 *An employer who willfully or knowingly violates this act, or who*  
 86 *willfully or knowingly makes a false statement, representation, or*  
 87 *certification in any document filed or required to be maintained*  
 88 *under this act, or who falsifies, tampers with, or knowingly renders*  
 89 *inaccurate, any monitoring device required to be maintained pursu-*  
 90 *ant to this act, is subject upon order of a court, to a civil penalty*  
 91 *of not less than \$10,000.00, nor more than \$5,000.00 per day of*  
 92 *violation. Any penalty imposed pursuant to this subsection may*  
 93 *be collected, and any costs incurred in connection therewith may be*  
 94 *recovered, in a summary proceeding pursuant to "the penalty*  
 95 *enforcement law" (N. J. S. 2A:58-1 et seq.). The Superior Court*  
 96 *or county district court shall have jurisdiction to enforce "the*  
 97 *penalty enforcement law."\*\**

1 *\*\*[33.]\*\* 34.\*\* There is appropriated \$1,700,000.00 from the*  
 2 *General Fund as a loan to the "Worker and Community Right To*  
 3 *Know Fund"\*\*, created pursuant to section 26 of this act,\*\* to*  
 4 *implement the provisions of this act. The loan to the "Worker and*  
 5 *Community Right To Know Fund" shall be repaid with interest to*  
 6 *the General Fund \*\*in installments\*\* beginning in the first year*  
 7 *following enactment and each year thereafter as surplus moneys*  
 8 *accrue to the fund. The rate of interest to be paid shall be the same*  
 9 *average annual rate as earned by the State in its general investment*  
 10 *account for the year in which a loan repayment \*\*installment\*\* is*  
 11 *made. Notwithstanding the provisions of subsection e. of section*  
 12 *26 of this act, the State Treasurer shall not reduce the \*\*[fees]\*\*\*\**

13 *\*\*fee\*\* imposed **by** *\*\*pursuant to\*\* this act until the entire*  
14 *loan has been repaid.\***

1 ***[33.]** **[34.]** **35.** This act shall take effect one year*  
2 *following enactment *except that subsection a. of section 26 and**  
3 *section **[33]** **34** shall take effect immediately and that the*  
4 *several departments charged with the administration of this act*  
5 ***[are authorized to and]** shall take all actions necessary prior*  
6 *to the effective date of this act to implement the provisions of this*  
7 *act on the effective date thereof\*.*

SENATE, No. 1670

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 16, 1982

By Senator DALTON

Referred to Committee on Energy and Environment

AN ACT concerning certain hazardous substances in the workplace  
and the community.

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

1 1. This act shall be known and may be cited as the "Worker and  
2 Community Right to Know Act."

1 2. The Legislature hereby finds and determines that the prolifera-  
2 tion of chemicals in the workplace and the community poses a  
3 growing threat to the health of employees and community residents  
4 who are or may be exposed to these chemicals; that the number and  
5 variety of these chemicals makes effective monitoring of these  
6 potential health hazards by governmental agencies difficult and  
7 expensive; that employees and community residents themselves  
8 are often in the best position to detect evidence of effects of  
9 exposure to hazardous substances, provided they are aware of the  
10 nature of the chemicals to which they may be or have been exposed;  
11 that employees and community residents have an inherent right to  
12 know the dangers to which they may be exposed in their workplace  
13 and their community so that they may make knowledgeable and  
14 reasoned decisions concerning their employment, living conditions,  
15 and the need for corrective action; that local fire, safety, and health  
16 officials need detailed information about the characteristics and  
17 quantities of chemicals stored and used within their jurisdictions  
18 so that they can properly plan for and respond to emergencies;  
19 that county and municipal executive and legislative officials, and  
20 members of planning boards, need detailed information about the

21 characteristics and quantities of chemicals handled and stored in  
22 their communities; that law enforcement officials need detailed  
23 information about the characteristics and quantities of chemicals  
24 handled and stored in their communities to enable them to enforce  
25 compliance with applicable laws and regulations; that the presence  
26 of chemicals in the workplace often serves as an early warning  
27 mechanism for potential exposure of the public to those chemicals;  
28 that containers of chemicals and chemical mixtures should be  
29 clearly labeled at all times with their chemical contents; and that a  
30 policy of identification of chemicals facilitates the prevention of the  
31 adverse effect of chemical exposure by requiring identification of  
32 chemicals before they have been proven to be hazardous.

33 The Legislature therefore declares that it is in the public interest  
34 for employees and community residents to have access to informa-  
35 tion about chemicals which are stored in or emitted from their  
36 workplace and communities.

1 3. As used in this act:

2 a. "Chemical" means any material listed in the latest edition of  
3 the National Institute for Occupational Safety and Health's  
4 Registry of Toxic Effects of Chemical Substances, but shall not  
5 include chemicals unintentionally present in a compound in a  
6 concentration of less than 0.5% by weight or chemicals contained  
7 in packages offered for sale at retail stores.

8 b. "Material safety data sheet" means a written document  
9 prepared by the manufacturer of a chemical which shall conform  
10 to the format of, and contain the information required by, the  
11 United States Department of Labor form OSHA-20, material  
12 safety data sheet (latest edition). The material safety data sheet  
13 shall contain the name, address, and telephone number of the  
14 person responsible for preparing it, and the date on which the  
15 sheet was prepared, and shall provide, at the minimum, the fol-  
16 lowing information:

17 (1) The specific chemical name which conforms to the Chemical  
18 Abstract Service rules of nomenclature, the Chemical Abstract  
19 Service number, the trade name, and all common names of the  
20 chemical and of each of the component chemicals contained in any  
21 mixture;

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

26 (3) The chemical's solubility in water, vapor pressure at stan-  
27 dard conditions of temperature and pressure, and flash point;

28 (4) The hazards posed by the chemical, including its toxicity,  
29 carcinogenicity, mutagenicity, teratogenicity, flammability, explo-  
30 siveness, corrosivity and reactivity, including specific information  
31 on its reactivity with water;

32 (5) A description, in non-technical language, of the acute and  
33 chronic health effects and risks from exposure, including the med-  
34 ical conditions that might be aggravated by exposure, and any  
35 permissible exposure limits established by the Occupational Safety  
36 and Health Administration;

37 (6) The potential routes and symptoms of exposure;

38 (7) The proper precautions, handling practices, necessary per-  
39 sonal protective equipment, recommended engineering controls,  
40 and other safety precautions necessary or beneficial, including  
41 specific information on how to fight a fire that involves the  
42 chemical;

43 (8) The appropriate emergency and first aid procedures for  
44 spills, fires, disposal, potential explosions, and accidental or un-  
45 planned emissions involving the chemical;

46 c. "Public information data sheet" means a written document  
47 prepared by an employer which lists all the chemicals existing or  
48 being emitted from his facility for which material safety data sheet  
49 forms are required. The public information data sheet shall provide  
50 the following information for each chemical listed:

51 (1) The chemical's specific chemical name conforming to the  
52 Chemical Abstract Service rules of nomenclature and the Chemical  
53 Abstract Service number of the chemical and of the component  
54 chemicals contained in any mixture;

55 (2) The total amount in weight of the chemical handled at the  
56 facility during the previous 12 months;

57 (3) The types of containers used to contain the chemical and the  
58 street-address locations at which the chemical is used, stored,  
59 handled, or generated;

60 (4) The maximum rate of emission of the chemical into the air,  
61 the annual total amount of emission, and the location of the source  
62 of the emission;

63 (5) The on-site location of either the chemical or the wastes  
64 resulting from the use, disposal, or handling of the chemicals;

65 d. "Discharge" means the emission of a chemical into the air or  
66 water, or onto the land, whether accidental or intentional, which  
67 is not part of a normal manufacturing process and which is not  
68 otherwise reportable under this act and which involves more than  
69 500 pounds or 55 gallons of the chemical, or any quantity of a  
70 chemical that has been listed by the Department of Environmental  
71 Protection as a special health hazard chemical.

72 e. "Employer" in addition to its usual meaning means any indi-  
73 vidual, corporation, state or local government or any agency,  
74 authority, department, bureau or instrumentality thereof, but shall  
75 not include employers who employ only domestic servants.

76 f. "Container" means a container used to store or otherwise hold  
77 chemicals, and shall include pipelines.

78 g. "Facility" means the contiguous area, building, and equipment  
79 used by any employer at a single location in the conduct of business.

80 h. "Special health hazard chemical" means any known or sus-  
81 pected carcinogen, mutagen or teratogen as defined by the depart-  
82 ment, any chemical assigned a toxicity hazard rating of 3 in the  
83 most recent edition of N. Irving Sax's Dangerous Properties of  
84 Industrial Materials; and any other chemical so designated by the  
85 department.

86 i. "Department" means the Department of Environmental  
87 Protection.

1 4. a. Every employer shall obtain a material safety data sheet  
2 for each chemical or chemical component of a mixture existing or  
3 emitted at his facility which is a special health hazard chemical, and  
4 for every chemical or chemical component of a mixture which is  
5 regularly stored or handled in the facility in amounts in excess of  
6 500 pounds, or 55 gallons, whichever is less, during a 24 hour  
7 period, except that a single material safety data sheet may be ob-  
8 tained for a chemical mixture if the mixture has been submitted  
9 to sufficient analysis and testing to justify a valid judgment of its  
10 properties, and the mixture label identifies the mixture's constit-  
11 uent chemicals. Every employer shall annually update any ma-  
12 terial safety data sheet required pursuant to this section.

13 b. Every employer shall prepare and annually update a public  
14 information data sheet for each facility and transmit it to the  
15 department.

16 c. Every employer shall establish and maintain an up-to-date  
17 material safety data sheet and public information data sheet file  
18 at his facility. Employers shall post the public information data  
19 sheet for the facility and a notice of the availability of the material  
20 safety data sheets on bulletin boards readily accessible to em-  
21 ployees, and shall provide employees with any material prepared  
22 by the department designed to inform employees of their rights  
23 pursuant to this act. Employers shall provide their employees with  
24 access to a material safety data sheet within 24 hours of a request  
25 therefor.

26 d. Employers shall establish an education and training program  
27 for all current and future employees, which shall inform employees



28 of the nature of the chemicals to which they may be exposed in the  
29 course of their employment, the potential health risks which the  
30 chemicals pose, and the proper and safe procedures for handling the  
31 chemicals under all circumstances. Employers shall provide current  
32 employees with the education and training program within 120  
33 days of the effective date of this act, and annually thereafter, and,  
34 for employees hired thereafter, within the first month of employ-  
35 ment and annually thereafter. Employers shall provide all pros-  
36 pective employees with notice of the availability of the public  
37 information data sheet and the material safety data sheets.

38 e. Employers shall label containers which contain more than 500  
39 pounds or 55 gallons of a chemical or any quantity of a special  
40 health hazard chemical. Labels shall be fixed on containers at all  
41 times and shall clearly identify the common name, Chemical Ab-  
42 stract Service number, and the health and safety dangers posed by  
43 the chemical.

44 f. Employers shall report any discharge to the department within  
45 48 hours of the occurrence of the discharge.

46 g. Beginning 120 days after the effective date of this act, no em-  
47 ployer shall store, generate, handle, or emit any chemical unless he  
48 is in compliance with the provisions of this section.

1 5. If any employer claims that the provision of the information  
2 required for a public information data sheet would disclose a trade  
3 secret or otherwise put him at a competitive disadvantage, he may  
4 request the department to conduct an administrative hearing to  
5 determine the legitimacy of the claim. The department may, after  
6 such a hearing, consider a public information data sheet, or a por-  
7 tion thereof, to be confidential, and not to be made available to the  
8 public, if the employer can show that the public information data  
9 sheet, or a portion thereof, if made public, would divulge processes  
10 or production methods unique to the employer or would otherwise  
11 adversely affect trade secrets. No employer may make a claim of  
12 confidentiality concerning emission or discharge data pertaining to  
13 chemicals which are potentially toxic in the environment. The de-  
14 partment may release information subject to a claim of confiden-  
15 tiality to a licensed physician or osteopath when the information  
16 is needed for a medical diagnosis or the treatment of a person ex-  
17 posed to a chemical. The department may require the physician or  
18 osteopath to sign an agreement protecting the confidential informa-  
19 tion from public disclosure.

1 6. a. Except as otherwise provided in this act, any employee,  
2 including an employee of the State or any political subdivision  
3 thereof, or any collective bargaining agent of an employee, may

4 request, in writing, from his employer a copy of a public informa-  
5 tion data sheet or a material safety data sheet filed pursuant to  
6 this act for the facility at which he is employed. The employer  
7 shall provide any public information data sheet or material safety  
8 data sheet so requested within 24 hours of the request. If the  
9 request for a public information data sheet or material safety data  
10 sheet is not honored, any worker shall have the right to refuse to  
11 work with a chemical for which a request was made without loss  
12 of pay or any other right or privilege until the request is honored.

13 b. Any employee or an employee's representative who believes  
14 that an employer has not complied with the provisions of this  
15 section may file a complaint with the Commissioner of the Depart-  
16 ment of Labor. Upon receipt of the complaint, the commissioner  
17 shall investigate the allegations contained in the complaint and,  
18 if the commissioner deems that the employer is in violation of the  
19 provisions of this section, he shall initiate a civil action by sum-  
20 mary proceeding under "the penalty enforcement law" (N. J. S.  
21 2A:58-1 et seq.). Any employer violating the provisions of this  
22 section shall be liable to a penalty of not less than \$2,500.00 and a  
23 prison term of not less than 30 days for each offense. If the viola-  
24 tion is of a continuing nature, each day during which it continues  
25 shall constitute an additional and separate offense.

1 7. a. No employer shall discharge, or cause to be discharged, or  
2 otherwise discipline or in any way penalize or discriminate against  
3 any employee because the employee or the employees collective bar-  
4 gaining agent has filed any complaint, or has instituted, or caused  
5 to be instituted, any proceedings related to the provisions of this  
6 act, or has exercised any right provided in this act. If any employer  
7 takes any disciplinary action against a worker within 90 days after  
8 the worker has exercised any right provided in this act, there is a  
9 rebuttable presumption that the employer's action was in retalia-  
10 tion to the worker's exercise of these rights.

11 b. Any employee who believes that he has been discharged, dis-  
12 ciplined, or otherwise penalized or discriminated against by any  
13 employer in violation of subsection a. of this section may, within  
14 30 days of the violation, or within 30 days after he first obtains  
15 knowledge that a violation occurred, file a complaint with the  
16 Commissioner of Labor alleging such a violation. Within 30 days  
17 of receipt of a complaint, the Commissioner of Labor shall conduct  
18 an investigation and determine if the complaint is frivolous. If the  
19 commissioner does not deem the complaint frivolous, he shall refer  
20 the complaint to the Office of Administrative Law, which shall con-  
21 duct a hearing on the complaint pursuant to the provisions of P. L.

22 1978, c. 67 (C. 52:14F-1 et seq.). This hearing shall be an adjudi-  
23 catory proceeding, and shall be conducted as a contested case pur-  
24 suant to the "Administrative Procedure Act," P. L. 1968, c. 410  
25 (C. 52:14B-1 et seq.). If the Commissioner of Labor or employee  
26 introduces evidence that prior to the alleged violation the employee  
27 engaged in activity protected by this act, the employer shall have  
28 the burden to show just cause for his action by clear and convincing  
29 evidence. The administrative law judge's action on the complaint  
30 shall be considered the final agency action thereon for the purposes  
31 of the "Administrative Procedure Act," and shall be subject only  
32 to judicial review as provided in the Rules of Court.

1 8. Any person shall have the right to inspect and reproduce ma-  
2 terial safety data sheets and public information data sheets, which  
3 shall be available at reasonable hours and reasonable costs at the  
4 office of the department and at each county health department or at  
5 the county clerk if no county health department exists.

1 9. Any person may bring a civil action in law or equity on his own  
2 behalf against any employer for a violation of any provision of this  
3 act or any rule and regulation promulgated pursuant thereto or  
4 against the Department of Environmental Protection or the De-  
5 partment of Labor for failure to enforce the provisions of this act  
6 or any rule or regulation promulgated pursuant thereto. The  
7 Superior Court shall have jurisdiction of these actions, and it shall  
8 not be necessary to the maintainance of the action that the person  
9 bringing the action prove that he has suffered or will suffer per-  
10 sonal loss or damage. The court may award, whenever it deems  
11 appropriate, costs of litigation, including reasonable attorney and  
12 expert witness fees.

1 10. The department shall:

2 a. Maintain a file containing a material safety data sheet for  
3 each chemical existing or emitted at facilities within the State and  
4 a public information data sheet for each facility in the State. If  
5 the department is unable to obtain a material safety data sheet  
6 from the manufacturer of a chemical, the department may obtain  
7 the material safety data sheet from an employer who listed the  
8 chemical on a public information data sheet required pursuant to  
9 this act. The department shall assure the quality of the material  
10 safety data sheets and public information data sheets required  
11 by this act.

12 b. File with each county health department, or with the county  
13 clerk if no county health department exists, the material safety  
14 data shet for each chemical used, stored, generated, handled or  
15 transported in the county, and an up-to-date public information

16 data for each facility located within the county.

17 c. Inspect facilities for compliance with the provisions of this  
18 provisions of this act and respond to complaints alleging violations  
19 of this act.

20 d. Initiate, when it deems appropriate, legal action in the Supe-  
21 rior Court to enforce compliance with this act or any rule or regu-  
22 lation promulgated pursuant thereto. The Superior Court shall  
23 have the power to issue injunction relief for violations of this act,  
24 and to assess civil penalties of up to \$10,000.00 for each violation.

25 e. Provide, upon request, copies of material safety data sheets  
26 and public information data sheets to fire fighters, ambulance  
27 squads or companies, hospitals and other emergency service per-  
28 sonnel within 48 hours of such a request. In an emergency situa-  
29 tion, the material safety data sheets or public information data  
30 sheets shall be made available immediately. A material safety data  
31 sheet or public information data sheet requested from the depart-  
32 ment by other persons shall be provided within 10 business days,  
33 except that a material safety data sheet or public information data  
34 sheet requested by the governing body of a municipality shall be  
35 provided within five business days.

1 11. Nothing in this act shall be deemed to limit the powers of  
2 local governing bodies to enact ordinances consistent with the in-  
3 tent of, but more stringent than the provisions of, this act.

1 12. Within one year of the effective date of this act the depart-  
2 ment shall prepare and submit to the Governor and the Legislature  
3 a report analyzing the implementation of this act, assessing the  
4 feasibility and estimating the cost of developing and maintaining  
5 a computerized data storage and retrieval system containing the  
6 material safety data sheets and public information data sheets re-  
7 quired by this act, which individuals having the necessary com-  
8 puter equipment could have access to, and identifying any ways of  
9 improving the implementation of this act.

1 13. The Commissioner of the Department of Environmental Pro-  
2 tection and the Commissioner of the Department of Labor shall,  
3 within 90 days of the effective date of this act, promulgate any  
4 rules and regulations deemed necessary to effectuate the provisions  
5 of this act.

1 14. This act shall take effect immediately, but sections 1 through  
2 12 of this act shall remain inoperative for 90 days.

Speaker STATEMENT

This bill requires employers at facilities where chemicals are stored, handled, or emitted to prepare information sheets on the chemicals indicating the nature of the chemicals and the health risks which they pose. These information sheets would be kept on file at the facility, where employees would have access to them, and at the offices of the Department of Environmental Protection and at county health departments, where members of the community could have access to them.

This bill also requires employers to label containers of chemicals indicating the chemical's health dangers, and to provide employees with education and training programs concerning the safe handling of dangerous chemicals. In addition, this bill establishes procedures to protect employees who exercise the right to information concerning chemicals provided by this bill.

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SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 1670**

**STATE OF NEW JERSEY**

DATED: MARCH 7, 1983

I

The Senate Energy and Environment Committee Substitute for Senate Bill No. 1670, the "Worker and Community Right to Know Act," establishes a comprehensive system for the disclosure and dissemination of information about hazardous substances in the workplace and the environment.

Senate Committee Substitute for Senate Bill No. 1670 would require certain employers to report those hazardous substances present at their place of business, maintain a file of basic safety information (supplied by the Department of Health) about these substances for their employees' use, provide their employees with education and training on how to handle these substances, and insure that containers in the workplace be labeled so as to disclose the chemical identity of their contents. Senate Committee Substitute for Senate Bill No. 1670 would also require employers to disclose basic information concerning the storage, treatment and emission of hazardous substances into the environment. All disclosed information on hazardous substances would be available to employees at the workplace, and to members of the public at county health departments and from the State Departments of Health and Environmental Protection. Local fire and police departments would also receive this information to help them plan for emergencies involving hazardous substances.

The provisions of this substitute bill will be jointly implemented by the Departments of Health, Environmental Protection, and Labor, with the advice of a Right to Know Advisory Council (established in the bill) consisting of citizen members representing business, labor, environmental, community, fire fighter, and scientific interests. This implementation would be funded by a fee assessed against employers of \$2.00 per employee. The revenues generated would be deposited in a special fund from which the Treasurer would make disbursements to the departments responsible for implementing the provisions of the bill. If signed into law, Senate Committee Substitute for Senate Bill No. 1670 would take effect one year after enactment.

## II

The Senate Committee Substitute for Senate Bill No. 1670 is the result of approximately five months of deliberation on the concepts originally articulated in Senate Bill No. 1670, which was introduced on September 16, 1982. The committee held three public hearings on the original bill. As a result of the spirited exchange of opinions at these hearings, the committee held several informal working sessions attended by both proponents and critics of the bill, with a view toward further clarifying the major points of contention. The committee also met with the Departments of Health, Environmental Protection, Public Advocate, and Labor.

As a result of these hearings and meetings, and subsequent testimony, the committee produced two drafts of a proposed substitute (dated January 11, 1983 and February 16, 1983), and considered each draft at full committee meetings, at which interested parties were allowed to comment. As a result of these hearings the committee made approximately 50 changes to the drafts prior to releasing the substitute bill in its present form. The committee thus believes that this substitute bill achieves the necessary and delicate equipoise between the right of employees and the public to information about hazardous substances, and the need of business and industry to operate without excessive restriction.

## III

The basic distinctions between the original bill and the committee substitute collectively address many of the key issues raised shortly after the bill was introduced. Whereas Senate Bill No. 1670 required that information be disclosed for the approximately 40,000 substances on the National Institute For Occupational Safety and Health (NIOSH) *Registry of Toxic Effects of Chemical Substances*, the substitute provides for two, more focused, lists: a workplace hazardous substance list of between 800 and 1,000 substances, and an environmental or community hazardous substance list of approximately 154 substances. Whereas the original bill required employers to obtain safety information on hazardous substances, the substitute requires the Department of Health to prepare a safety sheet for each hazardous substance for distribution to employers, who in turn are required to make it available to their employees. (This change, in addition to removing from employers the burden of obtaining the information, insures that every employee in the State will have access to the same safety information concerning a given hazardous substance.) Whereas Senate Bill No. 1670 provided that the entire right to know program would take effect 90 days following enactment of the bill, the substitute provides for a

three year phase-in of the major provisions of the program (see attached implementation process chart). Whereas Senate No. 1670 provided that the right to know program would be implemented by the Department of Environmental Protection, the substitute bill bifurcates the responsibilities for implementation between the Department of Environmental Protection and the Department of Health to reflect each department's mission and capability.

This substitute bill addresses several other important issues which emerged during the committee's deliberations. The original bill applied to all employers except employers of domestic servants, a scope which many felt to be too broad. The committee keyed the application of the bill to employers based on the type of business activity they were engaged in. Thus the substitute bill uses categories from the Standard Industrial Classification (SIC) Manual prepared by the Federal Office of Management and Budget to delineate those businesses covered by the bill. The substitute bill would apply to employers with SIC Major Group numbers 20-39 (manufacturing industries, which are the basic major group numbers covered by most OSHA regulations), 46-49 (pipelines, transportation services, communication, and electric, gas, and sanitary services), 51 (wholesale trade, durable goods), 75 (automobile repair, service, and garages), 76 (miscellaneous repair services), 80 (Health services), 82 (Educational Services), and 84 (museums, art galleries, botanical and zoological gardens). Also included are the State and local governments. Excluded businesses included retail trade, the professions, most service industries, and research and development laboratories.

In response to business concerns that disclosure of information to both employees and members of the public might allow competitors to obtain proprietary information, the committee has provided in the substitute bill a carefully structured mechanism for protecting legitimate trade secrets.

Because access to safety and health information is meaningful only when an individual knows the identity of the substances he or she is handling or exposed to, the committee determined that all containers in the workplace should be labeled with the chemical name of the substance or substances in the container. In recognition of the problems inherent in this sweeping approach, however, the committee has provided for exemptions from certain kinds of containers which will not hold substances that pose any threat to health. The committee also determined that the labeling requirement should be a 36-month phase-in to insure maximum compliance with minimum disruption.

Finally, in recognition that under certain circumstances a substance which is acutely hazardous in its purest and most concentrated form,



may, in other forms, be much less hazardous, the substitute bill provides that a hazardous substance in a form which does not pose an acute health threat need not be reported if it constitutes less than 1% of a mixture (except if the substance is a special health hazard substance), or if the substance is present in essentially the same form available to the general consumer.

#### IV

Because Senate Bill No. 1670 SCS requires the disclosure of information concerning hazardous substances in both the workplace and the environment, the responsibility for implementing the disclosure and health requirements of the bill is divided between the Department of Environmental Protection and the Department of Health. Additionally, the Department of Labor is charged with implementing those sections of the bill pertaining to employer-employee relations.

##### 1. *Responsibilities of the Department of Environmental Protection.*

The Department of Environmental Protection is responsible for developing two basic documents, the Environmental Hazardous Substance List and the Environmental Survey. The *Environmental Hazardous Substance List* will comprise the list of substances about which an employer must report basic storage, emission, and waste disposal data. The Environmental Hazardous Substance List contains substances which may be linked to the incidence of cancer, genetic mutations, or physiological malfunctions, or which may pose a threat to the public health and safety. In consultation with the department, the committee decided that the department should base the Environmental Hazardous Substance List on the list of 154 substances used by the department in its current Industrial Survey Project, established pursuant to N. J. A. C. 7:1F-1.1 et seq. The department is authorized to add substances to the Industrial Survey List when supported by scientific evidence.

The *Environmental Survey* will be the document which an employer will be required to complete for each environmental hazardous substance present at his facility. The Environmental Survey would require information concerning the quantity of the substance produced, consumed, brought into, and shipped out of the facility, the point source and fugitive emissions of the substance, and the amount of the substance discharged from or shipped out as waste from the facility.

In addition to preparing the Environmental Substance List and the Environmental Survey, the department is responsible for transmitting an environmental survey to each employer (as defined in the act) whose business activities warrant the reporting of the information required on the survey. The department is also required to make completed environmental surveys available to the public upon request,

and to maintain a file of all completed environmental surveys for 30 years. Finally, the department is responsible for implementing the trade secret sections of the bill, when the subject of the trade secret claim is information required to be disclosed on the Environmental Survey.

2. *Responsibilities of the Department of Health.* The Department of Health is responsible for the workplace component of the bill and is charged with developing four basic documents: the workplace hazardous substance list, the special health hazard substance list, the workplace survey, and a hazardous substance fact sheet for each substance on the workplace hazardous substance list.

The *workplace hazardous substance list* would include: (1) the approximately 450 substances on the list of hazardous substances regulated by the Federal Occupational Safety and Health Administration under subpart z of Part 1910 of Title 29 of the Code of Federal Regulations. (The OSHA "z" list was adopted by OSHA as a basic list of workplace hazardous substances for which it develops maximum exposure limits.) (2) any environmental hazardous substance. (Because approximately 84 environmental hazardous substances are included on the OSHA "z" list, this means a net gain of approximately 70 substances.), and, (3) other substances which the Department of Health, based on scientific evidence determine pose a threat to employee health or safety.

The *Special Health Hazard Substance list* would be a sublist of the workplace hazardous substance list, and would comprise those substances which, because of their known carcinogenicity, mutagenicity, teratogenicity, flammability, explosiveness, corrosivity, or reactivity pose a special health hazard, and for which a trade secret claim may not be made.

The *workplace survey* would be the document transmitted to employers on which the employer would report those substances on the workplace hazardous substance list present at his facility. The workplace survey would also allow an employer to list a substance by trade name or common name, if he believes it might contain a hazardous substance, but is unable to obtain the chemical identity of the substance or its components. In these cases, the Department of Health would have the responsibility of obtaining this information.

The *hazardous substance fact sheet* would be an information sheet prepared by the department for each hazardous substance. The department would transmit the appropriate sheet to an employer based on the substances reported on the workplace survey, and the employer would be required to make these sheets available to his employees. The hazardous substance fact sheet would contain basic health and safety information on the hazardous substance, including information on the acute and chronic health effects of exposure to the hazardous substance.

The Department of Health is also charged with providing workplace surveys and hazardous substance fact sheets to members of the public upon request, maintaining a file of all completed workplace surveys and fact sheets for thirty years, and implementing the trade secret section in the bill when the subject of the trade secret claim is a substance on the workplace survey or a substance in a container which must be labeled.

3. *Responsibilities of the Department of Labor.* The Department of Labor is responsible for handling complaints made by employees alleging non-compliance by an employer with the provisions of the bill. The department will investigate such complaints, and may initiate a civil action against the employer. If an employee files a complaint alleging that he has been discharged or penalized because he exercised his rights provided in the bill, the department will investigate the complaint, and may refer the matter to the Office of Administrative Law for a hearing. The department would have the final decision power over the matter.

4. *Responsibilities of County Health Departments.* County Health Departments would be responsible for maintaining a file of workplace surveys and environmental surveys received from employers in the county, and for making this information available to the public.

5. *Responsibilities of local fire and police departments.* Local police and fire departments receive completed workplace surveys and environmental surveys transmitted to them from employers and are authorized to obtain any further information they require.

6. *Responsibilities of employers.* Each employer is required to complete a workplace survey and environmental survey received from the Department of Health and Department of Environmental Protection, and to transmit copies of the completed surveys to the relevant department, the county health department, and the local police and fire departments. An employer is also required to maintain and make available to employees a file containing hazardous substance fact sheets, and the workplace survey and environmental survey. In addition, an employer must provide employees exposed to hazardous substances with an education and training program concerning these substances. Additionally, an employer must label all containers containing a hazardous substance within six months of the effective date of the bill, and all containers within two years of the effective date of the bill. Also, an employer is required to provide an employee with any information requested pursuant to the bill within five working days of the request, and must update the workplace survey once a year and the environmental survey every other year. Finally, every employer is required to pay to the state an annual fee of \$2.00 per employee, which will be used to implement the provisions of the bill.

SENATE REVENUE, FINANCE AND APPROPRIATIONS  
COMMITTEE

STATEMENT TO  
SENATE COMMITTEE SUBSTITUTE FOR

**SENATE, No. 1670**

with committee amendments

**STATE OF NEW JERSEY**

DATED: APRIL 25, 1983

Senate Committee Substitute for Senate Bill No. 1670, with committee amendments, the "Worker and Community Right to Know Act," establishes a system for the disclosure and dissemination about hazardous substances in the workplace and the environment.

**SUMMARY OF PROVISIONS**

In summary, the bill would require certain employers to report those hazardous substances present at their place of business (Sec. 7), maintain a file of basic safety information about the hazardous substances for the use of their employees (Sec. 12), provide their employees with a training program regarding safe handling of the substances (Sec. 13), and require the labeling of containers in the workplace to disclose the identity of these substances (Sec. 14). Additionally, employers would be required to disclose information about the storage, treatment and emission of hazardous substances into the environment (Sec. 7).

All disclosed information on hazardous substances would be available to employees at their workplace (Secs. 12, 16), and to the public through the county health departments (Sec. 22) and the State Departments of Health and Environmental Protection (Secs. 4, 5, 9, 10).

The provisions of the bill are to be implemented by the State Departments of Health, Environmental Protection, Labor, and Treasury. A Right to Know Advisory Council is also established (Sec. 18) to advise the departments on the implementation of the act. It consists of 11 public members appointed by the Governor with the advice and consent of the Senate. One each will be recommended by recognized labor unions, environmental organizations, public interest organizations, organizations of chemical industries, community organizations, organizations of petroleum industries, organizations of firefighters, business or trade organizations, small business, public health organizations, and research or academic organizations.

The Statement on the bill by the Senate Energy and Environment Committee, dated March 7, 1983, provides additional detail about the measure including a time implementation and flow chart.

**FUNDING PROGRAM**

Section 26 establishes the "Worker and Community Right to Know Fund." Each employer as defined in the bill (Sec. 3h.) is to be assessed a fee of not less than \$50.00, nor more than an amount equal to \$2.00 per employee.

Moneys in the fund can be used for only two purposes; to implement the act and to repay the General Fund for any appropriations made to implement the act.

The State Treasurer is to annually disburse moneys in the fund to the several departments and county health departments in amounts not greater than the following percentages of the total available in the fund:

<u>Department</u>	<u>% Total</u>
Health .....	40%
Environmental Protection .....	20%
Labor .....	15%
Treasury .....	10%
County Health .....	15%

The State Treasurer is to audit the fund beginning two years from the date of enactment and if he determines that there are sufficient revenues in the fund to warrant a reduction, is authorized to reduce the fee for the ensuing year.

The funding provision expires five years following the effective date of the act.

**FISCAL IMPACT**

A fiscal note worksheet prepared on this measure indicates annual revenues will be about \$2.8 million per year. Estimated expenditures total \$1.7 million in the first year and \$2.1 million and \$2.2 million in the second and third years respectively. A summary follows:

	Fiscal Year		
	(\$ millions)		
	1983-84	1984-85	1985-86
Revenue .....	\$0	\$2.8	\$2.8
Expenditures .....	1.7	2.1	2.2
Balance .....	(1.7)	.7	.6
Cumulative Balance	(1.7)	(1.0)	(.4)

**COMMITTEE AMENDMENTS**

The committee amended the bill by adding that pipes leading into process containers shall only be labeled at the fluid control valves.

Other amendments provide that the Director of the Division of Budget and Accounting must approve expenditures from the fund and

establish the percentages of funding for the several departments from the fund as the maximum amount, not a mandatory amount.

Lastly, the committee provided a \$1.7 million appropriation to provide funding to permit the several departments to take what steps may be necessary to implement the act when it becomes effective, one year following enactment. The appropriation is a loan and is to be repaid, with interest, as surplus funds accrue to the "Worker and Community Right to Know Fund."

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SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

**SENATE, No. 1670**

[OFFICIAL COPY REPRINT]

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**STATE OF NEW JERSEY**

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DATED: JUNE 16, 1983

Senate Committee Substitute for Senate Bill No. 1670 OCR establishes a comprehensive system for the disclosure and dissemination of information about hazardous substances in the workplace and the environment.

S-1670 SCS OCR would require certain employers to report those hazardous substances present at their place of business, maintain a file of basic safety information (supplied by the Department of Health) about these substances for their employees' use, provide their employees with education and training on how to handle these substances, and insure that containers in the workplace be labeled so as to disclose the chemical identity of their contents. S-1670 SCS OCR would also require employers to disclose basic information concerning the storage, treatment and emission of hazardous substances into the environment. All disclosed information on hazardous substances would be available to employees at the workplace, and to members of the public at county health departments and from the State Departments of Health and Environmental Protection. Local fire and police departments would also receive this information to help them plan for emergencies involving hazardous substances.

The provisions of this bill will be jointly implemented by the Departments of Health, Environmental Protection, and Labor, with the advice of a Right to Know Advisory Council (established in the bill) consisting of citizen members representing business, labor, environmental, community, fire fighter, and scientific interests. The implementation would be funded by a fee assessed against employers of \$2.00 per employee. The revenues generated would be deposited in a special fund from which the Treasurer would make disbursements to the departments responsible for implementing the provisions of the bill. If signed into law, S-1670 SCS OCR would take effect one year after enactment.

The committee adopted the following substantive amendments to S-1670 SCS OCR:

1. The definition of "trade secret" was amended to give an employer greater latitude in defending a trade secret claim, and the

departments of Environmental Protection and Health more flexibility in ruling on a trade secret claim.

2. The Department of Health is directed to allow employers having a Standard Industrial Classification within certain subgroups of Major Group numbers 20 (Food & Kindred Products) 51 (Wholesale Trade-Nondurable Goods) and 80 (Health Services) to be exempted from the provisions of bill if they report no hazardous substances on their workplace survey. These employees would still be required to annually update their survey, and if on any subsequent survey they reported a hazardous substance, they would come under the provisions of the act.

3. The Department of Health is directed to establish a list of substances which may be labeled by their *Common* name and Chemical Abstract Service number, is head of their *Chemical* name and CAS number.

4. Any local right to know ordinance adopted prior to May 11, 1983 shall remain in effect.

5. A section establishing penalties for the violation of the act, and authorizing the departments of Environmental Protection and Health to initiate appropriate forms of legal action in response to a violation, was added to the bill.

6. A nonhazardous substance need be identified on a label if it constitutes less than 1% of a mixture.

7. The pipe line labeling requirement was amended to provide that pipelines be labeled at the valve or valves where a substance enters a pipeline system, and at valves, outlets, vents, drains, and sample connections designed to allow the release of the substance from the pipeline system.

8. Section 14 d., requiring that areas near process containers be posted with the identity of the substances in the containers and that vents, sample connections, and drains be labeled, was deleted.

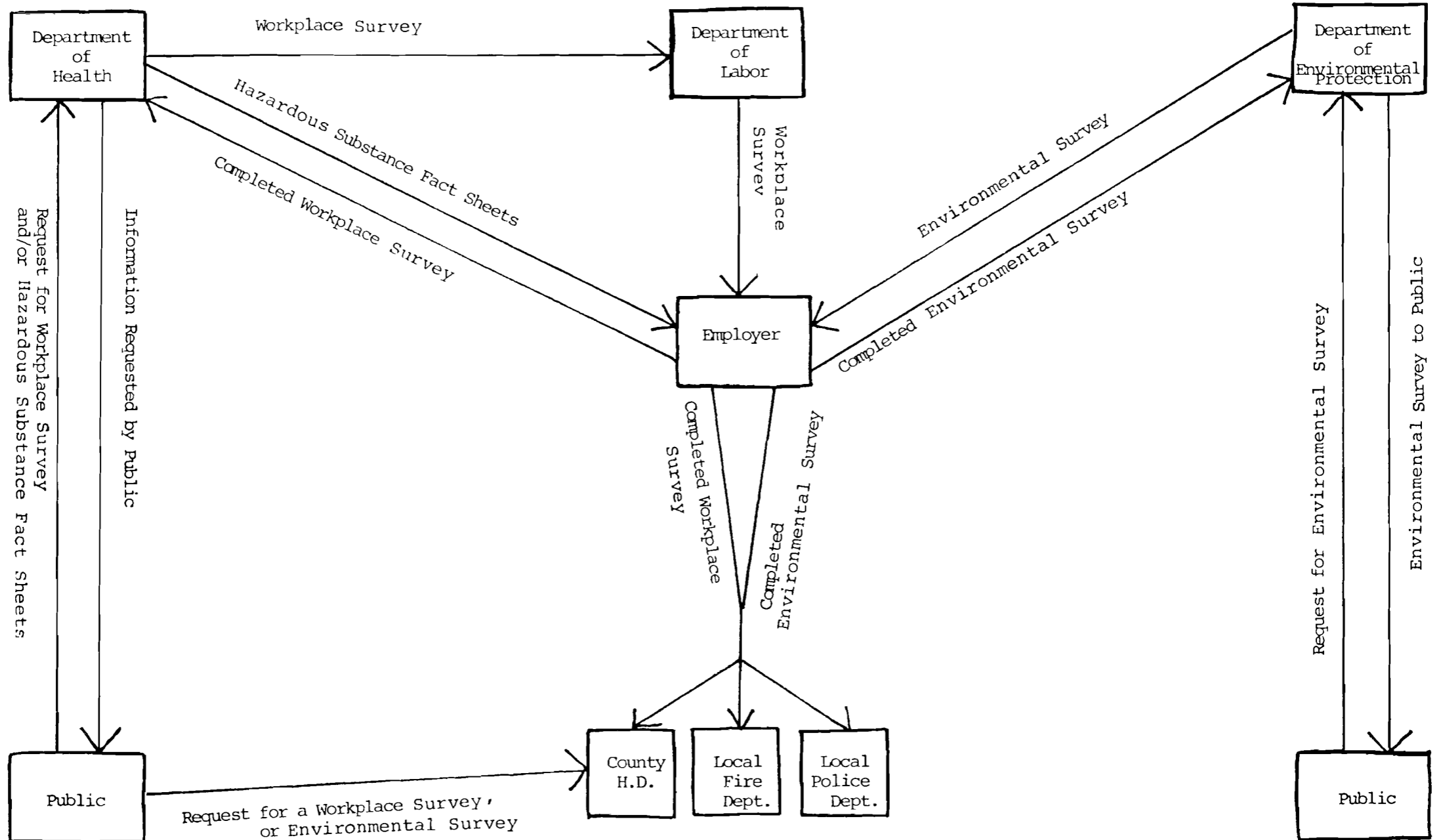
9. Section 14. b (pertaining to the labeling of nonhazardous substances) was amended to provide that if a container contains a mixture, the label shall identify only the *five* most predominant components of the mixture.

10. S-1760 SCS OCR was amended to provide that Research and Development laboratories be subject to provisions of the bill.

11. A definition of "mixture" was added to the bill.

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SENATE COMMITTEE SUBSTITUTE FOR SENATE NO. 1670  
IMPLEMENTATION PROCESS

0	9	12	15	18	36
<b>Date of Enactment</b>	<p>1. DEP holds hearing on proposed Environmental Hazardous Substance List.</p> <p>2. DOH holds hearings on proposed Workplace Hazardous Substance List.</p> <p>3. Nominations for Right To Know Advisory Council.</p>	<p>1. Effective date of the act.</p> <p>2. DOH transmits Workplace Survey to Employers.</p> <p>3. DEP transmits Environmental Survey to employers.</p> <p>4. DOL imposes fee on employers.</p>	<p>1. Employer transmits completed Workplace Survey to DOH.</p> <p>2. Employer transmits completed Environmental Survey to DEP.</p> <p>3. Employer files Trade Secret Claims.</p> <p>4. Upon receipt of completed Workplace Survey, DOH transmits appropriate hazardous Substance Fact Sheets to Employer.</p>	<p>1. All containers containing a hazardous substance are labeled with the Chemical Name and Chemical Abstract Service Number of the Substance(s), or the Trade Secret Registry Number.</p> <p>2. Employees provided with education and training program.</p>	<p>1. All containers labeled with Chemical Name and Chemical Abstract Service number of contents or the trade secret registry number.</p> <p>2. Treasurer conducts first audit of the Right To Know Fund to determine if fee may be decreased for ensuing year.</p>

Amend:

Page	Sec.	Line
18	25	1
18	25	After 10

After "25." Insert "a."

Insert new subsection "b." as follows:

"b. Every employer with a research and development laboratory at his facility shall establish a communications program with the local fire department which shall be designed to assist the fire department in adequately preparing to respond to emergencies at the research and development laboratory."

STATEMENT

These amendments would provide that research and development laboratories would be subject to only the education and training and labeling requirements of the "Worker and Community Right To Know Act." In addition, these amendments would require employers with research and development laboratories at their facilities to establish a communications program with the local fire department, which would be designed to assist the fire department in adequately preparing to respond to an emergency.

These amendments would also provide that containers in a research and development laboratory may be labeled by means of a code system which would allow an employer to cross reference the chemical identity of a hazardous or non-hazardous substance.

FISCAL NOTE TO  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 1670**

**STATE OF NEW JERSEY**

DATED: APRIL 22, 1983

Senate Committee Substitute for Senate Bill No. 1670, of 1982, to be known as the "Worker and Community Right to Know Act" establishes a system for the disclosure and dissemination of information about hazardous substances in the workplace and the community environment. In its briefest description the bill requires: 1) that employees and the community generally be informed of the presence of and health risks associated with hazardous materials in the workplace; 2) labeling of all containers of hazardous substances to disclose the chemical identity of the contents; 3) education and training programs for those employees who come into contact with or handle hazardous substances; 4) enforcement of the provisions of the bill by the State Departments of Environmental Protection, Health, and Labor; and 5) a fee of \$2.00 per employee, but not less than \$50.00, to be paid by employers to fund the program.

Total revenue is estimated at \$2,840,000.00 annually, commencing one year after the effective date of the act. Cost estimates, based on fiscal note worksheets prepared by the effected departments, indicate that revenue generated by the fee structure and allocated to effected departments will be sufficient to meet estimated costs, except for the first year. Due to a delay of one year in imposing the fee the first year costs, estimated at \$1.7 million, will require an appropriation from the General Fund. While this appropriation can be repaid from the revenue fund, as provided in the bill, the estimate of revenue fund surplus in the first two years would provide a reimbursement to the General Fund approximating \$1.3 million.

The fee structure, established in section 26, would be implemented in the second year and would expire five years following the effective date of the act. The act itself does not contain an expiration date other than for the fee structure. Therefore, five years after enactment the program would require a General Fund appropriation.

The Office of Legislative Services, Division of Budget and Program Review, finds the revenue estimate to be reasonable. Cost estimates, for the first year particularly, should be carefully examined. The establish-

ment of 45 new positions for this program should be carefully reviewed. An amendment to the bill giving approval authority to the Director, Division of Budget and Accounting, or line item appropriation by the Legislature, should be considered.

REVENUE AND EXPENDITURE ESTIMATE

	Fiscal Year		
	1984	1985	1986
A. Revenue	\$ —0—	\$2,840,000	\$2,840,000
B. Expenditure:			
1. Dept. of Health	\$ 938,648	\$1,408,836	\$1,415,253
2. Dept. of Environmental Protection	416,007	384,337	420,947
3. Dept. of Labor	359,724	350,048	385,050
4. Dept. of Treasury (Minimal)	(Minimal)	(Minimal)	10,000
5. County Health Dept.	—	(included in 1.)	(included in 1.)
<b>TOTAL</b>	<b>\$1,714,379</b>	<b>\$2,143,221</b>	<b>\$2,231,250</b>
C. "Worker and Community Right to Know Fund" Apportionment			
1. Dept. of Health (40%)	—0—	\$1,136,000	\$1,136,000
2. Dept. of Environmental Protection (20%)	—0—	568,000	568,000
3. Dept. of Labor (15%)	—0—	426,000	426,000
4. Dept. of Treasury (10%)	—0—	284,000	284,000
5. County Health Dept. (15%)	—0—	426,000	426,000
<b>TOTAL</b>	<b>\$ —0—</b>	<b>\$2,840,000</b>	<b>\$2,840,000</b>
D. Fund Surplus or Deficit	(\$1,714,379)	\$696,779	\$608,750

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1980, c. 67.

[FOURTH OFFICIAL COPY REPRINT]

ASSEMBLY, No. 3318

STATE OF NEW JERSEY

INTRODUCED MARCH 14, 1983

By Assemblywoman KALIK and Assemblyman LESNIAK

AN ACT concerning certain hazardous substances in the workplace  
and the community\*, and making an appropriation\*.

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

1 1. This act shall be known and may be cited as the "Worker and  
2 Community Right To Know Act."

1 2. The Legislature finds and declares that the proliferation of  
2 hazardous substances in the environment poses a growing threat  
3 to the public health, safety, and welfare; that the constantly  
4 increasing number and variety of hazardous substances, and the  
5 many routes of exposure to them make it difficult and expensive  
6 to adequately monitor and detect any adverse health effects attribu-  
7 table thereto; that individuals themselves are often able to detect  
8 and thus minimize effects of exposure to hazardous substances if  
9 they are aware of the identity of the substances and the early symp-  
10 toms of unsafe exposure; and that individuals have an inherent  
11 right to know the full range of the risks they face so that they can  
12 make reasoned decisions and take informed action concerning their  
13 employment and their living conditions.

14 The Legislature further declares that local health, fire, police,  
15 safety and other government officials require detailed information  
16 about the identity, characteristics, and quantities of hazardous  
17 substances used and stored in communities within their jurisdic-  
18 tions, in order to adequately plan for, and respond to, emergencies,  
19 and enforce compliance with applicable laws and regulations con-  
20 cerning these substances.

**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 May 26, 1983.

\*\*—Assembly amendments adopted June 13, 1983.

\*\*\*—Assembly amendments adopted June 16, 1983.

\*\*\*\*—Assembly amendments adopted June 27, 1983.

21 The Legislature further declares that the extent of the toxic  
22 contamination of the air, water, and land in this State has caused  
23 a high degree of concern among its residents; and that much of  
24 this concern is needlessly aggravated by the unfamiliarity of these  
25 substances to residents.

26 The Legislature therefore determines that it is in the public  
27 interest to establish a comprehensive program for the disclosure  
28 of information about hazardous substances in the workplace and  
29 the community, and to provide a procedure whereby residents of  
30 this State may gain access to this information.

1 3. As used in this act:

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

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

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

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

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

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

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

28 h. "Employer" means any person or corporation in the State  
29 engaged in business operations having a Standard Industrial  
30 Classification, as designated in the Standard Industrial Classifica-  
31 tion Manual prepared by the Federal Office of Management and  
32 Budget, within Major Group numbers 20 through 39 inclusive  
33 (manufacturing industries), numbers 46 through 49 inclusive (pipe-

34 lines, transportation services, communications, and electric, gas,  
 35 and sanitary services), number 51 (wholesale trade, nondurable  
 36 goods), number 75 (automotive repair, services, and garages),  
 37 number 76 (miscellaneous repair services), number 80 (health  
 38 services), number 82 (educational services), and number 84  
 39 (museums, art galleries, botanical and zoological gardens). Except  
 40 for the purposes of section 26 of this act, "employer" means the  
 41 State and local governments, or any agency, authority, department,  
 42 bureau, or instrumentality thereof.

43 i. "Environmental hazardous substance" means any substance  
 44 on the \***[Environmental]**\* *environmental*\* hazardous substance  
 44A list.

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

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

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

55 (2) A description of the use of the environmental hazardous  
 56 substance at the facility;

57 (3) The quantity of the environmental hazardous substance  
 58 produced at the facility;

59 (4) The quantity of the environmental hazardous substance  
 60 brought into the facility;

61 (5) The quantity of the environmental hazardous substance  
 61A consumed at the facility;

61B (6) The quantity of the environmental hazardous substance  
 62 shipped out of the facility as or in products;

63 (7) The maximum inventory of the environmental hazardous  
 64 substance stored at the facility, the method of storage, and the  
 65 frequency and methods of transfer;

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

68 (9) The total estimated fugitive or non point-source emissions  
 69 of the environmental hazardous substance;

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

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



75 (12) The quantity, and methods of disposal, of any wastes  
 76 containing an environmental hazardous substance, the method of  
 77 on-site storage of these wastes, the location or locations of the  
 78 final disposal site for these wastes, and the identity of the hauler  
 79 of the wastes.

80 l. "Facility" means the building, equipment and contiguous  
 81 area at a single location used for the conduct of business\*\*\*[, but  
 82 shall not include a research and development laboratory]\*\*\*.

82A *\*\*\*\*Except for the purposes of subsection c. of section 13, section*  
 82B *14, and subsection b. of section 25 of this act, "facility" shall not*  
 82C *include a research and development laboratory.\*\*\*\**

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

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

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

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

99-101 (4) Any hazardous substance present in the same form and  
 102 concentration as a product packaged for distribution and use by  
 103 the general public to which an employee's exposure during han-  
 104 dling is not significantly greater than a consumer's exposure during  
 105 the principal use of the toxic substance.

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

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

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

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

120 (4) The hazards posed by the hazardous substance, including  
 121 its toxicity, carcinogenicity, mutagenicity, teratogenicity, flamma-  
 122 bility, explosiveness, corrosivity and reactivity, including specific  
 123 information on its reactivity with water;

124 (5) A description, in nontechnical language, of the acute and  
 125 chronic health effects of exposure to the hazardous substance, in-  
 126 cluding the medical conditions that might be aggravated by ex-  
 127 posure, and any permissible exposure limits established by the  
 128 federal Occupational Safety and Health Administration;

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

131 (7) The proper precautions, practices, necessary personal pro-  
 132 tective equipment, recommended engineering controls, and any  
 133 other necessary and appropriate measures for the safe handling  
 134 of the hazardous substance, including specific information on how  
 135 to extinguish or control a fire that involves the hazardous sub-  
 136 stance; and

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

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

142A *\*\*p. "Mixture means a combination of two or more substances  
 143 not involving a chemical reaction.\*\**

143A *\*\*[p.]\*\* \*\*q.\*\** "Process container" means a container, excluding  
 144 a pipeline, the content of which is changed frequently; a container of  
 145 10 gallons or less in capacity, into which substances are transferred  
 146 from labeled containers, and which is intended only for the immedi-  
 147 ate use of the employee who performs the transfer; a container on  
 148 which a label would be obscured by heat, spillage or other factors;  
 149 or a test tube, beaker, vial, or other container which is routinely  
 150 used and reused.

151 *\*\*[q.]\*\* \*\*\*[\*\*r.\*\** "Research and development laboratory"  
 152 means a specially designated area used primarily for research,  
 153 development, and testing activity, and not primarily involved in the  
 154 production of goods for commercial sale, in which hazardous sub-  
 155 stances or environmental hazardous substances are used by or under  
 156 the direct supervision of a technically qualified person. ]\*\*\*

156A \*\*\*\*r. “Research and development laboratory” means a specially  
 156B designated area used primarily for research, development, and  
 156C testing activity, and not primarily involved in the production of  
 156D goods for commercial sale, in which hazardous substances or en-  
 156E vironmental hazardous substances are used by or under the direct  
 156F supervision of a technically qualified person.\*\*\*\*

157 \*\*[r.]\*\* \*\*\*[\*\*s.\*\*]\*\* \*\*\*[\*\*\*r.\*\*]\*\* \*\*\*\*s.\*\*\*\* “Special  
 158 health substance” means any hazardous substance on the special  
 158A health hazard substance list.

159 \*\*[s.]\*\* \*\*\*[\*\*t.\*\*]\*\* \*\*\*[\*\*\*s.\*\*]\*\* \*\*\*\*t.\*\*\*\* “Special  
 160 health hazard substance list” means the list of special health haz-  
 161 ard substances developed by the Department of Health pursuant  
 162 to section 5 of this act for which an employer may not make a trade  
 162A secret claim.

163 \*\*[t.]\*\* \*\*\*[\*\*u.\*\*]\*\* \*\*\*[\*\*\*t.\*\*]\*\* \*\*\*\*u.\*\*\*\* “Trade  
 164 secret” means any formula, plan, pattern, process, production data,  
 165 information, or compilation of information, which is not patented,  
 166 which is known only to an employer and certain other individuals,  
 167 and which is used in the fabrication and production of an article of  
 168 trade or service, and which gives the employer possessing it a com-  
 169 petitive advantage over businesses who do not possess it, or the  
 170 secrecy of which is certified by an appropriate official of the federal  
 171 government as necessary for national defense purposes. The chem-  
 172 ical name and Chemical Abstracts Service number of a substance  
 173 shall be considered a trade secret only if the employer can establish  
 174 that the substance is unknown to competitors \*[and that the iden-  
 175 tity of the substance cannot be discovered by analytical techniques,  
 176 laboratory procedures, or other means available to a competitor at  
 177 a reasonable expense]\*. \*In determining whether a trade secret is  
 178 valid pursuant to section 15 of this act, the Department of Health,  
 179 or the Department of Environmental Protection, as the case may be,  
 180 shall consider material provided by the employer concerning (1) the  
 181 extent to which the information for which the trade secret claim is  
 182 made is known outside the employer’s business; (2) the extent to  
 183 which the information is known by employees and others involved  
 184 in the employer’s business; (3) the extent of measures taken by the  
 185 employer to guard the secrecy of the information; (4) the value of  
 186 the information, to the employer or the employer’s competitor; (5)  
 187 the amount of effort or money expended by the employer in develop-  
 188 ing the information; and (6) the ease or difficulty with which the  
 189 information could be disclosed by analytical techniques, laboratory  
 190 procedures, or other means.\*

191   \*\*[u.]\*\* \*\*\*[\*\*v.\*\*]\*\* \*\*\*[\*\*\*u.\*\*]\*\* \*\*\*v.\*\* “Trade  
 192 secret registry number” means a code number temporarily or per-  
 193 manently assigned to the identity of a substance in a container by  
 194 the Department of Health pursuant to section 15 of this act.

195   \*\*[v.]\*\* \*\*\*[\*\*w.\*\*]\*\* \*\*\*[\*\*\*v.\*\*]\*\* \*\*\*w.\*\* “Trade  
 196 secret claim” means a written request, made by an employer pur-  
 197 suant to section 15 of this act, to withhold the public disclosure of  
 198 information on the grounds that the disclosure would reveal a trade  
 198A secret.

199   \*\*[w.]\*\* \*\*\*[\*\*x.\*\*]\*\* \*\*\*[\*\*\*w.\*\*]\*\* \*\*\*x.\*\* “Work-  
 200 place hazardous substance list” means the list of hazardous sub-  
 201 stances developed by the Department of Health pursuant to section  
 201A 5 of this act.

202   \*\*[x.]\*\* \*\*\*[\*\*y.\*\*]\*\* \*\*\*[\*\*\*x.\*\*]\*\* \*\*\*y.\*\* “Work-  
 203 place survey” means a written document, prepared by the Depart-  
 204 ment of Health and completed by an employer pursuant to this act,  
 205 on which the employer shall report each hazardous substance  
 206 present at his facility.

1     4. a. The Department of Environmental Protection shall develop  
 2 an environmental hazardous substance list which shall include, but  
 3 not be limited to, substances used, manufactured, stored, packaged,  
 4 repackaged, or disposed of or released into the environment of the  
 5 State which, in the department’s determination, may be linked to  
 6 the incidence of cancer; genetic mutations; physiological malfunc-  
 7 tions, including malfunctions in reproduction; and other diseases;  
 8 or which, by virtue of their physical properties, may pose a threat  
 9 to the public health and safety. The department shall base the  
 10 environmental hazardous substance list on the list of 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. 13D-1 et seq.) and P. L. 1977, c. 74 (C. 58:10A-1 et seq.), and  
 14 may include other substances which the department, based on docu-  
 15 mented scientific evidence, determines pose a threat to the public  
 16 health and safety.

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

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

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

1 5. a. The Department of Health shall develop a workplace  
2 hazardous substance list which shall include:

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

7 (2) Any environmental hazardous substance; and

8 (3) Any other substance which the department, based on docu-  
9 mented scientific evidence, determines poses a threat to the health  
10 or safety of an employee.

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

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

21 d. The department shall develop a hazardous substance fact  
22 sheet for each hazardous substance on the workplace hazardous  
23 substance list.

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

31 f. Three months prior to the effective date of this act, the depart-  
32 ment shall adopt, pursuant to the "Administrative Procedure Act,"  
33 P. L. 1968, c. 410 (C. 52:14B-1 et seq.), a workplace hazardous sub-  
34 stance list.

1 6. a. Within five days of the effective date of this act, the De-  
2 partment of Health shall transmit copies of the workplace survey  
3 to the Department of Labor, upon receipt of the workplace survey,  
4 the Department of Labor shall transmit the workplace survey to  
5 each employer in the State.

6 b. Within five days of the effective date of this act, the Depart-  
7 ment of Environmental Protection shall transmit an environmental  
8 survey to each employer whose business activities, according to  
9 criteria developed by the department, warrant the reporting of the  
10 information required on the environmental survey. The depart-  
11 ment may transmit an environmental survey to every employer.

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

19 b. Except as otherwise provided in section 15 of this act, within  
20 90 days of receipt of an environmental survey, an employer shall  
21 complete the survey and transmit a copy of the completed survey  
22 to the Department of Environmental Protection and the health  
23 department of the county in which the employer's facility is located,  
24 and pertinent sections of the survey to the local fire department  
25 and the local police department.

1 8. \*a.\* Upon receipt of a completed workplace survey from an em-  
2 ployer, the Department of Health shall transmit to that employer  
3 a hazardous substance fact sheet for each hazardous substance  
4 reported by the employer on the workplace survey. If an employer  
5 makes a trade secret claim for information on the workplace sur-  
6 vey pursuant to section 15 of this act, the department shall transmit  
7 a hazardous substance fact sheet for that substance with the  
8 identity of the substance concealed.

9 \*b. Any employer having a Standard Industrial Classification  
10 within certain subgroups of Major Group numbers 20, 51, or 80, as  
11 designated by the Department of Health pursuant to the "Adminis-  
12 trative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.),

13 *whose workplace survey transmitted to the Department of Health*  
14 *pursuant to section 7 of this act indicates that no hazardous sub-*  
15 *stances are present at the facility, shall be exempt from the pro-*  
16 *visions of this act, except for the requirement to annually update*  
17 *the workplace survey pursuant to section 10 of this act, and except*  
18 *for the provisions of section 33 of this act. Any employer exempted*  
19 *from the provisions of this act pursuant to this subsection who*  
20 *transmits to the Department of Health an update of the workplace*  
21 *survey which indicates that a hazardous substance is present at the*  
22 *employer's facility shall immediately be subject to the provisions*  
23 *of this act.\**

1 9. a. The Department of Environmental Protection shall main-  
2 tain a file of all completed environmental surveys received from  
3 employers. Each environmental survey received by the department  
4 shall be retained by the department for 30 years.

5 b. The department may require an employer to submit informa-  
6 tion clarifying any statement made on the environmental survey.  
7 The department, subject to the provisions of section 15 of this act  
8 if applicable, shall transmit this clarifying information to the  
9 appropriate county health department, local fire department, and  
10 local police department as it deems necessary.

11 c. The department shall require every employer to update the  
12 environmental survey for his facility every other year. If there is  
13 any significant change during a nonreporting year in the informa-  
14 tion reported on his environmental survey, the employer shall in-  
15 form the department of the change. The department may require  
16 an employer to update the environmental survey for his facility  
17 every year.

18 d. Any person may request in writing from the department a  
19 copy of an environmental survey for a facility, and the department  
20 shall transmit any survey so requested within 30 days of the request  
21 therefor.

1 10. a. The Department of Health shall maintain a file of all  
2 completed workplace surveys received from employers. Each work-  
3 place survey received shall be retained by the department for 30  
4 years. The department shall also retain for 30 years each hazard-  
5 ous substance fact sheet.

6 b. The department shall require every employer to annually  
7 update the workplace survey for his facility, and shall supply each  
8 employer with any necessary additional hazardous substance fact  
9 sheets.

10 c. Upon request by the department, an employer shall provide  
11 the department with copies of employee health and exposure rec-

12 ords, including those maintained for, and supplied to, the federal  
13 government.

14 d. Any person may request in writing from the department a  
15 copy of a workplace survey for a facility, together with the appro-  
16 priate hazardous substance fact sheets, and the department shall  
17 transmit any material so requested within 30 days of the request  
18 therefor. Any request by an employee for material pertaining to  
19 the facility where he is employed made pursuant to this subsection  
20 shall be treated by the department as confidential.

1 11. a. An employer shall, upon request, provide an employee  
2 whose native language is Spanish with a Spanish translation of a  
3 workplace survey, hazardous substance fact sheet, and, if applica-  
3A ble, an environmental survey obtained from the Department of  
4 Health or the Department of Environmental Protection, as the  
5 case may be. An employer shall, upon request, provide employees  
6 whose native language is Spanish with the education and training  
7 program required pursuant to section 13 of this act in Spanish.

8 b. A county health department shall, upon request, provide  
9 copies of the environmental survey and the workplace survey in  
10 a Spanish translation provided by the Department of Health and  
11 Department of Environmental Protection.

1 12. Every employer shall establish and maintain a central file  
2 at his facility in which he shall retain a workplace survey for the  
3 facility, appropriate hazardous substance fact sheets, and, if ap-  
4 plicable, a copy of the environmental survey for the facility. Every  
5 employer shall post on bulletin boards readily accessible to em-  
6 ployees a notice of the availability of the information in the file.  
7 Every employer employing employees whose native language is  
8 Spanish shall also post the notice in Spanish. Every employer  
9 shall supply employees with any material designed and provided  
10 by the Department of Health, the Department of Environmental  
11 Protection, or the Department of Labor to inform employees of  
12 their rights under this act. An employer shall provide an employee  
13 with access to a workplace survey, appropriate hazardous sub-  
14 stance fact sheets, and, if applicable, an environmental survey,  
15 within five working days of a request therefor.

1 13. a. Every employer shall establish an education and training  
2 program for his employees, which shall be designed to inform em-  
3 ployees in writing and orally of the nature of the hazardous sub-  
4 stances to which they are exposed in the course of their employ-  
5 ment and the potential health risks which the hazardous substances  
6 pose, and to train them in the proper and safe procedures for



7 handling the hazardous substances under all circumstances. An  
 8 employer shall provide current employees with the education and  
 9 training program within six months of the effective date of this  
 10 act, and annually thereafter. Beginning six months after the ef-  
 11 fective date of this act, all new employees shall be provided with  
 12 the training and education program within the first month of em-  
 13 ployment. Prior to entering an employment agreement with a  
 14 prospective employee an employer shall notify a prospective em-  
 15 ployee of the availability of workplace surveys and appropriate  
 16 hazardous substance fact sheets for the facility at which the pro-  
 17 spective employee will be employed.

18 b. Any employer who has established an employee education  
 19 and training program for hazardous substances prior to the ef-  
 20 fective date of this act may request the Department of Health to  
 21 certify that education and training program, which certification  
 22 shall constitute compliance with subsection a. of this section.

23 *\*\*\*\*c. Every employer shall establish an education and training*  
 24 *program for his employees who work in a research and develop-*  
 25 *ment laboratory, which shall be designed to inform employees in*  
 26 *writing and orally of the nature of the hazardous substances to*  
 27 *which they are exposed in the course of their employment and the*  
 28 *potential health risks which the hazardous substances pose, and to*  
 29 *train them in the proper and safe procedure for handling the haz-*  
 30 *ardous substances under all circumstances. An employer shall*  
 31 *provide current employees with the education and training pro-*  
 32 *gram within six months of the effective date of this act, and annu-*  
 33 *ally thereafter. Beginning six months after the effective date of*  
 34 *this act, all new employees shall be provided with the training*  
 35 *and education program within the first month of employment.\*\*\*\**

1 14. a. Within six months of the effective date of this act, every  
 2 employer shall take any action necessary to assure that every  
 3 container at his facility containing a hazardous substance shall  
 4 bear a label indicating the chemical name and Chemical Abstracts  
 5 Service number of the hazardous substance or the trade secret  
 5A registry number assigned to the hazardous substance. *\*\*\*\*Em-*  
 5B *ployers may label containers in a research and development labora-*  
 5C *tory by means of a code or number system, if the code or number*  
 5D *system will enable an employee to readily make a cross reference*  
 5E *to a hazardous substance fact sheet which will provide the em-*  
 5F *ployee with the chemical name and Chemical Abstracts Service num-*  
 5G *ber of the hazardous substance contained in the container, or the*  
 5H *trade secret registry number assigned to the hazardous substance.*

5I *The code or number system shall be designed to allow the employee*  
 5J *free and ready access at all times to the chemical name and Chem-*  
 5K *ical Abstracts Service number of the hazardous substance in the*  
 5L *container, shall be designed to allow the employee access to this*  
 5M *information without the permission or assistance of management,*  
 5N *and shall be available to the employee at close proximity to his*  
 6 *specific job location or locations.\*\*\*\* \*Employers shall be required*  
 6A *to label pipelines only at \*\*[control valves]\*\* \*\*the valve or valves*  
 6B *located at the point at which a hazardous substance enters a*  
 6C *facility's pipeline system, and at normally operated valves, outlets,*  
 6D *vents, drains and sample connections designed to allow the release*  
 6E *of a hazardous substance from the pipeline\*\*.\**

7 b. *Within two years of the effective date of this act, every em-*  
 8 *ployer shall take any action necessary to assure that every con-*  
 9 *tainer at his facility bears a label indicating the chemical name*  
 10 *and Chemical Abstracts Service number of the substance in the*  
 11 *container, \*except as provided in subsection \*\*[e.]\*\* \*\*d.\*\* of this*  
 11A *section,\* or the trade secret registry number assigned to the sub-*  
 11B *stance. \*\*\*\*Employers may label containers in a research and*  
 11C *development laboratory by means of a code or number system, if*  
 11D *the code or number system will enable an employee to readily make*  
 11E *a cross reference to documentary material retained on file by the*  
 11F *employer at the facility which will provide the employee with the*  
 11G *chemical name and Chemical Abstracts Service number of the sub-*  
 11H *stance contained in the container, except as provided in subsection d.*  
 11I *of this section, or the trade secret registry number assigned to the*  
 11J *substance. The code or number system shall be designed to allow the*  
 11K *employee free and ready access at all times to the chemical name*  
 11L *and Chemical Abstracts Service number of the substance in the con-*  
 11M *tainer, shall be designed to allow the employee access to this infor-*  
 11N *mation without the permission or assistance of management, and*  
 11O *shall be available to the employee at close proximity to his specific*  
 12 *job location or locations.\*\*\*\* \*\*[\*Employers shall be required to*  
 12A *label pipelines only at control valves.]\* \*\*If a container contains*  
 12B *a mixture, an employer shall be required to insure that the label*  
 12C *identify the chemical name and Chemical Abstracts Service num-*  
 12D *bers, except as provided in subsection d. of this section, or the trade*  
 12E *secret registry numbers, of the five most predominant substances*  
 12F *contained in the mixture.\*\* The provisions of this subsection shall*  
 12G *not apply to any substance constituting less than 1% of a mixture*  
 13 *unless the substance is present at the facility in an aggregate*  
 14 *amount of 500 pounds or more.\* \*\*Employers shall be required to*

14A *label pipelines only at the valve or valves located at the point at*  
 14B *which a substance enters a facility's pipeline system, and at nor-*  
 14C *mally operated valves, outlets, vents, drains and sample connections*  
 14D *designed to allow the release of a substance from the pipeline.\*\**

14E One year after the effective date of this act the Department of  
 14F Health shall establish criteria for containers which, because of the  
 14G finished and durable characteristics of their contents, shall be  
 15 exempt from the provisions of this subsection. These standards  
 16 shall be consistent with the intent of this subsection to provide for  
 17 the labeling of every container which may contain a substance  
 18 which is potentially hazardous.

19 c. The labeling requirements of subsections a. and b. of this sec-  
 20 tion shall not apply to containers labeled pursuant to the "Federal  
 21 Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163\***[.]**\* (7  
 22 U.S.C. § 121 et al.). The Department of Health may, by rule and  
 23 regulation, certify containers labeled pursuant to any other federal  
 24 act as labeled in compliance with the provisions of this section.

25 **\*\*[d.** *Although process containers are excluded from labeling*  
 26 *requirements, the employer shall post in a readily available place a*  
 27 *Workplace Hazardous Substance List indicating the chemical name,*  
 28 *Chemical Abstracts Service number or trade secret registry number*  
 29 *of all hazardous substances contained therein. Labeling of normally*  
 30 *operated vents to the atmosphere, sample connections and drains*  
 31 *in those areas is required.]\*\**

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

1 15. a. If an employer believes that disclosing information re-  
 2 quired by this act will reveal a trade secret, he may file with the  
 3 appropriate department a trade secret claim as herein provided.  
 4 As used in this section, "department" means either the Department  
 5 of Health or Department of Environmental Protection, as the  
 6 case may be.

7 b. If an employer claims that disclosing information on either  
 8 the workplace survey or the environmental survey would reveal  
 9 a trade secret, he shall file with the appropriate department a trade

10 secret claim within 90 days of receipt of the survey. An employer  
11 making a trade secret claim shall submit two copies of the survey  
12 to the department, one with the information for which a trade  
13 secret claim is being made concealed, and one in an envelope marked  
14 "Confidential" containing the information for which a trade secret  
15 claim is being made, which the department, during the pendency  
16 of the trade secret claim, shall keep in a locked file or room. On  
17 the copies of the survey sent to the county health department, local  
18 fire department, and local police department, and retained on file  
19 at the facility, the employer shall conceal the information for which  
20 he is making a trade secret claim.

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

30 d. The department shall act to make a determination on the  
31 validity of a trade secret claim when a request is made pursuant  
32 to the provisions of this act for the disclosure of the information  
33 for which the trade secret claim was made, or at any time that the  
34 department deems appropriate. Upon making a determination on  
35 the validity of a trade secret claim, the department shall inform  
36 the employer of the determination by certified mail. If the depart-  
37 ment determines that the employer's trade secret claim is not valid,  
38 the employer shall have 45 days from the receipt of the depart-  
39 ment's determination to file with the department a written request  
40 for an administrative hearing on the determination. If the em-  
41 ployer does not file such a request within 45 days, the department  
42 shall take action to provide that the information for which the trade  
43 secret claim was made be disclosed pursuant to the provisions of  
44 this act. If an employer requests an administrative hearing pur-  
45 suant to the provisions of this subsection, the department shall  
46 refer the matter to the Office of Administrative Law, for a hearing  
47 thereon. At the hearing the employer shall have the burden to  
48 show that the trade secret claim is valid. Within 45 days of re-  
49 ceipt of the administrative law judge's recommendation, the de-  
50 partment shall affirm, reject, or modify the recommendation. The  
51 department's action shall be considered the final agency action for

52 the purposes of the "Administrative Procedure Act," P. L. 1968,  
53 c. 410 (C. 52:14B-1 et seq.), and shall be subject only to judicial  
54 review as provided in the Rules of Court. The department shall  
55 inform the employer of its decision on the administrative law  
56 judge's recommendation by certified mail. If the department de-  
57 termines that the trade secret claim is not valid, the employer shall  
58 have 45 days to notify the department in writing that he has filed  
59 to appeal the department's decision in the courts. If the employer  
60 does not so notify the department, the department shall take action  
61 to provide that the information for which the trade secret claim  
62 was made be disclosed pursuant to the provisions of this act.

63 e. The department shall provide any information for which a  
64 trade secret claim is pending or has been approved pursuant to  
65 this section to a physician or osteopath when such information is  
66 needed for medical diagnosis or treatment. The department shall  
67 require the physician or osteopath to sign an agreement protecting  
68 the confidentiality of information disclosed pursuant to this sub-  
69 section.

70 f. Any workplace survey or environmental survey containing  
71 information for which a trade secret claim is pending or has been  
72 approved shall be made available to the public with that informa-  
73 tion concealed.

74 g. The subject of any trade secret claim pending or approved  
75 shall be treated as confidential information. Except as provided  
76 in subsection e. of this section, the department shall not disclose  
77 any confidential information to any person except an officer or  
78 employee of the State in connection with the official duties of the  
79 officer or employee under any law for the protection of public health,  
80 or to the contractors of the State and their employees if in the  
81 opinion of the department the disclosure is necessary for the com-  
82 pletion of any work contracted for in connection with the imple-  
83 mentation of this act. Any officer or employee of the State, con-  
84 tractor of the State, physician or osteopath, or employee of a  
85 county health department, local fire department, or local police  
86 department who has access to any confidential information, and  
87 who willingly and knowingly discloses the confidential information  
88 to any person not authorized to receive it, is guilty of a crime of  
89 the third degree.

90 h. The provisions of this section shall not apply to the disclosure  
91 of information concerning emissions, and shall not apply to the  
92 disclosure of any information required pursuant to any other act.

93 i. The Department of Health and the Department of Environ-  
94 mental Protection shall jointly adopt rules and regulations to im-  
95 plement the provisions of this section.

1 16. a. Any employee or employee representative may request,  
2 in writing, from his employer, a copy of a workplace survey, haz-  
3 arduous substance fact sheet, or, where applicable, an environmental  
4 survey filed pursuant to the provisions of this act for the facility at  
5 which he is employed. The employer shall supply this material  
6 within five working days of the request. Any employee or employee  
7 representative may request, in writing, the chemical name and  
8 Chemical Abstracts Service number of the substance contained in  
9 any container which is not labeled pursuant to the provisions of sec-  
10 tion 14 of this act, and the employer shall supply the employee or  
11 employee representative with this information within five working  
12 days of the request. An employee shall have the right to refuse  
13 to work with a hazardous substance for which a request was made  
14 and not honored without loss of pay or forfeit of any other privi-  
15 lege until the request is honored.

16 b. Any employee or employee representative who believes that  
17 an employer has not complied with the provisions of subsection a.  
18 of this section may file a complaint with the Commissioner of the  
19 Department of Labor. Upon receipt of the complaint, the commis-  
20 sioner shall investigate the allegations contained in the complaint.  
21 If the commissioner, following an administrative hearing conducted  
22 pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410  
23 (C. 52:14B-1 et seq.), finds that the employer has violated the pro-  
24 visions of subsection a. of this section, he shall initiate a civil action  
25 by summary proceeding pursuant to "the penalty enforcement law"  
26 (N. J. S. 2A:58-1 et seq.). Any employer violating the provisions  
27 of subsection a. of this section is liable to a penalty of not less than  
28 \$2,500.00 for each offense.

1 17. a. No employer shall discharge, cause to be discharged, or  
2 otherwise discipline, penalize, or discriminate against any em-  
3 ployee because the employee or his employee representative has  
4 exercised any right established in this act.

5 b. Any employee who believes that he has been discharged, or  
6 otherwise disciplined, penalized, or discriminated against by an  
7 employer in violation of subsection a. of this section may, within  
8 30 days of the violation, or within 30 days of obtaining knowledge  
9 that a violation occurred, file a complaint with the Commissioner  
10 of the Department of Labor alleging the violation. Within 30 days  
11 of the receipt of a complaint, the commissioner shall conduct an  
12 investigation of the complaint. If after the investigation the com-  
13 missioner determines that there is probable cause that the com-  
14 plaint is valid, he may refer the complaint to the Office of Adminis-  
15 trative Law, which, upon the referral, shall commence an adjudi-

16 catory proceeding on the complaint, to be conducted as a contested  
17 case pursuant to the "Administrative Procedure Act," P. L. 1968,  
18 c. 410 (C. 52:14B-1 et seq.), and P. L. 1978, c. 67 (C. 52:14F-1 et  
19 seq.). If the Commissioner of Labor or the employee introduces  
20 evidence that prior to the alleged violation the employee exercised  
21 any right provided in this act, the employer shall have the burden  
22 to show just cause for his action by clear and convincing evidence.  
23 Within 45 days of the receipt of the recommendations of the ad-  
24 ministrative law judge, the commissioner shall adopt, reject, or  
25 modify the recommendations. The final decision of the commis-  
26 sioner shall be considered the final agency action thereon for the  
27 purposes of the "Administrative Procedure Act" and shall be sub-  
28 ject only to judicial review as provided in the Rules of Court.

1 18. a. There is established in the Department of Health a Right  
2 To Know Advisory Council, which shall consist of 11 members  
3 appointed by the Governor with the advice and consent of the  
4 Senate. Each of these members shall be appointed for a term of  
5 three years, provided that of the members of the council first ap-  
6 pointed by the Governor, four shall serve for terms of one year,  
7 four shall serve for terms of two years, and three shall serve for  
8 terms of three years. Of these members, one shall be appointed  
9 from persons having training and experience in industrial hygiene  
10 recommended by recognized labor unions; one from persons recom-  
11 mended by recognized environmental organizations; one from  
12 persons recommended by recognized public interest organizations;  
13 one from persons recommended by recognized organizations of  
14 chemical industries; one from persons recommended by recognized  
15 community organizations; one from persons recommended by  
16 recognized organizations of petroleum industries; one from persons  
17 recommended by recognized organizations of firefighters; one from  
18 persons recommended by recognized business or trade organiza-  
19 tions; one from persons recommended by recognized organizations  
20 of small business; one from persons holding an M.D. degree recom-  
21 mended by recognized public health organizations; and one from  
22 persons with training and experience in environmental epidemi-  
23 ology recommended by recognized research or academic organiza-  
24 tions. In the event that no recommendations for a particular  
25 category of membership are made to the Governor three months  
26 prior to the effective date of this act in the case of the initial ap-  
27 pointments, or within 60 days of the date of the expiration of the  
28 term of office of any member or the occurrence of any vacancy in  
29 the case of subsequent appointments, the Governor shall appoint

30 as a member for that category of membership a person whom he  
31 believes will be representative thereof.

32 b. A majority of the membership of the council shall constitute  
33 a quorum for the transaction of council business. Action may be  
34 taken and motions and resolutions adopted by the council at any  
35 meeting thereof by the affirmative vote of a majority of the mem-  
36 bers of the council present and voting.

37 c. The council shall meet regularly as it may determine, and  
38 shall also meet at the call of the Commissioner of the Department  
39 of Health, the Commissioner of the Department of Environmental  
40 Protection, or the Commissioner of the Department of Labor.

41 d. The council shall appoint a chairman and other officers as may  
42 be necessary from among its members. The council may, within  
43 the limits of any funds appropriated or otherwise made available  
44 to it for this purpose, appoint such staff or hire such experts as it  
45 may require.

46 e. Members of the council shall serve without compensation, but  
47 the council may, within the limits of funds appropriated or other-  
48 wise made available to it for such purposes, reimburse its members  
49 for necessary expenses incurred in the discharge of their official  
50 duties.

1 19. The council shall:

2 a. Advise the Department of Health on the revision of the work-  
3 place hazardous substance list and the Department of Environ-  
4 mental Protection on the revision of the environmental hazardous  
5 substance list.

6 b. Advise the Department of Environmental Protection, the De-  
7 partment of Health, and the Department of Labor on the imple-  
8 mentation of this act.

9 c. Review any matters submitted to it by the Department of  
10 Health, Department of Environmental Protection, or the Depart-  
11 ment of Labor, and state its position within 90 days.

1 20. The council may:

2 a. Review any aspect of the implementation of this act, and  
3 transmit its recommendations to the appropriate department or  
4 departments.

5 b. Hold public meetings or hearings within the State on any  
6 matter or matters related to the provisions of this act.

7 c. Call to its assistance and avail itself of the services of such  
8 employees of any State, county or municipal department, board,  
9 \***[commissions]**\* *commission*\*, or agency as may be required and  
10 made available for such purposes.



1 21. The Department of Health, the Department of Environ-  
2 mental Protection, and the Department of Labor, in conjunction  
3 with the council, shall jointly establish a procedure for annually  
4 receiving information, advice, testimony, and recommendations  
5 from the council, the public, and any other interested party, con-  
6 cerning the implementation of this act. This procedure shall in-  
7 clude a mechanism for revising the workplace hazardous substance  
8 list and the environmental hazardous substance list. Any revision  
9 of the workplace hazardous substance list or environmental hazard-  
10 ous substance list shall be based on documented scientific evidence.  
11 The Department of Health and Department of Environmental  
12 Protection shall publicly announce any revisions of the workplace  
13 hazardous substance list or the environmental hazardous *\*sub-*  
14 *stance\** list, and any such additions or revisions shall be made pur-  
15 suant to the provisions of the "Administrative Procedure Act,"  
16 P. L. 1968, c. 410 (C. 52:14B-1 et seq.).

1 22. Each county health department shall maintain a file of work-  
2 place surveys and environmental surveys transmitted to it pur-  
3 suant to the provisions of this act. These surveys, pursuant to the  
4 provisions of subsection f. of section 15 of this act, shall be made  
5 available to the public at reasonable hours and at a fee not to  
6 exceed the cost of reproducing the surveys.

1 23. Any person may bring a civil action in law or equity on his  
2 own behalf against any employer for a violation of any provision  
3 of this act or any rule and regulation promulgated pursuant thereto  
4 or against the Department of Environmental Protection or the  
5 Department of Health for failure to enforce the provisions of this  
6 act or any rule or regulation promulgated pursuant thereto. The  
7 Superior Court shall have jurisdiction over these actions. The  
8 court may award, whenever it deems appropriate, costs of litiga-  
9 tion, including reasonable attorney and expert witness fees.

1 24. Substances not included on the workplace hazardous sub-  
2 stance list or the environmental hazardous substance list shall not  
3 be subject to the reporting provisions of this act. However, the  
4 absence of any substance from the workplace hazardous substance  
5 list or the environmental hazardous substance list, or the provision  
6 of any information by an employer to an employee or any other  
7 person pursuant to the provisions of this act, shall not in any way  
8 affect any other liability of an employer with regard to safeguard-  
9 ing the health and safety of an employee or any other person ex-  
10 posed to the substance, nor shall it affect any other duty or  
11 responsibility of an employer to warn ultimate users of a substance

12 of any potential health hazards associated with the use of the sub-  
 13 stance pursuant to the provisions of any law or rule or regulation  
 14 adopted pursuant thereto.

1 25. \*\*\*\*a.\*\*\*\* No local police department or local fire department  
 2 receiving workplace surveys or environmental surveys pursuant to  
 3 the provisions of this act shall make the surveys available to the  
 4 public. Any county health department, local police department, or  
 5 local fire department may request from an employer submitting  
 6 surveys to it further information concerning the surveys, and the  
 7 employer shall provide the additional information upon the request  
 8 therefor. The employer may require the requestor to sign an agree-  
 9 ment protecting the confidentiality of any additional information  
 10 provided pursuant to this section.

11 \*\*\*\*b. Every employer with a research and development labora-  
 12 tory at his facility shall establish a communications program with  
 13 the local fire department, which shall be designed to assist the fire  
 14 department in adequately preparing to respond to emergencies at  
 15 the research and development laboratory.\*\*\*\*

1 26. a. There is established in the Department of the Treasury  
 2 a nonlapsing, revolving fund to be known as the "Worker and  
 3 Community Right To Know Fund." The fund shall be credited  
 4 with all fees collected pursuant to this section and interest on  
 5 moneys in the fund shall be credited to the fund *\*and all moneys in*  
 6 *the fund are appropriated for the purposes of the fund, and no*  
 7 *moneys shall be expended for those purposes without the specific*  
 7A *appropriation thereof by the Legislature\**. The State Treasurer  
 7B shall be the administrator of the fund, and all disbursements from  
 7C the fund shall be made by the State Treasurer *\*upon the warrant of*  
 7D *the Director of the Division of Budget and Accounting\**.

8 b. The Department of Labor shall annually assess each employer  
 9 a fee of not less than \$50.00 nor more than an amount equal to  
 10 \$2.00 per employee to provide for the implementation of the pro-  
 11 visions of this act. All fees collected by the department pursuant  
 12 to this section shall be deposited in the fund.

13 c. The moneys in the fund shall be disbursed only for the follow-  
 14 ing purposes:

15 (1) Expenses *\*approved by the Director of the Division of*  
 16 *Budget and Accounting and\** incurred by the Department of Health,  
 17 the Department of Environmental Protection, the Department of  
 18 Labor, the Department of the Treasury, and the *\*[County Health*  
 18A *Departments]\* \*county health departments\** in implementing the  
 18B provisions of this act; and

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

21 d. The State Treasurer shall annually disburse the moneys in  
22 the fund \*~~in accordance with the following schedule~~\* *for*  
23 *expenditures approved by the Director of the Division of Budget*  
24 *and Accounting pursuant to paragraph (1) of subsection c. of this*  
25 *section, but in no case in an amount to the several departments that*  
25A *is greater than the following percentages of the fund available in*  
25B *in any one year*\*: the Department of Health, 40%; the Department  
25C of Environmental Protection, 20%; the \*~~County Health Depart-~~  
25D ~~ments~~\* *county health departments*\*, 15%, the Department of  
25E Labor, 15%; and the Department of the Treasury, 10%.

26 e. Beginning two years after the effective date of this act, the  
27 State Treasurer shall make an annual audit of the fund to deter-  
28 mine the adequacy of moneys on deposit in the fund to support the  
29 implementation of the provisions of this act. If the State Treasurer,  
30 in consultation with the Department of Health, the Department of  
31 Environmental Protection, and the Department of Labor makes a  
32 determination that the revenues in the fund are sufficient to war-  
33 rant a reduction in the fee imposed pursuant to this section for the  
34 ensuing year, he may reduce the amount of the fee imposed during  
35 that year by an amount warranted by the balance in the fund at  
36 the time of the determination.

37 f. The provisions of this section shall expire five years following  
38 the effective date of this act.

1 27. It is the intent of the Legislature that the program estab-  
2 lished by this act for the disclosure of information concerning  
3 hazardous substances to employees and the public constitute the  
4 \*~~only such~~\* *principal*\* program in this State. To this end, no  
5 municipality or county shall enact any law or ordinance requiring  
6 the disclosure of information about, or the identification of, hazard-  
7 ous substances in the workplace or the environment to the extent  
8 that the disclosure of information or identification is provided for  
9 under this act, and, further, the enactment of this act shall super-  
10 sede any municipal or county law or ordinance *enacted subsequent*  
11 *to May 11, 1983* providing for \*~~the~~\* *this*\* disclosure or identi-  
12 fication \*~~in effect on the effective date of this act~~\*.

1 28. The Board of Public Utilities shall consider all expenses in-  
2 curred by a public utility in complying with the provisions of P. L.  
3 , c. (C. ) (now pending before the Legislature  
4 as Senate Committee Substitute for Senate Bill No. 1670 of 1982)  
5 as a current expense of providing utility service, which shall be  
6 charged to all ratepayers of the utility in the same manner as other

7 current operating expenses of providing utility service.

1 29. Any expenditure made by a county or municipality to comply  
2 with the provisions of P. L. , c. (C. ) (now pend-  
3 ing before the Legislature as Senate Committee Substitute for  
4 Senate Bill No. 1670 of 1982) shall, for the purposes of P. L. 1976,  
5 c. 68 (C. 40A:4-45.1 et seq.), be considered an expenditure man-  
6 dated by State law.

1 30. Within two years of the effective date of this act the Depart-  
2 ment of Health, the Department of Environmental Protection, and  
3 the Department of Labor shall jointly prepare and submit to the  
4 Governor and the Legislature a report evaluating the implementa-  
5 tion of this act, together with any recommendations for legislative  
6 or administrative action deemed necessary or appropriate.

1 31. a. The Department of Health shall have the right to enter  
2 an employer's facility during the normal operating hours of the  
3 facility to determine the employer's compliance with the provisions  
4 of subsection a. of section 7, and sections 10, 11, 12, 13, and 14 of  
5 this act, and any rules and any regulations adopted pursuant  
6 thereto.

7 b. The Department of Environmental Protection shall have the  
8 right to enter an employer's facility during the normal operating  
9 hours of the facility to determine compliance with subsection b. of  
10 section 7 and section 9 of this act, and any rules and any regula-  
11 tions adopted pursuant thereto.

1 32. Except as otherwise provided in this act, the Department of  
2 Health, the Department of Environmental Protection, the Depart-  
3 ment of Labor and the Department of the Treasury shall adopt any  
4 rules and regulations necessary to carry out their respective re-  
5 sponsibilities under this act.

1 \*33. a. *Whenever, on the basis of information available to him,*  
2 *the Commissioner of the Department of Environmental Protection*  
3 *finds that an employer is in violation of subsection b. of section 7,*  
4 *or of subsection b. or c. of section 9 of this act, or any rule and regu-*  
5 *lation adopted pursuant thereto, or the Commissioner of the De-*  
6 *partment of Health finds that an employer is in violation of sub-*  
7 *section a. of section 7, or of sections 10, 11, 12, 13, or 14 of this act,*  
8 *or any rule and regulation adopted pursuant thereto, the Commis-*  
9 *sioner of the Department of Environmental Protection, or the*  
10 *Commissioner of the Department of Health, as the case may be,*  
11 *shall:*

12 (1) *Issue an order in accordance with subsection b. of this*  
13 *section requiring the employer to comply;*

14 (2) *Bring a civil action in accordance with subsection c. of this*  
15 *section;*

16 (3) *Levy a civil administrative penalty in accordance with sub-*  
17 *section d. of this section; or*

18 (4) *Bring an action for a civil penalty in accordance with sub-*  
19 *section e. of this section.*

20 *The exercise of any of the remedies provided in this section shall*  
21 *not preclude recourse to any other remedy so provided.*

22 *b. Whenever, on the basis of information available to him, the*  
23 *Commissioner of the Department of Environmental Protection*  
24 *finds that an employer is in violation of subsection b. of section 7,*  
25 *or of subsections b. or c. of section 9 of this act or any rule or*  
26 *regulation adopted pursuant thereto, or the Commissioner of the*  
27 *Department of Health finds that an employer is in violation of sub-*  
28 *section a. of section 7, or of sections 10, 11, 12, 13, or 14 of this act, or*  
29 *any rule or regulation adopted pursuant thereto, the Commissioner*  
30 *of the Department of Environmental Protection or the Commis-*  
31 *sioner of the Department of Health, as the case may be, may issue*  
32 *an order (1) specifying the provision or provisions of this act, or the*  
33 *rule or regulation adopted pursuant thereto of which the employer*  
34 *is in violation; (2) citing the action which caused the violation;*  
35 *(3) requiring compliance with the provision of this act or the rules*  
36 *and regulations adopted pursuant thereto of which he is in viola-*  
37 *tion; and (4) giving notice to the employer of his right to a hearing*  
38 *on the matters contained in the order.*

39 *c. The Commissioner of the Department of Environmental Pro-*  
40 *tection or the Commissioner of the Department of Health, as*  
41 *appropriate, is authorized to commence a civil action in Superior*  
42 *Court for appropriate relief from a violation of this act. This*  
43 *relief may include an assessment against the violator for the costs*  
44 *of any investigation, inspection, or monitoring survey which led to*  
45 *the discovery and establishment of the violation, and for the reason-*  
46 *able costs of preparing and litigating the case under this subsection.*

47 *d. The Commissioner of the Department of Environmental Pro-*  
48 *tection or the Commissioner of the Department of Health, as ap-*  
49 *propriate, is authorized to impose a civil administrative penalty*  
50 *of not more than \$2,500.00 for each violation and additional penal-*  
51 *ties of not more than \$1,000.00 for each day during which a violation*  
52 *continues after receipt of an order from the commissioner to cease*  
53 *the violation. Any amount imposed under this subparagraph shall*  
54 *fall within a range established by regulation by the commissioner*  
55 *for violations of similar type, seriousness, and duration. No civil*  
56 *administrative penalty shall be imposed until after the employer*

57 has been notified by certified mail or personal service. The notice  
58 shall include a reference to the section of the act, rule, regulation  
59 or order violated; a concise statement of the facts alleged to con-  
60 stitute a violation; a statement of the amount of the civil adminis-  
61 trative penalties to be imposed; and a statement of the employer's  
62 right to a hearing. The employer shall have 20 days from receipt of  
63 the notice within which to deliver to the commissioner a written  
64 request for a hearing. Subsequent to the hearing and upon finding  
65 that a violation has occurred, the commissioner may issue a final  
66 order after imposing the amount of the fine specified in the notice.  
67 If no hearing is requested, the notice shall become a final order  
68 upon the expiration of the 20-day period. Payment of the penalty  
69 is due when a final order is issued or when the notice becomes  
69A a final order. The authority to levy a civil administrative pen-  
70 alty is in addition to all other enforcement provisions in this  
71 act, and the payment of a civil administrative penalty shall  
72 not be deemed to affect the availability of any other enforcement  
73 provision in connection with the violation for which the penalty is  
74 levied. A civil administrative penalty imposed under this section  
75 may be compromised by the commissioner upon the posting of a  
76 performance bond by the employer, or upon terms and conditions  
77 the commissioner may establish by regulation.

78 e. An employer who violates this act, an order issued pursuant  
79 to subsection b. of this section, or a court order issued pursuant to  
80 subsection c. of this section, or who fails to pay in full a civil ad-  
81 ministrative penalty levied pursuant to subsection d. of this section,  
82 shall be subject, upon order of a court, to a civil penalty not to  
83 exceed \$2,500.00 for each day during which the violation continues.  
84 An employer who willfully or knowingly violates this act, or who  
85 willfully or knowingly makes a false statement, representation, or  
86 certification in any document filed or required to be maintained  
87 under this act, or who falsifies, tampers with, or knowingly renders  
88 inaccurate, any monitoring device required to be maintained pur-  
89 suant to this act, is subject upon order of a court, to a civil penalty  
90 of not less than \$10,000.00, nor more than \$5,000.00 per day of  
91 violation. Any penalty imposed pursuant to this subsection may be  
92 collected, and any costs incurred in connection therewith may be  
93 recovered, in a summary proceeding pursuant to "the penalty  
94 enforcement law" (N. J. S. 2A:58-1 et seq.). The Superior Court  
95 or county district court shall have jurisdiction to enforce "the  
96 penalty enforcement law."

1 34. There is appropriated \$1,700,000.00 from the General Fund  
2 as a loan to the "Worker and Community Right to Know Fund",

3 *created pursuant to section 26 of this act, to implement the pro-*  
4 *visions of this act. The loan to the "Worker and Community*  
5 *Right to Know Fund" shall be repaid with interest to the General*  
6 *Fund in installments beginning in the first year following enact-*  
7 *ment and each year thereafter as surplus moneys accrue to the*  
8 *fund. The rate of interest to be paid shall be the same average*  
9 *annual rate as that earned by the State in its general investment*  
10 *account for the year in which a loan repayment installment is made.*  
11 *Notwithstanding the provisions of subsection e. of section 26 of this*  
12 *act, the State Treasurer shall not reduce the fee imposed pursuant*  
13 *to this act until the entire loan has been repaid.\**

1 *\*[33.]\* \*35.\* This act shall take effect one year following enact-*  
2 *ment \*except that subsection a. of section 26 and section 34 shall*  
3 *take effect immediately and that the several departments charged*  
4 *with the administration of this act shall take all actions necessary*  
5 *prior to the effective date of this act to implement the provisions*  
6 *of this act on the effective date thereof\* .*

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**ASSEMBLY, No. 3318**  
**STATE OF NEW JERSEY**

INTRODUCED MARCH 14, 1983

By Assemblywoman KALIK and Assemblyman LESNIAK

AN ACT concerning certain hazardous substances in the workplace  
and the community.

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

1 1. This act shall be known and may be cited as the "Worker and  
2 Community Right To Know Act."

1 2. The Legislature finds and declares that the proliferation of  
2 hazardous substances in the environment poses a growing threat  
3 to the public health, safety, and welfare; that the constantly  
4 increasing number and variety of hazardous substances, and the  
5 many routes of exposure to them make it difficult and expensive  
6 to adequately monitor and detect any adverse health effects attribu-  
7 table thereto; that individuals themselves are often able to detect  
8 and thus minimize effects of exposure to hazardous substances if  
9 they are aware of the identity of the substances and the early symp-  
10 toms of unsafe exposure; and that individuals have an inherent  
11 right to know the full range of the risks they face so that they can  
12 make reasoned decisions and take informed action concerning their  
13 employment and their living conditions.

14 The Legislature further declares that local health, fire, police,  
15 safety and other government officials require detailed information  
16 about the identity, characteristics, and quantities of hazardous  
17 substances used and stored in communities within their jurisdic-  
18 tions, in order to adequately plan for, and respond to, emergencies,  
19 and enforce compliance with applicable laws and regulations con-  
20 cerning these substances.

21 The Legislature further declares that the extent of the toxic  
22 contamination of the air, water, and land in this State has caused



23 a high degree of concern among its residents; and that much of  
24 this concern is needlessly aggravated by the unfamiliarity of these  
25 substances to residents.

26 The Legislature therefore determines that it is in the public  
27 interest to establish a comprehensive program for the disclosure  
28 of information about hazardous substances in the workplace and  
29 the community, and to provide a procedure whereby residents of  
30 this State may gain access to this information.

1 3. As used in this act:

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

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

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

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

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

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

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

28 h. "Employer" means any person or corporation in the State  
29 engaged in business operations having a Standard Industrial  
30 Classification, as designated in the Standard Industrial Classifica-  
31 tion Manual prepared by the Federal Office of Management and  
32 Budget, within Major Group numbers 20 through 39 inclusive  
33 (manufacturing industries), numbers 46 through 49 inclusive (pipe-  
34 lines, transportation services, communications, and electric, gas,  
35 and sanitary services), number 51 (wholesale trade, nondurable

36 goods), number 75 (automotive repair, services, and garages),  
37 number 76 (miscellaneous repair services), number 80 (health  
38 services), number 82 (educational services), and number 84  
39 (museums, art galleries, botanical and zoological gardens). Except  
40 for the purposes of section 26 of this act, "employer" means the  
41 State and local governments, or any agency, authority, department,  
42 bureau, or instrumentality thereof.

43 i. "Environmental hazardous substance" means any substance  
44 on the Environmental hazardous substance list.

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

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

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

55 (2) A description of the use of the environmental hazardous  
56 substance at the facility;

57 (3) The quantity of the environmental hazardous substance  
58 produced at the facility;

59 (4) The quantity of the environmental hazardous substance  
60 brought into the facility;

61 (5) The quantity of the environmental hazardous substance  
61A consumed at the facility;

61B (6) The quantity of the environmental hazardous substance  
62 shipped out of the facility as or in products;

63 (7) The maximum inventory of the environmental hazardous  
64 substance stored at the facility, the method of storage, and the  
65 frequency and methods of transfer;

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

68 (9) The total estimated fugitive or non point-source emissions  
69 of the environmental hazardous substance;

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

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

75 (12) The quantity, and methods of disposal, of any wastes  
76 containing an environmental hazardous substance, the method of

77 on-site storage of these wastes, the location or locations of the  
78 final disposal site for these wastes, and the identity of the hauler  
79 of the wastes.

80 l. "Facility" means the building, equipment and contiguous  
81 area at a single location used for the conduct of business, but shall  
82 not include a research and development laboratory.

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

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

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

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

99-101 (4) Any hazardous substance present in the same form and  
102 concentration as a product packaged for distribution and use by  
103 the general public to which an employee's exposure during han-  
104 dling is not significantly greater than a consumer's exposure during  
105 the principal use of the toxic substance.

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

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

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

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

120 (4) The hazards posed by the hazardous substance, including  
121 its toxicity, carcinogenicity, mutagenicity, teratogenicity, flamma-

122 bility, explosiveness, corrosivity and reactivity, including specific  
123 information on its reactivity with water;

124 (5) A description, in nontechnical language, of the acute and  
125 chronic health effects of exposure to the hazardous substance, in-  
126 cluding the medical conditions that might be aggravated by ex-  
127 posure, and any permissible exposure limits established by the  
128 federal Occupational Safety and Health Administration;

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

131 (7) The proper precautions, practices, necessary personal pro-  
132 tective equipment, recommended engineering controls, and any  
133 other necessary and appropriate measures for the safe handling  
134 of the hazardous substance, including specific information on how  
135 to extinguish or control a fire that involves the hazardous sub-  
136 stance; and

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

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

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

151 q. "Research and development laboratory" means a specially  
152 designated area used primarily for research, development, and  
153 testing activity, and not primarily involved in the production of  
154 goods for commercial sale, in which hazardous substances or en-  
155 vironmental hazardous substances are used by or under the direct  
156 supervision of a technically qualified person.

157 r. "Special health hazard substance" means any hazardous sub-  
158 stance on the special health hazard substance list.

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

163 t. "Trade secret" means any formula, plan, pattern, process,  
164 production data, information, or compilation of information, which

165 is not patented, which is known only to an employer and certain  
166 other individuals, and which is used in the fabrication and produc-  
167 tion of an article of trade or service, and which gives the employer  
168 possessing it a competitive advantage over businesses who do not  
169 possess it, or the secrecy of which is certified by an appropriate  
170 official of the federal government as necessary for national defense  
171 purposes. The chemical name and Chemical Abstracts Service  
172 number of a substance shall be considered a trade secret only if  
173 the employer can establish that the substance is unknown to com-  
174 petitors and that the identity of the substance cannot be discovered  
175 by analytical techniques, laboratory procedures, or other means  
176 available to a competitor at a reasonable expense.

177 u. "Trade secret registry number" means a code number tempo-  
178 rarily or permanently assigned to the identity of a substance in  
179 a container by the Department of Health pursuant to section 15  
180 of this act.

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

185 w. "Workplace hazardous substance list" means the list of  
186 hazardous substances developed by the Department of Health pur-  
187 suant to section 5 of this act.

188 x. "Workplace survey" means a written document, prepared by  
189 the Department of Health and completed by an employer pursuant  
190 to this act, on which the employer shall report each hazardous sub-  
191 stance present at his facility.

1 4. a. The Department of Environmental Protection shall develop  
2 an environmental hazardous substance list which shall include, but  
3 not be limited to, substances used, manufactured, stored, packaged,  
4 repackaged, or disposed of or released into the environment of the  
5 State which, in the department's determination, may be linked to  
6 the incidence of cancer; genetic mutations; physiological malfunc-  
7 tions, including malfunctions in reproduction; and other diseases;  
8 or which, by virtue of their physical properties, may pose a threat  
9 to the public health and safety. The department shall base the  
10 environmental hazardous substance list on the list of 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. 13D-1 et seq.) and P. L. 1977, c. 74 (C. 58:10A-1 et seq.), and  
14 may include other substances which the department, based on docu-  
15 mented scientific evidence, determines pose a threat to the public  
16 health and safety.

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

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

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

1 5. a. The Department of Health shall develop a workplace  
2 hazardous substance list which shall include:

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

7 (2) Any environmental hazardous substance; and

8 (3) Any other substance which the department, based on docu-  
9 mented scientific evidence, determines poses a threat to the health  
10 or safety of an employee.

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

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

21 d. The department shall develop a hazardous substance fact  
22 sheet for each hazardous substance on the workplace hazardous  
23 substance list.

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

31 f. Three months prior to the effective date of this act, the depart-  
32 ment shall adopt, pursuant to the "Administrative Procedure Act,"  
33 P. L. 1968, c. 410 (C. 52:14B-1 et seq.), a workplace hazardous sub-  
34 stance list.

1 6. a. Within five days of the effective date of this act, the De-  
2 partment of Health shall transmit copies of the workplace survey  
3 to the Department of Labor, upon receipt of the workplace survey,  
4 the Department of Labor shall transmit the workplace survey to  
5 each employer in the State.

6 b. Within five days of the effective date of this act, the Depart-  
7 ment of Environmental Protection shall transmit an environmental  
8 survey to each employer whose business activities, according to  
9 criteria developed by the department, warrant the reporting of the  
10 information required on the environmental survey. The depart-  
11 ment may transmit an environmental survey to every employer.

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

19 b. Except as otherwise provided in section 15 of this act, within  
20 90 days of receipt of an environmental survey, an employer shall  
21 complete the survey and transmit a copy of the completed survey  
22 to the Department of Environmental Protection and the health  
23 department of the county in which the employer's facility is located,  
24 and pertinent sections of the survey to the local fire department  
25 and the local police department.

1 8. Upon receipt of a completed workplace survey from an em-  
2 ployer, the Department of Health shall transmit to that employer  
3 a hazardous substance fact sheet for each hazardous substance

4 reported by the employer on the workplace survey. If an employer  
5 makes a trade secret claim for information on the workplace sur-  
6 vey pursuant to section 15 of this act, the department shall transmit  
7 a hazardous substance fact sheet for that substance with the  
8 identity of the substance concealed.

1 9. a. The Department of Environmental Protection shall main-  
2 tain a file of all completed environmental surveys received from  
3 employers. Each environmental survey received by the department  
4 shall be retained by the department for 30 years.

5 b. The department may require an employer to submit informa-  
6 tion clarifying any statement made on the environmental survey.  
7 The department, subject to the provisions of section 15 of this act  
8 if applicable, shall transmit this clarifying information to the  
9 appropriate county health department, local fire department, and  
10 local police department as it deems necessary.

11 c. The department shall require every employer to update the  
12 environmental survey for his facility every other year. If there is  
13 any significant change during a nonreporting year in the informa-  
14 tion reported on his environmental survey, the employer shall in-  
15 form the department of the change. The department may require  
16 an employer to update the environmental survey for his facility  
17 every year.

18 d. Any person may request in writing from the department a  
19 copy of an environmental survey for a facility, and the department  
20 shall transmit any survey so requested within 30 days of the request  
21 therefor.

1 10. a. The Department of Health shall maintain a file of all  
2 completed workplace surveys received from employers. Each work-  
3 place survey received shall be retained by the department for 30  
4 years. The department shall also retain for 30 years each hazard-  
5 ous substance fact sheet.

6 b. The department shall require every employer to annually  
7 update the workplace survey for his facility, and shall supply each  
8 employer with any necessary additional hazardous substance fact  
9 sheets.

10 c. Upon request by the department, an employer shall provide  
11 the department with copies of employee health and exposure rec-  
12 ords, including those maintained for, and supplied to, the federal  
13 government.

14 d. Any person may request in writing from the department a  
15 copy of a workplace survey for a facility, together with the appro-  
16 priate hazardous substance fact sheets, and the department shall  
17 transmit any material so requested within 30 days of the request



18 therefor. Any request by an employee for material pertaining to  
19 the facility where he is employed made pursuant to this subsection  
20 shall be treated by the department as confidential.

1 11. a. An employer shall, upon request, provide an employee  
2 whose native language is Spanish with a Spanish translation of a  
3 workplace survey, hazardous substance fact sheet, and, if applica-  
3A ble, an environmental survey obtained from the Department of  
4 Health or the Department of Environmental Protection, as the  
5 case may be. An employer shall, upon request, provide employees  
6 whose native language is Spanish with the education and training  
7 program required pursuant to section 13 of this act in Spanish.

8 b. A county health department shall, upon request, provide  
9 copies of the environmental survey and the workplace survey in  
10 a Spanish translation provided by the Department of Health and  
11 Department of Environmental Protection.

1 12. Every employer shall establish and maintain a central file  
2 at his facility in which he shall retain a workplace survey for the  
3 facility, appropriate hazardous substance fact sheets, and, if ap-  
4 plicable, a copy of the environmental survey for the facility. Every  
5 employer shall post on bulletin boards readily accessible to em-  
6 ployees a notice of the availability of the information in the file.  
7 Every employer employing employees whose native language is  
8 Spanish shall also post the notice in Spanish. Every employer  
9 shall supply employees with any material designed and provided  
10 by the Department of Health, the Department of Environmental  
11 Protection, or the Department of Labor to inform employees of  
12 their rights under this act. An employer shall provide an employee  
13 with access to a workplace survey, appropriate hazardous sub-  
14 stance fact sheets, and, if applicable, an environmental survey,  
15 within five working days of a request therefor.

1 13. a. Every employer shall establish an education and training  
2 program for his employees, which shall be designed to inform em-  
3 ployees in writing and orally of the nature of the hazardous sub-  
4 stances to which they are exposed in the course of their employ-  
5 ment and the potential health risks which the hazardous substances  
6 pose, and to train them in the proper and safe procedures for  
7 handling the hazardous substances under all circumstances. An  
8 employer shall provide current employees with the education and  
9 training program within six months of the effective date of this  
10 act, and annually thereafter. Beginning six months after the ef-  
11 fective date of this act, all new employees shall be provided with  
12 the training and education program within the first month of em-  
13 ployment. Prior to entering an employment agreement with a

14 prospective employee an employer shall notify a prospective em-  
15 ployee of the availability of workplace surveys and appropriate  
16 hazardous substance fact sheets for the facility at which the pro-  
17 spective employee will be employed.

18 b. Any employer who has established an employee education  
19 and training program for hazardous substances prior to the ef-  
20 fective date of this act may request the Department of Health to  
21 certify that education and training program, which certification  
22 shall constitute compliance with subsection a. of this section.

1 14. a. Within six months of the effective date of this act, every  
2 employer shall take any action necessary to assure that every  
3 container at his facility containing a hazardous substance shall  
4 bear a label indicating the chemical name and Chemical Abstracts  
5 Service number of the hazardous substance or the trade secret  
6 registry number assigned to the hazardous substance.

7 b. Within two years of the effective date of this act, every em-  
8 ployer shall take any action necessary to assure that every con-  
9 tainer at his facility bears a label indicating the chemical name  
10 and Chemical Abstracts Service number of the substance in the  
11 container, or the trade secret registry number assigned to the sub-  
12 stance. One year after the effective date of this act the Department  
13 of Health shall establish criteria for containers which, because of  
14 the finished and durable characteristics of their contents, shall be  
15 exempt from the provisions of this subsection. These standards  
16 shall be consistent with the intent of this subsection to provide  
17 for the labeling of every container which may contain a substance  
18 which is potentially hazardous.

19 c. The labeling requirements of subsections a. and b. of this sec-  
20 tion shall not apply to containers labeled pursuant to the "Federal  
21 Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163, (7 U.S.C.  
22 § 121 et al.). The Department of Health may, by rule and regula-  
23 tion, certify containers labeled pursuant to any other federal act  
24 as labeled in compliance with the provisions of this section.

1 15. a. If an employer believes that disclosing information re-  
2 quired by this act will reveal a trade secret, he may file with the  
3 appropriate department a trade secret claim as herein provided.  
4 As used in this section, "department" means either the Department  
5 of Health or Department of Environmental Protection, as the  
6 case may be.

7 b. If an employer claims that disclosing information on either  
8 the workplace survey or the environmental survey would reveal  
9 a trade secret, he shall file with the appropriate department a trade  
10 secret claim within 90 days of receipt of the survey. An employer

11 making a trade secret claim shall submit two copies of the survey  
12 to the department, one with the information for which a trade  
13 secret claim is being made concealed, and one in an envelope marked  
14 "Confidential" containing the information for which a trade secret  
15 claim is being made, which the department, during the pendency  
16 of the trade secret claim, shall keep in a locked file or room. On  
17 the copies of the survey sent to the county health department, local  
18 fire department, and local police department, and retained on file  
19 at the facility, the employer shall conceal the information for which  
20 he is making a trade secret claim.

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

30 d. The department shall act to make a determination on the  
31 validity of a trade secret claim when a request is made pursuant  
32 to the provisions of this act for the disclosure of the information  
33 for which the trade secret claim was made, or at any time that the  
34 department deems appropriate. Upon making a determination on  
35 the validity of a trade secret claim, the department shall inform  
36 the employer of the determination by certified mail. If the depart-  
37 ment determines that the employer's trade secret claim is not valid,  
38 the employer shall have 45 days from the receipt of the depart-  
39 ment's determination to file with the department a written request  
40 for an administrative hearing on the determination. If the em-  
41 ployer does not file such a request within 45 days, the department  
42 shall take action to provide that the information for which the trade  
43 secret claim was made be disclosed pursuant to the provisions of  
44 this act. If an employer requests an administrative hearing pur-  
45 suant to the provisions of this subsection, the department shall  
46 refer the matter to the Office of Administrative Law, for a hearing  
47 thereon. At the hearing the employer shall have the burden to  
48 show that the trade secret claim is valid. Within 45 days of re-  
49 ceipt of the administrative law judge's recommendation, the de-  
50 partment shall affirm, reject, or modify the recommendation. The  
51 department's action shall be considered the final agency action for  
52 the purposes of the "Administrative Procedure Act," P. L. 1968,  
53 c. 410 (C. 52:14B-1 et seq.), and shall be subject only to judicial

54 review as provided in the Rules of Court. The department shall  
55 inform the employer of its decision on the administrative law  
56 judge's recommendation by certified mail. If the department de-  
57 termines that the trade secret claim is not valid, the employer shall  
58 have 45 days to notify the department in writing that he has filed  
59 to appeal the department's decision in the courts. If the employer  
60 does not so notify the department, the department shall take action  
61 to provide that the information for which the trade secret claim  
62 was made be disclosed pursuant to the provisions of this act.

63 e. The department shall provide any information for which a  
64 trade secret claim is pending or has been approved pursuant to  
65 this section to a physician or osteopath when such information is  
66 needed for medical diagnosis or treatment. The department shall  
67 require the physician or osteopath to sign an agreement protecting  
68 the confidentiality of information disclosed pursuant to this sub-  
69 section.

70 f. Any workplace survey or environmental survey containing  
71 information for which a trade secret claim is pending or has been  
72 approved shall be made available to the public with that informa-  
73 tion concealed.

74 g. The subject of any trade secret claim pending or approved  
75 shall be treated as confidential information. Except as provided  
76 in subsection e. of this section, the department shall not disclose  
77 any confidential information to any person except an officer or  
78 employee of the State in connection with the official duties of the  
79 officer or employee under any law for the protection of public health,  
80 or to the contractors of the State and their employees if in the  
81 opinion of the department the disclosure is necessary for the com-  
82 pletion of any work contracted for in connection with the imple-  
83 mentation of this act. Any officer or employee of the State, con-  
84 tractor of the State, physician or osteopath, or employee of a  
85 county health department, local fire department, or local police  
86 department who has access to any confidential information, and  
87 who willingly and knowingly discloses the confidential information  
88 to any person not authorized to receive it, is guilty of a crime of  
89 the third degree.

90 h. The provisions of this section shall not apply to the disclosure  
91 of information concerning emissions, and shall not apply to the  
92 disclosure of any information required pursuant to any other act.

93 i. The Department of Health and the Department of Environ-  
94 mental Protection shall jointly adopt rules and regulations to im-  
95 plement the provisions of this section.

1 16. a. Any employee or employee representative may request,

2 in writing, from his employer, a copy of a workplace survey, haz-  
3 arduous substance fact sheet, or, where applicable, an environmental  
4 survey filed pursuant to the provisions of this act for the facility at  
5 which he is employed. The employer shall supply this material  
6 within five working days of the request. Any employee or employee  
7 representative may request, in writing, the chemical name and  
8 Chemical Abstracts Service number of the substance contained in  
9 any container which is not labeled pursuant to the provisions of sec-  
10 tion 14 of this act, and the employer shall supply the employee or  
11 employee representative with this information within five working  
12 days of the request. An employee shall have the right to refuse  
13 to work with a hazardous substance for which a request was made  
14 and not honored without loss of pay or forfeit of any other privi-  
15 lege until the request is honored.

16 b. Any employee or employee representative who believes that  
17 an employer has not complied with the provisions of subsection a.  
18 of this section may file a complaint with the Commissioner of the  
19 Department of Labor. Upon receipt of the complaint, the commis-  
20 sioner shall investigate the allegations contained in the complaint.  
21 If the commissioner, following an administrative hearing conducted  
22 pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410  
23 (C. 52:14B-1 et seq.), finds that the employer has violated the pro-  
24 visions of subsection a. of this section, he shall initiate a civil action  
25 by summary proceeding pursuant to "the penalty enforcement law"  
26 (N. J. S. 2A:58-1 et seq.). Any employer violating the provisions  
27 of subsection a. of this section is liable to a penalty of not less than  
28 \$2,500.00 for each offense.

1 17. a. No employer shall discharge, cause to be discharged, or  
2 otherwise discipline, penalize, or discriminate against any em-  
3 ployee because the employee or his employee representative has  
4 exercised any right established in this act.

5 b. Any employee who believes that he has been discharged, or  
6 otherwise disciplined, penalized, or discriminated against by an  
7 employer in violation of subsection a. of this section may, within  
8 30 days of the violation, or within 30 days of obtaining knowledge  
9 that a violation occurred, file a complaint with the Commissioner  
10 of the Department of Labor alleging the violation. Within 30 days  
11 of the receipt of a complaint, the commissioner shall conduct an  
12 investigation of the complaint. If after the investigation the com-  
13 missioner determines that there is probable cause that the com-  
14 plaint is valid, he may refer the complaint to the Office of Adminis-  
15 trative Law, which, upon the referral, shall commence an adjudi-  
16 catory proceeding on the complaint, to be conducted as a contested

17 case pursuant to the "Administrative Procedure Act," P. L. 1968,  
18 c. 410 (C. 52:14B-1 et seq.), and P. L. 1978, c. 67 (C. 52:14F-1 et  
19 seq.). If the Commissioner of Labor or the employee introduces  
20 evidence that prior to the alleged violation the employee exercised  
21 any right provided in this act, the employer shall have the burden  
22 to show just cause for his action by clear and convincing evidence.  
23 Within 45 days of the receipt of the recommendations of the ad-  
24 ministrative law judge, the commissioner shall adopt, reject, or  
25 modify the recommendations. The final decision of the commis-  
26 sioner shall be considered the final agency action thereon for the  
27 purposes of the "Administrative Procedure Act" and shall be sub-  
28 ject only to judicial review as provided in the Rules of Court.

1 18. a. There is established in the Department of Health a Right  
2 To Know Advisory Council, which shall consist of 11 members  
3 appointed by the Governor with the advice and consent of the  
4 Senate. Each of these members shall be appointed for a term of  
5 three years, provided that of the members of the council first ap-  
6 pointed by the Governor, four shall serve for terms of one year,  
7 four shall serve for terms of two years, and three shall serve for  
8 terms of three years. Of these members, one shall be appointed  
9 from persons having training and experience in industrial hygiene  
10 recommended by recognized labor unions; one from persons recom-  
11 mended by recognized environmental organizations; one from  
12 persons recommended by recognized public interest organizations;  
13 one from persons recommended by recognized organizations of  
14 chemical industries; one from persons recommended by recognized  
15 community organizations; one from persons recommended by  
16 recognized organizations of petroleum industries; one from persons  
17 recommended by recognized organizations of firefighters; one from  
18 persons recommended by recognized business or trade organiza-  
19 tions; one from persons recommended by recognized organizations  
20 of small business; one from persons holding an M.D. degree recom-  
21 mended by recognized public health organizations; and one from  
22 persons with training and experience in environmental epidemi-  
23 ology recommended by recognized research or academic organiza-  
24 tions. In the event that no recommendations for a particular  
25 category of membership are made to the Governor three months  
26 prior to the effective date of this act in the case of the initial ap-  
27 pointments, or within 60 days of the date of the expiration of the  
28 term of office of any member or the occurrence of any vacancy in  
29 the case of subsequent appointments, the Governor shall appoint  
30 as a member for that category of membership a person whom he  
31 believes will be representative thereof.

32 b. A majority of the membership of the council shall constitute  
33 a quorum for the transaction of council business. Action may be  
34 taken and motions and resolutions adopted by the council at any  
35 meeting thereof by the affirmative vote of a majority of the mem-  
36 bers of the council present and voting.

37 c. The council shall meet regularly as it may determine, and  
38 shall also meet at the call of the Commissioner of the Department  
39 of Health, the Commissioner of the Department of Environmental  
40 Protection, or the Commissioner of the Department of Labor.

41 d. The council shall appoint a chairman and other officers as may  
42 be necessary from among its members. The council may, within  
43 the limits of any funds appropriated or otherwise made available  
44 to it for this purpose, appoint such staff or hire such experts as it  
45 may require.

46 e. Members of the council shall serve without compensation, but  
47 the council may, within the limits of funds appropriated or other-  
48 wise made available to it for such purposes, reimburse its members  
49 for necessary expenses incurred in the discharge of their official  
50 duties.

1 19. The council shall :

2 a. Advise the Department of Health on the revision of the work-  
3 place hazardous substance list and the Department of Environ-  
4 mental Protection on the revision of the environmental hazardous  
5 substance list.

6 b. Advise the Department of Environmental Protection, the De-  
7 partment of Health, and the Department of Labor on the imple-  
8 mentation of this act.

9 c. Review any matters submitted to it by the Department of  
10 Health, Department of Environmental Protection, or the Depart-  
11 ment of Labor, and state its position within 90 days.

1 20. The council may :

2 a. Review any aspect of the implementation of this act, and  
3 transmit its recommendations to the appropriate department or  
4 departments.

5 b. Hold public meetings or hearings within the State on any  
6 matter or matters related to the provisions of this act.

7 c. Call to its assistance and avail itself of the services of such  
8 employees of any State, county or municipal department, board,  
9 commissions, or agency as may be required and made available  
10 for such purposes.

1 21. The Department of Health, the Department of Environ-  
2 mental Protection, and the Department of Labor, in conjunction  
3 with the council, shall jointly establish a procedure for annually

4 receiving information, advice, testimony, and recommendations  
5 from the council, the public, and any other interested party, con-  
6 cerning the implementation of this act. This procedure shall in-  
7 clude a mechanism for revising the workplace hazardous substance  
8 list and the environmental hazardous substance list. Any revision  
9 of the workplace hazardous substance list or environmental hazard-  
10 ous substance list shall be based on documented scientific evidence.  
11 The Department of Health and Department of Environmental  
12 Protection shall publicly announce any revisions of the workplace  
13 hazardous substance list or the environmental hazardous list, and  
14 any such additions or revisions shall be made pursuant to the pro-  
15 visions of the "Administrative Procedure Act," P. L. 1968, c. 410  
16 (C. 52:14B-1 et seq.).

1 22. Each county health department shall maintain a file of work-  
2 place surveys and environmental surveys transmitted to it pur-  
3 suant to the provisions of this act. These surveys, pursuant to the  
4 provisions of subsection f. of section 15 of this act, shall be made  
5 available to the public at reasonable hours and at a fee not to  
6 exceed the cost of reproducing the surveys.

1 23. Any person may bring a civil action in law or equity on his  
2 own behalf against any employer for a violation of any provision  
3 of this act or any rule and regulation promulgated pursuant thereto  
4 or against the Department of Environmental Protection or the  
5 Department of Health for failure to enforce the provisions of this  
6 act or any rule or regulation promulgated pursuant thereto. The  
7 Superior Court shall have jurisdiction over these actions. The  
8 court may award, whenever it deems appropriate, costs of litiga-  
9 tion, including reasonable attorney and expert witness fees.

1 24. Substances not included on the workplace hazardous sub-  
2 stance list or the environmental hazardous substance list shall not  
3 be subject to the reporting provisions of this act. However, the  
4 absence of any substance from the workplace hazardous substance  
5 list or the environmental hazardous substance list, or the provision  
6 of any information by an employer to an employee or any other  
7 person pursuant to the provisions of this act, shall not in any way  
8 affect any other liability of an employer with regard to safeguard-  
9 ing the health and safety of an employee or any other person ex-  
10 posed to the substance, nor shall it affect any other duty or  
11 responsibility of an employer to warn ultimate users of a substance  
12 of any potential health hazards associated with the use of the sub-  
13 stance pursuant to the provisions of any law or rule or regulation  
14 adopted pursuant thereto.

1 25. No local police department or local fire department receiving



2 workplace surveys or environmental surveys pursuant to the pro-  
3 visions of this act shall make the surveys available to the public.  
4 Any county health department, local police department, or local  
5 fire department may request from an employer submitting surveys  
6 to it further information concerning the surveys, and the employer  
7 shall provide the additional information upon the request therefor.  
8 The employer may require the requestor to sign an agreement pro-  
9 tecting the confidentiality of any additional information provided  
10 pursuant to this section.

1 26. a. There is established in the Department of the Treasury  
2 a nonlapsing, revolving fund to be known as the "Worker and  
3 Community Right To Know Fund." The fund shall be credited  
4 with all fees collected pursuant to this section and interest on  
5 moneys in the fund shall be credited to the fund. The State Trea-  
6 surer shall be the administrator of the fund, and all disbursements  
7 from the fund shall be made by the State Treasurer.

8 b. The Department of Labor shall annually assess each employer  
9 a fee of not less than \$50.00 nor more than an amount equal to  
10 \$2.00 per employee to provide for the implementation of the pro-  
11 visions of this act. All fees collected by the department pursuant  
12 to this section shall be deposited in the fund.

13 c. The moneys in the fund shall be disbursed only for the follow-  
14 ing purposes:

15 (1) Expenses incurred by the Department of Health, the Depart-  
16 ment of Environmental Protection, the Department of Labor, the  
17 Department of the Treasury, and the County Health Departments  
18 in implementing the provisions of this act; and

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

21 d. The State Treasurer shall annually disburse the moneys in  
22 the fund in accordance with the following schedule: the Department  
23 of Health, 40%; the Department of Environmental Protection,  
24 20%; the County Health Departments, 15%, the Department of  
25 Labor, 15%; and the Department of the Treasury, 10%.

26 e. Beginning two years after the effective date of this act, the  
27 State Treasurer shall make an annual audit of the fund to deter-  
28 mine the adequacy of moneys on deposit in the fund to support the  
29 implementation of the provisions of this act. If the State Treasurer,  
30 in consultation with the Department of Health, the Department of  
31 Environmental Protection, and the Department of Labor makes a  
32 determination that the revenues in the fund are sufficient to war-  
33 rant a reduction in the fee imposed pursuant to this section for the  
34 ensuing year, he may reduce the amount of the fee imposed during

35 that year by an amount warranted by the balance in the fund at  
36 the time of the determination.

37 f. The provisions of this section shall expire five years following  
38 the effective date of this act.

1 27. It is the intent of the Legislature that the program estab-  
2 lished by this act for the disclosure of information concerning  
3 hazardous substances to employees and the public constitute the  
4 only such program in this State. To this end, no municipality or  
5 county shall enact any law or ordinance requiring the disclosure  
5A of information about, or the identification of, hazardous substances  
6 in the workplace or the environment to the extent that the dis-  
7 closure of information or identification is provided for under this  
8 act, and, further, the enactment of this act shall supersede any  
9 municipal or county law or ordinance providing for the disclosure  
10 or identification in effect on the effective date of this act.

1 28. The Board of Public Utilities shall consider all expenses in-  
2 curred by a public utility in complying with the provisions of P. L.  
3 , c. (C. ) (now pending before the Legislature  
4 as Senate Committee Substitute for Senate Bill No. 1670 of 1982)  
5 as a current expense of providing utility service, which shall be  
6 charged to all ratepayers of the utility in the same manner as other  
7 current operating expenses of providing utility service.

1 29. Any expenditure made by a county or municipality to comply  
2 with the provisions of P. L. , c. (C. ) (now pend-  
3 ing before the Legislature as Senate Committee Substitute for  
4 Senate Bill No. 1670 of 1982) shall, for the purposes of P. L. 1976,  
5 c. 68 (C. 40A:4-45.1 et seq.), be considered an expenditure man-  
6 dated by State law.

1 30. Within two years of the effective date of this act the Depart-  
2 ment of Health, the Department of Environmental Protection, and  
3 the Department of Labor shall jointly prepare and submit to the  
4 Governor and the Legislature a report evaluating the implementa-  
5 tion of this act, together with any recommendations for legislative  
6 or administrative action deemed necessary or appropriate.

1 31. a. The Department of Health shall have the right to enter  
2 an employer's facility during the normal operating hours of the  
3 facility to determine the employer's compliance with the provisions  
4 of subsection a. of section 7, and sections 10, 11, 12, 13, and 14 of  
5 this act, and any rules and any regulations adopted pursuant  
6 thereto.

7 b. The Department of Environmental Protection shall have the  
8 right to enter an employer's facility during the normal operating  
9 hours of the facility to determine compliance with subsection b. of

10 section 7 and section 9 of this act, and any rules and any regula-  
11 tions adopted pursuant thereto.

1 32. Except as otherwise provided in this act, the Department of  
2 Health, the Department of Environmental Protection, the Depart-  
3 ment of Labor and the Department of the Treasury shall adopt any  
4 rules and regulations necessary to carry out their respective re-  
5 sponsibilities under this act.

1 33. This act shall take effect one year following enactment.

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#### STATEMENT

This bill establishes a comprehensive system for the disclosure and dissemination of information about hazardous substances in the workplace and environment.

This bill would require certain employers to report those hazardous substances present at their place of business, maintain a file of basic safety information, supplied by the Department of Health, about these substances for their employees' use, provide their employees with education and training on how to handle these substances, and insure that containers in the workplace be labeled so as to disclose the chemical identity of their contents. This bill would also require employers to disclose basic information concerning the storage, treatment and emission of hazardous substances into the environment. All disclosed information on hazardous substances would be available to employees at the workplace, and to members of the public at county health departments and from the State Departments of Health and Environmental Protection. Local fire and police departments would also receive this information to help them plan for emergencies involving hazardous substances.

The provisions of this bill would be jointly implemented by the Departments of Health, Environmental Protection, and Labor, with the advice of a Right To Know Advisory Council, established in the bill, consisting of citizen members representing business, labor, environmental, community, fire fighter, and scientific interests. This implementation would be funded by a fee assessed against employers of \$2.00 per employee. The revenues generated would be deposited in a special fund from which the Treasurer would make disbursements to the departments responsible for implementing the provisions of the bill. This bill would take effect one year after enactment.

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