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IS 5/16/08

P.L. 2007, CHAPTER 190, *approved October 18, 2007*  
Senate, No. 560

1 AN ACT concerning hazardous substances in flood plains, amending  
2 P.L.1983, c.315, and supplementing Title 58 of the Revised  
3 Statutes.

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

7  
8 1. Section 14 of P.L.1983, c.315 (C.34:5A-14) is amended to  
9 read as follows:

10 14. a. Every employer shall have until October 30, 1985 to take  
11 any action necessary to assure that every container at **[his]** the  
12 employer's facility containing a hazardous substance shall bear a  
13 label indicating the chemical name and Chemical Abstracts Service  
14 number of the hazardous substance or the trade secret registry  
15 number assigned to the hazardous substance. The labels on all  
16 containers except pipelines and underground storage tanks shall be  
17 designed and affixed in such a manner to ensure that if there is a  
18 flood or other natural disaster when the container is transported or  
19 stored, the label shall remain in place and visible. Employers may  
20 label containers in a research and development laboratory by means  
21 of a code or number system, if the code or number system will  
22 enable an employee to readily make a cross-reference to a  
23 hazardous substance fact sheet which will provide the employee  
24 with the chemical name and Chemical Abstracts Service number of  
25 the hazardous substance contained in the container, or the trade  
26 secret registry number assigned to the hazardous substance. The  
27 code or number system shall be designed to allow the employee free  
28 and ready access at all times to the chemical name and Chemical  
29 Abstracts Service number of the hazardous substance in the  
30 container, shall be designed to allow the employee access to this  
31 information without the permission or assistance of management,  
32 and shall be available to the employee at close proximity to **[his]**  
33 the employee's specific job location or locations. Employers shall  
34 be required to label pipelines only at the valve or valves located at  
35 the point at which a hazardous substance enters a facility's pipeline  
36 system, and at normally operated valves, outlets, vents, drains and  
37 sample connections designed to allow the release of a hazardous  
38 substance from the pipeline.

39 b. Within two years of the effective date of this act, every  
40 employer shall take any action necessary to assure that every  
41 container at **[his]** the employer's facility bears a label indicating the  
42 chemical name and Chemical Abstracts Service number of the  
43 substance in the container, except as provided in subsection d. of

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

Matter underlined thus is new matter.

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

36 c. The labeling requirements of subsections a. and b. of this  
37 section shall not apply to containers labeled pursuant to the  
38 "Federal Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163  
39 (7 U.S.C. s.121 et al.), except that the label for any such container  
40 except pipelines and underground storage tanks shall be designed  
41 and affixed in such a manner to ensure that if there is a flood or  
42 other natural disaster when the container is transported or stored,  
43 the label shall remain in place and visible. The Department of  
44 Health may, by rule and regulation, certify containers labeled  
45 pursuant to any other federal act as labeled in compliance with the  
46 provisions of this section.

47 d. One year after the effective date of this act the Department of  
48 Health shall adopt, pursuant to the "Administrative Procedure Act,"

1 P.L.1968, c.410 (C.52:14B-1 et seq.), a list of substances the  
2 containers of which may be labeled with the common names and  
3 Chemical Abstracts Service numbers of their contents. The  
4 department shall include on the list adopted pursuant to this  
5 subsection only substances which are widely recognized by their  
6 common names. An employer shall provide the chemical name of a  
7 substance in a container labeled pursuant to this subsection within  
8 five working days of the request therefor.  
9 (cf: P.L.1985, c.216, s.3)

10

11 2. (New section) a. No person shall place or store, or caused to  
12 be placed or stored, any containers holding hazardous substances as  
13 defined in section 3 of P.L.1976, c.141 (C.58:10-23.11b) in a 100-  
14 year flood plain, as defined by the Commissioner of Environmental  
15 Protection in rules and regulations adopted pursuant to the  
16 provisions of the "Flood Hazard Area Control Act," P.L.1962, c.19  
17 (C.58:16A-50 et seq.), unless:

18 (1) The facility at which any containers holding hazardous  
19 substances are to be placed or stored is in compliance with flood  
20 protection measures to prevent the release of hazardous substances  
21 due to flooding, as follows: (a) an approved engineering design of  
22 site-specific flood protection devices designed to prevent washout;  
23 or (b) an approved written plan of emergency procedures for  
24 removing the containers to safety or out of the facility before the  
25 facility is flooded; and

26 (2) Every container is visibly marked in a manner determined in  
27 rules and regulations adopted by the department pursuant to the  
28 "Administrative Procedure Act" with a label designed and affixed to  
29 ensure that the label shall remain visible and in place if there is a  
30 flood or other natural disaster stating the following:

31

32 Caution: Hazardous Contents  
33 To be handled and opened only by authorized personnel  
34 If found, please contact  
35 The New Jersey Department of Environmental Protection  
36 1-877-927-6337  
37 **【Name of container contents owner】**  
38 **【Address of container contents owner】**  
39 **【Phone number of container contents owner】**

40

41 b. The labeling requirements of subsection a. of this section  
42 shall not apply to containers required to be labeled pursuant to other  
43 State or federal laws or containers labeled pursuant to the "Federal  
44 Insecticide, Fungicide, and Rodenticide Act," 7 U.S.C. s.136 et seq.

45 c. For the purposes of this section, "container" means a  
46 receptacle used to hold a liquid, solid, or gaseous substance,  
47 including, but not limited to, bottles, bags, barrels, boxes, cans,

**S560**

4

1 cylinders, drums, cartons, vessels, vats, and stationary or mobile  
2 storage tanks; except that "container" shall not include process  
3 containers, pipelines or underground storage tanks.

4

5 3. This act shall take effect immediately.

6

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8

9

10 \_\_\_\_\_  
Concerns the location of hazardous substances in flood plains.

# SENATE, No. 560

## STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

**Sponsored by:**

**Senator HENRY P. MCNAMARA**

**District 40 (Bergen, Essex and Passaic)**

**Co-Sponsored by:**

**Senator Ciesla**

**SYNOPSIS**

Concerns the location of hazardous substances in flood plains.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



S560 MCNAMARA

2

1 AN ACT concerning hazardous substances in flood plains, amending  
2 P.L.1983, c.315, and supplementing Title 58 of the Revised  
3 Statutes.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State  
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18 flood or other natural disaster when the container is transported or  
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32 and shall be available to the employee at close proximity to [his] the  
33 employee's specific job location or locations. Employers shall be  
34 required to label pipelines only at the valve or valves located at the  
35 point at which a hazardous substance enters a facility's pipeline  
36 system, and at normally operated valves, outlets, vents, drains and  
37 sample connections designed to allow the release of a hazardous  
38 substance from the pipeline.

39 b. Within two years of the effective date of this act, every  
40 employer shall take any action necessary to assure that every  
41 container at [his] the employer's facility bears a label indicating the  
42 chemical name and Chemical Abstracts Service number of the  
43 substance in the container, except as provided in subsection d. of  
44 this section, or the trade secret registry number assigned to the

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

**Matter underlined thus is new matter.**



S560 MCNAMARA

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2 development laboratory by means of a code or number system, if  
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19 this section, or the trade secret registry numbers, of the five most  
20 predominant substances contained in the mixture. The provisions of  
21 this subsection shall not apply to any substance constituting less  
22 than 1% of a mixture unless the substance is present at the facility  
23 in an aggregate amount of 500 pounds or more. Employers shall be  
24 required to label pipelines only at the valve or valves located at the  
25 point at which a substance enters a facility's pipeline system, and at  
26 normally operated valves, outlets, vents, drains and sample  
27 connections designed to allow the release of a substance from the  
28 pipeline. One year after the effective date of this act the Department  
29 of Health shall establish criteria for containers which, because of  
30 the finished and durable characteristics of their contents, shall be  
31 exempt from the provisions of this subsection. These standards  
32 shall be consistent with the intent of this subsection to provide for  
33 the labeling of every container which may contain a substance  
34 which is potentially hazardous.

35 c. The labeling requirements of subsections a. and b. of this  
36 section shall not apply to containers labeled pursuant to the  
37 "Federal Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163  
38 (7 U.S.C. s.121 et al.), except that the label for any such container  
39 except pipelines and underground storage tanks shall be designed  
40 and affixed in such a manner to ensure that if there is a flood or  
41 other natural disaster when the container is transported or stored,  
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43 Health may, by rule and regulation, certify containers labeled  
44 pursuant to any other federal act as labeled in compliance with the  
45 provisions of this section.

46 d. One year after the effective date of this act the Department of  
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S560 MCNAMARA

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2 containers of which may be labeled with the common names and  
3 Chemical Abstracts Service numbers of their contents. The  
4 department shall include on the list adopted pursuant to this  
5 subsection only substances which are widely recognized by their  
6 common names. An employer shall provide the chemical name of a  
7 substance in a container labeled pursuant to this subsection within  
8 five working days of the request therefor.  
9 (cf: P.L.1985, c.216, s.3)

10

11 2. (New section) a. No person shall place or store, or caused to  
12 be placed or stored, any containers holding hazardous substances as  
13 defined in section 3 of P.L.1976, c.141 (C.58:10-23.11b) in a 100-  
14 year flood plain, as defined by the Commissioner of Environmental  
15 Protection in rules and regulations adopted pursuant to the  
16 provisions of the "Flood Hazard Area Control Act," P.L.1962, c.19  
17 (C.58:16A-50 et seq.), unless:

18 (1) The facility at which any containers holding hazardous  
19 substances are to be placed or stored is in compliance with flood  
20 protection measures to prevent the release of hazardous substances  
21 due to flooding, as follows: (a) an approved engineering design of  
22 site-specific flood protection devices designed to prevent washout;  
23 or (b) an approved written plan of emergency procedures for  
24 removing the containers to safety or out of the facility before the  
25 facility is flooded; and

26 (2) Every container is visibly marked in a manner determined in  
27 rules and regulations adopted by the department pursuant to the  
28 "Administrative Procedure Act" with a label designed and affixed to  
29 ensure that the label shall remain visible and in place if there is a  
30 flood or other natural disaster stating the following:

31

32 Caution: Hazardous Contents  
33 To be handled and opened only by authorized personnel  
34 If found, please contact  
35 The New Jersey Department of Environmental Protection  
36 1-877-927-6337

37 [Name of container contents owner]

38 [Address of container contents owner]

39 [Phone number of container contents owner]

40

41 b. The labeling requirements of subsection a. of this section  
42 shall not apply to containers required to be labeled pursuant to other  
43 State or federal laws or containers labeled pursuant to the "Federal  
44 Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163 (7 U.S.C.  
45 s.121 et al.).

46 c. For the purposes of this section, "container" means a  
47 receptacle used to hold a liquid, solid, or gaseous substance,

1 including, but not limited to, bottles, bags, barrels, boxes, cans,  
2 cylinders, drums, cartons, vessels, vats, and stationary or mobile  
3 storage tanks; except that "container" shall not include process  
4 containers, pipelines or underground storage tanks.

5

6 3. This act shall take effect immediately.

7

8

9

STATEMENT

10

11 This bill would prohibit anyone from placing or storing, or  
12 causing to be placed or stored, any containers holding hazardous  
13 substances in a 100-year flood plain, unless:

14 (1) The facility at which any containers holding hazardous  
15 substances are to be placed or stored is in compliance with flood  
16 protection measures to prevent the release of hazardous substances  
17 due to flooding, as follows:

18 (a) an approved engineering design of site-specific flood  
19 protection devices designed to prevent washout; or

20 (b) an approved written plan of emergency procedures for  
21 removing the containers to safety or out of the facility before the  
22 facility is flooded; and

23 (2) Every container is visibly marked in a manner determined in  
24 rules and regulations adopted by the Department of Environmental  
25 Protection with a label designed and affixed to ensure that the label  
26 shall remain visible and in place if there is a flood or other natural  
27 disaster.

28 The bill would define a "container" as a receptacle used to hold a  
29 liquid, solid, or gaseous substance, including, but not limited to,  
30 bottles, bags, barrels, boxes, cans, cylinders, drums, cartons,  
31 vessels, vats, and stationary or mobile storage tanks. However, a  
32 "container" would not include process containers, pipelines or  
33 underground storage tanks.

34 Every container subject to the bill would be marked with a label  
35 containing the following statement:

36

37 Caution: Hazardous Contents

38 To be handled and opened only by authorized personnel

39 If found, please contact

40 The New Jersey Department of Environmental Protection

41 1-877-927-6337

42 [Name of container contents owner]

43 [Address of container contents owner]

44 [Phone number of container contents owner]

45

46 These labeling requirements would not apply to containers  
47 required to be labeled pursuant to other State or federal laws or

**S560 MCNAMARA**

6

- 1 containers labeled pursuant to the "Federal Insecticide, Fungicide,
- 2 and Rodenticide Act," 61 Stat. 163 (7 U.S.C. s.121 et al.).

ASSEMBLY ENVIRONMENT AND SOLID WASTE  
COMMITTEE

STATEMENT TO

**SENATE, No. 560**

**STATE OF NEW JERSEY**

DATED: MARCH 9, 2006

The Assembly Environment and Solid Waste Committee reports favorably Senate Bill No.560.

This bill would amend section 14 of the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-14), to require that the labels required under that law be designed and affixed in such a manner to ensure that if there is a flood or other natural disaster when the container is transported or stored, the label shall remain in place and visible.

In addition, this bill would prohibit anyone from placing or storing, or causing to be placed or stored, any containers holding hazardous substances in a 100-year flood plain, unless:

(1) The facility at which any containers holding hazardous substances are to be placed or stored is in compliance with flood protection measures to prevent the release of hazardous substances due to flooding, as follows:

(a) an approved engineering design of site-specific flood protection devices designed to prevent washout; or

(b) an approved written plan of emergency procedures for removing the containers to safety or out of the facility before the facility is flooded; and

(2) Every container is visibly marked in a manner determined in rules and regulations adopted by the Department of Environmental Protection with a label designed and affixed to ensure that the label remains visible and in place if there is a flood or other natural disaster.

The bill would define a "container" as a receptacle used to hold a liquid, solid, or gaseous substance, including, but not limited to, bottles, bags, barrels, boxes, cans, cylinders, drums, cartons, vessels, vats, and stationary or mobile storage tanks. However, a "container" would not include process containers, pipelines or underground storage tanks.

Every container subject to the bill would be marked with a label containing the following statement:

Caution: Hazardous Contents

To be handled and opened only by authorized personnel

If found, please contact

The New Jersey Department of Environmental Protection

1-877-927-6337

**【Name of container contents owner】**

**【Address of container contents owner】**

**【Phone number of container contents owner】**

This new labeling requirement under section 2 of the bill would not apply to containers required to be labeled pursuant to other State or federal laws or containers labeled pursuant to the "Federal Insecticide, Fungicide, and Rodenticide Act," 7 U.S.C. s.136 et seq.

As reported by the committee, this bill is identical to Assembly Bill No.2112 as amended and reported by the committee.

# SENATE ENVIRONMENT COMMITTEE

## STATEMENT TO

### SENATE, No. 560

# STATE OF NEW JERSEY

DATED: JANUARY 30, 2006

This bill would prohibit anyone from placing or storing, or causing to be placed or stored, any containers holding hazardous substances in a 100-year flood plain, unless:

(1) The facility at which any containers holding hazardous substances are to be placed or stored is in compliance with flood protection measures to prevent the release of hazardous substances due to flooding, as follows:

(a) an approved engineering design of site-specific flood protection devices designed to prevent washout; or

(b) an approved written plan of emergency procedures for removing the containers to safety or out of the facility before the facility is flooded; and

(2) Every container is visibly marked in a manner determined in rules and regulations adopted by the Department of Environmental Protection with a label designed and affixed to ensure that the label remains visible and in place if there is a flood or other natural disaster.

The bill would define a "container" as a receptacle used to hold a liquid, solid, or gaseous substance, including, but not limited to, bottles, bags, barrels, boxes, cans, cylinders, drums, cartons, vessels, vats, and stationary or mobile storage tanks. However, a "container" would not include process containers, pipelines or underground storage tanks.

Every container subject to the bill would be marked with a label containing the following statement:

Caution: Hazardous Contents

To be handled and opened only by authorized personnel

If found, please contact

The New Jersey Department of Environmental Protection

1-877-927-6337

[Name of container contents owner]

[Address of container contents owner]

[Phone number of container contents owner]

These labeling requirements would not apply to containers required to be labeled pursuant to other State or federal laws or containers labeled pursuant to the "Federal Insecticide, Fungicide, and Rodenticide Act," 7 U.S.C. s.136 et seq.

This bill was pre-filed for introduction in the 2006-2007 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.



# ASSEMBLY, No. 2112

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JANUARY 30, 2006

**Sponsored by:**

**Assemblyman JOHN E. ROONEY**

**District 39 (Bergen)**

**SYNOPSIS**

Concerns the location of hazardous substances in flood plains.

**CURRENT VERSION OF TEXT**

As introduced.



A2112 ROONEY

2

1 AN ACT concerning hazardous substances in flood plains and  
2 amending P.L.1983, c.315.

3

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

6

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

9 3. As used in this act:

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

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

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

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

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

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

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

35 h. "Employer" means any person or corporation in the State  
36 engaged in business operations which has a Standard Industrial  
37 Classification, as designated in the Standard Industrial  
38 Classification Manual prepared by the federal Office of  
39 Management and Budget, within the following Major Group  
40 Numbers, Group Numbers, or Industry Numbers, as the case may  
41 be, except as otherwise provided herein: Major Group Number 07  
42 (Agricultural Services), only Industry Number 0782--Lawn and  
43 garden services; Major Group Numbers 20 through 39 inclusive  
44 (manufacturing industries); Major Group Number 45  
45 (Transportation by Air), only Industry Number 4511—Air

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

**Matter underlined thus is new matter.**

## A2112 ROONEY

3

1 Transportation, certified carriers, and Group Number 458--Air  
2 Transportation Services; Major Group Number 46 (Pipelines,  
3 Except Natural Gas); Major Group Number 47 (Transportation  
4 Services), only Group Numbers 471--Freight Forwarding, 474--  
5 Rental of Railroad Cars, and 478--Miscellaneous Services  
6 Incidental to Transportation; Major Group Number 48  
7 (Communication), only Group Numbers 481--Telephone  
8 Communication, and 482--Telegraph Communication; Major Group  
9 Number 49 (Electric, Gas and Sanitary Services); Major Group  
10 Number 50 (Wholesale Trade--Durable Goods), only Industry  
11 Numbers 5085--Industrial Supplies, 5087--Service Establishment  
12 Equipment and Supplies, and 5093--Scrap and Waste Materials;  
13 Major Group Number 51 (Wholesale trade, nondurable goods), only  
14 Group Numbers 512--Drugs, Drug Proprietaries and Druggist's  
15 Sundries, 516--Chemicals and Allied Products, 517--Petroleum and  
16 petroleum products, 518--Beer, Wine and Distilled Alcoholic  
17 Beverages, and 519--Miscellaneous Nondurable Goods; Major  
18 Group Number 55 (Automobile Dealers and Gasoline Service  
19 Stations), only Group Numbers 551--Motor Vehicle Dealers (New  
20 and Used), 552--Motor Vehicle Dealers (Used only), and 554--  
21 Gasoline Service Stations; Major Group Number 72 (Personal  
22 Services), only Industry Numbers 7216--Dry Cleaning Plants,  
23 Except Rug Cleaning, 7217--Carpet and Upholstery Cleaning, and  
24 7218--Industrial Launderers; Major Group Number 73 (Business  
25 Services), only Industry Number 7397 Commercial testing  
26 laboratories; Major Group Number 75 (automotive repair, services,  
27 and garages), only Group Number 753--Automotive Repair Shops;  
28 Major Group Number 76 (miscellaneous repair services), only  
29 Industry Number 7692--Welding Repair; Major Group Number 80  
30 (health services), only Group Number 806--Hospitals; and Major  
31 Group Number 82 (educational services), only Group Numbers 821-  
32 -Elementary and Secondary Schools and 822--Colleges and  
33 Universities, and Industry Number 8249--Vocational Schools.  
34 Except for the purposes of section 26 of this act, "employer" means  
35 the State and local governments, or any agency, authority,  
36 department, bureau, or instrumentality thereof, or any non-profit,  
37 non-public school, college or university.

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

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

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

48 (1) The chemical name and Chemical Abstracts Service number

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- 1 of the environmental hazardous substance;
- 2 (2) A description of the use of the environmental hazardous  
3 substance at the facility;
- 4 (3) The quantity of the environmental hazardous substance  
5 produced at the facility;
- 6 (4) The quantity of the environmental hazardous substance  
7 brought into the facility;
- 8 (5) The quantity of the environmental hazardous substance  
9 consumed at the facility;
- 10 (6) The quantity of the environmental hazardous substance  
11 shipped out of the facility as or in products;
- 12 (7) The maximum inventory of the environmental hazardous  
13 substance stored at the facility, the method of storage, and the  
14 frequency and methods of transfer;
- 15 (8) The total stack or point-source emissions of the  
16 environmental hazardous substance;
- 17 (9) The total estimated fugitive or nonpoint-source emissions of  
18 the environmental hazardous substance;
- 19 (10) The total discharge of the environmental hazardous  
20 substance into the surface or groundwater, the treatment methods,  
21 and the raw wastewater volume and loadings;
- 22 (11) The total discharge of the environmental hazardous  
23 substance into publicly owned treatment works;
- 24 (12) The quantity, and methods of disposal, of any wastes  
25 containing an environmental hazardous substance, the method of  
26 on-site storage of these wastes, the location or locations of the final  
27 disposal site for these wastes, and the identity of the hauler of the  
28 wastes;
- 29 (13) The total quantity of environmental hazardous substances  
30 generated at the facility, including hazardous substances generated  
31 as nonproduct output;
- 32 (14) The quantity of environmental hazardous substances  
33 recycled on-site and off-site; [and]
- 34 (15) Information pertaining to pollution prevention activities at  
35 the facility; and
- 36 (16) A statement of whether hazardous substances are stored in  
37 a flood plain, as defined by the Commissioner of Environmental  
38 Protection in rules and regulations adopted pursuant to the  
39 provisions of the "Flood Hazard Area Control Act," P.L.1962, c.19  
40 (C.58:16A-50 et seq.), and the quantity and type of each hazardous  
41 substance stored in the flood plain.
- 42 As used in this subsection, "pollution prevention" and  
43 "nonproduct output" shall have the same meaning as set forth in  
44 section 3 of P.L.1991, c.235 (C.13:1D-37).
- 45 1. "Facility" means the building, equipment and contiguous area  
46 at a single location used for the conduct of business. Except for the  
47 purposes of subsection c. of section 13, section 14, and subsection  
48 b. of section 25 of this act, "facility" shall not include a research

1 and development laboratory.

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

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

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

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

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

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

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

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

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

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

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

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

47 (7) The proper precautions, practices, necessary personal  
48 protective equipment, recommended engineering controls, and any

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- 1 other necessary and appropriate measures for the safe handling of  
2 the hazardous substance, including specific information on how to  
3 extinguish or control a fire that involves the hazardous substance;  
4 and (8) The appropriate emergency and first aid procedures for  
5 spills, fires, potential explosions, and accidental or unplanned  
6 emissions involving the hazardous substance.
- 7 o. "Label" means a sign, emblem, sticker, or marker affixed to  
8 or stenciled onto a container listing the information required  
9 pursuant to section 14 of this act.
- 10 p. "Mixture" means a combination of two or more substances  
11 not involving a chemical reaction.
- 12 q. "Process container" means a container, excluding a pipeline,  
13 the content of which is changed frequently; a container of 10  
14 gallons or less in capacity, into which substances are transferred  
15 from labeled containers, and which is intended only for the  
16 immediate use of the employee who performs the transfer; a  
17 container on which a label would be obscured by heat, spillage or  
18 other factors; or a test tube, beaker, vial, or other container which is  
19 routinely used and reused.
- 20 r. "Research and development laboratory" means a specially  
21 designated area used primarily for research, development, and  
22 testing activity, and not primarily involved in the production of  
23 goods for commercial sale, in which hazardous substances or  
24 environmental hazardous substances are used by or under the direct  
25 supervision of a technically qualified person.
- 26 s. "Special health hazard substance" means any hazardous  
27 substance on the special health hazard substance list.
- 28 t. "Special health hazard substance list" means the list of special  
29 health hazard substances developed by the Department of Health  
30 pursuant to section 5 of this act for which an employer may not  
31 make a trade secret claim.
- 32 u. "Trade secret" means any formula, plan, pattern, process,  
33 production data, information, or compilation of information, which  
34 is not patented, which is known only to an employer and certain  
35 other individuals, and which is used in the fabrication and  
36 production of an article of trade or service, and which gives the  
37 employer possessing it a competitive advantage over businesses  
38 who do not possess it, or the secrecy of which is certified by an  
39 appropriate official of the federal government as necessary for  
40 national defense purposes. The chemical name and Chemical  
41 Abstracts Service number of a substance shall be considered a trade  
42 secret only if the employer can establish that the substance is  
43 unknown to competitors. In determining whether a trade secret is  
44 valid pursuant to section 15 of this act, the Department of Health, or  
45 the Department of Environmental Protection, as the case may be,  
46 shall consider material provided by the employer concerning (1) the  
47 extent to which the information for which the trade secret claim is  
48 made is known outside the employer's business; (2) the extent to

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

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

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

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

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

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

25

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

28 14. a. Every employer shall have until October 30, 1985 to take  
29 any action necessary to assure that every container at [his] the  
30 employer's facility containing a hazardous substance shall bear a  
31 label indicating the chemical name and Chemical Abstracts Service  
32 number of the hazardous substance or the trade secret registry  
33 number assigned to the hazardous substance. The labels shall be  
34 designed and affixed in such a manner to ensure that the label shall  
35 remain in place and visible during transportation and storage in the  
36 event of a flood or other natural disaster. Employers may label  
37 containers in a research and development laboratory by means of a  
38 code or number system, if the code or number system will enable an  
39 employee to readily make a cross-reference to a hazardous  
40 substance fact sheet which will provide the employee with the  
41 chemical name and Chemical Abstracts Service number of the  
42 hazardous substance contained in the container, or the trade secret  
43 registry number assigned to the hazardous substance. The code or  
44 number system shall be designed to allow the employee free and  
45 ready access at all times to the chemical name and Chemical  
46 Abstracts Service number of the hazardous substance in the  
47 container, shall be designed to allow the employee access to this  
48 information without the permission or assistance of management,

1 and shall be available to the employee at close proximity to [his] the  
2 employee's specific job location or locations. Employers shall be  
3 required to label pipelines only at the valve or valves located at the  
4 point at which a hazardous substance enters a facility's pipeline  
5 system, and at normally operated valves, outlets, vents, drains and  
6 sample connections designed to allow the release of a hazardous  
7 substance from the pipeline.

8 b. Within two years of the effective date of this act, every  
9 employer shall take any action necessary to assure that every  
10 container at [his] the employer's facility bears a label indicating the  
11 chemical name and Chemical Abstracts Service number of the  
12 substance in the container, except as provided in subsection d. of  
13 this section, or the trade secret registry number assigned to the  
14 substance. Employers may label containers in a research and  
15 development laboratory by means of a code or number system, if  
16 the code or number system will enable an employee to readily make  
17 a cross-reference to documentary material retained on file by the  
18 employer at the facility which will provide the employee with the  
19 chemical name and Chemical Abstracts Service number of the  
20 substance contained in the container, except as provided in  
21 subsection d. of this section, or the trade secret registry number  
22 assigned to the substance. The code or number system shall be  
23 designed to allow the employee free and ready access at all times to  
24 the chemical name and Chemical Abstracts Service number of the  
25 substance in the container, shall be designed to allow the employee  
26 access to this information without the permission or assistance of  
27 management, and shall be available to the employee at close  
28 proximity to [his] the employee's specific job location or locations.  
29 If a container contains a mixture, an employer shall be required to  
30 insure that the label identify the chemical names and Chemical  
31 Abstracts Service numbers, except as provided in subsection d. of  
32 this section, or the trade secret registry numbers, of the five most  
33 predominant substances contained in the mixture. The provisions of  
34 this subsection shall not apply to any substance constituting less  
35 than 1% of a mixture unless the substance is present at the facility  
36 in an aggregate amount of 500 pounds or more. Employers shall be  
37 required to label pipelines only at the valve or valves located at the  
38 point at which a substance enters a facility's pipeline system, and at  
39 normally operated valves, outlets, vents, drains and sample  
40 connections designed to allow the release of a substance from the  
41 pipeline. One year after the effective date of this act the Department  
42 of Health shall establish criteria for containers which, because of  
43 the finished and durable characteristics of their contents, shall be  
44 exempt from the provisions of this subsection. These standards  
45 shall be consistent with the intent of this subsection to provide for  
46 the labeling of every container which may contain a substance  
47 which is potentially hazardous.



1 c. The labeling requirements of subsections a. and b. of this  
2 section shall not apply to containers labeled pursuant to the  
3 "Federal Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163  
4 (7 U.S.C.s.121 et al.), except that the label for any such container  
5 shall be designed and affixed in such a manner to ensure that it shall  
6 remain in place and visible during transportation and storage in the  
7 event of a flood or other natural disaster . The Department of Health  
8 may, by rule and regulation, certify containers labeled pursuant to  
9 any other federal act as labeled in compliance with the provisions of  
10 this section.

11 d. One year after the effective date of this act the Department of  
12 Health shall adopt, pursuant to the "Administrative Procedure Act,"  
13 P.L.1968, c.410 (C.52:14B-1 et seq.), a list of substances the  
14 containers of which may be labeled with the common names and  
15 Chemical Abstracts Service numbers of their contents. The  
16 department shall include on the list adopted pursuant to this  
17 subsection only substances which are widely recognized by their  
18 common names. An employer shall provide the chemical name of a  
19 substance in a container labeled pursuant to this subsection within  
20 five working days of the request therefor.  
21 (cf: P.L.1985, c.216, s.3)

22  
23 3. (New section) a. The Commissioner of Environmental  
24 Protection shall conduct a study of the 100-year flood criteria  
25 contained in rules and regulations adopted pursuant to the "Flood  
26 Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.)  
27 and any other applicable laws, and implementing rules and  
28 regulations, regarding the location of treatment, storage, and  
29 disposal facilities for hazardous substances. This study shall  
30 investigate whether the rules and regulations are adequate to protect  
31 human health and the environment from the release of hazardous  
32 substances due to flooding at such facilities.

33 b. The commissioner shall submit, within 120 days after the  
34 effective date of this act, a report to the Legislature containing the  
35 results of this study and investigation, along with any  
36 recommendations for legislative action to further protect human  
37 health and the environment from the release of hazardous  
38 substances due to flooding.

39  
40 4. This act shall take effect immediately.

41  
42

#### 43 STATEMENT

44

45 This bill amends the definition of "environmental survey" as  
46 used in the "Worker and Community Right To Know Act,"  
47 P.L.1983, c.315 (C.34:5A-1 et al.) to require that the environmental  
48 survey include a statement concerning whether hazardous

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1 substances are stored in a flood plain. This bill also amends the  
2 labeling provisions of that act to require that labels be designed and  
3 affixed in such a manner to ensure that the label remains in place  
4 and visible during transportation and storage in the event of a flood  
5 or other natural disaster.

6 In addition, this bill requires the Commissioner of Environmental  
7 Protection to conduct a study of the rules and regulations adopted  
8 pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19  
9 (C.58:16A-50 et seq.) and any other applicable laws, and their  
10 implementing rules and regulations, regarding the location of  
11 treatment, storage, and disposal facilities for hazardous substances.  
12 This study would investigate whether such criteria are adequate to  
13 protect human health and the environment from the release of  
14 hazardous substances due to flooding at such facilities. The bill  
15 requires the results of this study, along with any recommendations  
16 for legislative action, to be submitted to the Legislature within 120  
17 days after the effective date of the bill.

ASSEMBLY ENVIRONMENT AND SOLID WASTE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2112**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MARCH 9, 2006

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Assembly Bill No. 2112.

As amended, this bill would amend section 14 of the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-14), to require that the labels required under that law be designed and affixed in such a manner to ensure that if there is a flood or other natural disaster when the container is transported or stored, the label shall remain in place and visible.

In addition, as amended by the committee, this bill would prohibit anyone from placing or storing, or causing to be placed or stored, any containers holding hazardous substances in a 100-year flood plain, unless:

(1) The facility at which any containers holding hazardous substances are to be placed or stored is in compliance with flood protection measures to prevent the release of hazardous substances due to flooding, as follows:

(a) an approved engineering design of site-specific flood protection devices designed to prevent washout; or

(b) an approved written plan of emergency procedures for removing the containers to safety or out of the facility before the facility is flooded; and

(2) Every container is visibly marked in a manner determined in rules and regulations adopted by the Department of Environmental Protection with a label designed and affixed to ensure that the label remains visible and in place if there is a flood or other natural disaster.

The bill would define a "container" as a receptacle used to hold a liquid, solid, or gaseous substance, including, but not limited to, bottles, bags, barrels, boxes, cans, cylinders, drums, cartons, vessels, vats, and stationary or mobile storage tanks. However, a "container" would not include process containers, pipelines or underground storage tanks.

Every container subject to the bill would be marked with a label containing the following statement:

Caution: Hazardous Contents

To be handled and opened only by authorized personnel  
If found, please contact  
The New Jersey Department of Environmental Protection  
1-877-927-6337

**【Name of container contents owner】**

**【Address of container contents owner】**

**【Phone number of container contents owner】**

This new label requirement in section 2 of the bill as amended would not apply to containers required to be labeled pursuant to other State or federal laws or containers labeled pursuant to the "Federal Insecticide, Fungicide, and Rodenticide Act," 7 U.S.C. s.136 et seq.

As amended and reported by the committee, this bill is identical to Senate Bill No. 560 as also reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

1) delete section 1 of the bill which would have amended the definition of "environmental survey" as used in the "Worker and Community Right To Know Act," P.L.1983, c.315 (C.34:5A-1 et al.) to require that the environmental survey include a statement concerning whether hazardous substances are stored in a flood plain;

2) delete section 3 of the bill which would have required the Commissioner of Environmental Protection to conduct a study of the rules and regulations adopted pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.) and any other applicable laws, and their implementing rules and regulations, regarding the location of treatment, storage, and disposal facilities for hazardous substances; and

3) provide that the required label on all containers, except pipelines and underground storage tanks, shall be designed and affixed to ensure that the label remains visible and in place if there is a flood or other natural disaster.

These committee amendments make this bill identical to Senate Bill No.560.