

34:5A-13

LEGISLATIVE HISTORY CHECKLIST

NJSA: 34:5A-13 (Hazardous substances-- establish certification in education & instruction)

LAWS OF: 1989 **CHAPTER:** 155

Bill No: S3266

Sponsor(s): Dalton

Date Introduced: January 26, 1989

Committee: Assembly:

Senate: Energy and Environment

Amended during passage: Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly: June 29, 1989

Senate: May 1, 1989

Date of Approval: August 11, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: No

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: Yes

Hearings: No

974.90 New Jersey. State Department of Health.
P777 Report...on the implementation of Worker and Community Right to
1987g Know Act, 1983 - 1987. May 1987. Trenton, 1987.
(see especially pp. viii and p. 50)

[FIRST REPRINT]

SENATE, No. 3266

STATE OF NEW JERSEY

INTRODUCED JANUARY 26, 1989

By Senator DALTON

1 *AN ACT* concerning the certification of certain hazardous
2 substances education and training programs and instructors ¹,
3 extending the funding for the "Worker and Community Right to
4 Know Act" program,¹ and amending P.L.1983, c.315.

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

8 1. Section 13 of P.L.1983, c.315 (C.34:5A-13) is amended to
9 read as follows

10 13. a. Every employer shall have until October 30, 1985 to
11 establish an education and training program for his employees,
12 which shall be designed to inform employees in writing and orally
13 of the nature of the hazardous substances to which they are
14 exposed in the course of their employment and the potential
15 health risks which the hazardous substances pose, and to train
16 them in the proper and safe procedures for handling the
17 hazardous substances under all circumstances. An employer shall
18 provide his employees with the program not later than December
19 31, 1985, and annually thereafter. Any person who becomes an
20 employee after the conclusion of the initial program shall be
21 provided with the program within the first month of
22 employment. Prior to entering an employment agreement with a
23 prospective employee an employer shall notify a prospective
24 employee of the availability of workplace surveys and appropriate
25 hazardous substance fact sheets for the facility at which the
26 prospective employee will be employed; except that this
27 notification requirement shall not be applicable to employers
28 before December 31, 1985.

29 b. Any employer who has established an employee education
30 and training program for hazardous substances prior to the
31 effective date of this act may request the Department of Health
32 to certify that education and training program, which

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SEN committee amendments adopted April 27, 1989.

2 certification shall constitute compliance with subsection a. of
3 this section.

4 c. Every employer shall establish an education and training
5 program for his employees who work in a research and
6 development laboratory, which shall be designed to inform
7 employees in writing and orally of the nature of the hazardous
8 substances to which they are exposed in the course of their
9 employment and the potential health risks which the hazardous
10 substances pose, and to train them in the proper and safe
11 procedures for handling the hazardous substances under all
12 circumstances. An employer shall provide his employees with the
13 program not later than December 31, 1985, and annually
14 thereafter. Any person who becomes an employee after the
15 conclusion of the initial program shall be provided with the
16 program within the first month of employment.

17 d. The Department of Health shall establish a program for the
18 certification of education and training programs provided to
19 employers, for remuneration, for purposes of compliance with
20 this act. The certification shall be valid for at least 12 months,
21 shall provide for provisional and permanent certification, and
22 shall be renewable.

23 e. The Department of Health shall establish a program for the
24 certification of persons who are paid¹ pursuant to the terms of a
25 contract¹ by employers to conduct education and training
26 programs for purposes of compliance with this act. The
27 certification shall be valid for at least 12 months, shall provide
28 for provisional and permanent certification, and shall be
29 renewable.

30 f. A person¹ [who is]¹ paid¹ pursuant to the terms of a
31 contract¹ by an employer to conduct or provide an education and
32 training program for purposes of compliance with this act shall be
33 required to be certified pursuant to subsections d. or e. of this
34 section, as appropriate, prior to conducting or providing the
35 program.

36 g. The fee for certification for a 12-month period and the fee
37 for a renewal of a certification each shall not exceed \$500.00.
38 The fee for the certification and renewal shall be established
39 pursuant to rules and regulations adopted by the Department of
40 Health. All revenues from fees for the issuance or renewal of

2 certifications shall be credited to the "Worker and Community
3 Right to Know Fund" created pursuant to section 26 of this act.
4 Applications for certification shall be made to the Commissioner
5 of Health in the manner and on a form as the commissioner shall
6 prescribe by rule or regulation.

7 h. The Department of Health shall adopt, pursuant to the
8 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.), rules and regulations to implement the provisions of this
10 section.

11 i. Any person ¹required to be certified by the Department of
12 Health pursuant to this section¹ who violates the provisions of
13 subsection f. of this section, or any rule or regulation adopted
14 pursuant thereto, ¹[is] shall be¹ guilty of a disorderly persons
15 offense.

16 j. The Commissioner of Health, upon making a finding that a
17 person granted certification has violated any provision of this
18 section or any rules or regulations adopted pursuant thereto, may
19 revoke, suspend, or modify any certification issued pursuant to
20 subsections d. or e. of this section. A person whose certification
21 is to be revoked, suspended, or modified pursuant to this
22 subsection ¹[is] shall be¹ entitled to a hearing, pursuant to the
23 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
24 seq.), to contest that action.

(cf: P.L.1985, c.216, s.2)

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

27 26. a. There is established in the Department of the Treasury a
28 nonlapsing, revolving fund to be known as the "Worker and
29 Community Right To Know Fund." The fund shall be credited
30 with all fees collected pursuant to this section and interest on
31 moneys in the fund shall be credited to the fund and all moneys in
32 the fund are appropriated for the purposes of the fund, and no
33 moneys shall be expended for those purposes without the specific
34 appropriation thereof by the Legislature. The State Treasurer
35 shall be the administrator of the fund, and all disbursements from
36 the fund shall be made by the State Treasurer upon the warrant
37 of the Director of the Division of Budget and Accounting.

38 b. The Department of Labor shall annually assess each
employer a fee of not less than \$50.00 nor more than an amount

2 equal to \$2.00 per employee to provide for the implementation of
the provisions of this act. All fees collected by the department
pursuant to this section shall be deposited in the fund.

4 c. The moneys in the fund shall be disbursed only for the
following purposes:

6 (1) Expenses approved by the Director of the Division of
Budget and Accounting and incurred by the Department of
8 Health, the Department of Environmental Protection, the
Department of Labor, the Department of the Treasury, and the
10 county health departments in implementing the provisions of this
act; and

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

d. The State Treasurer shall annually disburse the moneys in
16 the fund for expenditures approved by the Director of the
Division of Budget and Accounting pursuant to paragraph (1) of
18 subsection c. of this section, but in no case in an amount to the
several departments that is greater than the following
20 percentages of the fund available in any one year: the
Department of Health, 40%; the Department of Environmental
22 Protection, 20%; the county health departments, 15%; the
Department of Labor, 15%; and the Department of the Treasury,
24 10%.

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

[f. The provisions of this section shall expire five years
38 following the effective date of this act.]¹

(cf: P.L.1983, c. 315, s.26)

1[2.] 3.¹ This act shall take effect immediately except that
2 subsection f. of section 1. of this act shall take effect one year
after enactment.

4

6

ENVIRONMENT
Hazardous Substance

8

Provides for certification of certain hazardous substance
10 programs and instructors; extends Right To Know fee.

1 h. The Department of Health shall adopt, pursuant to the
2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
3 seq.), rules and regulations to implement the provisions of this
4 section.

5 i. Any person who violates the provisions of subsection f. of
6 this section, or any rule or regulation adopted pursuant thereto, is
7 guilty of a disorderly persons offense.

8 j. The Commissioner of Health, upon making a finding that a
9 person granted certification has violated any provision of this
10 section or any rules or regulations adopted pursuant thereto, may
11 revoke, suspend, or modify any certification issued pursuant to
12 subsections d. or e. of this section. A person whose certification
13 is to be revoked, suspended, or modified pursuant to this
14 subsection is entitled to a hearing, pursuant to the
15 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
16 seq.), to contest that action.

17 (cf: P.L.1985, c.216, s.2)

18 2. This act shall take effect immediately except that
19 subsection f. of section 1. of this act shall take effect one year
20 after enactment.

21

STATEMENT

22

23 This bill would provide for certification programs for
24 instructors and programs offered to employers for the purpose of
25 complying with the employee education provisions of the "Worker
26 and Community Right to Know Act". Currently, the "Worker and
27 Community Right to Know Act" requires employers to establish
28 education and training programs for employees. Since many
29 employers lack the expertise to develop and implement programs
30 that meet State standards, they typically hire consultants to
31 administer the training and education programs.

32 Recently, the Right to Know Advisory Council requested the
33 Department of Health to develop a certification program for the
34 education and training programs offered by consultants and other
35 businesses to employers and a certification program for the
36 instructors of these programs.

37 This bill would require the Department of Health to establish a
38 certification program for the education and training programs
39

1 provided to employers by paid consultants. It would also require
establishment of a certification program for the instructors who
3 will teach these programs to the employees. This bill would thus
assure employers who hire consultants that the programs they pay
5 for and provide meet State standards.

Under this bill, each certification would be valid for at least
7 twelve months. The initial certification fee would not exceed
\$500. Fees for renewals would be established by the Department
9 of Health by regulation, but also would not exceed \$500. All fees
collected would be paid into the Worker and Community Right to
11 Know Fund.

The Department of Health would adopt rules and regulations
13 necessary to carry out the intent of the act. In addition, the
Commissioner of Health would have the authority to revoke,
15 suspend, or modify any certificate granted under the act.

This bill includes a penalty provision so that any person
17 violating this act would be guilty of a disorderly persons offense
which entails a fine up to \$1,000 and a term of imprisonment not
19 to exceed six months.

21

ENVIRONMENT

23

Hazardous Substance

25 Provides for certification of certain hazardous substances
education and training programs and instructors.

SENATE SEN COMMITTEE

STATEMENT TO

SENATE, No. 3266

with committee amendments

STATE OF NEW JERSEY

DATED: APRIL 27, 1989

The Senate Energy and Environment Committee favorably reports Senate Bill No. 3266 with Senate committee amendments.

As amended, Senate Bill No. 3266 would provide for certification programs for instructors and programs offered to employers for the purpose of complying with the employee education provisions of the "Worker and Community Right to Know Act".

This bill would require the Department of Health to establish a certification program for the education and training programs provided to employers by paid consultants. It would also require establishment of a certification program for the instructors who will teach these programs to the employees. The bill would thus assure employers who hire consultants that the programs they pay for and provide meet State standards.

Under this bill, each certification would be valid for at least twelve months. The initial certification fee would not exceed \$500. Fees for renewals would be established by the Department of Health by regulation, but also would not exceed \$500. All fees collected would be paid into the Worker and Community Right to Know Fund.

The Department of Health would adopt rules and regulations necessary to carry out the intent of the act. In addition, the Commissioner of Health would have the authority to revoke, suspend, or modify any certificate granted under the act.

This bill also includes a penalty provision so that any person violating this act would be guilty of a disorderly persons offense which entails a fine up to \$1,000 and a term of imprisonment not to exceed six months.

This bill would also remove the five year expiration clause in the section of the "Worker and Community Right To Know Act" imposing a fee on employers to support the program, and would thus allow the fee to be imposed and collected on a permanent basis.