

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1236 Session of
1983

INTRODUCED BY COHEN, MANDERINO, ITKIN, J. L. WRIGHT,
F. E. TAYLOR, BURNS, LETTERMAN, LASHINGER, FREEMAN, PISTELLA,
MILLER, REBER, HOFFEL, COWELL, KUKOVICH, DeWEESE, RYBAK,
WIGGINS, GALLAGHER, ALDERETTE, PETRONE, FATTAH, LINTON,
TRELLO, STEIGHNER, KASUNIC, BATTISTO, DeLUCA, GLADECK, BUNT,
HARPER, STEWART, McHALE AND WOZNIAC, JUNE 22, 1983

REFERRED TO COMMITTEE ON LABOR RELATIONS, JUNE 22, 1983

AN ACT

1 Regulating toxic and hazardous substances; requiring the posting
2 of the identity of these substances by employers and the
3 labeling of toxic and hazardous substances; requiring
4 material safety data on every toxic or hazardous substance to
5 be given to the Department of Health and to employees;
6 requiring employers to operate educational programs relating
7 to toxic substances; providing for further duties of the
8 Department of Health, for complaint procedures, for
9 investigations, for compliance orders and the enforcement
10 thereof; and providing penalties.

11 It is hereby declared that there exists within the
12 Commonwealth of Pennsylvania a potential danger to employees,
13 their families and the general public because of exposure to
14 hazardous and toxic substances encountered because of the
15 introduction of these hazardous and toxic substances into the
16 workplace and into the general environment. Employees may
17 encounter exposure to these hazardous and toxic substances
18 during the course and scope of their employment and the general
19 public may encounter exposure to these hazardous and toxic
20 substances due to their transportation, use and subsequent

1 disposal within the community. Serious health problems may be
2 caused to individuals because of this exposure to such hazardous
3 and toxic substances and because of the nature of these
4 substances, these serious health problems may not become evident
5 for many years after initial exposure.

6 It is therefore declared to be the policy of the Commonwealth
7 that any employer within the Commonwealth whose business
8 requires the buying, selling, transportation, use or disposal of
9 hazardous and toxic substances as defined herein, has a duty to
10 inform his employees and the general public about the nature of
11 the hazardous and toxic substances bought, sold, transported,
12 used or disposed of during the course of his business and to
13 give notice as to the known or suspected health hazards posed by
14 the use of or exposure to these substances. Employees, their
15 families and the general public have a right to know the type of
16 hazardous and toxic substances they may be exposed to, the
17 potential health hazards that exist because of exposure and the
18 symptoms of toxicity experienced because of exposure.

19 It is further declared that the employees themselves are
20 frequently in the best position to be aware of the symptoms of
21 toxicity, provided that the employees are aware of the nature of
22 the substances they are working with and that employees have an
23 inherent right to know about the known and suspected health
24 hazards which may result from working with hazardous and toxic
25 substances, so that they may make knowledgeable and reasoned
26 decisions with respect to the continued personal costs of their
27 employment and need for corrective action.

28 It is further declared that, because of close or continuing
29 contact with hazardous and toxic substances, the workplace often
30 provides an early warning mechanism for the rest of the

1 environment and the general public. It is therefore the intent
2 of this legislation to ensure that employees, their families and
3 the general public be given current information concerning the
4 nature of the hazardous and toxic substances with which they may
5 come in contact and full information concerning the known and
6 suspected health hazards of said hazardous and toxic substances.

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1 The General Assembly of the Commonwealth of Pennsylvania hereby
2 enacts as follows:

3 Section 1. Short title.

4 This act may be known and may be cited as the Hazardous and
5 Toxic Substance Disclosure Act.

6 Section 2. Definitions.

7 The following words and phrases when used in this act shall
8 have the meanings given to them in this section unless the
9 context clearly indicates otherwise:

10 "Chemical." Any element, chemical compound or mixture of
11 elements or compounds, or both, except those chemicals which are
12 goods, drugs, cosmetics or tobacco products intended for
13 personal use or consumption.

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

18 "Common name." Any designation or identification such as a
19 code name or number or trade or brand name, used by the employer
20 to identify a substance other than by its chemical name.

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

26 "Department." The Department of Health and any county health
27 department designated by the secretary as having powers and
28 duties under this act.

29 "Employee." Any person currently or formerly employed except
30 domestic workers or casual laborers employed at the employer's

1 place of residence.

2 "Employee representative." An individual or organization to
3 whom an employee gives written authorization to exercise his or
4 her rights to request information under this act. A recognized
5 or certified collective bargaining agent shall be considered to
6 be an employee representative without regard to written employee
7 authorization.

8 "Employer." Any individual, partnership, corporation or
9 association engaged in a business that has employees, including
10 the State and its political subdivisions. The term shall not
11 include a person who employs domestic workers or casual
12 laborers at his residence.

13 "Hazardous substance." Any substance designated by the
14 Federal Environmental Protection Agency (EPA) pursuant to
15 sections 307 and 311 of the Federal Clean Water Act of 1977 (33
16 U.S.C. § 1251 et seq.) or as a hazardous air pollutant pursuant
17 to section 112 of the Federal Clean Air Act (42 U.S.C. § 7412
18 which has known adverse human risks or listed as a human or
19 animal carcinogen by the International Agency for Research on
20 Cancer (IARC).

21 "Material safety data sheet." A form supplied by the
22 department to each employer that buys, sells, transports, uses
23 or disposes of hazardous or toxic substances in the course of
24 his business, to be filled in by the employer.

25 "Secretary." The Secretary of Health.

26 "Toxic substance." Any substance which is listed in the
27 latest printed edition of the National Institute for
28 Occupational Safety and Health Registry of Toxic Effects of
29 Chemical Substances, including any amendments or supplements
30 thereto, or has yielded positive evidence of acute or chronic

1 health hazards in human, animal or other biological testing
2 including, but not limited to, any nuclear or radioactive
3 substance.

4 "Workplace." Any location away from home, permanent or
5 temporary, where any employee performs any work related duty in
6 the course of his employment.

7 Section 3. Notice.

8 (a) Posting requirement.--Every employer shall post in every
9 workplace in a location or locations where notice to employees
10 are normally posted:

11 (1) A list of all hazardous or toxic substances found in
12 the workplace.

13 (2) Notification to every employee or employee
14 representative of their rights under this act, which includes
15 the right to receive a copy of the material safety data
16 sheet, as required in this act.

17 (b) Lists of substances.--Upon offering employment to a
18 prospective employee and on January 1 of each year, each
19 employer shall furnish to each of his employees a list of all
20 hazardous or toxic substances which he uses or produces in the
21 manufacture of any item, product or material or which are used
22 or produced for purposes of research, experimentation or
23 treatment, and the dangers inherent in exposure to these
24 substances.

25 Section 4. Materials.

26 All materials required to be furnished to an employee or
27 employee representative shall be furnished at no cost to the
28 employee or employee representative.

29 Section 5. Material safety data.

30 (a) Completion of form.--Every employer shall, upon a form

1 supplied by the department, fill out a material safety data
2 sheet for each chemical, hazardous or toxic substance found in
3 the workplace.

4 (b) Contents of form.--The form shall include, but not be
5 limited to:

6 (1) The trade name of the hazardous or toxic substance
7 or mixture and its common name.

8 (2) The chemical name of the hazardous or toxic
9 substance and any commonly used synonyms for the substance
10 and for a mixture, the chemical name of the major components
11 of the mixture and any commonly used synonyms for the
12 components.

13 (3) A description of the use of the chemical, hazardous
14 or toxic substance at the facility.

15 (4) The quantity of the chemical, hazardous or toxic
16 substance produced at the facility.

17 (5) The quantity of the chemical, hazardous or toxic
18 substance brought into the facility.

19 (6) The quantity of the chemical, hazardous or toxic
20 substance consumed at the facility.

21 (7) The quantity of the chemical, hazardous or toxic
22 substance shipped out of the facility as or in products.

23 (8) The maximum inventory of the chemical, hazardous or
24 toxic substance stored at the facility, the method of
25 storage, and the frequency and methods of transfer.

26 (9) The total stack or point-source emissions of the
27 chemical, hazardous or toxic substance.

28 (10) The total estimated fugitive or non point-source
29 emissions of the chemical, hazardous or toxic substance.

30 (11) The total discharge of the chemical, hazardous or

1 toxic substance into the surface or groundwater, the
2 treatment methods, and the raw wastewater volume and
3 loadings.

4 (12) The total discharge of the chemical, hazardous or
5 toxic substance into publicly-owned treatment works.

6 (13) The quantity, and methods of disposal, of any
7 wastes containing a chemical, hazardous or toxic substance,
8 the method of on-site storage of these wastes, the location
9 or locations of the final disposal site for these wastes and
10 the identity of the hauler of the wastes.

11 (14) The hazardous or toxic properties of the chemical,
12 hazardous or toxic substance or mixture and the hazards
13 associated with the use of or exposure to the chemical,
14 hazardous or toxic substance.

15 (15) The boiling point, vapor pressure, vapor density,
16 solubility in water, specific gravity, melting point,
17 physical state, color and odorous properties of the chemical,
18 hazardous or toxic substance.

19 (16) The flash point, auto ignition temperature,
20 percentage by volume of flammable limits, the recommended
21 fire extinguishing media, any special firefighting procedure
22 and any other unusual fire or explosion hazards of the
23 chemical, hazardous or toxic substance.

24 (17) The permissible exposure level, threshold limit
25 value or other established limit value of the chemical,
26 hazardous or toxic substance, the consequences of
27 overexposure and emergency first aid procedures, including a
28 telephone number to be called in an emergency.

29 (18) The stability of the chemical, hazardous or toxic
30 substance and the conditions and materials which are

1 incompatible with the substance and with which contact must
2 be avoided.

3 (19) Measures to be taken in the event of a release of a
4 hazardous or toxic substance into the workplace or into the
5 general environment.

6 (20) Recommended waste disposal method for the chemical,
7 hazardous or toxic substance.

8 (21) Personal protective equipment to be worn or used
9 when handling or otherwise coming in contact with the
10 chemical, hazardous or toxic substance and any special
11 precautions to be taken in the handling of the chemical,
12 hazardous or toxic substance.

13 (c) Submission to department.--Every employer shall submit
14 to the department the material safety data sheet for each
15 chemical, hazardous or toxic substance found in the workplace
16 and shall keep one copy of the material safety data sheet on
17 file at his principal place of business.

18 (d) Information.--It shall be the responsibility of the
19 employer to obtain information relating to hazardous or toxic
20 substances from the manufacturer, the Department of Health, the
21 Department of Environmental Resources, the Federal Environmental
22 Protection Agency's Chemical Substances Information Network and
23 the Health Hazard Evaluation Program of the National Institute
24 of Occupational Safety and Health.

25 (e) Copy of data available to employees.--Upon the written
26 request of an employee or employee representative, the employer
27 shall furnish a copy of the material safety data sheet to said
28 employee or employee representative, along with any other
29 information gathered pursuant to subsection (d), within five
30 working days of receipt of written request. If the information

1 is not provided, the employee shall not be required to work with
2 the toxic substance until the information is made available.

3 Section 6. Labeling.

4 (a) Labeling of container, etc.--The employer shall label
5 with the chemical name each container of a toxic substance used
6 in the workplace. The employer is not required to label
7 containers of one gallon or less into which toxic substances are
8 transferred by the employee from labeled containers and which
9 are intended only for the immediate use by the employee who
10 performs the transfer. Prior to the container being sold,
11 distributed or otherwise leaving the employer's workplace, the
12 employer shall label each container of a toxic substance with
13 the chemical name.

14 (b) Piping.--The toxic substance content of a piping system
15 shall be identified by labels applied on the pipe body at all
16 valves.

17 (c) Display of label.--The employer shall ensure that each
18 label required by this section is prominently affixed to the
19 container or the piping system and displayed in such a manner
20 that employees can easily identify the substances that are
21 present.

22 Section 7. Change in nature of substance.

23 If a substance was not within the definition of a toxic
24 substance at the time it was present in a workplace, but
25 subsequently is within the definition, an employer shall provide
26 the information required in this act upon request.

27 Section 8. Subsequent information.

28 (a) Material on data sheets.--If an employer receives new
29 information concerning those subjects listed in the material
30 safety data sheet, from a manufacturer, importer, producer,

1 formulator or a State or Federal agency, the employer shall make
2 the new information available to employees and if requested,
3 their representatives, upon receipt of the information.

4 (b) Toxic and hazardous substances generally.--Whenever an
5 employer receives new information regarding toxic and hazardous
6 substances, the employer shall make such information available
7 to employees and, if so requested their representatives upon
8 receipt of same.

9 Section 9. Construction of act.

10 The provision of information to an employee shall not in any
11 way affect the liability of an employer with regard to the
12 health and safety of an employee or other persons exposed to
13 toxic substances, nor shall it affect the employer's
14 responsibility to take any action to prevent the occurrence of
15 occupational disease as required under any other provision of
16 law. The provision of information to an employee shall not
17 affect any other duty or responsibility of a manufacturer,
18 producer or formulator to warn ultimate users of a toxic
19 substance under any other provisions of law.

20 Section 10. Duplicate requests.

21 An employer is not required to provide information regarding
22 a toxic substance if the employee or employee representative
23 making the request has requested and received the same
24 information about the toxic substance within the preceding 12
25 months, unless the employee's job assignment has changed or
26 there is new information available concerning any of the
27 subjects about which information is required to be provided.

28 Section 11. Labeling by supplier.

29 Any person who supplies chemical, hazardous or toxic
30 substances to an employer shall label all such substances by the

1 generic or basic chemical name only and shall provide safe
2 handling procedures and all information required by the employer
3 to fulfill the employers reporting requirements regarding the
4 material safety data sheet for all such substances supplied.

5 Section 12. Protection of employees.

6 (a) General rule.--No employer shall discharge, or cause to
7 be discharged, or otherwise discipline or in any manner
8 discriminate against an employee because the employee has filed
9 a complaint, assisted an inspector of the department, who may
10 make or is making an inspection under section 20, or has
11 instituted or caused to be instituted any proceeding under or
12 related to this act or has testified or is about to testify in
13 any such proceeding or because of the exercise of any right
14 afforded pursuant to the provisions of this act on behalf of the
15 employer or on behalf of others, nor shall pay, position or
16 seniority or other benefits be lost for exercise of any right
17 provided by this act.

18 (b) Complaint procedure.--Any employee who believes that he
19 has been discharged, disciplined or otherwise discriminated
20 against by any person in violation of this section may, within
21 30 days after such violation occurs or 30 days after the
22 employee first obtains knowledge that a violation did occur,
23 file a complaint with the department alleging the violation.
24 Within 30 days of receipt of the complaint, the department shall
25 cause such investigation to be made as appropriate. If the
26 department or the employee introduces evidence that prior to the
27 alleged violation the employee exercised any right provided in
28 this act, the employer shall have the burden to show just cause
29 for his action by clear and convincing evidence. If, upon such
30 investigation, the department determines that provisions of this

1 section have been violated, he shall request the Attorney
2 General to bring an action in the local court of common pleas
3 against the employer alleged to have violated this section. If
4 the department or the employee introduces evidence that prior to
5 the alleged violation the employee exercised any right provided
6 in this act, the employer shall have the burden to show just
7 cause for his action by clear and convincing evidence. In any
8 such action, the court shall have jurisdiction to restrain
9 violations of this section and to order appropriate relief
10 including, but not limited to, civil penalties as set forth in
11 section 21, the hiring, rehiring or reinstatement of the
12 employee together with the payment of any compensation otherwise
13 lost as a result of such violations. Within 90 days of the
14 receipt of a complaint under this section, the department shall
15 notify the complainant and his representative by registered mail
16 of its determination.

17 (c) Waivers invalid.--

18 (1) Any waiver by an employee or applicant for
19 employment and the benefits or requirements of this act shall
20 be against public policy and be null and void.

21 (2) Any employer's request or requirement that an
22 employee waive any rights under this act as a condition of
23 employment, shall constitute a violation.

24 Section 13. Employer educational program.

25 (a) Requirement.--Every employer shall institute an annual
26 education and training program for employees routinely exposed
27 to hazardous or toxic substance. Additional instruction shall be
28 provided whenever the potential for exposure to toxic or
29 hazardous substance is altered or whenever new information is
30 received by the employer.

(b) Content of program.--The education and training program shall include, but may not be limited to, the following:

(1) the location of toxic or hazardous substances to which the employee may be exposed;

(2) the properties of toxic or hazardous substances to which employees may be exposed;

(3) the name or names of the toxic or hazardous substance, including the generic or chemical name;

(4) the trade name of the chemical and any other commonly used name;

(5) the acute and chronic effects of exposure at hazardous levels;

(6) the symptoms of effects of exposure at hazardous levels;

(7) the potential for flammability, explosion and reactivity of such substance;

(8) appropriate emergency treatment;

(9) proper conditions for safe use and exposure to such toxic substance; and

(10) procedures for cleanup of leaks and spills of such toxic substance.

Section 14. Powers and duties of the department.

(a) Inspections.--The department shall have the right of entry at reasonable hours into any workplace if it has reason to believe that the reporting requirements of this act are being met and to conduct such other investigations as are deemed appropriate to insure compliance with this act. The department shall make available to appropriate authorities the results of any investigation in which hazardous levels of toxic substances are found.

1 (b) Public information.--The department may make public
2 information containing descriptions of the toxic effects and the
3 circumstances under which these effects are produced for toxic
4 substances found in the course and scope of employment. The
5 department shall prepare this information in a clear and
6 coherent manner using words with common and everyday meanings.
7 The information provided may be based on the Threshold Limit
8 Values For Chemical Substances And Physical Agents In The
9 Workroom Environment With Intended Changes For 1979 and the
10 current Registry Of Toxic Effects Of Chemical Substances Of The
11 National Institute Of Occupational Safety And Health.

12 (c) Rules and regulations.--The department shall, in the
13 manner provided by law, promulgate the rules, regulations and
14 forms reasonably necessary to carry out this act.

15 Section 15. Health and exposure records.

16 (a) General rule.--Upon request by the department, employers
17 shall provide copies of employee health and exposure records
18 maintained and supplied to the Federal Government by employers
19 as mandated under the following Federal statutes and regulations
20 (except as access by third parties is limited by the statutes
21 and regulations):

22 (1) The Toxic Substances Control Act.

23 (2) The Occupational Safety and Health Act of 1970.

24 (3) The Environmental Pesticide Control Act.

25 (4) The regulations found at 10 CFR 20.102 through
26 20.409.

27 (b) Employee information.--Upon request by the department,
28 employers shall provide the names and addresses of present and
29 former employees whenever the department determines that there
30 is a health risk or disease relating to the exposure of

1 employees to a toxic substance or toxic substances.

2 (c) Certain information confidential.--The department shall
3 not release any information that identifies individuals. The
4 department may, however, publish analyses of reports and
5 information for scientific and public health purposes if the
6 identities of the individuals concerned cannot be ascertained
7 and if information protected by applicable trade secret law is
8 not divulged.

9 (d) Records retention requirement.--The department may
10 require an employer to keep records of his employees' use of
11 specific toxic substances if there is scientific evidence to
12 question the efficacy of the current threshold limit values for
13 those substances. Such records shall be held solely for the
14 purpose of conducting epidemiologic research on occupational
15 health.

16 Section 16. Outreach programs.

17 (a) Right to information.--The department may develop and
18 implement outreach programs to inform employees of their right
19 to information regarding the toxic effects and circumstances
20 under which these effects are produced by toxic substances found
21 in the course of employment.

22 (b) Contracts with other agencies to develop program.--The
23 department may contract with public and private organizations to
24 develop and implement such an outreach program.

25 (c) Public relations, etc.--As part of the outreach program,
26 the division may develop and maintain a supply of informational
27 leaflets in public buildings, including employment services
28 offices of the employment security division, institutions and
29 facilities under the supervision or control of the department,
30 hospitals, union halls, community centers, schools and local

1 agencies providing services to employers and employees to help
2 insure that these persons are informed of the toxic substance
3 information program. The department may mail these leaflets to
4 employers. The division shall periodically distribute to
5 newspapers, television and radio stations throughout the State
6 public service announcements describing the toxic substance
7 information outreach program.

8 Section 17. Trade secrets.

9 (a) Trade secret claim.--If an employer believes that
10 disclosing information required by this act will reveal a trade
11 secret, he may file with the appropriate department a trade
12 secret claim as herein provided.

13 (b) Content and time of filing.--If an employer claims that
14 disclosing information on either the workplace survey or the
15 environmental survey would reveal a trade secret, he shall file
16 with the department a trade secret claim within 90 days of
17 receipt of the survey. An employer making a trade secret claim
18 shall submit two copies of the survey to the department, one
19 with the information for which a trade secret claim is being
20 made concealed, and one in an envelope marked "Confidential"
21 containing the information for which a trade secret claim is
22 being made, which the department, during the pendency of the
23 trade secret claim, shall keep in a locked file or room. On the
24 copies of the survey sent to the county health department, local
25 fire department, and local police department, and retained on
26 file at the facility, the employer shall conceal the information
27 for which he is making a trade secret claim.

28 (c) Registry number.--If an employer claims that labeling a
29 container pursuant to this act would reveal a trade secret, he
30 shall file a trade secret claim with the department. Upon

1 receipt of the trade secret claim, the department shall assign a
2 trade secret registry number to the claim, and transmit the
3 trade secret registry number to the employer. Upon receipt of
4 the trade secret registry number, the employer shall affix the
5 trade secret registry number to each container containing a
6 substance for which the trade secret claim was made.

7 (d) Determinations and hearings.--The department shall make
8 a determination of the validity of a trade secret claim when a
9 request is made pursuant to those provisions of this act
10 relating to the disclosure of the information for which the
11 trade secret claim was made, or at any time that the department
12 deems appropriate. Upon making a determination on the validity
13 of a trade secret claim, the department shall inform the
14 employer of the determination by certified mail. If the
15 department determines that the employer's trade secret claim is
16 not valid, the employer shall have 45 days from the receipt of
17 the department's determination to file with the department a
18 written request for an administrative hearing on the
19 determination. If the employer does not file such a request
20 within 45 days, the department shall take action to provide that
21 the information for which the trade secret claim was made be
22 disclosed. At the hearing the employer shall have the burden to
23 show that the trade secret claim is valid. Within 45 days of
24 receipt of the hearing officer's recommendation, the department
25 shall affirm, reject, or modify the recommendation. The
26 department shall inform the employer of its decision by
27 certified mail. All hearings held under this section and appeals
28 from decisions of the department shall be as provided in 2
29 Pa.C.S. (relating to administrative law and procedure).

30 (e) Providing of information to physicians.--The department

1 shall provide any information for which a trade secret claim is
2 pending or has been approved pursuant to this section to a
3 physician when such information is needed for medical diagnosis
4 or treatment. The department shall require the physician to sign
5 an agreement protecting the confidentiality of information
6 disclosed pursuant to this subsection.

7 (f) Surveys available to public.--Any workplace survey or
8 environmental survey containing information for which a trade
9 secret claim is pending or has been approved shall be made
10 available to the public with that information concealed.

11 (g) Confidentiality of information.--The subject of any
12 trade secret claim pending or approved shall be treated as
13 confidential information. Except as provided in subsection (e),
14 the department shall not disclose any confidential information
15 to any person except an officer or employee of the Commonwealth
16 in connection with his official duties under any law for the
17 protection of public health, or to the contractors of the
18 Commonwealth and their employees if in the opinion of the
19 department the disclosure is necessary for the completion of any
20 work contracted for in connection with the implementation of
21 this act.

22 (h) Penalty.--Any officer or employee of the Commonwealth,
23 contractor to the Commonwealth, physician, or employee of a
24 county health department, local fire department or local police
25 department who has access to any confidential information, and
26 who willingly and knowingly discloses the confidential
27 information to any person not authorized to receive it shall,
28 upon conviction thereof, be guilty of a misdemeanor of the third
29 degree.

30 (i) Application of section.--The provisions of this section

1 shall not apply to the disclosure of information concerning
2 emissions and shall not apply to the disclosure of any
3 information required pursuant to any other act.

4 Section 18. Risk to public health.

5 If the department determines that chemicals, hazardous or
6 toxic materials pose a potential health risk to the general
7 public in the area of the workplace because of their inherent
8 nature or because of possible accident, it shall inform the
9 nearest public health agency, hospital and fire company, and
10 shall submit to them a list of the potentially dangerous
11 chemical, hazardous or toxic substance and copies of each
12 material safety data sheet.

13 Section 19. List of substances within county.

14 Any member of the general public may request, in writing from
15 the department, a list of the chemical, hazardous or toxic
16 substance being bought, sold, transported, used or disposed of
17 by a specific employer or employee within the county in which he
18 resides and the department shall supply this list for each
19 employer, along with a copy of the material safety data sheet
20 for all chemical, hazardous or toxic substances on the list,
21 within 30 working days of the written request.

22 Section 20. Complaints and investigations.

23 (a) Procedure.--Any employee or representative of employees
24 who believes that there is a violation by his employer of this
25 act may request an inspection by filing a complaint of the
26 violation with the department. The complaint shall be in
27 writing, signed and shall set forth, with reasonable
28 particularity, the grounds for the complaint. Within a
29 reasonable period of time after receipt of the complaint, the
30 department shall so notify the employer in writing and permit

1 the employer to demonstrate compliance with this act. If such
2 compliance has not been demonstrated to the satisfaction of the
3 department within 14 days of the mailing of the notification, an
4 employee of the department shall inspect, at reasonable times,
5 the employer's workplace and all conditions pertinent to the
6 grounds of the complaint and shall, in a reasonable manner, make
7 any additional investigation deemed necessary for the full and
8 effective determination of the employer's compliance with this
9 act. Whenever the representative of the department, proceeding
10 under this section is denied admission to any place of
11 employment, he may obtain a warrant to make an inspection or
12 investigation of the place of employment from any issuing
13 authority upon a showing of both of the following:

14 (1) That the individual seeking the warrant is a duly
15 authorized agent of the department.

16 (2) That such individual has established under oath or
17 affirmation that the place of employment to be investigated
18 in accordance with this section is to be inspected to
19 determine compliance or noncompliance with the requirements
20 of this act.

21 (b) Refusal of entry.--Any employer or individual who
22 refuses entry to any authorized representative of the
23 department, while such representative is attempting to conduct
24 an investigation or inspection pursuant to this act, or in any
25 way wilfully obstructs him from carrying out his investigation
26 or inspection, shall be assessed a civil penalty of not more
27 than \$1,000.

28 (c) Discretion of department.--The department shall have
29 authority to assess all civil penalties provided in this
30 section, giving due consideration to the appropriateness of the

1 penalty with respect to the size of the business of the employer
2 or owner being charged, the gravity of the violation, the good
3 faith of the employer or owner and the history of previous
4 violations.

5 (d) Disposition of penalties.--Civil penalties owned under
6 this section shall be paid to the department for deposit into
7 the State Treasury and may be recovered in a civil action
8 brought in the court of common pleas for the judicial district
9 where the violation is alleged to have occurred or where the
10 employer has his principal office. The penalties collected shall
11 be used to defray the costs of enforcement of this section.

12 (e) Action by employee.--If an employer has not made timely
13 correction of the violation stated in an order to comply issued
14 under this section, an employee of that employer may bring a
15 civil action for judicial enforcement of the requirements of
16 this section in the court of common pleas for the judicial
17 district where the violation is alleged to have occurred or
18 where the employer has his principal office.

19 Section 21. Compliance order and penalties.

20 (a) Issuance and content of order.--If, upon inspection or
21 investigation of a complaint, the department finds that an
22 employer has violated any requirements of this act, it shall
23 with reasonable promptness issue to the employer an order to
24 comply. This order shall be in writing and shall specifically
25 describe the nature of the violation and shall state a
26 reasonable time period within which the violation must be
27 corrected by the employer.

28 (b) Civil penalty.--If the violation has not been corrected
29 within the time period, the department may levy a civil penalty
30 of not more than \$1,000 per day for each violation.

1 (c) Hearing.--The employer may request the commissioner to
2 provide a hearing concerning any orders to comply, or penalties
3 levied upon the employer under this section, and the hearing
4 shall then be afforded in accordance with Title 2 of the
5 Pennsylvania Consolidated Statutes (relating to administrative
6 law and procedure). The employer may appeal the final decision
7 of the department in accordance with Title 2 of the Pennsylvania
8 Consolidated Statutes.

9 (d) Advance notice of inspection.--Any person who gives
10 advance notice of any inspection to be conducted under this act,
11 without authority from the department, shall be assessed a civil
12 penalty of not more than \$1,000.

13 (e) False statement.--Any person who knowingly makes any
14 false statement, representation or certification in any list,
15 record or other document required to be maintained pursuant to
16 this act shall be assessed a civil penalty of not more than
17 \$10,000.

18 Section 22. Severability.

19 If any provision of this act or the application thereof to
20 any person or circumstances is held invalid, such invalidity
21 shall not affect other provisions or applications of the act
22 which can be given effect without the invalid provision or
23 application, and to this end the provisions of this act are
24 declared to be severable.

25 Section 23. Effective date.

26 This act shall take effect in six months.