

§§1-5
C. 34-5A-10.1
To
34:5A-10.5
§6
Note To §§1-5

P.L. 1997, CHAPTER 364, *approved January 19, 1998*
Senate, No. 246 (*Second Reprint*)

1 **AN ACT** concerning the use or storage of certain hazardous substances
2 in public schools, private schools, and child care centers and
3 supplementing Title 34 of the Revised Statutes.

4

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

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8 1. As used in this act:

9 "Child care center" means a child care center licensed pursuant to
10 the provisions of P.L.1983, c.492 (C.30:5B-1 et seq.);

11 "Hazardous substance" means any substance, or substance in a
12 mixture, included on the hazardous substance list developed by the
13 Department of Health ²and Senior Services ²pursuant to the "Worker
14 and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et
15 seq.).

16 "Hazardous substance" shall not include:

17 (1) Any article containing a hazardous substance if the hazardous
18 substance is present in a solid form which does not pose any acute or
19 chronic health hazard to any person exposed to it;

20 (2) Any hazardous substance constituting less than one percent of
21 a mixture unless the hazardous substance is present in an aggregate
22 amount of 500 pounds or more in a container in a public or private
23 school or child care center building;

24 (3) Any hazardous substance which is a special health hazardous
25 substance constituting less than the threshold percentage established
26 by the Department of Health ²and Senior Services ²pursuant to
27 P.L.1983, c.315 (C.34:5A-1 et seq.), for that special health hazard
28 substance when present in a mixture;

29 (4) Any hazardous substance present in the same form and
30 concentration as a product packaged for distribution and use by
31 consumers and which is not a product intended primarily for

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and 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 SHU committee amendments adopted May 2, 1996.

² Assembly AHL committee amendments adopted December 15, 1997.

- 1 commercial use;
- 2 (5) Any fuel in a motor vehicle;
- 3 (6) Tobacco or tobacco products;
- 4 (7) Wood or wood products;
- 5 (8) Foods, drugs, or cosmetics;
- 6 (9) Hazardous substances which are an integral part of a building's
- 7 structure or furnishings;
- 8 (10) Products which are personal property and are intended for
- 9 personal use; and
- 10 (11) Any substance used in the routine maintenance of a public or
- 11 private school or child care center building ²or its grounds², any
- 12 substance used in a classroom science laboratory, ²any substance used
- 13 in a school occupational training facility, including laboratories and
- 14 shops,² and any substance used in the normal operation of the
- 15 classrooms or administrative offices of a public or private school or
- 16 child care center ¹, including any substance used in the heating or
- 17 cooling of the school or child care center¹;

18 "Hazardous substance fact sheet" means the hazardous substance

19 fact sheets prepared by the Department of Health ²and Senior

20 Services² pursuant to the "Worker and Community Right to Know

21 Act," P.L.1983, c.315 ¹[(C.35:5A-1 et seq.)] (C.34:5A-1 et seq.);¹

22 "Public school or private school" have the same meaning as set

23 forth in N.J.S.18A:1-1.

24

25 2. a. No person shall use ¹[or store, or cause]¹ or allow the use

26 ¹[or storage]¹ of ¹[,]¹ any hazardous substance in or on any building

27 ¹or grounds¹ used as a public school, a private school, or child care

28 center at any time when children are expected to be present in the

29 building. ¹The provisions of this subsection shall not apply when an

30 emergency condition, as deemed by the Board of Education ²or the

31 chief school administrator² in the case of any public school, or the

32 person having responsibility for the operation of any private school or

33 child care center, necessitates the use of a hazardous substance when

34 children are present.¹

35 b. Any person who uses or stores, or causes or allows the use or

36 storage of any hazardous substance in or on any building ¹or grounds¹

37 used as a public school, a private school, or child care center ¹[when

38 children are not expected to be present in the building,]¹ shall ensure

39 that ¹[adequate ventilation is used in the building to prevent exposure

40 to the hazardous substance by children when children are expected to

41 return to the building] the use or storage of that hazardous substance

42 is in compliance with the ²[exposure standards] regulations² adopted

43 by the Department of Health ²and Senior Services² pursuant to

44 section 5 of P.L. , c. (C.)(now before the Legislature as this

45 bill)¹.

1 3. ¹a.¹ The Board of Education ²or the chief school administrator²
2 in the case of any public school, or the person having responsibility for
3 the operation of any private school or child care center, shall ¹[send a
4 written notice to a parent or guardian of each child attending the
5 school or child care center prior to the use or storage of any hazardous
6 substance in the school or child care center building. The notice shall
7 be delivered to a parent or guardian at least two days prior to the use
8 or storage of the hazardous substance the building. The notice, shall
9 not be required to be sent in those instances where children are not
10 expected to be in the school or child care center building within 24
11 hours after the use or storage of the hazardous substance. The notice
12 shall specify the name of the hazardous substance to be used or stored,
13 the location of the intended use or storage, and the date of the last
14 anticipated use or storage. The notice shall also state that a hazardous
15 substance fact sheet for each hazardous substance to be used or stored
16 will be made available upon request, at no charge, by the Board of
17 Education in the case of a public school, or person having
18 responsibility for the operation of any private school or child care
19 center, as appropriate.] post on a bulletin board located in the public
20 or private school or child care center a notice of any construction or
21 other activity to take place at that school or child care center that will
22 involve the use of a hazardous substance. The notice shall state the
23 activity to be conducted and the hazardous substances to be used. The
24 notice shall be posted at least two days prior to the construction or
25 other activity except where an emergency condition, as deemed by the
26 Board of Education ²or the chief school administrator² in the case
27 of any public school, or the person having responsibility for the
28 operation of any private school or child care center, prevents the two
29 day notice in which case the notice shall be posted as soon as
30 practicable.

31 b. The Board of Education ²or the chief school administrator² in
32 the case of any public school, or the person having responsibility for
33 the operation of any private school or child care center shall make
34 available to any person who requests it, the hazardous substance fact
35 sheet for any hazardous substance being stored on site or that is being
36 used in or on the school or center building or grounds during any
37 construction or other activity.

38 c. The Board of Education ²or the chief school administrator² in
39 the case of any public school, or the person having responsibility for
40 the operation of any private school or child care center shall, at least
41 once per year, send a notice to a parent or guardian of each child
42 attending the school or child care center, which notice may be
43 contained in the school's or center's annual handbook, stating that
44 notice of any construction or other activities involving the use of any
45 hazardous substances will be posted on a bulletin board in the school
46 or child care center, that hazardous substances may be stored at the

1 school or child care center at various times throughout the year, and
2 that hazardous substance fact sheets for any of the hazardous
3 substances being used or stored are available at the school or child
4 care center.¹

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6 4. The ¹[Department of Health] local health agency for the
7 jurisdiction in which the public or private school or child care center
8 is located¹ shall enforce the provisions of this act. Whenever, on the
9 basis of information available, ¹[the Commissioner of Health] a local
10 health agency¹ finds that a person has violated any of the provisions of
11 ¹[this act]P.L. .,c. (C.)(now before the Legislature as this bill)¹,
12 the ¹[commissioner] local health agency¹ may bring an action in a
13 court of competent jurisdiction to impose a civil penalty for that
14 violation. Any person who violates any provision of this act shall be
15 subject, upon order of a court, to a civil penalty not to exceed \$2,500
16 for each day during which the violation continues. Any penalty
17 imposed pursuant to this section may be collected, and any costs
18 incurred in connection therewith may be recovered, in a summary
19 proceeding pursuant to "the penalty enforcement law" (N.J.S. 2A:58-1
20 et seq.). The Superior Court shall have jurisdiction to enforce "the
21 penalty enforcement law."
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23 5. The Department of Health ²and Senior Services ² ¹in
24 consultation with the Departments of Education ², Human Services²
25 and Environmental Protection, and within 180 days of the enactment
26 of P.L. ., c. (C.)(now before the Legislature as this bill),¹ shall
27 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
28 c.410 (C.52:14B-1 et seq.), regulations necessary to implement the
29 provisions of this act ²which are consistent with federal and State
30 indoor air quality standards and standards governing the exposure of
31 children to hazardous substances as they are adopted by the federal
32 government². ²[¹These regulations shall contain exposure standards for
33 the use or storage of hazardous substances in public and private
34 schools and in child care centers. The exposure standards shall consist
35 of ventilation requirements, use and access limitation restrictions, and
36 any other measure designed to prevent any exposure by children to a
37 hazardous substance to be used in a public or private school or in a
38 child care center or to ensure that any such exposure is at levels
39 deemed safe by the Department of Health. The exposure standards
40 shall take into account the ages of the children expected to be in or on
41 the building or grounds, the location and types of hazardous
42 substance being used or stored, the anticipated use of the buildings or
43 grounds at the time the hazardous substances will be used or stored,
44 and any other factor the Department of Health deems relevant to the
45 safe use or storage of hazardous substances in a public or private
46 school or child care center.¹²

1 6. This act shall take effect 180 days following enactment.

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6 Prohibits use or storage of certain hazardous substances, except in
7 emergent situations, in schools and child care centers when children
8 are present.