

SENATE, No. 246

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator ZANE

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.

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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 pursuant to the "Worker and Community Right
14 to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.).

15 "Hazardous substance" shall not include:

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

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

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

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

32 (5) Any fuel in a motor vehicle;

33 (6) Tobacco or tobacco products;

34 (7) Wood or wood products;

35 (8) Foods, drugs, or cosmetics;

36 (9) Hazardous substances which are an integral part of a building's
37 structure or furnishings;

1 (10) Products which are personal property and are intended for
2 personal use; and

3 (11) Any substance used in the routine maintenance of a public or
4 private school or child care center building, any substance used in a
5 classroom science laboratory, and any substance used in the normal
6 operation of the classrooms or administrative offices of a public or
7 private school or child care center;

8 "Hazardous substance fact sheet" means the hazardous substance
9 fact sheets prepared by the Department of Health pursuant to the
10 "Worker and Community Right to Know Act," P.L.1983, c.315
11 (C.35:5A-1 et seq.);

12 "Public school or private school" have the same meaning as set
13 forth in N.J.S.18A:1-1.

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15 2. a. No person shall use or store, or cause or allow the use or
16 storage of, any hazardous substance in or on any building used as a
17 public school, a private school, or child care center at any time when
18 children are expected to be present in the building.

19 b. Any person who uses or stores, or causes or allows the use or
20 storage of, any hazardous substance in or on any building used as a
21 public school, a private school, or child care center when children are
22 not expected to be present in the building, shall ensure that adequate
23 ventilation is used in the building to prevent exposure to the hazardous
24 substance by children when children are expected to return to the
25 building.

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27 3. The Board of Education in the case of any public school, or the
28 person having responsibility for the operation of any private school or
29 child care center, shall send a written notice to a parent or guardian of
30 each child attending the school or child care center prior to the use or
31 storage of any hazardous substance in the school or child care center
32 building. The notice shall be delivered to a parent or guardian at least
33 two days prior to the use or storage of the hazardous substance at the
34 building. The notice, shall not be required to be sent in those instances
35 where children are not expected to be in the school or child care center
36 building within 24 hours after the use or storage of the hazardous
37 substance. The notice shall specify the name of the hazardous
38 substance to be used or stored, the location of the intended use or
39 storage, and the date of the last anticipated use or storage. The notice
40 shall also state that a hazardous substance fact sheet for each
41 hazardous substance to be used or stored will be made available upon
42 request, at no charge, by the Board of Education in the case of a
43 public school, or person having responsibility for the operation of any
44 private school or child care center, as appropriate.

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46 4. The Department of Health shall enforce the provisions of this

1 act. Whenever, on the basis of information available, the
2 Commissioner of Health finds that a person has violated any of the
3 provisions of this act, the commissioner may bring an action in a court
4 of competent jurisdiction to impose a civil penalty for that violation.
5 Any person who violates any provision of this act shall be subject,
6 upon order of a court, to a civil penalty not to exceed \$2,500 for each
7 day during which the violation continues. Any penalty imposed
8 pursuant to this section may be collected, and any costs incurred in
9 connection therewith may be recovered, in a summary proceeding
10 pursuant to "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.).
11 The Superior Court shall have jurisdiction to enforce "the penalty
12 enforcement law."

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14 5. The Department of Health shall adopt, pursuant to the
15 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
16 seq.), regulations necessary to implement the provisions of this act.

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

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21 STATEMENT

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23 This bill is intended to protect children from exposure to potentially
24 dangerous chemicals that may be used in schools or at child care
25 centers. While there are laws that protect adults from chemical
26 exposure in the workplace, there are no federal or State laws designed
27 to protect children from such exposure in schools or child care centers.
28 Rather than attempt to set complicated limits for the safe exposure by
29 children for every possible substance, this bill prohibits circumstances
30 that may lead to any exposure by children and ensures that parents and
31 guardians are made aware of any potential for exposure.

32 Specifically, this bill would prohibit the use or storage of certain
33 hazardous substances in schools and child care centers when children
34 are present. This bill would also require that proper ventilation be
35 employed when hazardous substances are used or stored in a school
36 or center so as to avoid exposure of the substances to children when
37 they return to the school or center. If a hazardous substance is to be
38 used or stored when children are not present, but children are expected
39 to be present within 24 hours of the use or storage, a notice would be
40 required to be sent to a parent or guardian of each child indicating the
41 substance to be used, the location of the use or storage, the time of the
42 last use or storage, and stating the availability of hazardous substance
43 fact sheets.

44 The bill provides that the Department of Health would enforce its
45 provisions by bringing an action in Superior Court to impose civil
46 penalties. A penalty may be imposed for up to \$2,500 per day for each

1 day the violation continues. The department is also authorized to issue
2 implementing regulations.

3 This bill incorporates the existing list of hazardous substances
4 created by the Department of Health pursuant to the "Worker and
5 Community Right to Know Act" as the basis for the substances that
6 cannot be used or stored in a school or center. Certain exemptions are
7 provided from the list so that the use of commonly used substances by
8 science laboratories, school offices and classrooms, cafeterias, and
9 maintenance workers would not be subject to the act's provisions. The
10 bill uses the hazardous substance fact sheets, created pursuant the
11 "Worker and Community Right to Know Act" as the basis for the
12 information to be given parents and guardians. By using existing
13 definitions and standards, the bill avoids unnecessary duplication of
14 administrative effort and cost.

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19 Prohibits use or storage of certain hazardous substances in schools and
20 child care centers when children are present.