

[First Reprint]
SENATE, No. 246

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senators ZANE, Casey, Adler and McGreevey

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:

7
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;

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.

1 (5) Any fuel in a motor vehicle;
 2 (6) Tobacco or tobacco products;
 3 (7) Wood or wood products;
 4 (8) Foods, drugs, or cosmetics;
 5 (9) Hazardous substances which are an integral part of a building's
 6 structure or furnishings;

7 (10) Products which are personal property and are intended for
 8 personal use; and

9 (11) Any substance used in the routine maintenance of a public or
 10 private school or child care center building, any substance used in a
 11 classroom science laboratory, and any substance used in the normal
 12 operation of the classrooms or administrative offices of a public or
 13 private school or child care center ¹, including any substance used in
 14 the heating or cooling of the school or child care center¹;

15 "Hazardous substance fact sheet" means the hazardous substance
 16 fact sheets prepared by the Department of Health pursuant to the
 17 "Worker and Community Right to Know Act," P.L.1983, c.315
 18 ¹[(C.35:5A-1 et seq.)] (C.34:5A-1 et seq.);¹

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

21

22 2. a. No person shall use ¹[or store, or cause]¹ or allow the use
 23 ¹[or storage]¹ of ¹[.]¹ any hazardous substance in or on any building
 24 ¹or grounds¹ used as a public school, a private school, or child care
 25 center at any time when children are expected to be present in the
 26 building. ¹The provisions of this subsection shall not apply when an
 27 emergency condition, as deemed by the Board of Education in the
 28 case of any public school, or the person having responsibility for the
 29 operation of any private school or child care center, necessitates the
 30 use of a hazardous substance when children are present.¹

31 b. Any person who uses or stores, or causes or allows the use or
 32 storage of any hazardous substance in or on any building ¹or grounds¹
 33 used as a public school, a private school, or child care center ¹[when
 34 children are not expected to be present in the building,]¹ shall ensure
 35 that ¹[adequate ventilation is used in the building to prevent exposure
 36 to the hazardous substance by children when children are expected to
 37 return to the building] the use or storage of that hazardous substance
 38 is in compliance with the exposure standards adopted by the
 39 Department of Health pursuant to section 5 of P.L. _____, c. _____
 40 (C. _____)(now before the Legislature as this bill)¹.

41

42 3. ¹a.¹ The Board of Education in the case of any public school, or
 43 the person having responsibility for the operation of any private school
 44 or child care center, shall ¹[send a written notice to a parent or
 45 guardian of each child attending the school or child care center prior
 46 to the use or storage of any hazardous substance in the school or child

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

24 b. The Board of Education in the case of any public school, or the
25 person having responsibility for the operation of any private school or
26 child care center shall make available to any person who requests it,
27 the hazardous substance fact sheet for any hazardous substance being
28 stored on site or that is being used in or on the school or center
29 building or grounds during any construction or other activity.

30 c. The Board of Education in the case of any public school, or the
31 person having responsibility for the operation of any private school or
32 child care center shall, at least once per year, send a notice to a parent
33 or guardian of each child attending the school or child care center,
34 which notice may be contained in the school's or center's annual
35 handbook, stating that notice of any construction or other activities
36 involving the use of any hazardous substances will be posted on a
37 bulletin board in the school or child care center, that hazardous
38 substances may be stored at the school or child care center at various
39 times throughout the year, and that hazardous substance fact sheets
40 for any of the hazardous substances being used or stored are available
41 at the school or child care center.¹

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43 4. The ¹[Department of Health] local health agency for the
44 jurisdiction in which the public or private school or child care center
45 is located¹ shall enforce the provisions of this act. Whenever, on the
46 basis of information available, ¹[the Commissioner of Health] a local

1 health agency¹ finds that a person has violated any of the provisions of
2 ¹[this act]P.L. .c. (C.)(now before the Legislature as this bill)¹,
3 the ¹[commissioner] local health agency¹ may bring an action in a
4 court of competent jurisdiction to impose a civil penalty for that
5 violation. Any person who violates any provision of this act shall be
6 subject, upon order of a court, to a civil penalty not to exceed \$2,500
7 for each day during which the violation continues. Any penalty
8 imposed pursuant to this section may be collected, and any costs
9 incurred in connection therewith may be recovered, in a summary
10 proceeding pursuant to "the penalty enforcement law" (N.J.S. 2A:58-1
11 et seq.). The Superior Court shall have jurisdiction to enforce "the
12 penalty enforcement law."
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14 5. The Department of Health¹, in consultation with the
15 Departments of Education and Environmental Protection, and within
16 180 days of the enactment of P.L. , c. (C.)(now before the
17 Legislature as this bill),¹ shall adopt, pursuant to the "Administrative
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), regulations
19 necessary to implement the provisions of this act. ¹These regulations
20 shall contain exposure standards for the use or storage of hazardous
21 substances in public and private schools and in child care centers. The
22 exposure standards shall consist of ventilation requirements, use and
23 access limitation restrictions, and any other measure designed to
24 prevent any exposure by children to a hazardous substance to be used
25 in a public or private school or in a child care center or to ensure that
26 any such exposure is at levels deemed safe by the Department of
27 Health. The exposure standards shall take into account the ages of the
28 children expected to be in or on the building or grounds, the location
29 and types of hazardous substance being used or stored, the anticipated
30 use of the buildings or grounds at the time the hazardous substances
31 will be used or stored, and any other factor the Department of Health
32 deems relevant to the safe use or storage of hazardous substances in
33 a public or private school or child care center.¹
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35 6. This act shall take effect 180 days following enactment.
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40 Prohibits use or storage of certain hazardous substances, except in
41 emergent situations, in schools and child care centers when children
42 are present.