

HOUSE BILL 173

By McCormick

AN ACT to amend Tennessee Code Annotated, Section 50-3-2001 et seq. relative to the Hazardous Chemical Right to Know Law.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The language of Tennessee Code Annotated, Section 50-3-2001, is deleted in its entirety and replaced with the following language:

§ 50-3-2001.

(a) Each employer shall comply with all of the requirements of the federal Hazard Communication Standard codified in 29 CFR 1910.1200. In addition to the requirements set forth in 29 CFR 1910.1200 each employer must also comply with the following:

(1)

(A) Employers shall keep a record of the dates of training sessions given to their employees.

(B) The hazard communication program and employee information and training required of employers pursuant to 29 CFR 1910.1200 and the education and training program pursuant to subsection (a)(1) shall require annual refresher training after the initial training pursuant to 29 CFR 1910.1200 is conducted, unless the commissioner grants an exemption from annual refresher training. The exemption may be granted if the commissioner determines that the nature of the work assignment, the level of exposure or the nature of the hazardous chemical involved would not reasonably require annual refresher training.

(2)

(A) For the purposes of this section only, "workplace" means any workplace as defined in 29 CFR 1910.1200(c) that is located within the fire chief's actual jurisdiction or that is located in a jurisdiction to which the fire chief responds pursuant to a mutual aid pact.

(B) Employers and distributors who normally store a hazardous chemical in excess of fifty-five gallons (55 gal.) or five hundred pounds (500 lbs.) shall provide the fire chief, in writing, the names and telephone numbers of knowledgeable representatives of the manufacturing employer, non-manufacturing employer or distributor who can be contacted for further information or in the event of an emergency.

(C) Each employer and distributor shall provide a copy of the workplace chemical list to the fire chief and shall thereafter notify the fire chief of any significant changes that occur in the workplace chemical list.

(D) The fire chief or the fire chief's representative, upon request, shall be permitted on-site inspections of the hazardous chemicals on the workplace chemical list during normal business hours for the sole purpose of preplanning emergency fire department activities.

(E) Employers and distributors, upon written request, shall provide the fire chief a copy of the safety data sheet (SDS) for any chemical on their workplace chemical list.

(F) The fire chief shall, upon request, make the workplace chemical list and SDSs available to members of the fire chief's fire company having jurisdiction over the workplace, or their designated representatives, but shall not otherwise distribute the information without written approval of the manufacturing employer, non-manufacturing employer or distributor who provided the workplace chemical list or SDSs;

except that approval shall not be required in an emergency situation in which human life is at stake. In the event the workplace chemical list or SDSs are released under an emergency situation, the fire chief shall promptly notify the supplier of the workplace chemical list or SDSs, in writing, as to whom the information was released and the circumstances of the emergency. Persons receiving workplace chemical lists or SDSs from the fire chief shall hold the information contained in the workplace chemical lists or SDSs in confidence.

(G)

(i) Employers and distributors shall place one (1) sign in accordance with the NFPA704M series on the outside of any building that contains a class A explosive, class B explosive, poison gas (poison A), water-reactive flammable solid (flammable solid W), or radioactive material as listed in Table 1 of the federal department of transportation (DOT) regulations at 49 CFR, Part 172, and further defined in federal DOT regulations at 49 CFR, Part 173, or any other hazardous chemical in excess of the amounts listed in subsection (a).

(ii) The commissioner shall promulgate rules in accordance with § 50-3-102 (b)(3) to establish specifications on the size, color, lettering and posting requirements pursuant to the series. The regulations shall provide that the number used shall be determined by the hazardous chemical that presents the greatest danger.

(iii) The commissioner shall exempt an employer from this subdivision (G) who can satisfactorily demonstrate that:

(a) The employer maintains a trained fire or emergency preparedness team considered capable of handling workplace chemical or fire emergencies without external assistance; or

(b) The employer maintains twenty-four (24) hour security personnel who maintain accurate records of the location of chemicals and who can readily direct emergency personnel from outside sources to affected company facilities.

(H) The department of labor and workforce development shall assist employers and fire personnel to effectuate the purposes of this section.

(3)

(A)

(1) Manufacturing employers shall compile and maintain a workplace chemical list, which shall contain the following information for each hazardous chemical known to be present in the workplace:

(a) The chemical name or common name used on the SDS or the container label, or both;

(b) The chemical abstract service (CAS) number for the hazardous chemical, if the number is included on the SDS; and

(c) The work area or workplace in which the hazardous chemical is normally used or stored.

(2) The manufacturing employer shall maintain the workplace chemical list for no less than thirty (30) years. The manufacturing employer shall send complete records pertinent to the workplace chemical list to the commissioner if the manufacturing employer generating the list ceases to operate a business within the state.

(3) The workplace chemical list shall be filed with the commissioner within ninety-six (96) hours of a request by an authorized representative of the commissioner.

(B)

(1) Non-manufacturing employers shall compile and maintain a workplace chemical list, which shall contain the following information for each hazardous chemical normally used or stored in the workplace in excess of fifty-five gallons (55 gal.) or five hundred pounds (500 lbs.):

(a) The chemical name or the common name used on the SDS or container label, or both;

(b) The CAS number, if the number is included on the SDS; and

(c) The work area or workplace in which the hazardous chemical is normally stored or used.

(2) The non-manufacturing employer shall maintain the workplace chemical list for no less than thirty (30) years. The

non-manufacturing shall send complete records pertinent to the workplace chemical list to the commissioner if the non-manufacturing employer generating the list ceases to operate a business within the state.

(3) The non-manufacturing employer shall notify new or newly assigned employees about the workplace chemical list and its contents before working in a work area containing hazardous chemicals.

(4) The non-manufacturing employer shall file the workplace chemical list with the commissioner within ninety-six (96) hours of a request by an authorized representative of the commissioner.

(C) The workplace chemical list may consist of either a single listing prepared for the workplace as a whole or a collection of lists prepared for each work area individually.

(D) The department of labor and workforce development shall provide the following information and services:

(1) The CAS number for any hazardous chemical on the workplace chemical list that is not included by the manufacturing or non-manufacturing employer pursuant to subsection (a) or (b) *if*:

(a) The chemical is not a mixture; and

(b) A CAS number exists for the chemical.

(2) The employer shall make available a copy of the workplace chemical list for inspection by the public during

regular office hours at the division's central office or any division field office. The copy must be requested by the public and received by the division as specified by this section.

(3) Copies of any workplace chemical list may be obtained from the division of occupational safety and health upon written request and payment of a reasonable copying and mailing fee. The division shall provide the list within ten (10) business days of receipt of the written request.

(E) It is the intention of the general assembly, pursuant to this section, to provide access to information concerning hazardous chemicals used and stored in this state to the citizens of this state who live and work in proximity to the chemicals to enable the citizens to make informed decisions concerning their health, safety and welfare.

SECTION 2. Tennessee Code Annotated Sections 50-3-2002 through 50-3-2019, are repealed.

SECTION 3. This Act shall take effect upon becoming law, the public welfare requiring it.