

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-28-81

Time _____

No: 1323

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981



ENROLLED

HOUSE BILL No. 1323

(By Mr. Knight)



Passed April 11, 1981

In Effect Ninety Days From Passage



ENROLLED

H. B. 1323

(By MR. KNIGHT)

[Passed April 11, 1981; in effect ninety days from passage.]

AN ACT to amend article three, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eighteen, relating to the establishment by the commissioner of labor of a list of six hundred hazardous chemical substances to which employees in this state may be exposed; requiring said list to be composed of hazardous chemical substances published by the secretary of labor; requiring employers of ten employees or more to post certain notices; requiring employers to report incidents of over-exposure by employees; providing for penalties; and providing exemptions for coal, agricultural and horticultural activities.

Be it enacted by the Legislature of West Virginia:

That article three, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eighteen, to read as follows:

ARTICLE 3. SAFETY AND WELFARE OF EMPLOYEES.

§21-3-18. Hazardous chemical substances; notice to employees; reports to commissioner; penalties.

- 1 (a) It is declared the policy of this state to require em-
- 2 ployers to disclose to employees the hazards of exposure

3 in the work place to hazardous or toxic chemical substances
4 and materials. For this purpose, the commissioner of labor
5 shall establish and maintain, by rule or regulation, a list of
6 chemical substances and materials which have been deter-
7 mined or are suspected to be hazardous or toxic to the
8 health of employees who may be exposed to them in the course
9 of employment. In establishing and maintaining such list,
10 the commissioner may give consideration to any list made or
11 hereafter made by the secretary of labor of the United States
12 identifying or proposing to identify chemical substances and
13 materials as hazardous or toxic, or setting standard levels of
14 safe exposure thereto, as the same are published from time
15 to time in the federal register. The commissioner shall publish
16 and update, at least annually, such list of substances and
17 materials and shall include in the publication thereof, for
18 each listed substance or material, any standard levels of
19 safe exposure published by said secretary in the federal
20 register, giving due consideration to any changes made or
21 proposed by said secretary in the secretary's list of hazardous
22 or toxic chemical substances and materials, or in any standard
23 levels of safe exposure established or proposed from time
24 to time by said secretary, as the same are published in the
25 federal register.

26 (b) The commissioner shall make copies of such list
27 prepared under this section available to any employer request-
28 ing the same: *Provided*, That the commissioner shall limit such
29 list to no more than six hundred such substances and materials
30 to be selected from the lists included in 29 Code of Federal
31 Regulations 1910.1000, Subpart Z, which the commissioner
32 elects to include because of either frequency of use in the
33 state, frequency of exposure or over exposure thereof to
34 workers in the state, the seriousness of the effects of such
35 exposure or other reason which the commissioner determines
36 to be sufficient.

37 (c) Any employer of ten or more employees using or pro-
38 ducing any such listed hazardous chemical substance or ma-
39 terial shall conspicuously post a warning notice in the work
40 area where any such substance or material is used, to read
41 substantially as follows:

42

WARNING NOTICE

43

44 -----
(Name of hazardous chemical substance or material)

45 is used at this work site.

46 Common symptoms of overexposure include the following:

47

48 -----
Name of Employer

49 Any such notice required to be posted with regard to a
50 mobile work site may be posted on the container or con-
51 tainers of the hazardous substance or material or in some
52 other conspicuous place.

53 The employer shall include in the notice such common
54 symptoms of overexposure as (1) may be published with the
55 standard levels of safe exposure, or (2) certified to the em-
56 ployer by a physician employed for that purpose. Good faith
57 reliance upon either such source of information shall be suf-
58 ficient notice of such common symptoms.

59 (d) Any employer having notice of any incident of ex-
60 posure to a listed hazardous chemical substance or material
61 in excess of its standard level of safe exposure published by
62 the commissioner shall within ten days thereof report to the
63 commissioner the circumstances of such incident and provide
64 a copy of the report to the employee.

65 (e) Any person or corporation that violates the provisions
66 of this section is guilty of a misdemeanor, and, upon con-
67 viction thereof, shall be fined not less than one hundred dollars
68 nor more than one thousand dollars for each violation.

69 (f) The provisions of this section shall not apply to any
70 coal mine, coal mining or coal processing plant, and any
71 agricultural or horticultural activity, and any such mine, plant
72 or activity is hereby exempted from the provisions of this
73 section.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

R. P. Bayler
Chairman Senate Committee

Doney E. Whitlow
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Todd C. Willis
Clerk of the Senate

D. Blankenship
Clerk of the House of Delegates

Wm. R. Hooper
President of the Senate

Walter H. Sees, Jr.
Speaker House of Delegates

The within *is approved* this the *28*
day of *April*, 1981.

John P. Rhyne
Governor

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OFFICE OF THE GOVERNOR