

No. 1282 ✓

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1985



ENROLLED

Com. Sub. for
HOUSE BILL No. 1282

(By Mr. Del. Hatfield & Del. White)



Passed March 29, 1985

In Effect Ninety Days From Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 1282

(By Delegate Hatfield and Delegate White)

[Passed March 29, 1985; in effect ninety days from passage.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article three-a, relating to requesting that certain information about hazardous materials be provided to the department of health, and that a list of hazardous materials be developed along with certain other information; providing for the enforcement of the provisions of said article; and providing penalties for violations thereof.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, as amended, be amended by adding thereto a new article, designated article three-a, to read as follows:

ARTICLE 3A. REPOSITORY OF INFORMATION ON MEDICAL TREATMENT FOR CERTAIN HAZARDOUS MATERIALS; REQUEST FOR INFORMATION; PENALTIES; ENFORCEMENT.

§16-3A-1. Purpose and legislative findings.

- 1 (a) The purpose of this article is to provide a centralized
- 2 repository of information on hazardous materials and to
- 3 identify the chemical elements of such materials, the harmful
- 4 effects of exposure to such materials, and the proper

5 recommended emergency medical treatment for exposure to
6 such hazardous materials.

7 (b) The Legislature finds that there is a lack of adequate
8 information concerning hazardous materials, present in West
9 Virginia, the immediate effects of exposure to such hazardous
10 materials on human beings, and the appropriate emergency
11 medical treatment for exposure to hazardous materials. This
12 lack of information increases the medical health risks of
13 persons or communities who are exposed to hazardous
14 materials. The prompt availability of this information would
15 afford increased protection to persons and communities
16 exposed to hazardous materials.

**§16-3A-2. Hazardous materials; duties of the director of the
department of health; requests for information;
penalties; enforcement.**

1 (a) The director of the West Virginia department of health
2 shall within one hundred eighty days of the passage of this
3 article establish a list of hazardous materials, including their
4 treatment and effect, which have been determined to be, or
5 are suspected to be hazardous or toxic to human health. In
6 developing and maintaining this list the director shall give
7 consideration to: (1) The existing list prepared by the
8 commissioner of labor pursuant to section eighteen, article
9 three, chapter twenty-one of this code, (2) any list, publica-
10 tion, regulation, report, guideline or other compilation of the
11 occupational health and safety administration of the United
12 States department of labor, (3) any list, publication, regula-
13 tion, report, guideline or other compilation of the national
14 institute for occupational safety and health, (4) any list,
15 publication, regulation, report, guideline or other compilation
16 of the national fire protection association, (5) any list,
17 publication, regulation, report, guideline or other compilation
18 of the United States environmental protection agency, or (6)
19 any other source considered by the director to be reliable. In
20 determining what hazardous materials to place on the list, the
21 director shall give consideration to: (1) the materials' frequency
22 of use in the state, (2) the frequency of exposure or
23 overexposure of persons in the state to the materials, (3) the
24 seriousness of the effects of such exposure, or (4) such other
25 reason as the director may determine to be sufficient.

26 (b) The director of the department of health shall, within

27 ninety days of the preparation of the list described above,
28 determine the immediate health effects of exposure to and the
29 recommended emergency medical treatment of exposure to
30 such hazardous materials and publish such information in a
31 useable form for medical and emergency personnel. The
32 director shall also arrange that this information shall be
33 immediately available to medical or emergency personnel at
34 any time in the event of an accident. The director may do so
35 by storing this information in the West Virginia poison control
36 center or in such other manner and form as he may determine.
37 The distribution of this information in a medical or other
38 emergency to persons other than the medical or emergency
39 personnel shall be approved by the director of the department
40 of health or his authorized agent who may release such
41 information in his discretion notwithstanding the requirements
42 of the freedom of information act, chapter twenty-nine-b of
43 this code.

44 (c) The director may accept for any of the purposes of this
45 article all donations and grants of money, equipment, supplies,
46 materials and services, conditional or otherwise, from any
47 state, the United States or any other governmental agency, or
48 from any person, firm, association or corporation, and may
49 receive, utilize and dispose of these in accordance with other
50 state laws.

51 (d) The lists referred to in subsections (a) and (b) of this
52 section shall be updated annually.

53 (e) If the director determines that any information on the
54 use, manufacture, transportation or storage of hazardous
55 materials in West Virginia would be of assistance to him, he
56 may request that such information be provided to him by any
57 person, any industry or company, any medical group or
58 person, or any academic institution or person. He may also
59 request from any person information concerning the harmful
60 effects of exposure to such hazardous materials or the best
61 method of medical treatment of such exposures. The
62 information requested of any person, firm or corporation shall
63 be provided to the director within thirty days unless good
64 cause be shown to the satisfaction of the director why such
65 request is unreasonable because of the potential breach of a
66 trade secret.

67 (f) Any person, or corporation, that violates the provisions
68 of this section shall be subject to a civil penalty of not less
69 than one hundred dollars nor more than one thousand dollars
70 for each violation. When the director believes that a violation
71 has occurred he may request the attorney general or the
72 prosecuting attorney of the county where the violation
73 occurred to file a civil action for civil penalties, or for
74 injunctive or other relief, or both penalties and injunctive or
75 other relief.

76 (g) The director shall develop by rule or regulation
77 promulgated pursuant to the provisions of the administrative
78 procedures act, chapter twenty-nine-a of this code, a program
79 to assemble and update the hazardous materials list, the
80 information on the immediate medical effects of exposure to
81 such materials, and the appropriate emergency medical
82 treatment of persons exposed: *Provided*, That the list and
83 other information shall not be required to be promulgated
84 pursuant to the administrative procedures act, chapter twenty-
85 nine-a of this code. The program shall also include the most
86 effective method or methods of distributing this information
87 to medical and emergency personnel. This program shall be
88 developed using the budget provided by the Legislature for this
89 program. The director shall implement this program imme-
90 diately and it shall be later reviewed by the Legislature through
91 the approval of rules and regulations as provided for in
92 chapter twenty-nine-a of this code.

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

Bruce C. Williams

Chairman Senate Committee

Floyd Fuller

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Todd C. Miller

Clerk of the Senate

Donald L. Kopp

Clerk of the House of Delegates

Sam Tomberlin

President of the Senate

Joseph P. Albright

Speaker of the House of Delegates

The within *approved* this the *10th*
April
day of _____, 1985.

Hubert A. Sasser Jr.

Governor

PRESENTED TO THE
GOVERNOR

Date 4/04/85

Time 3:36 p.m.

RECEIVED

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE