ENROLLED

Com. Sub. for
HOUSE BILL No. 1282

(By 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.

(a) The purpose of this article is to provide a centralized repository of information on hazardous materials and to identify the chemical elements of such materials, the harmful effects of exposure to such materials, and the proper
(b) The Legislature finds that there is a lack of adequate information concerning hazardous materials, present in West Virginia, the immediate effects of exposure to such hazardous materials on human beings, and the appropriate emergency medical treatment for exposure to hazardous materials. This lack of information increases the medical health risks of persons or communities who are exposed to hazardous materials. The prompt availability of this information would afford increased protection to persons and communities exposed to hazardous materials.

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

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

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

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

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

(e) If the director determines that any information on the use, manufacture, transportation or storage of hazardous materials in West Virginia would be of assistance to him, he may request that such information be provided to him by any person, any industry or company, any medical group or person, or any academic institution or person. He may also request from any person information concerning the harmful effects of exposure to such hazardous materials or the best method of medical treatment of such exposures. The information requested of any person, firm or corporation shall be provided to the director within thirty days unless good cause be shown to the satisfaction of the director why such request is unreasonable because of the potential breach of a trade secret.
(f) Any person, or corporation, that violates the provisions of this section shall be subject to a civil penalty of not less than one hundred dollars nor more than one thousand dollars for each violation. When the director believes that a violation has occurred he may request the attorney general or the prosecuting attorney of the county where the violation occurred to file a civil action for civil penalties, or for injunctive or other relief, or both penalties and injunctive or other relief.

(g) The director shall develop by rule or regulation promulgated pursuant to the provisions of the administrative procedures act, chapter twenty-nine-a of this code, a program to assemble and update the hazardous materials list, the information on the immediate medical effects of exposure to such materials, and the appropriate emergency medical treatment of persons exposed: Provided, That the list and other information shall not be required to be promulgated pursuant to the administrative procedures act, chapter twenty-nine-a of this code. The program shall also include the most effective method or methods of distributing this information to medical and emergency personnel. This program shall be developed using the budget provided by the Legislature for this program. The director shall implement this program immediately and it shall be later reviewed by the Legislature through the approval of rules and regulations as provided for in chapter twenty-nine-a of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

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

Governor
PRESENTED TO THE
GOVERNOR
Date 4/04/65
Time 3:30 p.m.