## CHAPTER 141 HB 522 – FINAL VERSION

 $6 May 2015 \dots 1637 EBA$ 

#### 2015 SESSION

15-0777 06/03

HOUSE BILL 522

AN ACT making certain changes in the law governing toxic substances in the workplace to

comply with federal law.

SPONSORS: Rep. Goley, Hills 8; Sen. Soucy, Dist 18

COMMITTEE: Labor, Industrial and Rehabilitative Services

### **ANALYSIS**

This bill modifies the content required on certain data sheets regarding toxic substances in the workplace.

This bill is a request of the department of labor.

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Explanation: Matter added to current law appears in **bold italics**.

Matter removed from current law appears [in brackets and struckthrough.]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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#### STATE OF NEW HAMPSHIRE

## In the Year of Our Lord Two Thousand Fifteen

AN ACT making certain changes in the law governing toxic substances in the workplace to comply with federal law.

Be it Enacted by the Senate and House of Representatives in General Court convened:

- 1 141:1 Toxic Substances in the Workplace; Definitions; Safety Data Sheet. RSA 277-A:3, IV is repealed and reenacted to read as follows:
  - IV. "Safety data sheet" means a written document prepared on a toxic substance containing all of the following information except as provided by RSA 277-A:4, III(c):
  - (a) Identification including product identifier; manufacturer or distributor name, address, phone number; emergency phone number; recommended use; restrictions on use.
    - (b) The hazards of the substance.
  - (c) Composition and information on ingredients, including information on chemical ingredients and trade secret claims.
  - (d) First aid measures including important symptoms or effects, if acute or delayed, and required treatment.
- 12 (e) Firefighting measures including suitable extinguishing techniques and equipment 13 and any chemical hazards from fire.
  - (f) Accidental release measures including emergency procedures, protective equipment, and proper methods of containment and cleanup.
    - (g) Handling and storage precautions, including incompatibilities.
  - (h) Exposure controls and personal protection, including Occupational Safety and Health Administration Permissible Exposure Limits, Threshold Limit Values, appropriate engineering controls, and personal protective equipment.
    - (i) Physical and chemical properties and characteristics.
- 21 (j) Stability, reactivity, and the possibility of hazardous reactions.
  - (k) Toxicological information including routes of exposure, related symptoms, acute and chronic effects, and numerical measures of toxicity.
- 24 (l) The date such information was compiled and the name and address of the 25 manufacturer, producer, or formulator responsible for compiling it.
- 26 141:2 Safety Data Sheets. Amend RSA 277-A:4 and RSA 277-A:5 to read as follows:
- 27 277-A:4 [Material] Safety Data Sheets.
- I. Except as provided in paragraph III, no person shall obtain, purchase, manufacture, formulate, transport or distribute any toxic substance within this state unless the substance is

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accompanied by a complete [material] safety data sheet prepared by the manufacturer, producer, or formulator of such substance no more than one year prior to the obtainment, purchase, manufacture, formulation, transportation or distribution.

- II. A manufacturer, producer or formulator may provide a single [material] safety data sheet for a product mixture containing 2 or more toxic substances instead of providing a [material] safety data sheet for each toxic substance component of such mixture if all of the following are applicable:
- (a) The product mixture itself has been submitted to sufficient analysis and testing to justify a valid judgment on its hazardous properties.
- (b) Each component toxic substance is identified on the product label individually, within the limits of practicability and feasibility.
- (c) A  $[material\ data]$  safety data sheet on each component toxic substance identified pursuant to subparagraph (b) is available upon request.
- III.(a) When a manufacturer, producer, formulator or employer considers the identity of or other information concerning a toxic substance to be a protectable trade secret whose disclosure would compromise his *or her* competitive advantage, he *or she* shall register this information as secret with the commissioner of labor provided that such information is already registered as a trade secret pursuant to any provision of federal law or such information is not registered as a trade secret but is related to a proprietary process the disclosure of which would compromise his *or her* competitive position.
- (b) The commissioner of labor shall not release any data which discloses any trade secret or proprietary process unless he *or she* shall notify, in writing and by certified mail, the submitter of such information of the intent to release the data. The commissioner may not release the information, without the submitter's consent, until the thirtieth day after the submitter has been furnished such notice. Any subsequent release shall be pursuant to applicable provisions relating to trade secrets or the Freedom of Information Act.
- (c) In the event that a toxic substance or product mixture containing 2 or more toxic substances is registered by a manufacturer, producer or formulator as a component of a trade secret or otherwise protected as a proprietary process, such manufacturer, producer or formulator shall not be required to divulge the specific identity of the substance, but shall be required to provide a [material] safety data sheet containing the information specified in RSA 277-A:3, [IV(b)-(h)] IV(b)-(l).
- (d) In the event that a toxic substance or product mixture containing 2 or more toxic substances is registered as a component of a trade secret or otherwise protected as a proprietary process, the employer shall not be required to divulge the specific identity of the substance but shall otherwise be subject to all of the duties imposed by RSA 277-A:5.
- IV. Notwithstanding the provisions of paragraph III, full and complete information

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- regarding any toxic substance or substances to which an employee has been exposed shall be made available to a licensed physician if the information is needed for the purpose of medical diagnosis or treatment of such person.
  - 277-A:5 Employer's Duty to Provide Information. Subject to the limitations of RSA 277-A:4, III, every employer whose employees handle, use, or are otherwise exposed to any toxic substance during the course and scope of their employment shall:
  - I. Keep on file in a convenient office location and make available for examination and reproduction upon request a [material] safety data sheet for each toxic substance or product mixture containing 2 or more toxic substances to which an employee may be exposed in carrying out his *or her* duties.
  - II. Post a notice, written in clearly understandable nontechnical language, in a conspicuous location accessible to the employees and as close to the work area as possible containing the word "Warning" in large letters and all the following information on each toxic substance to which employees may be exposed:
    - (a) The name or names of the substance.

- (b) The acute and chronic hazards of exposure to the substance.
- (c) Symptoms of exposure and overexposure, including known behavioral effects.
  - (d) Appropriate emergency treatment for exposure and overexposure.
  - (e) Proper conditions for safe use of and exposure to the substance.
  - (f) Procedures for cleanup of leaks and spills of the substance.
- (g) Procedures in case of fire or other environmental changes which would result in increasing the substance's hazardous or toxic properties.
  - III. Post a notice of the availability of a [material] safety data sheet for each of the toxic substances to which the employee may be exposed and, upon request by an employee for a [material] safety data sheet, supply such data sheet within 72 hours.
  - IV. Conduct an education and training program within 180 days of October 26, 1983, for all employees routinely exposed to toxic substances, and thereafter during the first month of employment of any such new employee, informing such employees of the nature of the toxic substances to which they will be exposed, prescribing proper and safe procedures for handling under all circumstances, and advising them of the potential risks involved.
  - V. Make every reasonable effort to obtain from manufacturers, producers, formulators, the Federal Environmental Protection Agency, or any other authoritative source, any new or updated information concerning the toxic substances in his *or her* workplace and to make such information available to all affected employees immediately.
    - VI. Notify all employees of their rights under this chapter.
- VII. Send a copy of each [material] safety data sheet with details of the specific locations of

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1 each toxic substance and available extinguishing agents to the local fire department. 2 [material] safety data sheets shall be available for public inspection at such fire departments. VIII. Maintain on file at the workplace [material] safety data sheets for a period of at least 3 30 years after discontinuation of the use of each toxic substance. In the event that the employer 4 ceases operations or relocates, all [material] safety data sheets shall be submitted to the department 5 6 of labor to be maintained on file for the statutorily required 30 year period. All rights of access to 7 [material] safety data sheets provided in this chapter shall apply to the full 30 year period. 8 141:3 Effective Date. This act shall take effect January 1, 2016.

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Approved: June 12, 2015

11 Effective Date: January 1, 2016