

CHAPTER 141  
HB 522 – FINAL VERSION

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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

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                          Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.



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

4 II. A manufacturer, producer or formulator may provide a single ~~[material]~~ safety data sheet  
5 for a product mixture containing 2 or more toxic substances instead of providing a ~~[material]~~ safety  
6 data sheet for each toxic substance component of such mixture if all of the following are applicable:

7 (a) The product mixture itself has been submitted to sufficient analysis and testing to  
8 justify a valid judgment on its hazardous properties.

9 (b) Each component toxic substance is identified on the product label individually, within  
10 the limits of practicability and feasibility.

11 (c) A ~~[material data]~~ safety *data* sheet on each component toxic substance identified  
12 pursuant to subparagraph (b) is available upon request.

13 III.(a) When a manufacturer, producer, formulator or employer considers the identity of or  
14 other information concerning a toxic substance to be a protectable trade secret whose disclosure  
15 would compromise his *or her* competitive advantage, he *or she* shall register this information as  
16 secret with the commissioner of labor provided that such information is already registered as a trade  
17 secret pursuant to any provision of federal law or such information is not registered as a trade secret  
18 but is related to a proprietary process the disclosure of which would compromise his *or her*  
19 competitive position.

20 (b) The commissioner of labor shall not release any data which discloses any trade secret  
21 or proprietary process unless he *or she* shall notify, in writing and by certified mail, the submitter of  
22 such information of the intent to release the data. The commissioner may not release the  
23 information, without the submitter's consent, until the thirtieth day after the submitter has been  
24 furnished such notice. Any subsequent release shall be pursuant to applicable provisions relating to  
25 trade secrets or the Freedom of Information Act.

26 (c) In the event that a toxic substance or product mixture containing 2 or more toxic  
27 substances is registered by a manufacturer, producer or formulator as a component of a trade secret  
28 or otherwise protected as a proprietary process, such manufacturer, producer or formulator shall not  
29 be required to divulge the specific identity of the substance, but shall be required to provide a  
30 ~~[material]~~ safety data sheet containing the information specified in RSA 277-A:3, ~~[IV(b)-(h)]~~ *IV(b)-*  
31 *(l)*.

32 (d) In the event that a toxic substance or product mixture containing 2 or more toxic  
33 substances is registered as a component of a trade secret or otherwise protected as a proprietary  
34 process, the employer shall not be required to divulge the specific identity of the substance but shall  
35 otherwise be subject to all of the duties imposed by RSA 277-A:5.

36 IV. Notwithstanding the provisions of paragraph III, full and complete information

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1 regarding any toxic substance or substances to which an employee has been exposed shall be made  
2 available to a licensed physician if the information is needed for the purpose of medical diagnosis or  
3 treatment of such person.

4 277-A:5 Employer's Duty to Provide Information. Subject to the limitations of RSA 277-A:4, III,  
5 every employer whose employees handle, use, or are otherwise exposed to any toxic substance during  
6 the course and scope of their employment shall:

7 I. Keep on file in a convenient office location and make available for examination and  
8 reproduction upon request a [material] safety data sheet for each toxic substance or product mixture  
9 containing 2 or more toxic substances to which an employee may be exposed in carrying out his **or**  
10 **her** duties.

11 II. Post a notice, written in clearly understandable nontechnical language, in a conspicuous  
12 location accessible to the employees and as close to the work area as possible containing the word  
13 "Warning" in large letters and all the following information on each toxic substance to which  
14 employees may be exposed:

15 (a) The name or names of the substance.

16 (b) The acute and chronic hazards of exposure to the substance.

17 (c) Symptoms of exposure and overexposure, including known behavioral effects.

18 (d) Appropriate emergency treatment for exposure and overexposure.

19 (e) Proper conditions for safe use of and exposure to the substance.

20 (f) Procedures for cleanup of leaks and spills of the substance.

21 (g) Procedures in case of fire or other environmental changes which would result in  
22 increasing the substance's hazardous or toxic properties.

23 III. Post a notice of the availability of a [material] safety data sheet for each of the toxic  
24 substances to which the employee may be exposed and, upon request by an employee for a [material]  
25 safety data sheet, supply such data sheet within 72 hours.

26 IV. Conduct an education and training program within 180 days of October 26, 1983, for all  
27 employees routinely exposed to toxic substances, and thereafter during the first month of  
28 employment of any such new employee, informing such employees of the nature of the toxic  
29 substances to which they will be exposed, prescribing proper and safe procedures for handling under  
30 all circumstances, and advising them of the potential risks involved.

31 V. Make every reasonable effort to obtain from manufacturers, producers, formulators, the  
32 Federal Environmental Protection Agency, or any other authoritative source, any new or updated  
33 information concerning the toxic substances in his **or her** workplace and to make such information  
34 available to all affected employees immediately.

35 VI. Notify all employees of their rights under this chapter.

36 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. Such  
2 ~~[material]~~ safety data sheets shall be available for public inspection at such fire departments.

3 VIII. Maintain on file at the workplace ~~[material]~~ safety data sheets for a period of at least  
4 30 years after discontinuation of the use of each toxic substance. In the event that the employer  
5 ceases operations or relocates, all ~~[material]~~ safety data sheets shall be submitted to the department  
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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10 Approved: June 12, 2015

11 Effective Date: January 1, 2016