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FILED FEB 29 1984

SENATE FILE 2248

BY COMMITTEE ON ENERGY
Approved 2/29 (p 585)

Passed Senate, Date 3-6-84 (p. 690) Passed House, Date 3-28-84 (p. 1428)
Vote: Ayes 44 Nays 3 Vote: Ayes _____ Nays _____
Approved April 16, 1984

A BILL FOR

1 An Act relating to the collection and dissemination of
2 information regarding hazardous chemicals and providing
3 penalties and authorizing the department of water, air
4 and waste management to adopt hazardous waste rules in
5 respect to hazardous chemicals which are more restrictive
6 than, but consistent with, federal requirements.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S. 2248

DIVISION I

GENERAL PROVISIONS

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2
3 Section 1. NEW SECTION. 455D.1 SHORT TITLE. This chapter
4 may be cited as the "Hazardous Chemicals Risks Right to Know
5 Act".

6 Sec. 2. NEW SECTION. 455D.2 LEGISLATIVE FINDINGS.

7 1. The general assembly finds as follows:

8 a. The proliferation of hazardous chemicals in the environ-
9 ment poses a growing threat to the public health, safety,
10 and welfare.

11 b. The constantly increasing number and variety of
12 hazardous chemicals and the many routes of exposure to them
13 make it difficult and expensive to adequately monitor and
14 detect any adverse health effects attributable to the hazardous
15 chemicals.

16 c. Individuals are often able to detect and thus minimize
17 effects of exposure to hazardous chemicals if they are aware
18 of the identity of the chemicals and the early symptoms of
19 unsafe exposure.

20 d. Individuals have an inherent right to know the full
21 range of the risks they face so that they can make reasoned
22 decisions and take informed action concerning their employment
23 and their living conditions.

24 e. Local fire and other government emergency response
25 departments require detailed information about the identity,
26 characteristics, and quantities of hazardous chemicals used
27 and stored in communities within their jurisdictions, in order
28 to adequately plan for, and respond to, emergencies, and
29 enforce compliance with applicable laws and regulations
30 concerning these chemicals.

31 f. The extent of the toxic contamination of the air,
32 water, and land has caused a high degree of concern and much
33 of this concern is needlessly aggravated by the unfamiliarity
34 of the chemicals.

35 g. There is a need to coordinate the existing regulatory

1 and reporting responsibilities on hazardous chemical users
2 and producers and to provide uniform access to information.

3 Sec. 3. NEW SECTION. 455D.3 DEFINITIONS. As used in
4 this chapter, unless the context otherwise requires:

5 1. "Bureau" means the state bureau of labor.

6 2. "Emergency response department" means any governmental
7 department which might be reasonably expected to be required
8 to respond to an emergency involving a hazardous chemical,
9 including, but not limited to, local fire, police, medical
10 rescue, disaster, and public health departments.

11 3. "Interagency council" means the hazardous chemicals
12 information interagency coordinating council in section
13 455D.15.

14 Sec. 4. NEW SECTION. 455D.4 LIABILITY OF STATE. This
15 state is not liable for damages in any claim based upon an
16 act or omission of an employee of this state exercising due
17 care in the execution of this chapter or a rule adopted under
18 this chapter. Any duty created in this chapter is a duty
19 to the public generally and not to any person or group of
20 persons.

21 Sec. 5. NEW SECTION. 455D.5 IMPLEMENTATION. The require-
22 ments imposed by this chapter that are based upon the federal
23 occupational safety and health administration's hazard communi-
24 cation regulation 29 C.F.R. sec. 1910.1200 et seq. as
25 promulgated on November 25, 1983 shall be implemented according
26 to the provisions of the regulation. However, if information
27 is available to an employer at any time prior to the dates
28 required in the regulation, then the employer shall comply
29 as of the date the information becomes available.

30 DIVISION II

31 WORKER RIGHT TO KNOW

32 Sec. 6. NEW SECTION. 455D.6 INFORMATION REQUIRED.

33 1. An employee in this state has the right to be informed
34 about the hazardous chemicals to which the employee may be
35 exposed in the workplace, the potential health hazards of

1 the hazardous chemicals, and the proper handling techniques
2 for the hazardous chemicals. An employer shall provide or
3 make available to an employee information as required by this
4 chapter. Except as explicitly exempted, this chapter applies
5 to all employers in the state.

6 2. The bureau shall administer this division. The bureau
7 may exercise the enforcement powers set out in chapter 88
8 and the rules adopted pursuant to chapter 88 to enforce this
9 division.

10 3. The federal occupational safety and health administra-
11 tion's hazard communication regulation 29 C.F.R. sec. 1910.1200
12 et seq. as promulgated on November 25, 1983 is adopted as
13 the basis for the bureau's regulatory responsibility under
14 this division. Except as specifically modified by this
15 division, all employers in this state shall comply with the
16 regulation including but not limited to the requirements on
17 labeling, training, hazardous chemical list, trade secrets,
18 and material safety data sheets without regard to whether
19 an employer is covered by the federal regulation.

20 4. In addition to the chemical information required to
21 be reported under federal hazard communication standard 29
22 C.F.R. sec. 1910.1200(d), the bureau may adopt by rule addi-
23 tional hazardous chemical information to be regulated, if
24 the interagency council recommends such action pursuant to
25 section 455D.16.

26 Sec. 7. NEW SECTION. 455D.7 EMPLOYEE RIGHTS. An employer
27 shall not discharge or in any other manner discriminate against
28 an employee because the employee has filed a complaint or
29 brought an action under this section or has cooperated in
30 bringing an action against an employer. An employee may file
31 a complaint with the commissioner of labor alleging discharge
32 or discrimination within thirty days after an alleged violation
33 occurs. Upon receipt of the complaint, the commissioner
34 shall cause an investigation to be made to the extent the
35 commissioner deems appropriate. If the commissioner determines

1 from the investigation that this subsection has been violated,
2 the commissioner shall bring an action in the appropriate
3 district court against the person. The district court has
4 jurisdiction, for cause shown, to restrain violations of this
5 subsection and order appropriate relief including rehiring
6 or reinstatement of the employee to the former position with
7 back pay.

8 Sec. 8. NEW SECTION. 455D.8 SPECIAL TRAINING. An
9 employer shall provide special training when the employer
10 either assigns an employee to a special assignment or task
11 which increases the employee's potential exposure to a
12 hazardous chemical or the employer contracts with a person
13 outside the employ of the employer if the person is under
14 the supervision of the employer and may be exposed to hazardous
15 chemicals. The training shall be approved by the bureau and
16 be designed to inform the employee or the outside contractor
17 of the presence of the hazardous chemical, the nature of the
18 chemical and the health hazards it presents, and the proper
19 handling procedures for the hazardous chemical.

20 Sec. 9. NEW SECTION. 455D.9 EDUCATIONAL RESEARCH LABORA-
21 TORY.

22 1. This division does not apply to a research laboratory
23 at a public or private educational institution if the research
24 laboratory complies with subsection 2.

25 2. A research laboratory shall submit a plan for the
26 supervision and handling of hazardous chemicals and the
27 development of training programs for employees who work with
28 or clean up hazardous chemicals. The plan shall be consistent
29 with this division and is subject to the approval of the
30 bureau.

31 3. As used in this division, a research laboratory means
32 a specially designated area used primarily for research in
33 which hazardous chemicals are used by or under the direct
34 supervision of a technically qualified person.

35 Sec. 10. NEW SECTION. 455D.10 APPLICABILITY. This

1 chapter does not apply to activities which are covered under
2 the labeling requirements of the federal Insecticide, Fungicide
3 and Rodenticide Act, 7 U.S.C. secs. 121 et seq.

4 DIVISION III

5 COMMUNITY RIGHT TO KNOW

6 Sec. 11. NEW SECTION. 455D.11 COMMUNITY INFORMATION
7 ON HAZARDOUS CHEMICALS.

8 1. The public has a right to be informed about the presence
9 of hazardous chemicals in the community and the potential
10 health and environmental hazards that the chemicals pose.

11 2. The bureau shall receive and handle requests for
12 information and complaints under this division which involve
13 employer information covered under division II. The bureau
14 shall adopt rules pursuant to chapter 17A regarding requests
15 for information and the investigation and adjudication of
16 complaints.

17 3. Requests for information under this division are
18 confidential.

19 Sec. 12. NEW SECTION. 455D.12 ACCESSIBILITY OF RECORDS.

20 1. Except as provided in subsection 2, records that are
21 required to be kept by employers under this chapter shall
22 be accessible to the public. As used in this section
23 "accessible to the public" means either of the following:

24 a. The records are filed with the bureau.

25 b. The records are available for inspection at the
26 principle place of employment of the employer during normal
27 working hours.

28 2. Records do not need to be accessible to the public
29 if any of the following apply:

30 a. The information is trade secret information under this
31 chapter and any rules regarding the release of the information.

32 b. Under recommendation from the interagency council,
33 the bureau has adopted rules specifying that certain classes
34 or categories of records required to be kept by employers
35 are confidential information.

1 c. The employer has specified to the bureau that certain
2 information should not be accessible to the public and stated
3 in writing the reasons that the information is not relevant
4 to public health and safety or that the release of the informa-
5 tion is proven to cause damage to the employer. In this
6 instance, the bureau shall refuse to release the information
7 after a request for information has been made only if the
8 bureau determines that the information is not relevant to
9 public health and safety or is proven to cause damage to the
10 employer.

11 DIVISION IV

12 PUBLIC SAFETY--EMERGENCY RESPONSE RIGHT TO KNOW

13 Sec. 13. NEW SECTION. 455D.13 SIGNS ON BUILDINGS. An
14 employer shall post signs on the outside of any building or
15 structure containing a hazardous chemical to identify the
16 type of hazardous chemicals contained in the building or
17 structure. If the building has a floor space of five thousand
18 square feet or more, the employer shall also post a sign
19 describing where in the building each hazardous chemical is
20 located. Signs required under this section shall be legible
21 from a distance of at least one hundred feet. The signs shall
22 comply with the national fire protection association's standard
23 system for the identification of fire hazards of materials,
24 NFPA 704-1980.

25 Sec. 14. NEW SECTION. 455D.14 INFORMATION FOR EMERGENCY
26 RESPONSE DEPARTMENTS.

27 1. At the same time that an employer provides the informa-
28 tion to employees required under division II, the employer
29 shall submit to the local fire department a list of hazardous
30 chemicals which are consistently generated by, used by, stored
31 at, or transported from the employer's facility. The
32 information shall be provided in sufficient specificity that
33 the local fire department is informed of the nature of the
34 hazardous chemicals, the hazards presented by the chemicals,
35 and the appropriate response in dealing with an emergency

1 involving the hazardous chemicals. The information shall
2 conform to guidelines adopted by the bureau from
3 recommendations of the interagency council under section
4 455D.18. The employer shall send the information by certified
5 mail.

6 2. A local fire department receiving information pursuant
7 to subsection 1 shall make the information available only
8 to other emergency response departments.

9 DIVISION V

10 HAZARDOUS CHEMICALS INFORMATION INTERAGENCY COUNCIL

11 Sec. 15. NEW SECTION. 455D.15 INTERAGENCY COUNCIL.

12 1. A hazardous chemicals information interagency
13 coordinating council is created. The council shall be
14 organized under chapter 28E. The council is composed of three
15 voting members consisting of the designee of the commissioner
16 of public health, the designee of the labor commissioner,
17 and the designee of the executive director of the department
18 of water, air and waste management. There are five nonvoting
19 advisory members consisting of the designee of the director
20 of the office of disaster services, the designee of the chief
21 officer of the division of fire protection of the department
22 of public safety, the designee of the head of the state
23 hygienic laboratory, a person representing business and
24 industry, and a person representing labor. The business and
25 labor representatives shall be appointed by the governor.

26 2. The interagency council has as its primary purpose
27 to establish and facilitate interagency communication to
28 accomplish the purposes of this chapter. The council shall
29 place special emphasis upon avoiding duplication in regulation
30 and reporting responsibilities of the agencies. The council
31 shall review the implementation of this chapter. At least
32 annually the council shall hold a public hearing regarding
33 the provision of information under this chapter and consider
34 public concerns regarding hazardous chemical reporting and
35 regulation. The council shall report annually to the governor

1 and the general assembly. The report shall contain information
2 regarding the activities of the council, recommendations for
3 modifications of this chapter that would further its purposes,
4 and a summary of the information presented at any public hear-
5 ing held by the council.

6 Sec. 16. NEW SECTION. 455D.16 RECOMMENDATIONS OF INTER-
7 AGENCY COUNCIL. The interagency council may recommend by
8 the unanimous vote of the three voting members any of the
9 following actions:

10 1. Expansion of the federal occupational safety and health
11 administration's list of hazardous chemicals or reporting
12 required under this chapter. The bureau shall adopt rules
13 pursuant to chapter 17A to expand the list of information
14 required if the bureau decides to follow the recommendation.

15 2. Expansion of the list of hazardous wastes reported
16 to the department of water, air and waste management under
17 42 U.S.C. secs. 6921-6934 as amended to January 1, 1981, or
18 information required concerning the wastes. The department
19 shall adopt rules pursuant to chapter 17A to expand the list
20 or information if the department decides to follow the
21 recommendation.

22 Sec. 17. NEW SECTION. 455D.17 ROLE OF DEPARTMENT OF
23 HEALTH. Through the interagency council the department of
24 health may:

25 1. Review and make recommendations for modifications in
26 the material safety data sheets required under section 455D.4,
27 subsection 3, relating to the health hazards of hazardous
28 chemicals.

29 2. Provide technical assistance to employers and the
30 bureau on establishing safety procedures to minimize the
31 public environmental health hazards from the use of hazardous
32 chemicals.

33 3. Upon request of the bureau examine information claimed
34 to be a trade secret under the federal occupational safety
35 and health administration's hazard communication regulation.

1 Fungicide, and Rodenticide Act.

2 The community right to know provisions provide for
3 access for information regarding the use and existence of
4 hazardous chemicals by employers within the community.

5 The information shall be accessible to the public unless
6 it deals with a trade secret or other exemptions are ap-
7 plicable.

8 The employer information on hazardous chemicals shall
9 be provided to local fire departments. The fire departments
10 shall only make the information available to other local
11 emergency response departments.

12 The Act shall be administered to a large extent by the
13 bureau of labor. In addition, an interagency council is
14 created to coordinate activities of the department of health,
15 bureau of labor, and the department of water, air and waste
16 management. The interagency council's recommendations must
17 be unanimous.

18 This bill becomes effective July 1, 1984.

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SENATE 12
MARCH 7, 1984

SENATE FILE 2248
FISCAL NOTE

REQUESTED BY SENATOR GALLAGHER

In compliance with a written request there is hereby submitted a Fiscal Note for Senate File 2248 pursuant to Joint Rule 17.

Senate File 2248 creates a program for the collection and dissemination regarding the use of hazardous chemicals in the workplace and in the community. A large portion of this law would be administered by the bureau of labor with a Hazardous Chemicals Information Interagency Council established to coordinate activities of the department of health, bureau of labor, and department of water, air and waste management.

The cost to administer the responsibility given to the bureau of labor is estimated at:

| | <u>FY '85</u> | <u>FY '86</u> |
|---|-------------------------|----------------------|
| Personnel | | |
| Salary Admin. Asst. II | \$ 17,908 | 17,908 |
| Salary Industrial Hygienist | 9,880 | 19,760 |
| Fringe @ 17% | <u>4,724</u> | <u>6,403</u> |
| Total personnel | \$ 32,512 | 44,072 |
| Travel (Conducting Informal Seminars State Wide) | \$ 1,600 | 600 |
| Printing & Postage | 6,000 | 1,000 |
| Professional | | |
| Hearing Officer | 1,800 | 3,600 |
| Court Reporter, etc. for Rule Adoption Hearings | <u>400</u> | <u>200</u> |
| Total Non-personnel | \$ 9,800 | 5,400 |
| TOTAL | \$ <u><u>43,312</u></u> | <u><u>49,472</u></u> |
| General Funds | \$ 22,056 | 26,536 |
| Federal Funds | \$ 20,256 | 22,936 |

The federal OSHA will pay 50% of all costs except for "public" right to know.

The department of water, air and waste management is given responsibility to adopt hazardous waste rules in respect to hazardous chemicals. There would be no additional funding necessary for the department to fill this responsibility.

The role of the department of health is that through the interagency council, the department of health may review and make recommendations for modification in

Review safety sheets, provide technical assistance to employers and the Bureau of Labor and upon request of the bureau, examine information claimed to be secret.

Department of health has estimated that the cost to their agency, if the advisory council directs their involvement to full-level, possibly could run as follows:

| | FY '85 | FY '86 |
|-----------------------------|-----------|--------|
| Industrial Hygienist | \$ 30,000 | 30,000 |
| Chief | 25,000 | 25,000 |
| Secretary | 13,000 | 13,000 |
| Total Personnel | \$ 73,000 | 73,000 |
| Equipment | 10,000 | 0 |
| Travel | 7,000 | 7,000 |
| Phone, Printing, Postage | 8,000 | 8,000 |
| Total Support | 25,000 | 15,000 |
| Total Personnel and Support | \$ 98,000 | 88,000 |

The total cost to the General Fund for the agencies could run as high as:

| | FY '85 | FY '86 |
|--|------------|------------|
| | \$ 120,056 | \$ 114,536 |

(4170S, 84-208D, AHS)

Source: Bureau of Labor, Department of Health, Department of Water, Air and Waste Management

BY DENNIS C. PROUTY, DIRECTOR
 LEGISLATIVE FISCAL BUREAU

FILED:
 MARCH 6, 1984

SENATE FILE 2248

S-5266

1 Amend Senate File 2248 as follows:
2 1. Page 2, by inserting after line 20 the
3 following:
4 "Sec. 101. NEW SECTION. 455D.4A TRANSPORTATION
5 OF HAZARDOUS CHEMICALS. This chapter does not apply
6 to the transportation of hazardous chemicals if the
7 transportation is regulated by federal law or
8 regulation."

S-5266 FILED & ADOPTED BY RICHARD F. DRAKE
MARCH 6, 1984 (p. 688) C. JOSEPH COLEMAN

SENATE FILE 2248

S-5268

1 Amend Senate File 2248 as follows:
2 1. Page 8, by inserting after line 21 the
3 following new unnumbered paragraph:
4 "However, the interagency council shall make
5 such recommendations only upon scientific evidence
6 that there may be a significant threat to public
7 health and safety without such action."

S-5268 FILED & ADOPTED BY CHARLES BRUNER
MARCH 6, 1984 (p. 688) CALVIN O. HULTMAN

SENATE FILE 2248

S-5271

1 Amend Senate File 2248 as follows:
2 1. Page 6, by striking lines 6 through 10
3 and inserting in lieu thereof the following:
4 "instance, the bureau shall release the infor-
5 mation after a request for information is made
6 only if it determines the interest in public
7 safety outweighs the damage that release of the
8 information would cause the employer."

S-5271 FILED & ADOPTED BY CHARLES BRUNER
MARCH 6, 1984 (p. 690) CAL HULTMAN

SENATE FILE 2248

S-5261

1 Amend Senate File 2248 as follows:

- 2 1. Page 3, by striking lines 24 and 25 and
- 3 inserting in lieu thereof the following: "the
- 4 interagency council recommends such action. However,
- 5 the rule shall be consistent with and not exceed
- 6 standards promulgated by the United States secretary
- 7 of labor in accordance with federal law."
- 8 2. Page 7, line 18, by adding after the word
- 9 "management." the following: "Actions and
- 10 recommendations of the interagency council shall be
- 11 by unanimous vote of the three voting members of the
- 12 council."
- 13 3. Page 8, by striking line 12 and inserting in
- 14 lieu thereof the following: "required under this
- 15 chapter provided that the expansion can be justified
- 16 by substantial scientific evidence and there is a
- 17 significant threat to the public health or safety.
- 18 The bureau shall adopt rules".
- 19 4. Page 8, line 18, by inserting after the word
- 20 "wastes" the words "provided that the expansion can
- 21 be justified by substantial scientific evidence and
- 22 there is a significant threat to the public health
- 23 or safety".
- 24 5. Page 9, by striking lines 14 through 21.
- 25 6. Title page, by striking lines 3 through 6 and
- 26 inserting in lieu thereof the word "penalties."
- 27 7. By renumbering as necessary.

S-5261 FILED & LOST
MARCH 6, 1984 (p. 684)

BY CALVIN O. HULTMAN

SENATE FILE 2248

S-5262

1 Amend Senate File 2248 as follows:

- 2 1. Page 2, by striking lines 14 through 20 and
- 3 inserting in lieu thereof the following:
- 4 "Sec. 4. NEW SECTION. 455D.5 LIABILITY OF STATE.
- 5 The state is not liable for damages involving any
- 6 claim based upon an act or omission of an employee
- 7 of this state in carrying out the duties and
- 8 responsibilities imposed by this chapter or a rule
- 9 adopted under this chapter. Any duty created in this
- 10 chapter is a duty to the public generally and not
- 11 to any person or group of persons."

S-5262 FILED & ADOPTED
MARCH 6, 1984 (p. 687)

BY DONALD V. DOYLE

SENATE FILE 2248

S-5265

1 Amend the amendment S-5262 to Senate File 2248 as
2 follows:

- 3 1. Page 1, line 4, by inserting after the word
- 4 "STATE" the words "OR POLITICAL SUBDIVISIONS".
- 5 2. Page 1, line 5, by striking the words "state is"
- 6 and inserting in lieu thereof the words "state or
- 7 its political subdivisions are".
- 8 3. Page 1, line 7, by inserting after the word
- 9 "state" the words "or its political subdivisions".

S-5265 FILED & WITHDRAWN
MARCH 6, 1984 (p. 687)

BY ALVIN V. MILLER

S-5235

1 Amend Senate File 2248 as follows:
 2 1. Page 6, by striking lines 3 through 10 and
 3 inserting in lieu thereof the following: "in writing
 4 the reasons that release of the information would
 5 have an adverse impact on the employer and would not
 6 provide any information having an impact or potential
 7 impact on public health and safety. The bureau shall
 8 refuse to release the information after a request
 9 for information has been made only if the bureau
 10 determines that the release of the information would
 11 have an adverse impact on the employer and would not
 12 provide any information having an impact or potential
 13 impact on public health and safety."

S-5235 FILED BY TOM SLATER
 MARCH 5, 1984 TED ANDERSON
Adopted 2/6 (p. 684)
Revised 2/2 (p. 690) ROBERT M. CARR
 SENATE FILE 2248

S-5249

1 Amend Senate File 2248 as follows:
 2 1. Page 2, by striking lines 21 through 29 and
 3 inserting in lieu thereof the following:
 4 "Sec. 4. NEW SECTION. 455D.5 LIABILITY OF STATE.
 5 The state is not liable for damages involving any
 6 claim based upon an act or omission of an employee
 7 of this state in carrying out the duties and
 8 responsibilities imposed by this chapter or a rule
 9 adopted under this chapter. Any duty created in this
 10 chapter is a duty to the public generally and not
 11 to any person or group of persons."

S-5249 FILED & WITHDRAWN BY DONALD V. DOYLE
 MARCH 6, 1984 (p. 684)

SENATE FILE 2248

S-5258

1 Amend Senate File 2248 as follows:
 2 1. Page 6, by striking lines 24 and inserting
 3 in lieu thereof the following: "NFPA 704-1980. The
 4 bureau shall adopt rules exempting employers from
 5 this requirement when buildings or structures do not
 6 contain significant amounts of a hazardous chemical."
 7 2. Page 7, by striking line 5 and inserting in
 8 lieu thereof the following: "mail. The bureau shall
 9 adopt rules exempting employers from this requirement
 10 when buildings or structures do not contain significant
 11 amounts of a hazardous chemical."
 12 3. Page 8, line 31, by inserting after the word
 13 "environmental" the words "and occupational".
 14 4. Page 8, line 32, by adding after the word
 15 "chemicals" the words "and provide aid and assistance
 16 to small employers, vendors, sellers or dispensers
 17 in the preparation of material safety data sheets
 18 as required by this chapter".

S-5258 FILED BY CHARLES BRUNER
 MARCH 6, 1984 CALVIN O. HULTMAN
 ADOPTED (p. 684) JAMES V. GALLAGHER

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DIVISION I
GENERAL PROVISIONS

Section 1. NEW SECTION. 455D.1 SHORT TITLE. This chapter may be cited as the "Hazardous Chemicals Risks Right to Know Act".

Sec. 2. NEW SECTION. 455D.2 LEGISLATIVE FINDINGS.

1. The general assembly finds as follows:

a. The proliferation of hazardous chemicals in the environment poses a growing threat to the public health, safety, and welfare.

b. The constantly increasing number and variety of hazardous chemicals and the many routes of exposure to them make it difficult and expensive to adequately monitor and detect any adverse health effects attributable to the hazardous chemicals.

c. Individuals are often able to detect and thus minimize effects of exposure to hazardous chemicals if they are aware of the identity of the chemicals and the early symptoms of unsafe exposure.

d. Individuals have an inherent right to know the full range of the risks they face so that they can make reasoned decisions and take informed action concerning their employment and their living conditions.

e. Local fire and other government emergency response departments require detailed information about the identity, characteristics, and quantities of hazardous chemicals used and stored in communities within their jurisdictions, in order to adequately plan for, and respond to, emergencies, and enforce compliance with applicable laws and regulations concerning these chemicals.

f. The extent of the toxic contamination of the air, water, and land has caused a high degree of concern and much of this concern is needlessly aggravated by the unfamiliarity of the chemicals.

g. There is a need to coordinate the existing regulatory

1 and reporting responsibilities on hazardous chemical users
2 and producers and to provide uniform access to information.

3 Sec. 3. NEW SECTION. 455D.3 DEFINITIONS. As used in
4 this chapter, unless the context otherwise requires:

- 5 1. "Bureau" means the state bureau of labor.
- 6 2. "Emergency response department" means any governmental
7 department which might be reasonably expected to be required
8 to respond to an emergency involving a hazardous chemical,
9 including, but not limited to, local fire, police, medical
10 rescue, disaster, and public health departments.
- 11 3. "Interagency council" means the hazardous chemicals
12 information interagency coordinating council in section
13 455D.16.

5087
5738

14 Sec. 4. NEW SECTION. 455D.4 TRANSPORTATION OF HAZARDOUS
15 CHEMICALS. This chapter does not apply to the transportation
16 of hazardous chemicals if the transportation is regulated
17 by federal law or regulation.

5738

18 Sec. 5. NEW SECTION. 455D.5 LIABILITY OF STATE. The
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29 promulgated on November 25, 1983 shall be implemented according
30 to the provisions of the regulation. However, if information
31 is available to an employer at any time prior to the dates
32 required in the regulation, then the employer shall comply
33 as of the date the information becomes available.

34 DIVISION II
35 WORKER RIGHT TO KNOW

1 Sec. 7. NEW SECTION. 455D.7 INFORMATION REQUIRED.

2 1. An employee in this state has the right to be informed
3 about the hazardous chemicals to which the employee may be
4 exposed in the workplace, the potential health hazards of
5 the hazardous chemicals, and the proper handling techniques
6 for the hazardous chemicals. An employer shall provide or
7 make available to an employee information as required by this
8 chapter. Except as explicitly exempted, this chapter applies
9 to all employers in the state.

10 2. The bureau shall administer this division. The bureau
11 may exercise the enforcement powers set out in chapter 88
12 and the rules adopted pursuant to chapter 88 to enforce this
13 division.

14 3. The federal occupational safety and health administra-
15 tion's hazard communication regulation 29 C.F.R. sec. 1910.1200
16 et seq. as promulgated on November 25, 1983 is adopted as
17 the basis for the bureau's regulatory responsibility under
18 this division. Except as specifically modified by this
19 division, all employers in this state shall comply with the
20 regulation including but not limited to the requirements on
21 labeling, training, hazardous chemical list, trade secrets,
22 and material safety data sheets without regard to whether
23 an employer is covered by the federal regulation.

24 4. In addition to the chemical information required to
25 be reported under federal hazard communication standard 29
26 C.F.R. sec. 1910.1200(d), the bureau may adopt by rule addi-
27 tional hazardous chemical information to be regulated, if
28 the interagency council recommends such action pursuant to
29 section 455D.17.

30 Sec. 8. NEW SECTION. 455D.8 EMPLOYEE RIGHTS. An employer
31 shall not discharge or in any other manner discriminate against
32 an employee because the employee has filed a complaint or
33 brought an action under this section or has cooperated in
34 bringing an action against an employer. An employee may file
35 a complaint with the commissioner of labor alleging discharge

1 or discrimination within thirty days after an alleged violation
2 occurs. Upon receipt of the complaint, the commissioner shall
3 cause an investigation to be made to the extent the
4 commissioner deems appropriate. If the commissioner determines
5 from the investigation that this subsection has been violated,
6 the commissioner shall bring an action in the appropriate
7 district court against the person. The district court has
8 jurisdiction, for cause shown, to restrain violations of this
9 subsection and order appropriate relief including rehiring
10 or reinstatement of the employee to the former position with
11 back pay.

12 Sec. 9. NEW SECTION. 455D.9 SPECIAL TRAINING. An
13 employer shall provide special training when the employer
14 either assigns an employee to a special assignment or task
15 which increases the employee's potential exposure to a
16 hazardous chemical or the employer contracts with a person
17 outside the employ of the employer if the person is under
18 the supervision of the employer and may be exposed to hazardous
19 chemicals. The training shall be approved by the bureau and
20 be designed to inform the employee or the outside contractor
21 of the presence of the hazardous chemical, the nature of the
22 chemical and the health hazards it presents, and the proper
23 handling procedures for the hazardous chemical.

24 Sec. 10. NEW SECTION. 455D.10 EDUCATIONAL RESEARCH
25 LABORATORY.

26 1. This division does not apply to a research laboratory
27 at a public or private educational institution if the research
28 laboratory complies with subsection 2.

29 2. A research laboratory shall submit a plan for the
30 supervision and handling of hazardous chemicals and the
31 development of training programs for employees who work with
32 or clean up hazardous chemicals. The plan shall be consistent
33 with this division and is subject to the approval of the
34 bureau.

35 3. As used in this division, a research laboratory means

1 a specially designated area used primarily for research in
2 which hazardous chemicals are used by or under the direct
3 supervision of a technically qualified person.

51324 Sec. 11. NEW SECTION. 455D.11 APPLICABILITY. This
5 chapter does not apply to activities which are covered under
6 the labeling requirements of the federal Insecticide, Fungicide
7 and Rodenticide Act, 7 U.S.C. secs. 121 et seq.

8 DIVISION III

9 COMMUNITY RIGHT TO KNOW

10 Sec. 12. NEW SECTION. 455D.12 COMMUNITY INFORMATION
11 ON HAZARDOUS CHEMICALS.

12 1. The public has a right to be informed about the presence
13 of hazardous chemicals in the community and the potential
14 health and environmental hazards that the chemicals pose.

15 2. The bureau shall receive and handle requests for
16 information and complaints under this division which involve
17 employer information covered under division II. The bureau
18 shall adopt rules pursuant to chapter 17A regarding requests
19 for information and the investigation and adjudication of
20 complaints.

21 3. Requests for information under this division are
22 confidential.

23 Sec. 13. NEW SECTION. 455D.13 ACCESSIBILITY OF RECORDS.

24 1. Except as provided in subsection 2, records that are
25 required to be kept by employers under this chapter shall
26 be accessible to the public. As used in this section
27 "accessible to the public" means either of the following:

- 28 a. The records are filed with the bureau.
- 29 b. The records are available for inspection at the
30 principle place of employment of the employer during normal
31 working hours.

32 2. Records do not need to be accessible to the public
33 if any of the following apply:

- 34 a. The information is trade secret information under this
35 chapter and any rules regarding the release of the information.

1 b. Under recommendation from the interagency council,
2 the bureau has adopted rules specifying that certain classes
3 or categories of records required to be kept by employers
4 are confidential information.

5 35 c. The employer has specified to the bureau that certain
6 information should not be accessible to the public and stated
7 in writing the reasons that the information is not relevant
8 to public health and safety or that the release of the
9 information is proven to cause damage to the employer. In
10 this instance, the bureau shall release the information after
11 a request for information is made only if it determines the
12 interest in public safety outweighs the damage that release
13 of the information would cause the employer.

14 DIVISION IV

15 PUBLIC SAFETY--EMERGENCY RESPONSE RIGHT TO KNOW

16 Sec. 14. NEW SECTION. 455D.14 SIGNS ON BUILDINGS. An
17 employer shall post signs on the outside of any building or
18 structure containing a hazardous chemical to identify the
19 type of hazardous chemicals contained in the building or
20 structure. If the building has a floor space of five thousand
21 square feet or more, the employer shall also post a sign
22 describing where in the building each hazardous chemical is
23 located. Signs required under this section shall be legible
24 from a distance of at least one hundred feet. The signs shall
25 comply with the national fire protection association's standard
26 system for the identification of fire hazards of materials,
27 NFPA 704-1980. The bureau shall adopt rules exempting
28 employers from this requirement when buildings or structures
29 do not contain significant amounts of a hazardous chemical.

30 Sec. 15. NEW SECTION. 455D.15 INFORMATION FOR EMERGENCY
31 RESPONSE DEPARTMENTS.

32 1. At the same time that an employer provides the informa-
33 tion to employees required under division II, the employer
34 shall submit to the local fire department a list of hazardous
35 chemicals which are consistently generated by, used by, stored

1 at, or transported from the employer's facility. The
2 information shall be provided in sufficient specificity that
3 the local fire department is informed of the nature of the
4 hazardous chemicals, the hazards presented by the chemicals,
5 and the appropriate response in dealing with an emergency
6 involving the hazardous chemicals. The information shall
7 conform to guidelines adopted by the bureau from
8 recommendations of the interagency council under section
9 455D.19. The employer shall send the information by certified
10 mail. The bureau shall adopt rules exempting employers from
11 this requirement when buildings or structures do not contain
12 significant amounts of a hazardous chemical.

13 2. A local fire department receiving information pursuant
14 to subsection 1 shall make the information available only
15 to other emergency response departments.

16 DIVISION V

17 HAZARDOUS CHEMICALS INFORMATION INTERAGENCY COUNCIL

18 Sec. 16. NEW SECTION. 455D.16 INTERAGENCY COUNCIL.

19 1. A hazardous chemicals information interagency
20 coordinating council is created. The council shall be
21 organized under chapter 28E. The council is composed of three
22 voting members consisting of the designee of the commissioner
23 of public health, the designee of the labor commissioner,
24 and the designee of the executive director of the department
25 of water, air and waste management. There are five nonvoting
26 advisory members consisting of the designee of the director
27 of the office of disaster services, the designee of the chief
28 officer of the division of fire protection of the department
29 of public safety, the designee of the head of the state
30 hygienic laboratory, a person representing business and
31 industry, and a person representing labor. The business and
32 labor representatives shall be appointed by the governor.

33 2. The interagency council has as its primary purpose
34 to establish and facilitate interagency communication to
35 accomplish the purposes of this chapter. The council shall

1 place special emphasis upon avoiding duplication in regulation
2 and reporting responsibilities of the agencies. The council
3 shall review the implementation of this chapter. At least
4 annually the council shall hold a public hearing regarding
5 the provision of information under this chapter and consider
6 public concerns regarding hazardous chemical reporting and
7 regulation. The council shall report annually to the governor
8 and the general assembly. The report shall contain information
9 regarding the activities of the council, recommendations for
10 modifications of this chapter that would further its purposes,
11 and a summary of the information presented at any public hear-
12 ing held by the council.

13 Sec. 17. NEW SECTION. 455D.17 RECOMMENDATIONS OF INTER-
14 AGENCY COUNCIL. The interagency council may recommend by
15 the unanimous vote of the three voting members any of the
16 following actions:

17 1. Expansion of the federal occupational safety and health
18 administration's list of hazardous chemicals or reporting
19 required under this chapter. The bureau shall adopt rules
20 pursuant to chapter 17A to expand the list of information
21 required if the bureau decides to follow the recommendation.

22 2. Expansion of the list of hazardous wastes reported
23 to the department of water, air and waste management under
24 42 U.S.C. secs. 6921-6934 as amended to January 1, 1981, or
25 information required concerning the wastes. The department
26 shall adopt rules pursuant to chapter 17A to expand the list
27 or information if the department decides to follow the
28 recommendation.

29 However, the interagency council shall make such
30 recommendations only upon scientific evidence that there may
31 be a significant threat to public health and safety without
32 such action.

33 Sec. 18. NEW SECTION. 455D.18 ROLE OF DEPARTMENT OF
34 HEALTH. Through the interagency council the department of
35 health may:

1 1. Review and make recommendations for modifications in
2 the material safety data sheets required under section 455D.7,
3 subsection 3, relating to the health hazards of hazardous
4 chemicals.

5 2. Provide technical assistance to employers and the
6 bureau on establishing safety procedures to minimize the
7 public environmental and occupational health hazards from
8 the use of hazardous chemicals and provide aid and assistance
9 to small employers, vendors, sellers or dispensers in the
10 preparation of material safety data sheets as required by
11 this chapter.

12 3. Upon request of the bureau examine information claimed
13 to be a trade secret under the federal occupational safety
14 and health administration's hazard communication regulation.

15 Sec. 19. NEW SECTION. 455D.19 RECOMMENDATIONS ON THE
16 FORM OF REPORTING. The interagency council shall make recom-
17 mendations to the bureau for the reporting of information
18 required under division IV by July 1, 1985. The interagency
19 council's recommendations shall consider the information
20 required to be developed by the employer under other provisions
21 of this chapter, and shall establish a form for the reporting
22 of this information that corresponds to other reporting
23 requirements under this chapter.

24 Sec. 20. Section 25A.14, Code Supplement 1983, is amended
25 by adding the following new subsection:

26 NEW SUBSECTION. 10. Any claim based upon the enforcement
27 of chapter 455D.

28 Sec. 21. Section 455B.420, Code 1983, is amended to read
29 as follows:

30 455B.420 RULES. Rules Except as provided in chapter 455D,
31 rules adopted by the commission under sections 455B.411 to
32 455B.421 shall be consistent with and shall not exceed the
33 requirements of 42 U.S.C. secs. 6921-6934 as amended to
34 January 1, 1981, and rules and regulations adopted pursuant
35 to those sections.

APRIL 2, 1984

House Amendment to Senate File 2248

S-5703

1 Amend Senate File 2248 as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 2, by inserting after line 13 the
4 following:

5 "Sec. 101. NEW SECTION. 455D.3A APPLICABILITY
6 TO AGRICULTURAL ACTIVITIES.

7 1. Except for 455D.8, this chapter does not apply
8 to a person engaged in farming, a commercial applicator
9 as defined in section 206.2, subsection 12, a certified
10 applicator as defined in section 206.2, subsection
11 17, a certified private applicator as defined in
12 section 206.2, subsection 18, a certified commercial
13 applicator as defined in section 206.2, subsection
14 19, a pesticide dealer as defined in section 206.2,
15 subsection 24, or to activities which are covered
16 under the Federal Insecticide, Fungicide, and
17 Rodenticide Act, 7 U.S.C. sec. 135 et seq.; provided,
18 however, that such persons shall comply with the
19 requirements of the Federal Insecticide, Fungicide,
20 and Rodenticide Act, 40 C.F.R. sec. 170, and chapter
21 206 where applicable to such persons. As used in
22 this section, "farming" means the cultivation of land
23 for the production of agricultural crops, the raising
24 of poultry, the production of eggs, production of
25 milk, the production of fruit or other horticultural
26 crops, grazing or the production of livestock,
27 spraying, or harvesting. The department of agriculture
28 shall cooperate with the bureau in an investigation
29 of an agricultural employee's complaint filed pursuant
30 to section 455D.8.

31 2. Notwithstanding subsection 1 a pesticide dealer,
32 a commercial applicator, or a certified applicator
33 who retails or stores a pesticide as defined in section
34 206.2, subsection 1, shall comply with sections 455D.14
35 and 455D.15 for those hazardous chemicals stored or
36 available for sale.

37 2. Page 2, line 15, by striking the word "This"
38 and inserting in lieu thereof the following: "Except
39 for section 455D.8, this".

40 3. Page 2, by striking lines 18 through 24 and
41 inserting in lieu thereof the following:

42 "Sec. 5. NEW SECTION. 455D.5 LIABILITY OF STATE
43 OR POLITICAL SUBDIVISION. The state or any of its
44 political subdivisions is not liable for damages in
45 any claim pursuant to chapter 25A or chapter 613A
46 based upon an act or omission of an employee of the
47 state or political subdivision when the employee
48 exercised due care in the execution of this chapter
49 or a rule adopted under this chapter. Any duty created
50 in this chapter is a duty to the public generally

1 and not to any person or group of persons."

2 4. Page 4, line 11, by inserting after the word
3 "pay." the following: "Notwithstanding section
4 455D.3A, this section applies to an employee of a
5 person otherwise exempt from this chapter."

6 5. Page 4, by striking line 19 and inserting in
7 lieu thereof the following: "chemicals. The training
8 shall be available for review and approval upon
9 inspection by the bureau and shall".

10 6. Page 4, line 26, by striking the word "This"
11 and inserting in lieu thereof the following: "Except
12 for section 455D.8, this".

13 7. Page 5, by striking lines 4 through 7.

14 8. Page 6, by striking lines 5 through 13, and
15 inserting in lieu thereof the following:

16 "c. The employer has notified the bureau in writing
17 that certain information should not be accessible
18 to the public for the reasons that the information
19 is not relevant to public health and safety or that
20 release of the information is proven to cause damage
21 to the employer. After giving the employer notice
22 and an opportunity to be heard, the bureau may release
23 the information if it determines that the impact on
24 public health and safety outweighs the damage that
25 release of the information would cause the employer.
26 The bureau may limit its release of information to
27 areas relevant to public health and safety and may
28 restrict the release of information which will cause
29 damage to the employer."

30 9. Page 6, by striking lines 16 through 29 and
31 inserting in lieu thereof the following:

32 "Sec. 14. NEW SECTION. 455D.14 SIGNS IDENTIFYING
33 HAZARDOUS CHEMICALS. If a building or structure has
34 a floor space of five thousand square feet or less,
35 an employer shall post signs on the outside of the
36 building or structure identifying the type of each
37 hazardous chemical contained in the building or
38 structure. If the building has more than five thousand
39 square feet, the employer shall post a sign at the
40 place within the building where each hazardous chemical
41 is permanently stored to identify the type of hazardous
42 chemical. If the hazardous chemical or a portion
43 of the hazardous chemical is moved within the building,
44 the employer shall also move the sign or post an
45 additional sign at the location where the hazardous
46 chemical is moved. All letters and figures on signs
47 required by this section shall be at least three
48 inches in height. However, upon the written
49 application of an employer, the bureau may permit
50 less stringent sign posting requirements. The signs

PAGE 3

1 shall comply with the national fire protection
2 association's standard system for the identification
3 of fire hazards of materials, based upon NFPA 704-
4 1980. The bureau shall adopt rules exempting employers
5 from the requirements of this section when a building
6 or structure or a portion of a building or structure
7 does not contain significant amounts of a hazardous
8 chemical."

9 10. Renumber as necessary.

SENATE FILE 2248

H-5889

1 Amend amendment H-5738 to Senate File 2248 as
2 amended, passed and reprinted by the Senate as follows:
3 1. Page 1, by striking lines 6 through 14 and
4 inserting in lieu thereof the following: "AGRICULTURAL
5 ACTIVITIES. This chapter does not apply to a person
6 engaged in farming, a commercial applicator as defined
7 in section 206.2, subsection 12, a certified applicator
8 as defined in section 206.2, subsection 17, a certified
9 private applicator as defined in section 206.2,
10 subsection 18, a certified commercial applicator as
11 defined in section 206.2, subsection 19, a pesticide
12 dealer as defined in section 206.2, subsection 24,
13 or to activities which are covered under the Federal
14 Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C.
15 sec. 135 et seq.; provided, however, that such persons
16 shall comply with the requirements of the Federal
17 Insecticide, Fungicide, and Rodenticide Act and chapter
18 206 where applicable to such persons. As used in
19 this section, "farming" means the cultivation of land
20 for the production of agricultural crops, the raising
21 of poultry, the production of eggs, production of
22 milk, the production of fruit or other horticultural
23 crops, grazing or the production of livestock,
24 spraying, or harvesting."

BY ANDERSON of Audubon
COCHRAN of Webster
PELLETT of Cass
MUHLBAUER of Crawford

H-5889 FILED MARCH 27, 1984

W/O 3/28 (p. 1425)

SENATE FILE 2248

H-5900

1 Amend Senate File 2248 as amended, passed and
2 reprinted by the Senate, as follows:
3 1. Page 4, line 11, by inserting after the word
4 "pay." the following: "Notwithstanding section
5 455D.3A, this section applies to an employee of a
6 person otherwise exempt from this chapter."
7 2. Page 4, line 23, by inserting after the word
8 "chemical." the following: "Notwithstanding section
9 455D.3A, this section applies to an employee of a
10 person otherwise exempt from this chapter."

H-5900 FILED MARCH 27, 1984 BY GRONINGA of Cerro Gordo

*A - Adopted 3/28 (p. 1427)
B - Laid (p. 1427)*

SENATE FILE 2248

H-5776

1 Amend Senate File 2248 as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. By striking page 4, line 35 through page 5,
4 line 3, and inserting in lieu thereof the following:
5 "Sec. ____ . NEW SECTION. 455D.11 APPLICABILITY.
6 This chapter does not apply to a person engaged in
7 farming as defined in section 172C.1, subsection 6, a
8 commercial applicator as defined in section 206.2, sub-
9 section 12, a certified applicator as defined in sec-
10 tion 206.2, subsection 17, a certified private applica-
11 tor as defined in section 206.2, subsection 18, a cert-
12 ified commercial applicator as defined in section
13 206.2, subsection 19, a pesticide dealer as defined in
14 section 206.2, subsection 24, or to activities which
15 are covered under the Federal Insecticide, Fungicide,
16 and Rodenticide Act, 7 U.S.C. sec. 135 et seq.; provid-
17 ed, however, that such persons shall comply with the
18 requirements of the Federal Insecticide, Fungicide, and
19 Rodenticide Act and chapter 206 where applicable to
20 such persons."

BY ANDERSON of Audubon
COCHRAN of Webster
PELLETT of Cass
MUHLBAUER of Crawford

H-5776 FILED MARCH 20, 1984
WLD 3/28 (p. 1421)

SENATE FILE 2248

H-5862

1 Amend House amendment H-5738 to Senate File 2248
2 as amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 1, by striking line 14 and inserting in
5 lieu thereof the following: "Act, 40 C.F.R. sec.
6 170 and chapter 206. The department of agriculture
7 shall cooperate with the bureau in an investigation
8 of an agricultural employee's complaint filed pursuant
9 to section 455D.8."

H-5862 FILED MARCH 27, 1984 BY ROSENBERG of Story
Placed out of order 3/28 (p. 1426)

SENATE FILE 2248

H-5863

1 Amend Senate File 2248 as amended, passed, and
2 reprinted by the Senate as follows:
3 1. Page 4, by striking line 19 and inserting in
4 lieu thereof the following: "chemicals. The training
5 shall be available for review and approval upon
6 inspection by the bureau and shall".

H-5863 FILED MARCH 27, 1984 BY ROSENBERG of Story
Adopted 3/28 (p. 1427)

SENATE FILE 2248

5738

1 Amend Senate File 2248 as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 2, by inserting after line 13 the
4 following:

5 "Sec. 101. NEW SECTION. 455D.3A APPLICABILITY TO
6 AGRICULTURAL ACTIVITIES. Except for section 455D.8,
7 this chapter does not apply to a person engaged in
8 farming as defined in section 172C.1, subsection 6, or
9 to activities which are covered under the labeling
10 requirements of the federal Insecticide, Fungicide and
11 Rodenticide Act, 7 U.S.C. secs. 121 et seq. However,
12 such a person shall comply with the requirements of
13 the federal Insecticide, Fungicide and Rodenticide
14 Act and chapter 206."

15 2. Page 2, line 15, by striking the word "This"
16 and inserting in lieu thereof the following: "Except
17 for section 455D.8, this".

18 3. Page 2, by striking lines 18 through 24 and
19 inserting in lieu thereof the following:

20 "Sec. 5. NEW SECTION. 455D.5 LIABILITY OF STATE
21 OR POLITICAL SUBDIVISION. The state or any of its
22 political subdivisions is not liable for damages in
23 any claim pursuant to chapter 25A or chapter 613A based
24 upon an act or omission of an employee of the state
25 or political subdivision when the employee exercised
26 due care in the execution of this chapter or a rule
27 adopted under this chapter. Any duty created in this
28 chapter is a duty to the public generally and not to any
29 person or group of persons."

30 4. Page 4, line 26, by striking the word "This"
31 and inserting in lieu thereof the following: "Except
32 for section 455D.8, this".

33 5. Page 6, by striking lines 5 through 13, and
34 inserting in lieu thereof the following:

35 "c. The employer has notified the bureau in
36 writing that certain information should not be
37 accessible to the public for the reasons that the
38 information is not relevant to public health and
39 safety or that release of the information is proven
40 to cause damage to the employer. After giving the
41 employer notice and an opportunity to be heard, the
42 bureau may release the information if it determines
43 that the impact on public health and safety outweighs
44 the damage that release of the information would cause
45 the employer. The bureau may limit its release of
46 information to areas relevant to public health and
47 safety and may restrict the release of
48 information which will cause damage to the employer."

5 6. Page 6, by striking lines 16 through 29 and
inserting in lieu thereof the following:

1 "Sec. 14. NEW SECTION. 455D.14 SIGNS IDENTIFYING
2 HAZARDOUS CHEMICALS. If a building or structure has
3 a floor space of five thousand square feet or less,
4 an employer shall post signs on the outside of the
5 building or structure identifying the type of each
6 hazardous chemical contained in the building or
7 structure. If the building has more than five thousand
8 square feet, the employer shall post a sign at the
9 place within the building where each hazardous chemical
10 is permanently stored to identify the type of hazardous
11 chemical. If the hazardous chemical or a portion
12 of the hazardous chemical is moved within the building,
13 the employer shall also move the sign or post an
14 additional sign at the location where the hazardous
15 chemical is moved. All letters and figures on signs
16 required by this section shall be at least three
17 inches in height. However, upon the written
18 application of an employer, the bureau may permit
19 less stringent sign posting requirements. The signs
20 shall comply with the national fire protection
21 association's standard system for the identification
22 of fire hazards of materials, based upon NFPA 704-
23 1980. The bureau shall adopt rules exempting employers
24 from the requirements of this section when a building
25 or structure or a portion of a building or structure
26 does not contain significant amounts of a hazardous
27 chemical."

28 7. Renumber as necessary.

H-5738 FILED MARCH 16, 1984 BY COMMITTEE ON ENERGY

Adopted as amended by 5928 3/28 (p. 1426)

SENATE FILE 2248

H-5732

1 Amend Senate File 2248 as amended, passed, and
2 reprinted by the Senate, as follows:

- 3 1. Page 5, by striking lines 4 through 7.
- 4 2. Renumber as necessary.

H-5732 FILED MARCH 16, 1984 BY ROSENBERG of Story

Adopted 3/28 (p. 1428)

1 Amend amendment H-5738 to Senate File 2248 as
2 amended, passed and reprinted by the Senate as follows:

3 1. Page 1, by striking lines 6 through 14 and
4 inserting in lieu thereof the following: "AGRICULTURAL
5 ACTIVITIES.

6 1. Except for 455D.8, this chapter does not apply
7 to a person engaged in farming, a commercial applicator
8 as defined in section 206.2, subsection 12, a certified
9 applicator as defined in section 206.2, subsection
10 17, a certified private applicator as defined in
11 section 206.2, subsection 18, a certified commercial
12 applicator as defined in section 206.2, subsection
13 19, a pesticide dealer as defined in section 206.2,
14 subsection 24, or to activities which are covered
15 under the Federal Insecticide, Fungicide, and
16 Rodenticide Act, 7 U.S.C. sec. 135 et seq.; provided,
17 however, that such persons shall comply with the
18 requirements of the Federal Insecticide, Fungicide,
19 and Rodenticide Act, 40 C.F.R. sec. 170, and chapter
20 206 where applicable to such persons. As used in
21 this section, "farming" means the cultivation of land
22 for the production of agricultural crops, the raising
23 of poultry, the production of eggs, production of
24 milk, the production of fruit or other horticultural
25 crops, grazing or the production of livestock,
26 spraying, or harvesting. The department of agriculture
27 shall cooperate with the bureau in an investigation
28 of an agricultural employee's complaint filed pursuant
29 to section 455D.8.

30 2. Notwithstanding subsection 1 a pesticide dealer,
31 a commercial applicator, or a certified applicator
32 who retails or stores a pesticide as defined in section
33 206.2, subsection 1, shall comply with sections 455D.14
34 and 455D.15 for those hazardous chemicals stored or
35 available for sale."

BY ANDERSON of Audubon
ROSENBERG of Story
MULLINS of Kossuth
COCHRAN of Webster
PELLETT of Cass
MUHLBAUER of Crawford

H-5928 FILED MARCH 28, 1984

ADOPTED (p. 1427)

SENATE FILE 2248

S-5754

1 Amend House amendment S-5703 to Senate File
2 2248, as amended, passed, and reprinted by the
3 Senate, as follows:

4 1. Page 1, line 7, by inserting after the
5 words "for 455D.8," the words "or as otherwise
6 provided for in this section".

7 2. Page 1, line 31, by striking the words
8 "Notwithstanding subsection 1 a" and inserting
9 in lieu thereof the word "A".

10 3. Page 1, by inserting after line 36 the
11 following new subsection:

12 "3. For hazardous chemicals not covered under
13 the Federal Insecticide, Fungicide and Rodenticide
14 Act, 7 U.S.C. sec. 121 et seq., a person engaged
15 in farming, a commercial applicator as defined in
16 section 206.2, subsection 12, a certified applicator
17 as defined in section 206.2, subsection 17, a
18 certified private applicator as defined in
19 section 206.2, subsection 18, a certified commercial
20 applicator as defined in section 206.2, subsection
21 19, and a pesticide dealer as defined in section
22 206.2, subsection 24, are responsible to their
23 employees for the following:

24 a. Making information available regarding
25 hazardous chemicals to which the employee may be
26 exposed, to the extent the information is available
27 to the employer, and

28 b. Providing reasonable instruction in the
29 handling of hazardous chemicals that the employee
30 is expected to handle, in order to protect the
31 employee from harmful exposure."

S-5754 FILED

BY CHARLES BRUNER

APRIL 3, 1984

ADOPTED (p 1284)

SENATE AMENDMENT TO
HOUSE AMENDMENT TO SENATE FILE 2248

H-6095

1 Amend House amendent S-5703 to Senate File
2 2248, as amended, passed and reprinted by the
3 Senate, as follows:
4 1. Page 1, line 7, by inserting after the
5 words "for 455D.8," the words "or as otherwise
6 provided for in this section".
7 2. Page 1, line 31, by striking the words
8 "Notwithstanding subsection 1 a" and inserting
9 in lieu thereof the word "A".
10 3. Page 1, by inserting after line 36 the
11 following new subsection:
12 "3. For hazardous chemicals not covered under
13 the Federal Insecticide, Fungicide and Rodenticide
14 Act, 7 U.S.C. sec. 121 et seq., a person engaged
15 in farming, a commercial applicator as defined in
16 section 206.2, subsection 12, a certified applicator
17 as defined in section 206.2, subsection 17, a
18 certified private applicator as defined in
19 section 206.2, subsection 18, a certified commercial
20 applicator as defined in section 206.2, subsection
21 19, and a pesticide dealer as defined in section
22 206.2, subsection 24, are responsible to their
23 employees for the following:
24 a. Making information available regarding
25 hazardous chemicals to which the employee may be
26 exposed, to the extent the information is available
27 to the employer, and
28 b. Providing reasonable instruction in the
29 handling of hazardous chemicals that the employee
30 is expected to handle, in order to protect the
31 employee from harmful exposure."

H-6095 FILED APRIL 4, 1984

RECEIVED FROM THE SENATE

Lower refused to concur 4/9 (p. 1783)
Senate decided 4/10 (p. 1415)

SENATE FILE 2248

AN ACT

RELATING TO THE COLLECTION AND DISSEMINATION OF INFORMATION REGARDING HAZARDOUS CHEMICALS AND PROVIDING PENALTIES AND AUTHORIZING THE DEPARTMENT OF WATER, AIR AND WASTE MANAGEMENT TO ADOPT HAZARDOUS WASTE RULES IN RESPECT TO HAZARDOUS CHEMICALS WHICH ARE MORE RESTRICTIVE THAN, BUT CONSISTENT WITH, FEDERAL REQUIREMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

GENERAL PROVISIONS

Section 1. NEW SECTION. 455D.1 SHORT TITLE. This chapter may be cited as the "Hazardous Chemicals Risks Right to Know Act".

Sec. 2. NEW SECTION. 455D.2 LEGISLATIVE FINDINGS.

1. The general assembly finds as follows:

a. The proliferation of hazardous chemicals in the environment poses a growing threat to the public health, safety, and welfare.

b. The constantly increasing number and variety of hazardous chemicals and the many routes of exposure to them make it difficult and expensive to adequately monitor and detect any adverse health effects attributable to the hazardous chemicals.

c. Individuals are often able to detect and thus minimize effects of exposure to hazardous chemicals if they are aware of the identity of the chemicals and the early symptoms of unsafe exposure.

d. Individuals have an inherent right to know the full range of the risks they face so that they can make reasoned decisions and take informed action concerning their employment and their living conditions.

e. Local fire and other government emergency response departments require detailed information about the identity, characteristics, and quantities of hazardous chemicals used and stored in communities within their jurisdictions, in order to adequately plan for, and respond to, emergencies, and enforce compliance with applicable laws and regulations concerning these chemicals.

f. The extent of the toxic contamination of the air, water, and land has caused a high degree of concern and much of this concern is needlessly aggravated by the unfamiliarity of the chemicals.

g. There is a need to coordinate the existing regulatory and reporting responsibilities on hazardous chemical users and producers and to provide uniform access to information.

Sec. 3. NEW SECTION. 455D.3 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Bureau" means the state bureau of labor.

2. "Emergency response department" means any governmental department which might be reasonably expected to be required to respond to an emergency involving a hazardous chemical, including, but not limited to, local fire, police, medical rescue, disaster, and public health departments.

3. "Interagency council" means the hazardous chemicals information interagency coordinating council in section 455D.16.

Sec. 4. NEW SECTION. 455D.4 APPLICABILITY TO AGRICULTURAL ACTIVITIES.

1. Except for 455D.9, this chapter does not apply to a person engaged in farming, a commercial applicator as defined in section 206.2, subsection 12, a certified applicator as defined in section 206.2, subsection 17, a certified private applicator as defined in section 206.2, subsection 18, a certified commercial applicator as defined in section 206.2, subsection 19, a pesticide dealer as defined in section 206.2, subsection 24, or to activities which are covered under the federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C.

sec. 135 et seq.; provided, however, that such persons shall comply with the requirements of the federal Insecticide, Fungicide, and Rodenticide Act, 40 C.F.R. sec. 170, and chapter 206 where applicable to such persons. As used in this section, "farming" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock, spraying, or harvesting. The department of agriculture shall cooperate with the bureau in an investigation of an agricultural employee's complaint filed pursuant to section 455D.9.

2. Notwithstanding subsection 1 a pesticide dealer, a commercial applicator, or a certified applicator who retails or stores a pesticide as defined in section 206.2, subsection 1, shall comply with sections 455D.14 and 455D.15 for those hazardous chemicals stored or available for sale.

Sec. 5. NEW SECTION. 455D.5 TRANSPORTATION OF HAZARDOUS CHEMICALS. Except for section 455D.9, this chapter does not apply to the transportation of hazardous chemicals if the transportation is regulated by federal law or regulation.

Sec. 6. NEW SECTION. 455D.6 LIABILITY OF STATE OR POLITICAL SUBDIVISION. The state or any of its political subdivisions is not liable for damages in any claim pursuant to chapter 25A or chapter 613A based upon an act or omission of an employee of the state or political subdivision when the employee exercised due care in the execution of this chapter or a rule adopted under this chapter. Any duty created in this chapter is a duty to the public generally and not to any person or group of persons.

Sec. 7. NEW SECTION. 455D.7 IMPLEMENTATION. The requirements imposed by this chapter that are based upon the federal occupational safety and health administration's hazard communication regulation 29 C.F.R. sec. 1910.1200 et seq. as promulgated on November 25, 1983 shall be implemented according to the provisions of the regulation. However, if information

is available to an employer at any time prior to the dates required in the regulation, then the employer shall comply as of the date the information becomes available.

DIVISION II

WORKER RIGHT TO KNOW

Sec. 8. NEW SECTION. 455D.8 INFORMATION REQUIRED.

1. An employee in this state has the right to be informed about the hazardous chemicals to which the employee may be exposed in the workplace, the potential health hazards of the hazardous chemicals, and the proper handling techniques for the hazardous chemicals. An employer shall provide or make available to an employee information as required by this chapter. Except as explicitly exempted, this chapter applies to all employers in the state.

2. The bureau shall administer this division. The bureau may exercise the enforcement powers set out in chapter 88 and the rules adopted pursuant to chapter 88 to enforce this division.

3. The federal occupational safety and health administration's hazard communication regulation 29 C.F.R. sec. 1910.1200 et seq. as promulgated on November 25, 1983 is adopted as the basis for the bureau's regulatory responsibility under this division. Except as specifically modified by this division, all employers in this state shall comply with the regulation including but not limited to the requirements on labeling, training, hazardous chemical list, trade secrets, and material safety data sheets without regard to whether an employer is covered by the federal regulation.

4. In addition to the chemical information required to be reported under federal hazard communication standard 29 C.F.R. sec. 1910.1200(d), the bureau may adopt by rule additional hazardous chemical information to be regulated, if the interagency council recommends such action pursuant to section 455D.17.

Sec. 9. NEW SECTION. 455D.9 EMPLOYEE RIGHTS. An employer shall not discharge or in any other manner discriminate against

an employee because the employee has filed a complaint or brought an action under this section or has cooperated in bringing an action against an employer. An employee may file a complaint with the commissioner of labor alleging discharge or discrimination within thirty days after an alleged violation occurs. Upon receipt of the complaint, the commissioner shall cause an investigation to be made to the extent the commissioner deems appropriate. If the commissioner determines from the investigation that this subsection has been violated, the commissioner shall bring an action in the appropriate district court against the person. The district court has jurisdiction, for cause shown, to restrain violations of this subsection and order appropriate relief including rehiring or reinstatement of the employee to the former position with back pay. Notwithstanding section 455D.4, this section applies to an employee of a person otherwise exempt from this chapter.

Sec. 10. NEW SECTION. 455D.10 SPECIAL TRAINING. An employer shall provide special training when the employer either assigns an employee to a special assignment or task which increases the employee's potential exposure to a hazardous chemical or the employer contracts with a person outside the employ of the employer if the person is under the supervision of the employer and may be exposed to hazardous chemicals. The training shall be available for review and approval upon inspection by the bureau and shall be designed to inform the employee or the outside contractor of the presence of the hazardous chemical, the nature of the chemical and the health hazards it presents, and the proper handling procedures for the hazardous chemical.

Sec. 11. NEW SECTION. 455D.11 EDUCATIONAL RESEARCH LABORATORY.

1. Except for section 455D.9, this division does not apply to a research laboratory at a public or private educational institution if the research laboratory complies with subsection 2.

2. A research laboratory shall submit a plan for the supervision and handling of hazardous chemicals and the development of training programs for employees who work with or clean up hazardous chemicals. The plan shall be consistent with this division and is subject to the approval of the bureau.

3. As used in this division, a research laboratory means a specially designated area used primarily for research in which hazardous chemicals are used by or under the direct supervision of a technically qualified person.

DIVISION III

COMMUNITY RIGHT TO KNOW

Sec. 12. NEW SECTION. 455D.12 COMMUNITY INFORMATION ON HAZARDOUS CHEMICALS.

1. The public has a right to be informed about the presence of hazardous chemicals in the community and the potential health and environmental hazards that the chemicals pose.

2. The bureau shall receive and handle requests for information and complaints under this division which involve employer information covered under division II. The bureau shall adopt rules pursuant to chapter 17A regarding requests for information and the investigation and adjudication of complaints.

3. Requests for information under this division are confidential.

Sec. 13. NEW SECTION. 455D.13 ACCESSIBILITY OF RECORDS.

1. Except as provided in subsection 2, records that are required to be kept by employers under this chapter shall be accessible to the public. As used in this section "accessible to the public" means either of the following:

a. The records are filed with the bureau.

b. The records are available for inspection at the principal place of employment of the employer during normal working hours.

2. Records do not need to be accessible to the public if any of the following apply:

a. The information is trade secret information under this chapter and any rules regarding the release of the information.

b. Under recommendation from the interagency council, the bureau has adopted rules specifying that certain classes or categories of records required to be kept by employers are confidential information.

c. The employer has notified the bureau in writing that certain information should not be accessible to the public for the reasons that the information is not relevant to public health and safety or that release of the information is proven to cause damage to the employer. After giving the employer notice and an opportunity to be heard, the bureau may release the information if it determines that the impact on public health and safety outweighs the damage that release of the information would cause the employer. The bureau may limit its release of information to areas relevant to public health and safety and may restrict the release of information which will cause damage to the employer.

DIVISION IV

PUBLIC SAFETY--EMERGENCY RESPONSE RIGHT TO KNOW

Sec. 14. NEW SECTION. 455D.14 SIGNS IDENTIFYING HAZARDOUS CHEMICALS. If a building or structure has a floor space of five thousand square feet or less, an employer shall post signs on the outside of the building or structure identifying the type of each hazardous chemical contained in the building or structure. If the building has more than five thousand square feet, the employer shall post a sign at the place within the building where each hazardous chemical is permanently stored to identify the type of hazardous chemical. If the hazardous chemical or a portion of the hazardous chemical is moved within the building, the employer shall also move the sign or post an additional sign at the location where the hazardous chemical is moved. All letters and figures on signs required by this section shall be at least three inches in height. However, upon the written application of an employer, the bureau may permit less stringent sign posting

requirements. The signs shall comply with the national fire protection association's standard system for the identification of fire hazards of materials, based upon NFPA 704-1980. The bureau shall adopt rules exempting employers from the requirements of this section when a building or structure or a portion of a building or structure does not contain significant amounts of a hazardous chemical.

Sec. 15. NEW SECTION. 455D.15 INFORMATION FOR EMERGENCY RESPONSE DEPARTMENTS.

1. At the same time that an employer provides the information to employees required under division II, the employer shall submit to the local fire department a list of hazardous chemicals which are consistently generated by, used by, stored at, or transported from the employer's facility. The information shall be provided in sufficient specificity that the local fire department is informed of the nature of the hazardous chemicals, the hazards presented by the chemicals, and the appropriate response in dealing with an emergency involving the hazardous chemicals. The information shall conform to guidelines adopted by the bureau from recommendations of the interagency council under section 455D.19. The employer shall send the information by certified mail. The bureau shall adopt rules exempting employers from this requirement when buildings or structures do not contain significant amounts of a hazardous chemical.

2. A local fire department receiving information pursuant to subsection 1 shall make the information available only to other emergency response departments.

DIVISION V

HAZARDOUS CHEMICALS INFORMATION INTERAGENCY COUNCIL

Sec. 16. NEW SECTION. 455D.16 INTERAGENCY COUNCIL.

1. A hazardous chemicals information interagency coordinating council is created. The council shall be organized under chapter 28E. The council is composed of three voting members consisting of the designee of the commissioner of public health, the designee of the labor commissioner,

and the designee of the executive director of the department of water, air and waste management. There are five nonvoting advisory members consisting of the designee of the director of the office of disaster services, the designee of the chief officer of the division of fire protection of the department of public safety, the designee of the head of the state hygienic laboratory, a person representing business and industry, and a person representing labor. The business and labor representatives shall be appointed by the governor.

2. The interagency council has as its primary purpose to establish and facilitate interagency communication to accomplish the purposes of this chapter. The council shall place special emphasis upon avoiding duplication in regulation and reporting responsibilities of the agencies. The council shall review the implementation of this chapter. At least annually the council shall hold a public hearing regarding the provision of information under this chapter and consider public concerns regarding hazardous chemical reporting and regulation. The council shall report annually to the governor and the general assembly. The report shall contain information regarding the activities of the council, recommendations for modifications of this chapter that would further its purposes, and a summary of the information presented at any public hearing held by the council.

Sec. 17. NEW SECTION. 455D.17 RECOMMENDATIONS OF INTER-AGENCY COUNCIL. The interagency council may recommend by the unanimous vote of the three voting members any of the following actions:

1. Expansion of the federal occupational safety and health administration's list of hazardous chemicals or reporting required under this chapter. The bureau shall adopt rules pursuant to chapter 17A to expand the list of information required if the bureau decides to follow the recommendation.
2. Expansion of the list of hazardous wastes reported to the department of water, air and waste management under 42 U.S.C. secs. 6921-6934 as amended to January 1, 1981, or

information required concerning the wastes. The department shall adopt rules pursuant to chapter 17A to expand the list or information if the department decides to follow the recommendation.

However, the interagency council shall make such recommendations only upon scientific evidence that there may be a significant threat to public health and safety without such action.

Sec. 18. NEW SECTION. 455D.18 ROLE OF DEPARTMENT OF HEALTH. Through the interagency council the department of health may:

1. Review and make recommendations for modifications in the material safety data sheets required under section 455D.8, subsection 3, relating to the health hazards of hazardous chemicals.
2. Provide technical assistance to employers and the bureau on establishing safety procedures to minimize the public environmental and occupational health hazards from the use of hazardous chemicals and provide aid and assistance to small employers, vendors, sellers or dispensers in the preparation of material safety data sheets as required by this chapter.
3. Upon request of the bureau examine information claimed to be a trade secret under the federal occupational safety and health administration's hazard communication regulation.

Sec. 19. NEW SECTION. 455D.19 RECOMMENDATIONS ON THE FORM OF REPORTING. The interagency council shall make recommendations to the bureau for the reporting of information required under division IV by July 1, 1985. The interagency council's recommendations shall consider the information required to be developed by the employer under other provisions of this chapter, and shall establish a form for the reporting of this information that corresponds to other reporting requirements under this chapter.

Sec. 20. Section 25A.14, Code Supplement 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Any claim based upon the enforcement of chapter 455D.

Sec. 21. Section 455B.420, Code 1983, is amended to read as follows:

455B.420 RULES. Rules Except as provided in chapter 455D, rules adopted by the commission under sections 455B.411 to 455B.421 shall be consistent with and shall not exceed the requirements of 42 U.S.C. secs. 6921-6934 as amended to January 1, 1981, and rules and regulations adopted pursuant to those sections.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2248, Seventieth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved April 16, 1984

TERRY E. BRANSTAD
Governor