# CHAPTER 89B

## HAZARDOUS CHEMICALS RISKS — RIGHT TO KNOW

Referred to in §84A.5, §91.4, §669.14

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## DIVISION I

## GENERAL PROVISIONS

**89B.1 Short title.**

This chapter may be cited as the *"Hazardous Chemicals Risks Right to Know Act"*.

84 Acts, ch 1085, §1
C85, §455D.1
C87, §89B.1

**89B.2 Legislative findings.**

The general assembly finds as follows:

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

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.
84 Acts, ch 1085, §2
C85, §455D.2
C87, §89B.2

**89B.3 Definitions.**
As used in this chapter, unless the context otherwise requires:
1. *"Division"* means the division of labor services of the department of workforce development created under section 84A.1.
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, emergency management, and public health departments.
84 Acts, ch 1085, §3
C85, §455D.3
86 Acts, ch 1245, §939, 1899E
C87, §89B.3
92 Acts, ch 1139, §22; 96 Acts, ch 1186, §23

**89B.4 and 89B.5** Repealed by 88 Acts, ch 1042, §8.

**89B.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 669 or chapter 670 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.
84 Acts, ch 1085, §6
C85, §455D.6
C87, §89B.6

**89B.7** Repealed by 88 Acts, ch 1042, §8.

## DIVISION II

## WORKER RIGHT TO KNOW

Referred to in **§89B.12**, **§89B.15**

**89B.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 division of labor services shall administer this division of the chapter. The division may exercise the enforcement powers set out in chapter 88 and the rules adopted pursuant to chapter 88 to enforce this division of the chapter.
3. The commissioner shall adopt rules based upon the occupational safety and health standards which have been adopted as permanent standards by the United States secretary of labor in accordance with federal law. If the hazardous communication regulation, 29 C.F.R. §1910.1200, is amended or repealed, the commissioner shall review the amendment or repeal and take action with respect to the state standards, including the amendment or repeal of the state standards, which will conform the state standards to the new federal standards.
4. In addition to the chemical information required to be reported under the federal hazard

communication standard, 29 C.F.R. §1910.1200, the labor commissioner may adopt by rule additional hazardous chemical information to be regulated.

84 Acts, ch 1085, §8
C85, §455D.8
86 Acts, ch 1135, §2; 86 Acts, ch 1245, §940, 1899F
C87, §89B.8
88 Acts, ch 1042, §6; 89 Acts, ch 100, §1

**89B.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 labor commissioner 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 section 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 section and order appropriate relief including rehiring or reinstatement of the employee to the former position with back pay. This section applies to an employee of a person otherwise exempt from this chapter.

84 Acts, ch 1085, §9
C85, §455D.9
C87, §89B.9
88 Acts, ch 1042, §7

**89B.10 and 89B.11** Repealed by 88 Acts, ch 1042, §8.

## DIVISION III

## COMMUNITY RIGHT TO KNOW

**89B.12 Community information and complaints 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 division of labor services shall receive and handle requests for information and complaints under this division of this chapter which involve employer information covered under division II of this chapter. The labor commissioner 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 of this chapter are confidential.

84 Acts, ch 1085, §12
C85, §455D.12
86 Acts, ch 1245, §941
C87, §89B.12

**89B.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 division.

*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 pursuant to section 89B.17, the labor commissioner 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 division 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 division 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 division 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.

84 Acts, ch 1085, §13
C85, §455D.13
86 Acts, ch 1245, §1899G
C87, §89B.13

## DIVISION IV

## PUBLIC SAFETY — EMERGENCY RESPONSE RIGHT TO KNOW

**89B.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 division 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 division 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.

84 Acts, ch 1085, §14
C85, §455D.14
C87, §89B.14

**89B.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 labor commissioner. The employer shall send the information by certified mail. The labor commissioner 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.

84 Acts, ch 1085, §15
C85, §455D.15

86 Acts, ch 1245, §942, 1899H
C87, §89B.15

**89B.16** Reserved.

DIVISION V

RECOMMENDATIONS

**89B.17 Recommendations.**

1. The director of public health, the labor commissioner, and the director of the department of natural resources or the director's designee under written signatures of all these parties may recommend any of the following actions:

*a.* Expansion of the federal occupational safety and health administration's list of hazardous chemicals or reporting required under this chapter. The division shall adopt rules pursuant to chapter 17A to expand the list of information required if the division decides to follow the recommendation.

*b.* Expansion of the list of hazardous wastes reported to the department of natural resources under 42 U.S.C. §6921 – 6934 as amended to January 1, 1981, or information required concerning the wastes. The department of natural resources shall adopt rules pursuant to chapter 17A to expand the list or information if the department decides to follow the recommendation.

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

84 Acts, ch 1085, §17
C85, §455D.17
86 Acts, ch 1245, §1899I, 1899J
C87, §89B.17
2002 Acts, ch 1162, §31; 2008 Acts, ch 1032, §201
Referred to in **§89B.13**