

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL

AUGUSTA, MAINE 04333

February 8, 1980

Honorable Joyce Lewis  
House of Representatives  
State House  
Augusta, Maine 04333

Dear Representative Lewis:

You have requested an opinion from this office as to whether the Bureau of Labor has the authority to promulgate regulations to implement the provisions of P.L. 1979, c. 500, AN ACT Relating to the Identification and the Hazards of Chemicals in the Work Area. It is our understanding that the Director of the Bureau of Labor has proposed regulations defining the nature and scope of certain terms used in this Act.

It is well settled that public bodies may exercise only that power which is conferred upon them by law. The source of that authority must be found in the empowering statute, which grants not only the expressly delegated powers, but also incidental powers necessary to the full exercise of those invested. State v. Fin & Feather Club, 316 A.2d 351 (Me. 1974). In that case, the Law Court found that certain powers may be implied from the language of the statute and stated that these powers are:


- "1. those necessarily arising from powers expressly granted
- 2. those reasonably inferred from powers expressly granted
- 3. those essential to give effect to powers expressly granted."

This Act, which is found at Title 26 M.R.S.A. c. 22, requires that information about the identities and hazards of chemicals in the work area be provided to employees.<sup>1/</sup> Unlike other chapters of the labor statutes, there is no express grant of authority to the Bureau of Labor to promulgate rules and regulations to implement this chapter.<sup>2/</sup> An examination of the grant of power to the Bureau of Labor by this chapter indicates that the Director's scope of authority to act is narrow. The Director is authorized by sections 1704 and 1705 only to obtain access to chemical identification lists, substance data sheets and education and training materials. The Bureau is not charged with the overall implementation or administration of this Act and its role appears to be limited to access to certain records.

Given the limited scope of the Director's role under Chapter 22, it is our opinion that the power to promulgate the proposed regulations does not necessarily arise from powers expressly granted, cannot be reasonably inferred from powers expressly granted, and is not essential to give effect to powers expressly granted. Thus, under the test established by the Law Court, we conclude that the Bureau of Labor lacks the authority to promulgate these regulations.

I hope this information is helpful. Please feel free to contact me if I can be of any further service.

Sincerely



RICHARD S. COHEN  
Attorney General

RSC/ec

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<sup>1/</sup> 26 M.R.S.A. § 1701.

<sup>2/</sup> See 26 M.R.S.A. §§ 44, 82, 123 and 665.