

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 574

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H.P. 432

House of Representatives, January 19, 1999

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### An Act to Repeal the Chemical Substance Identification Law.

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Submitted by the Department of Labor pursuant to Joint Rule 204.  
Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative HATCH of Skowhegan.  
Cosponsored by Senator MILLS of Somerset and  
Representatives: CLARK of Millinocket, STANLEY of Medway.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **PART A**

6 **Sec. A-1. 26 MRSA c. 22, as amended, is repealed.**

8 **PART B**

10 **Sec. B-1. 22 MRSA §664, sub-§1, as amended by PL 1997, c. 686,**  
12 **§5, is further amended to read:**

14 1. **Records.** Each facility licensee shall permit the  
16 inspection and copying, for the purposes of this chapter, of its  
18 books and records, maintained in any form, except that books and  
20 records that are privileged as a matter of law, proprietary,  
22 security-related, or restricted by federal law, are not open to  
24 inspection. Subject to the approval of the United States Nuclear  
26 Regulatory Commission and of the facility licensee, access to  
28 books and records that are proprietary, security-related or  
30 restricted by federal law may be granted, if the State Nuclear  
32 Safety Inspector, on behalf of the State, enters into a  
nondisclosure agreement. For purposes of this section,  
proprietary information includes personnel records,  
manufacturers' proprietary information, licensee proprietary  
information and trade secrets, ~~as defined by Title 26, section~~  
~~1711, subsection 12.~~ For purposes of this subsection, "trade  
secrets" means any confidential formula, pattern, process,  
device, information or compilation of information, including  
chemical name, that is used in any employer's business that gives  
the employer an opportunity to obtain any advantage over  
competitors who do not know or use it.

34 **Sec. B-2. 22 MRSA §1471-M, sub-§3, as amended by PL 1987, c.**  
36 **660, §1, is further amended to read:**

38 3. **Chemical substance identification.** To the extent  
40 permitted under federal law, the board shall have primary  
42 enforcement responsibility for inspection of any workplace  
44 ~~subject to the provisions of Title 26, chapter 22, solely because~~  
~~of the presence of a pesticide. The board shall have primary~~  
~~enforcement responsibility for training programs to be provided~~  
~~by employers under Title 26, chapter 22, in those instances where~~  
~~the employer is subject to the provisions of that law solely~~  
~~because of the presence or use of a pesticide.~~

46  
48 The board shall assist ~~the Director of the Bureau of Labor~~  
50 ~~Standards in providing~~ provide education and training in  
accordance ~~with Title 26, section 1720,~~ to aid agricultural  
employers in complying with the federal requirements for hazard

2 communication and shall assist the responsible state agencies in  
3 providing education and training to aid agricultural employers in  
4 complying with the federal requirements for emergency and  
5 hazardous chemical inventory forms and community right-to-know  
6 reporting.

7 **Sec. B-3. 22 MRSA §1696-D, first ¶,** as enacted by PL 1985, c.  
8 494, §2, is amended to read:

10 When requested under this subchapter, the director shall  
11 provide, at a minimum, the identity of chemical substances in use  
12 or present at a specific location, unless the substance has been  
13 designated as is a trade secret under Title 26, chapter 22. For  
14 purposes of this section, "trade secret" means any confidential  
15 formula, pattern, process, device, information or compilation of  
16 information, including chemical name, that is used in any  
17 employer's business that gives the employer an opportunity to  
18 obtain any advantage over competitors who do not know or use it.  
19 The director may provide information on the chronic and acute  
20 health hazards posed by the substance, potential routes of  
21 exposure, emergency procedures and other subjects as  
22 appropriate. The director shall report in writing annually by  
23 January 1st to the joint standing committee of the Legislature  
24 having jurisdiction over human resources on the number and type  
25 of requests received and on his the director's response to these  
26 requests.

28 **Sec. B-4. 22 MRSA §1696-F,** as enacted by PL 1985, c. 494, §2,  
29 is amended to read:

30 **§1696-F. Provision of information; trade secrets**

32 A person may withhold the identity of a specific toxic or  
33 hazardous substance, if the substance has been registered as is  
34 a trade secret under Title 26, chapter 22. For purposes of this  
35 section, "trade secret" means any confidential formula, pattern,  
36 process, device, information or compilation of information,  
37 including chemical name, that is used in any employer's business  
38 that gives the employer an opportunity to obtain any advantage  
39 over competitors who do not know or use it. All other  
40 information, including routes of exposure, effects of exposure,  
41 type and degree of hazard and emergency treatment and response  
42 procedures, shall must be provided if requested by the Director  
43 of the Bureau of Health and shall be is considered a public  
44 record.

46 **Sec. B-5. 26 MRSA §61, sub-§2,** as amended by PL 1993, c. 52,  
47 §1, is further amended to read:

49 **2. Source of funds.** The commissioner or the commissioner's  
50 designee shall annually assess a levy based on actual annual  
51 workers' compensation paid losses, excluding medical payments,  
52

2 paid in the most recent calendar year for which data is available  
3 by employers under former Title 39, the Workers' Compensation Act  
4 or Title 39-A, Part 1, the Maine Workers' Compensation Act of  
5 1992. As soon as practicable after July 1st of each year, the  
6 commissioner or the commissioner's designee shall assess upon and  
7 collect from each insurance carrier licensed to do workers'  
8 compensation business in the State, and each group and individual  
9 self-insured employer authorized to make workers' compensation  
10 payments directly to their employees, a sum equal to that  
11 proportion of the current fiscal year's appropriation, exclusive  
12 of any federal funds, for the safety education and training  
13 program that the total workers' compensation benefits, exclusive  
14 of medical payments, paid by each licensed carrier or each group  
15 or individual self-insured employer, bear to the total of the  
16 benefits paid by all licensed carriers, and group and individual  
17 self-insured employers during the most recent calendar year for  
18 which data is available, except that the total amount levied  
19 annually may not exceed 1% of the total of the compensation  
20 benefits paid by all licensed carriers, and group and individual  
21 self-insured employers during the most recent calendar year for  
22 which data is available. A licensed carrier or group or  
23 individual self-insured must be assessed based on all benefits  
24 paid, exclusive of medical payments, during any year for which  
25 the carrier was licensed or the group or individual self-insured  
26 employer was authorized to make workers' compensation payments  
27 directly to their employers for any portion of the year.  
28 ~~Assessments under this section must include sufficient funds to  
29 provide for training and information activities relating to  
30 pesticides as required by section 1720, subsection 5.~~

31 **Sec. B-6. 26 MRSA §1402, sub-§1, ¶¶A and C,** as enacted by PL  
32 1983, c. 486, are amended to read:

33 A. "Repeated violation" means a violation of any legal  
34 requirement ~~under chapter 22 or~~ under the United States  
35 Code, Title 29, Chapter 15, where a previous violation of  
36 the same requirement was found which involved a  
37 substantially similar hazard.

38 C. "Willful violation" means a violation committed  
39 intentionally or knowingly with an intentional disregard of,  
40 or plain indifference to, legal requirements ~~under chapter~~  
41 ~~22 or~~ under the United States Code, Title 29, Chapter 15.

42 **Sec. B-7. 26 MRSA §1402, sub-§2,** as enacted by PL 1983, c.  
43 486, is amended to read:

44 **2. Debarment.** The Department of Labor shall, after  
45 hearing, debar from participation in state contracts for 2 years

2 any person, partnership, corporation or other public or private  
entity found to have committed a serious, willful violation or  
3 serious, repeated violations of a standard ~~under chapter 22~~  
4 under the United States Occupational Safety and Health Act of  
1970, United States Code, Title 29, Chapter 15, and either the  
5 time for filing an appeal of the determination of that violation  
has expired or the appeals process has been exhausted.

8  
9 **Sec. B-8. 38 MRSA §1401, sub-§2, ¶C**, as enacted by PL 1983, c.  
10 432, §11, is amended to read:

11 C. Hazardous material, as defined in Title 25, section  
2102; and

12  
13 **Sec. B-9. 38 MRSA §1401, sub-§2, ¶D**, as enacted by PL 1983, c.  
14 432, §11, is repealed.

## 18 SUMMARY

19  
20 Part A of this bill repeals chemical substance  
21 identification law, which required employers to communicate  
22 information regarding chemicals in the workplace to workers and  
23 to the Bureau of Labor Standards. The provisions of that law  
have been superseded by federal law and regulation.

24  
25 Part B of this bill addresses cross-references found in the  
26 Maine Revised Statutes to the provisions repealed in Part A.  
27  
28