

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1017

S.P. 296

In Senate, February 26, 2019

**An Act Regarding the Elimination of Highly Toxic and Hazardous
Chemicals in the Workplace**

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CARSON of Cumberland.

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

2 **CONCEPT DRAFT**

3 **SUMMARY**

4 This bill is a concept draft pursuant to Joint Rule 208.

5 This bill proposes to create statutory and regulatory requirements that are designed to
6 prevent harm to employees by substituting for or eliminating highly toxic and hazardous
7 chemicals in the workplace. The bill would:

8 1. Apply to industries, including, but not limited to, manufacturing, retail and
9 service; automotive; auto body repair; shipbuilding; paper manufacturing; manufacturing
10 of apparel or apparel components; medical equipment; construction; personal care
11 product or feminine product manufacturing; coatings; textiles; lumber; plastics;
12 technology services; and cleaning and janitorial services. The bill would not apply to
13 agricultural employers in the State;

14 2. Define "highly toxic and hazardous chemical" as a chemical that, based on
15 credible scientific evidence, has a significant potential for harm to human health;

16 3. Define "priority highly toxic and hazardous chemical" to include a chemical for
17 which there is credible scientific evidence that the chemical is a carcinogen, a mutagen, a
18 reproductive toxin, a developmental toxin, an endocrine disruptor or a neurotoxin;

19 4. Define "safer alternative" as an alternative that, when compared to a highly toxic
20 and hazardous chemical that it could replace, would reduce the potential for harm to
21 human health or that has not been shown to pose the same or greater potential harm to
22 human health as the highly toxic and hazardous chemical;

23 5. Require employers in the State to identify and evaluate highly toxic and hazardous
24 chemicals and, if feasible, eliminate those highly toxic and hazardous chemicals or
25 substitute safer alternatives. Specifically, it would require employers to:

26 A. Identify and evaluate highly toxic and hazardous chemicals and eliminate the
27 highly toxic and hazardous chemicals or substitute safer alternatives if feasible;

28 B. Implement a plan for the elimination and substitution of highly toxic and
29 hazardous chemicals in the workplace;

30 C. Consult publicly accessible website lists and online databases that identify highly
31 toxic and hazardous chemicals;

32 D. Consult safety data sheets required by the federal Department of Labor,
33 Occupational Safety and Health Administration to identify highly toxic and
34 hazardous chemicals;

35 E. Consult chemical suppliers and manufacturers to identify highly toxic and
36 hazardous chemicals;

- 1 F. Consult publicly accessible websites and databases that identify safer alternatives
2 that may be substituted for highly toxic and hazardous chemicals;
- 3 G. Contact chemical suppliers and manufacturers for possible safer alternatives;
- 4 H. Identify steps necessary to be followed for the elimination or substitution of a
5 highly toxic and hazardous chemical;
- 6 I. Decide, with justification, whether substituting a highly toxic and hazardous
7 chemical is feasible for business operations;
- 8 J. In transitioning from a highly toxic and hazardous chemical to a safer alternative,
9 use a transition team composed of employees and management;
- 10 K. Together with the transition team, develop a priority ranking for all highly toxic
11 and hazardous chemicals identified for transition to safer alternatives; and
- 12 L. Conduct an alternatives analysis of the anticipated difficulty of transitioning to a
13 safer alternative and a financial analysis of costs;
- 14 6. Require the Commissioner of Labor to adopt rules and provide guidelines to assist
15 employers in how to identify and evaluate highly toxic and hazardous chemicals and how
16 to determine if safer alternatives exist. Specifically, it would require the commissioner to
17 adopt rules:
 - 18 A. To define terms, including "affected employee," "alternative chemical,"
19 "alternative chemical work plan" and "chemical";
 - 20 B. To develop procedures to assist employers in implementing a program for the
21 substitution of highly toxic and hazardous chemicals in the workplace; and
 - 22 C. Governing the implementation of safer alternatives; discontinuation of safer
23 alternatives, justification and reporting; self-audits by employers; reporting
24 requirements; records retention requirements; access to information, including
25 employee access and access by the State; and provision of annual employee training
26 and informational materials; and
- 27 7. Require the Commissioner of Labor to:
 - 28 A. Identify publicly accessible website lists of online databases that identify highly
29 toxic and hazardous chemicals;
 - 30 B. Make employers aware that safety data sheets required by the federal Department
31 of Labor, Occupational Safety and Health Administration are a source for identifying
32 highly toxic and hazardous chemicals;
 - 33 C. Identify publicly accessible websites that identify safer alternatives that may be
34 substituted for highly toxic and hazardous chemicals currently employed in industry
35 and business operations;
 - 36 D. Identify steps required for the elimination or substitution of a highly toxic and
37 hazardous chemical, including the criteria for justification of whether eliminating or
38 substituting for a highly toxic and hazardous chemical is feasible for employers'
39 business operations; and

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E. Enforce the provisions of the law.