



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5521

Introduced 2/9/2010, by Rep. Greg Harris

SYNOPSIS AS INTRODUCED:

430 ILCS 100/12
430 ILCS 100/17

from Ch. 111 1/2, par. 7712
from Ch. 111 1/2, par. 7717

Amends the Illinois Emergency Planning and Community Right to Know Act. Provides that the State Emergency Response Commission (SERC) shall by rule establish an annual fee for filing an inventory form. Provides that the rules shall establish procedures for collection, management, and disbursement of the fees and may include penalties for late filing of forms. Provides that the rules may provide an exemption for State, county, and municipal entities, special districts, and other public bodies or political subdivisions the Illinois Emergency Management Agency deems appropriate. Provides that fees collected by the SERC under this provision shall be deposited into the Emergency Planning and Training Fund and shall be used by the SERC, pursuant to appropriation, for its activities arising under the Act and under certain federal statutes, including providing financial support for local emergency planning committees and for training initiatives authorized by the SERC. Provides that all such fees shall be nonrefundable. Eliminates provisions concerning tier I inventory forms, and makes changes concerning tier II inventory forms. Makes other changes. Effective immediately.

LRB096 18919 DRJ 34307 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Emergency Planning and Community
5 Right to Know Act is amended by changing Sections 12 and 17 as
6 follows:

7 (430 ILCS 100/12) (from Ch. 111 1/2, par. 7712)

8 Sec. 12. Inventory forms. (a) The owner or operator of any
9 facility which is required to prepare or have available a
10 material safety data sheet for a hazardous chemical under the
11 Occupational Safety and Health Act of 1970 and regulations
12 promulgated under that Act shall, in accordance with the
13 threshold levels for reporting as established by regulations
14 promulgated under the Federal Act, prepare and submit an
15 emergency and hazardous chemical inventory form (hereafter in
16 this Act referred to as an "inventory form") to each of the
17 following:

- 18 (1) the appropriate local emergency planning committee;
19 (2) the State Emergency Response Commission; and
20 (3) the fire department with jurisdiction over the
21 facility.

22 The inventory form shall be submitted annually on or before
23 March 1, and shall contain tier II † data with respect to the

1 preceding calendar year.

2 (a-5) The SERC shall by rule establish an annual fee for
3 filing an inventory form. The rules shall establish procedures
4 for collection, management, and disbursement of the fees and
5 may include penalties for late filing of forms. The rules may
6 provide an exemption for State, county, and municipal entities,
7 special districts, and other public bodies or political
8 subdivisions the Agency deems appropriate. Fees collected by
9 the SERC under this subsection shall be deposited into the
10 Emergency Planning and Training Fund and shall be used by the
11 SERC, pursuant to appropriation, for its activities arising
12 under this Act and the Federal Act, including providing
13 financial support for local emergency planning committees and
14 for training initiatives authorized by the SERC. All fees
15 collected under this subsection shall be nonrefundable.

16 (b) (Blank). ~~The requirement of subsection (a) does not~~
17 ~~apply if an owner or operator provides, to the recipients~~
18 ~~described in subsection (a), by the same deadline and with~~
19 ~~respect to the same calendar year, an inventory form containing~~
20 ~~tier II information.~~

21 (c) An owner or operator may meet the requirements of this
22 Section with respect to a hazardous chemical which is a mixture
23 by doing one of the following:

24 (1) Providing information on the inventory form on each
25 element or compound in the mixture which is a hazardous
26 chemical. If more than one mixture has the same element or

1 compound, only one listing on the inventory form for the
2 element or compound at the facility is necessary.

3 (2) Providing information on the inventory form on the
4 mixture itself.

5 (d) A hazardous chemical shall be subject to the
6 requirements of this Section only if it is a hazardous chemical
7 for which a material safety data sheet or a listing is required
8 under Section 311 of the Federal Act.

9 (e) (Blank). ~~A tier I inventory form shall provide the~~
10 ~~following information in aggregate terms for hazardous~~
11 ~~chemicals in categories of health and physical hazards as set~~
12 ~~forth under the Occupational Safety and Health Act of 1970 and~~
13 ~~regulations promulgated under that Act:~~

14 ~~(1) an estimate (in ranges) of the maximum amount of~~
15 ~~hazardous chemicals in each category present at the facility at~~
16 ~~any time during the preceding calendar year;~~

17 ~~(2) an estimate (in ranges) of the maximum amount of~~
18 ~~hazardous chemicals in each category present at the facility at~~
19 ~~any time during the preceding calendar year; and~~

20 ~~(3) the general location of hazardous chemicals in each~~
21 ~~category.~~

22 (f) A tier II inventory form shall provide the following
23 ~~additional~~ information for each hazardous chemical present at
24 the facility, ~~but only upon request and in accordance with~~
25 ~~subsection (g):~~

26 (1) the chemical name or the common name of the chemical as

1 provided on the material safety data sheet;

2 (2) an estimate (in ranges) of the maximum amount of the
3 hazardous chemical present at the facility at any time during
4 the preceding calendar year;

5 (3) an estimate (in ranges) of the average daily amount of
6 the hazardous chemical present at the facility during the
7 preceding calendar year;

8 (4) a brief description of the manner of storage of the
9 hazardous chemical;

10 (5) the location at the facility of the hazardous chemical;
11 and

12 (6) an indication of whether the owner elects to withhold
13 location information of a specific hazardous chemical from
14 disclosure to the public under Section 324 of the Federal Act.

15 (g) Availability of tier II information shall be as
16 follows:

17 (1) Upon request by the State Emergency Planning
18 Commission, a local emergency planning committee, or a fire
19 department with jurisdiction over the facility, the owner or
20 operator of a facility shall provide tier II information, as
21 described in subsection (g), to the person making the request.

22 (2) A State or local official acting in his or her official
23 capacity may have access to tier II information by submitting a
24 request to the SERC or the local emergency planning committee.
25 Upon receipt of a request for tier II information, the SERC or
26 local committee shall, pursuant to paragraph (1), request the

1 facility owner or operator for the tier II information and make
2 available such information to the official.

3 (3) Any person may request the SERC or a local emergency
4 planning committee for tier II information relating to the
5 preceding calendar year with respect to a facility. Any such
6 request shall be in writing and shall be with respect to a
7 specific facility.

8 (4) Any tier II information which the SERC or a local
9 emergency planning committee has in its possession shall be
10 made available to a person making a request under this
11 paragraph in accordance with Section 324 of the Federal Act. If
12 the SERC or local emergency planning committee does not have
13 the tier II information in its possession, upon receiving a
14 request for tier II information the SERC or local emergency
15 planning committee shall, pursuant to paragraph (1), request
16 the facility owner or operator for tier II information with
17 respect to a hazardous chemical which a facility has stored in
18 an amount in excess of 10,000 pounds present at the facility at
19 any time during the preceding calendar year and make such
20 information available to the person making the request in
21 accordance with Section 324 of the Federal Act.

22 (5) In the case of tier II information which is not in the
23 possession of the SERC or local emergency planning committee
24 and which relates to a hazardous chemical which a facility has
25 stored in an amount less than 10,000 pounds present at the
26 facility at any time during the preceding calendar year, a

1 request from a person must include the general need for the
2 information. The SERC or local emergency planning committee
3 may, pursuant to paragraph (1), make a request to the facility
4 owner or operator for the tier II information on behalf of the
5 person making the request. Upon receipt of any information
6 requested on behalf of such person, the SERC or local emergency
7 planning committee shall make the information available to the
8 person in accordance with Section 324 of the Federal Act.

9 (6) The SERC or local emergency planning committee shall
10 respond to a request for tier II information under this Section
11 no later than 45 days after the date of receipt of the request.

12 (7) Upon request to an owner or operator of a facility
13 which files an inventory form under this Section by the fire
14 department with jurisdiction over the facility, the owner or
15 operator of the facility shall allow the fire department to
16 conduct an on-site inspection of the facility and shall provide
17 to the fire department specific location information on
18 hazardous chemicals at the facility.

19 (h) (Blank). ~~The tier 1 and tier 2 inventory forms~~
20 ~~promulgated by USEPA for use in meeting the requirements of~~
21 ~~Section 312 of the Federal Act may be used to fulfill the~~
22 ~~requirements of this Section.~~

23 (Source: P.A. 86-449.)

24 (430 ILCS 100/17) (from Ch. 111 1/2, par. 7717)

25 Sec. 17. Citizen suits. (a) Except as provided in

1 subsection (b), any person may commence a civil action on his
2 own behalf against the owner or operator of a facility for
3 failure to do any of the following:

4 (1) submit a followup emergency notice required under
5 Section 10(d) of this Act;

6 (2) submit a material safety data sheet or a list as
7 required under Section 11(a) of this Act;

8 (3) complete and submit an inventory form containing tier
9 II ~~±~~ information required under Section 12(a) of this Act,
10 ~~unless such requirement does not apply by reason of Section~~
11 ~~12(b) of this Act.~~

12 (b) No action may be commenced under subsection (a) against
13 an owner or operator of a facility if the Administrator of
14 USEPA has commenced and is diligently pursuing an
15 administrative order or civil action to enforce the requirement
16 concerned or to impose a civil penalty under the Federal Act
17 with respect to the violation of the requirement.

18 (Source: P.A. 86-449.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.