



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5559

by Rep. Robyn Gabel

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 a schedule of annual fees that are due from any facility required to submit an inventory form. Provides that the rules shall establish procedures for collection and management 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 subdivision that the Illinois Emergency Management Agency deems appropriate. Provides that fees collected by the SERC 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 a specified provision of the federal Superfund Amendments and Reauthorization Act of 1986. Provides that the SERC may make grants to local emergency planning committees to facilitate the disclosure of information about hazardous substances. Provides that, before implementing a grant program, the SERC shall adopt rules governing grant eligibility, application, and administration. 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.

LRB098 20178 MGM 55500 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 a schedule of annual
3 fees that are due from any facility required to submit an
4 inventory form. The rules shall establish procedures for
5 collection and management of the fees and may include penalties
6 for late filing of forms. The rules may provide an exemption
7 for State, county, and municipal entities, special districts,
8 and other public bodies or political subdivision that the
9 Agency deems appropriate. Fees collected by the SERC under this
10 subsection (a-5) shall be deposited into the Emergency Planning
11 and Training Fund and shall be used by the SERC, pursuant to
12 appropriation, for its activities arising under this Act and
13 the federal Act. The SERC may make grants to local emergency
14 planning committees to facilitate the disclosure of
15 information about hazardous substances. Before implementing a
16 grant program, the SERC shall adopt rules governing grant
17 eligibility, application, and administration. All fees
18 collected under this subsection shall be nonrefundable.

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

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

1 (1) Providing information on the inventory form on each
2 element or compound in the mixture which is a hazardous
3 chemical. If more than one mixture has the same element or
4 compound, only one listing on the inventory form for the
5 element or compound at the facility is necessary.

6 (2) Providing information on the inventory form on the
7 mixture itself.

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

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

17 ~~(1) 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;~~

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

23 ~~(3) the general location of hazardous chemicals in each~~
24 ~~category.~~

25 (f) A tier II inventory form shall provide the following
26 ~~additional~~ information for each hazardous chemical present at

1 the facility, ~~but only upon request and in accordance with~~
2 ~~subsection (g)~~:

3 (1) the chemical name or the common name of the chemical as
4 provided on the material safety data sheet;

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

8 (3) an estimate (in ranges) of the average daily amount of
9 the hazardous chemical present at the facility during the
10 preceding calendar year;

11 (4) a brief description of the manner of storage of the
12 hazardous chemical;

13 (5) the location at the facility of the hazardous chemical;
14 and

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

18 (g) Availability of tier II information shall be as
19 follows:

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

25 (2) A State or local official acting in his or her official
26 capacity may have access to tier II information by submitting a

1 request to the SERC or the local emergency planning committee.
2 Upon receipt of a request for tier II information, the SERC or
3 local committee shall, pursuant to paragraph (1), request the
4 facility owner or operator for the tier II information and make
5 available such information to the official.

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

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

25 (5) In the case of tier II information which is not in the
26 possession of the SERC or local emergency planning committee

1 and which relates to a hazardous chemical which a facility has
2 stored in an amount less than 10,000 pounds present at the
3 facility at any time during the preceding calendar year, a
4 request from a person must include the general need for the
5 information. The SERC or local emergency planning committee
6 may, pursuant to paragraph (1), make a request to the facility
7 owner or operator for the tier II information on behalf of the
8 person making the request. Upon receipt of any information
9 requested on behalf of such person, the SERC or local emergency
10 planning committee shall make the information available to the
11 person in accordance with Section 324 of the Federal Act.

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

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

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

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

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

2 Sec. 17. Citizen suits. (a) Except as provided in
3 subsection (b), any person may commence a civil action on his
4 own behalf against the owner or operator of a facility for
5 failure to do any of the following:

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

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

10 (3) complete and submit an inventory form containing tier
11 II ~~±~~ information required under Section 12(a) of this Act,
12 ~~unless such requirement does not apply by reason of Section~~
13 ~~12(b) of this Act.~~

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

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

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.