

**ADDENDUM F**

**CALIFORNIA  
LABOR CODE  
CHAPTER 2.5**

# **LABOR CODE**

## **SECTION 6360-6363**

**6360.** This chapter shall be known and may be cited as the Hazardous Substances Information and Training Act.

6361. (a) The Legislature finds and declares the following:

(1) Hazardous substances in the workplace in some forms and concentrations pose potential acute and chronic health hazards to employees who are exposed to these substances.

(2) Employers and employees have a right and a need to know the properties and potential hazards of substances to which they may be exposed, and such knowledge is essential to reducing the incidence and cost of occupational disease.

(3) Employers do not always have available adequate data on the contents and properties of specific hazardous substances necessary for the provision of a safe and healthful workplace and the provision of information and training to employees as is the responsibility of the employer under existing law.

(4) Many effective employee information and training programs now exist, and with the increased availability of basic information and with the extension of such programs to all affected employees, preventable health risks in the workplace would be further reduced.

(b) The Legislature, therefore, intends by this chapter to ensure the transmission of necessary information to employees regarding the properties and potential hazards of hazardous substances in the workplace.

**6362.** The rights and duties set forth in this chapter apply to all employers who use hazardous substances in this state, to any person who sells a hazardous substance to any employer in this state, and to manufacturers who produce or sell hazardous substances in this state. The provisions of this chapter apply to hazardous substances which are present in the workplace as a result of workplace operations in such a manner that employees may be exposed under normal conditions of work or in a reasonably foreseeable emergency resulting from workplace operations. For purposes of this chapter, an emergency includes, but is not limited to, equipment failure, rupture of containers, or failure of control equipment, which may or do result in a release of a hazardous substance into the workplace.

**6363.** Nothing in this chapter shall be construed to require a manufacturer or employer to conduct studies to develop new information.

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## **SECTION 6365-6374**

**6365.** Unless the context otherwise requires, the definitions in this article and the provisions of Article 1 shall govern the construction of provisions of this chapter.

**6366.** "CAS number" means the unique identification number assigned by the Chemical Abstracts Service to specific chemical substances.

**6367.** "Chemical name" is the scientific designation of a substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the system developed by the Chemical Abstracts Service.

**6368.** "Common name" means any designation or identification such as code name, code number, trade name, or brand name used to identify a substance other than by its chemical name.

**6370.** "Expose" or "exposure" means any situation arising from work operation where an employee may ingest, inhale, absorb through the skin or eyes, or otherwise come into contact with a hazardous substance; provided, that such contact shall not be deemed to constitute exposure if the hazardous substance present is in a physical state, volume, or concentration for which it has been determined pursuant to Sections 6382 and 6390 that there is no valid and substantial evidence that any adverse acute or chronic risk to human health may occur from such contact.

**6371.** "Impurity" means a hazardous substance which is unintentionally present with another substance or mixture.

**6372.** "Manufacturer" means a person who produces, synthesizes, extracts, or otherwise makes a hazardous substance.

**6373.** "Mixture" means any solution or intimate admixture of two or more substances, at least one of which is present as a hazardous substance, as designated pursuant to Sections 6382 and 6383, which do not react chemically with each other.

**6374.** "MSDS" means a material safety data sheet prepared pursuant to Section 6390. A label in 8-point or larger type, prepared pursuant to Section 6390, shall constitute an MSDS for the purposes of this chapter.

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## SECTION 6380-6386

**6380.** For the purposes of this chapter, the director, pursuant to Section 6382, shall establish a list of hazardous substances and shall make the list available to manufacturers, employers, and the public. Substances on the list shall be designated by their chemical and common name or names. The director shall adopt, amend, and repeal regulations for the establishment of the list of hazardous substances pursuant to the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

**6380.5.** (a) Prior to the director's adoption of the list of hazardous substances, the director shall submit the list to the Occupational Safety and Health Standards Board for its approval. Within 90 days of receiving the list from the director, the board, after holding a hearing and considering the recommendations of the employers and employees who may be affected, shall do the following:

(1) Determine whether the substances listed are properly listed as hazardous substances pursuant to the criteria of Section 6382.

(2) Modify the list as necessary to achieve compliance with Section 6382.

(3) Approve the list of hazardous substances. Upon receipt of the list approved by the board, the director shall adopt the list as a regulation pursuant to the procedures set forth in Section 6380. The inclusion or exclusion of any individual substance on the list of hazardous substances shall not be subject to Section 11346.2 or 11346.9 of the Government Code.

(b) Prior to the director's adoption of any additions to the list of hazardous substances pursuant to subdivision (c) of Section 6382, the director shall submit the additions to the board for its approval. Within 60 days of receiving the additions from the director, the board, after holding a hearing and considering the recommendations of the employers and employees who may be affected, shall do the following:

(1) Determine whether the substances listed are properly listed as hazardous substances pursuant to the criteria of Section 6382.

(2) Modify the additions as necessary to achieve compliance with Section 6382.

(3) Approve the list of hazardous substances. Upon receipt of the additions approved by the board, the director shall adopt the additions as a regulation pursuant to the procedures set forth in Section 6380. The inclusion or exclusion of any individual substance on the list of hazardous substances shall not be subject to Section 11346.2 or 11346.9 of the Government Code.

**6381.** Substances not present on the list of hazardous substances adopted pursuant to Section 6380 shall not be subject to the provisions of this chapter. However, the absence of designation as a hazardous substance in the list adopted pursuant to Section 6380 shall not in any way affect any other liability of an employer with regard to safeguarding the health and safety of an employee or other persons exposed to a toxic or hazardous substance; nor shall it affect any other duty or responsibility of a manufacturer, producer, or other maker to warn ultimate users of a substance pursuant to other provisions of law.

**6382.** The director shall prepare and amend the list of hazardous substances according to the following procedure:

(a) Any substance designated in any of the following listings in subdivision (b) shall be presumed by the director to be potentially hazardous and shall be included on the list; provided, that the director shall not list a substance or form of the substance from the listings in subdivision (b) if he or she finds, upon a showing pursuant to the procedures set forth in Section 6380, that the substance as present occupationally is not potentially hazardous to human health; and provided further, that a substance, mixture, or product shall not be considered hazardous to the extent that the hazardous substance present is in a physical state, volume, or concentration for which there is no valid and substantial evidence that any adverse acute or chronic risk to human health may occur from exposure.

(b) The listings referred to in subdivision (a) are as follows:

(1) Substances listed as human or animal carcinogens by the International Agency for Research on Cancer (IARC).

(2) Those substances designated by the Environmental Protection Agency pursuant to Section 307 (33 U.S.C. Sec. 1317) and Section 311 (33 U.S.C. Sec. 1321) of the federal Clean Water Act of 1977 (33 U.S.C. Sec. 1251 et seq.) or as hazardous air pollutants pursuant to Section 112 of the federal Clean Air Act, as amended (42 U.S.C. Sec. 7412) which have known, adverse human health risks.

(3) Substances listed by the Occupational Safety and Health Standards Board as an airborne chemical contaminant pursuant to Section 142.3. (4) Those substances designated by the Director of Food and Agriculture as restricted materials pursuant to Section 14004.5 of the Food and Agricultural Code which have known, adverse human health risks.

(5) Substances for which an information alert has been issued by the repository of current data established pursuant to Section 147.2.

(c) The director shall at least every two years review the listings in subdivision (b) and shall revise the list to include new substances so listed or exclude substances no longer on the listings, pursuant to the standards set forth in subdivision (a).

(d) Notwithstanding Section 6381, in addition to those substances on the director's list of hazardous substances, any substance within the scope of the federal Hazard Communication Standard (29 C.F.R. Sec. 1910.1200) is a hazardous substance subject to this chapter.

**6383.** (a) For the purposes of this chapter, a hazardous substance is present in any mixture or product if it is present in any of the following concentrations:

(1) One percent or more of the mixture or product.

(2) Two percent of the mixture or product if the hazardous substance exists as an impurity in the mixture.

(3) One-tenth of 1 percent of the mixture or product if the hazardous substance in the mixture or product is designated as a carcinogen pursuant to the Occupational Carcinogens Control Act of 1976 (Ch. 2 (commencing with Section 24200), Div. 20, H.& S.C.) or the federal Hazard Communication Standard (29 C.F.R. Sec. 1910.1200). The director may, by regulation, raise the concentration requirement for a hazardous substance which the director finds is not hazardous at the threshold levels; and, lower the concentration requirement for a hazardous substance for which there is valid and substantial evidence that the substance is extraordinarily hazardous.

(b) The manufacturer of a hazardous substance shall notify the director of any valid evidence which indicates that the concentration requirement for a hazardous substance established pursuant to subdivision (a) is higher than what is necessary to protect employees who work with, or may be exposed to, the substance.

**6384.** This chapter does not apply to impurities which develop as intermediate materials during chemical processing but are not present in the final product, and to which employee exposure is unlikely.

**6385.** The provisions of this chapter do not apply to hazardous substances contained in either of the following:

(a) Products intended for personal consumption by employees in the workplace, or consumer products packaged for distribution to, and use by, the general public.

(b) Retail food sale establishments and all other retail trade establishments, exclusive of processing and repair work areas.

**6386.** (a) A laboratory in which a hazardous substance is used by or under the direct supervision of a technically qualified individual is not an employer or manufacturer for the purposes of this chapter.

(b) This exemption does not excuse a laboratory from any of the following duties:

(1) A laboratory employer shall ensure that labels of incoming containers of hazardous substances are not removed or defaced.

(2) A laboratory employer shall maintain any material safety data sheets that are received with incoming shipments of hazardous substances and ensure that they are readily available to laboratory employees.

(c) This exemption does not include a laboratory that primarily provides a quality control analysis for a manufacturing process or produces hazardous substances for commercial purposes. (d) "Technically qualified individual" means a person who, because of education, training, or experience, understands the risks associated with the use of the particular hazardous substance or mixture involved, and who conveys this knowledge to employees in terms of safe work practices.

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### **SECTION 6390-6399.2**

**6390.** The manufacturer of any hazardous substance listed pursuant to the provisions of Section 6380 shall prepare and provide its direct purchasers of the hazardous substance with an MSDS containing the information specified in Section 6391 which, to the best of the manufacturer's knowledge, is current, accurate, and complete, based on information then reasonably available to the manufacturer. For purposes of this section, a substance, mixture, or product shall not be considered a hazardous substance if present in a physical state, volume, or concentration for which there is no valid and substantial evidence that any adverse acute or chronic risk to human health may occur from exposure.

The manufacturer shall revise an MSDS on a timely basis as appropriate to the importance of any new information which would affect the contents of the existing MSDS, and in any event within one year of such information becoming available to the manufacturer. If the new information indicates significantly increased risks to, or measures necessary to protect, employee health, as compared to those stated on the MSDS previously provided, the manufacturer shall provide such new information to persons who have purchased the product directly from the manufacturer within the last year.

**6390.5** The manufacturer, importer, and distributor of any hazardous substance, and the employer, shall label each container of a hazardous substance in a manner consistent with the federal Hazard Communication Standard (29 C.F.R. Sec. 1910.1200) and as set forth in applicable occupational safety and health standards adopted by the standards board.

**6391.** The information which manufacturers shall provide to their purchasers pursuant to the provisions of Section 6390 shall include the following, if pertinent:

- (a) The chemical name, any common names, and the CAS number of the hazardous substance.
- (b) The hazards or other risks in the use of the hazardous substance, including all of the following:
  - (1) The potential for fire, explosion, and reactivity.
  - (2) The acute and chronic health effects or risks from exposure.
  - (3) The potential routes of exposure and symptoms of overexposure.
- (c) The hazards or other risks of exposure to the combustion products of the hazardous substance.
- (d) The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the hazardous substance, and its combustion products.
- (e) The emergency procedures for spills, fire, disposal, and first aid.
- (f) A description in lay terms, if not otherwise provided, on either a separate sheet or with the body of the information specified in this section, of the specific potential health risks posed by the hazardous substance and its combustion products intended to alert any person reading the information.
- (g) The month and year that the information was compiled and, for an MSDS issued after January 1, 1981, the name and address of the manufacturer responsible for preparing the information.

**6392.** Provision of a federal Material Safety Data Sheet or equivalent shall constitute prima facie proof of compliance with Section 6390.

**6393.** The manufacturer shall be relieved of the obligation to provide a specific purchaser of a hazardous substance with an MSDS pursuant to Section 6390 if the manufacturer has a record of having provided the specific purchaser with the most current version of the MSDS, or if the product is one sold at retail and is incidentally sold to an employer or the employer's employees, in the same form, approximate amount, concentration, and manner as it is sold to consumers, and, to the seller's knowledge, employee exposure to the product is not significantly greater than the consumer exposure occurring during the principal consumer use of the product. Except for products so labeled, this section does not relieve the manufacturer of the requirement to provide direct purchasers with new, revised, or later information or an MSDS pursuant to Section

**6394.** The preparer of an MSDS shall provide the department with a copy of the MSDS on each hazardous substance it manufactures. The preparer may transmit the MSDS to the department in either paper or electronic form. In the electronic filing of an MSDS, it is the responsibility of the preparer to protect any trade secret information contained in the MSDS during transmission to the department. Upon receipt by the department of the MSDS, it is the responsibility of the department to protect any trade secret information.

**6395.** (a) The manufacturer may provide the information required by Section 6390 on an entire product mixture, instead of on each hazardous substance in it, when all of the following conditions exist:

(1) Hazard test information exists on the mixture itself, or adequate information exists to form a valid judgment of the hazardous properties of the mixture itself and the MSDS indicates that the information presented and the conclusions drawn are from some source other than direct test data on the mixture itself, and that an MSDS on each constituent hazardous substance identified on the MSDS is available upon request.

(2) Provision of information on the mixture will be as effective in protecting employee health as information on the ingredients.

(3) The hazardous substances in the mixture are identified on the MSDS unless it is either unfeasible to describe all the ingredients in the mixture or the identity of the ingredients is itself a valid trade secret, in either case the reason why the hazardous substances in the mixture are not identified shall be stated on the MSDS.

(b) A single mixture MSDS may be provided for more than one formulation of a product mixture if the information provided pursuant to Section 6390 does not vary for the formulation.

**6396.** (a) The Director of Industrial Relations shall protect from disclosure any and all trade secrets coming into his or her possession, as defined in subdivision (d) of Section 6254.7 of the Government Code, when requested in writing or by appropriate stamping or marking of documents by the manufacturer or producer of a mixture.

(b) Any information reported to or otherwise obtained by the Director of Industrial Relations, or any of his or her representatives or employees, which is exempt from disclosure under subdivision

(a), shall not be disclosed to anyone except an officer or employee of the state or of the United States of America, in connection with the official duties of that officer or employee under any law for the protection of health, or to contractors with the state and their employees if in the opinion of the director the disclosure is necessary and required for the satisfactory performance of a contract for performance of work in connection with this act.

(c) Any officer or employee of the state, or former officer or employee, who by virtue of that employment or official position has obtained possession of or has access to material the disclosure of which is prohibited by this section, and who, knowing that disclosure of the material is prohibited, knowingly and willfully discloses the material in any manner to any person not entitled to receive it, is guilty of a misdemeanor. Any contractor with the state and any employee of that contractor, who has been furnished information as authorized by this section, shall be considered to be an employee of the state for purposes of this section.

(d) Information certified to by appropriate officials of the United States, as necessarily kept secret for national defense purposes, shall be accorded the full protections against disclosure as specified by that official or in accordance with the laws of the United States.

(e) (1) The director, upon his or her own initiative, or upon receipt of a request pursuant to the California Public Records Act, (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) for the release of data submitted and designated as a trade secret by an employer, manufacturer, or producer of a mixture, shall determine whether any or all of the data so submitted are a properly designated trade secret.

(2) If the director determines that the data is not a trade secret, the director shall notify the employer, manufacturer, or producer of a mixture by certified mail.

(3) The employer, manufacturer, or producer of a mixture shall have 15 days after receipt of notification to provide the director with a complete justification and statement of the grounds on which the trade secret privilege is claimed. This justification and statement shall be submitted by certified mail.

(4) The director shall determine whether the data are protected as a trade secret within 15 days after receipt of the justification and statement, or if no justification and statement is filed, within 30 days of the original notice, and shall notify the employer or manufacturer and any party who has requested the data pursuant to the California Public Records Act of that determination by certified mail. If the director determines that the data are not protected as a trade secret, the final notice shall also specify a date, not sooner than 15 days after the date of mailing of the final notice, when the data shall be available to the public.

(5) Prior to the date specified in the final notice, an employer, manufacturer, or producer of a mixture may institute an action in an appropriate superior court for a declaratory judgment as to whether the data are subjected to protection under subdivision (a).

(f) This section does not authorize a manufacturer to refuse to disclose information required pursuant to this chapter to the director.

**6397.** (a) Any person other than a manufacturer who sells a mixture or any hazardous substance shall provide its direct purchasers of the mixture or hazardous substance at the time of sale with a copy of the most recent MSDS or equivalent information prepared and supplied to the person pursuant to either Section 6390 or subdivision (b) whenever it is foreseeable that the provisions of this chapter may apply to the purchaser.

(b) Any person who produces a mixture may, for the purposes of this section, prepare and use a mixture MSDS, subject to the provisions of Section 6395.

(c) Any person subject to the provisions of subdivision (a) shall be relieved of the obligation to provide a specific purchaser of a hazardous substance with an MSDS if he or she has a record of having provided the specific purchaser with the most recent version of the MSDS, or if the product is one sold at retail and is incidentally sold to an employer or the employer's employees, in the same form, approximate amount, concentration, and manner as it is sold to consumers, and, to the seller's knowledge, employee exposure to the product is not significantly greater than the consumer exposure occurring during the principal consumer use of the product.

**6398.** The Occupational Safety and Health Standards Board shall adopt a standard setting forth an employer's duties toward its employees under this chapter, on or before July 1, 1981, consistent with the following guidelines:

(a) An MSDS shall be available to an employee, collective bargaining representative, or the employee's physician, on a timely and reasonable basis, on substances in the workplace.

(b) Employers shall furnish employees who may be exposed to a hazardous substance with information on the contents of the MSDS for the hazardous substances or equivalent information, either in written form or through training programs, which may be generic to the extent appropriate and related to the job.

(c) Provision shall be made for employees to be informed of their rights under this chapter and under the standard to be adopted.

**6399.** Upon request, the manufacturer of a hazardous substance or the producer of a mixture who has produced a mixture MSDS pursuant to the provisions of subdivision (b) of Section 6397 shall make available to any employer, whose employees may be exposed to its product in the workplace, an MSDS on its product. If the employer does not already have an MSDS and has not already made written inquiry within 12 months as to whether a substance or product is subject to the requirements of this chapter or if the employer has not already made written inquiry within 6 months as to whether any new, revised, or later information has been issued for a hazardous substance, the employer shall do so within seven working days of a request to do so by an employee or employee's collective bargaining representative or physician. The employer may adopt reasonable procedures for acting upon such employee requests to avoid interruption of normal work operations. The manufacturer or the producer of a mixture MSDS pursuant to the provisions of Section 6397 shall answer such inquiries within 15 working days of their receipt, stating that the substance or product is subject to the requirements of this chapter and furnishing the most current MSDS or a statement that the MSDS is under development and the estimated completion date, or stating that it is not subject to the requirements of this chapter, with a brief explanation of why the chapter is not applicable. If an employer has not received a response from a manufacturer within 25 working days of the date the request was made, the employer shall send a copy of the request made of the manufacturer to the director with the notation that no response has been received.

**6399.1** Compliance with regulations of the Director of Food and Agriculture issued pursuant to Section 12981 of the Food and Agricultural Code shall be deemed compliance with the obligations of an employer toward his or her employees under this chapter.

**6399.2** This article shall become operative 180 days after adoption of the initial list of hazardous substances pursuant to Article 3 (commencing with Section 6380).

## **LABOR CODE**

### **SECTION 6399.5-6399.7**

**6399.5** The provisions of this chapter regarding manufacturers, employers, and persons subject to the provisions of Section 6397, shall be enforced pursuant to the provisions of this division pertaining to enforcement of standards adopted under Section 142.3.

**6399.6** The provision of information to an employee pursuant to the provisions of this chapter shall not in any way affect any other liability of an employer with regard to safeguarding the health and safety of an employee or other persons exposed to a toxic or hazardous substance; nor shall it affect any other duty or responsibility of a manufacturer, producer, or other maker to warn ultimate users of a substance pursuant to other provisions of law.

**6399.7** No person shall discharge or in any manner discriminate against, any employee because such employee has filed any complaint or has instituted, or caused to be instituted, any proceeding under or related to the provisions of this chapter, or has testified, or is about to testify, in any such proceeding, or because of the exercise of any right afforded pursuant to the provisions of this chapter on such employee's behalf or on behalf of others, nor shall any pay, seniority, or other benefits be lost for exercise of any such right. A violation of the provisions of this section shall be a violation of the provisions of Section 6310.