

Sec. 2. [482.47] **St. Cloud municipal court.** The revisor of statutes in compiling the next edition of the Minnesota Statutes shall substitute the salary fixed in section 1 hereof for the salary specified for such judge in Laws 1959, Chapter 691, Section 1, Subdivision 2.

Approved June 2, 1961.

EXTRA SESSION

CHAPTER 58—H. F. No. 156

[Coded]

An act to regulate the labeling of packages of hazardous substances intended or suitable for household use; repealing Minnesota Statutes 1949, Section 24.01; and Minnesota Statutes 1957, Sections 24.02, Subdivisions 2 and 3; 24.03 to 24.06, and 24.23, Subdivision 1.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [24.32] **Short title.** This act may be cited as the "Hazardous Substances Labeling Act".

Sec. 2. [24.33] **Definitions.** For the purposes of this act:

(a) The term "Department" means the department of agriculture, dairy, and food;

(b) The term "Commissioner" means the commissioner of the department of agriculture, dairy, and food;

(c) The term "person" includes an individual, partnership, corporation, and association;

(d) The term "hazardous substance" means any substance except drugs and medicines or mixture of substances except drugs and medicines which is (1) toxic, (2) corrosive, (3) an irritant, (4) strong sensitizer, (5) flammable, or which (6) generates pressure through decomposition, heat, or other means, if such hazardous substance or mixture of hazardous substances may cause substantial personal injury or illness during any customary or reasonably anticipated handling or use; provided, however, the term "hazardous substance" shall not include substances stored and intended for use as fuel in a heating, cooking, or refrigeration system;

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(e) The term "toxic" shall apply to any hazardous substance which has the inherent capacity to produce bodily injury to man through ingestion, inhalation, or absorption through any body surface;

(f) (1) The term "highly toxic" means any hazardous substance which falls within any of the following categories: (a) Produces death within 14 days in half or more than half of a group of ten or more laboratory white rats each weighing between 200 and 300 grams, at a single dose of 50 milligrams or less per kilogram of body weight, when orally administered; or (b) produces death within 14 days in half or more than half of a group of ten or more laboratory white rats each weighing between 200 and 300 grams, when inhaled continuously for a period of one hour or less at an atmospheric concentration of 200 parts per million by volume or less of gas, vapor, mist, or dust, provided such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner; or (c) produces death within 14 days in half or more than half of a group of ten or more rabbits tested in a dosage of 200 milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for 24 hours or less.

(2) If the commissioner finds that available data on human experience with any hazardous substance indicate results different from those obtained on animals in the above named dosages or concentrations, the human data shall take precedence.

(g) The term "corrosive" means any hazardous substance which in contact with living tissue will cause destruction of tissue by chemical action; but shall not refer to action on inanimate surfaces;

(h) The term "irritant" means any hazardous substance not corrosive within the meaning of (g) which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction;

(i) The term "strong sensitizer" means any hazardous substance which will cause, on normal living tissue through an allergic or photodynamic process, a hypersensitivity which becomes evident on reapplication of the same hazardous substance and which is designated as such by the commissioner. Before designating any hazardous substance as a strong sensitizer, the commissioner shall, after public hearing, follow-

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ing due notice, find that the frequency of occurrence and severity of the reaction indicate a significant potential for causing hypersensitivity;

(j) The term "extremely flammable" shall apply to any hazardous substance which has a flash point at or below 20 degrees Fahrenheit as determined by the Tagliabue Open Cup Tester, and the term "flammable" shall apply to any hazardous substance which has a flash point of above 20 degrees to and including 80 degrees Fahrenheit, as determined by the Tagliabue Open Cup Tester; except that the flammability of the contents of self-pressurized containers shall be determined by methods generally applicable to such containers and established by regulations issued by the commissioner;

(k) The term "label" means a display of written, printed, or graphic matter upon or attached to the immediate package or container of any hazardous substance; and a requirement made by or under authority of this act that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears (1) on the outside container or wrapper, if any there be, unless it is easily legible through the outside container or wrapper and (2) on all accompanying literature where there are directions for use, written, or otherwise;

(l) The term "immediate container" does not include package liners;

(m) The term "misbranded package" means any container of a hazardous substance intended or suitable for household use which fails to bear a label:

(1) which states conspicuously (A) the name and place of business of the manufacturer, packer, or distributor; (B) the common usual name, or the chemical name or the recognized generic name (not trade name only) of the hazardous substance or of each component which contributes substantially to its hazard; (C) the signal word "DANGER" on hazardous substances which are extremely flammable, corrosive, or highly toxic; (d) the signal word "WARNING" or "CAUTION" on all other hazardous substances; (E) an affirmative statement of the principal hazard or hazards, such as "Flammable", "Vapor Harmful", "Causes Burns", "Absorbed Through Skin", or similar wording descriptive of the hazard; (F) precautionary measures describing the action to

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be followed or avoided; (G) instructions, when necessary, for the first-aid treatment in case of contact or exposure, if the substance is hazardous through contact or exposure; (H) the word "poison" for any hazardous substance which is defined as "Highly toxic" by subsection (f); (I) instructions for handling and storage of packages which require special care in handling or storage; and (J) the statement "Keep out of the reach of children", or its practical equivalent, and

(2) on which any statements required under clause (1) of this subsection are located prominently and are in the English language in legible type in contrast by typography, layout, or color with other printed matter on the label: Provided, that the commissioner shall, by regulations, provide for minimum information which shall appear on the labels for small packages, which labels need not include all of the information required by this subsection: Provided further, that the commissioner may permit less than the foregoing statement of the hazard or precautionary measures for labels of hazardous substances presenting only minor hazards; and the term "misbranded package" shall not apply to packages of economic poisons subject to the federal insecticide, fungicide, and rodenticide act, nor to packages of foods, drugs, and cosmetics subject to the federal food, drug, and cosmetic act.

Sec. 3. [24.34] **Prohibited acts.** The following acts and the causing thereof are hereby prohibited.

(a) The sale or delivery for sale of any misbranded package of a hazardous substance.

(b) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the label of, or the doing of any other act with respect to a hazardous substance, if such act is done while the substance is held for sale and which results in the hazardous substance being in a misbranded package.

(c) The refusal to permit entry or inspection as authorized by section 8(b).

(d) A re-use of food, drug, or cosmetic containers still bearing original labels or identifiable as such by characteristic shape, impression or closures as containers for hazardous substances is prohibited.

Sec. 4. [24.35] **Penalties.** (a) Any person who

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violates any of the provisions of section 3 shall be guilty of a misdemeanor.

(b) No person shall be subject to the penalties of subsection (a) of this section, for having violated subsection (a) of section 3 in respect of any hazardous substance shipped or delivered for shipment for export to any foreign country, in a package marked for export and branded in accordance with the specifications of the foreign purchaser and in accordance with the laws of the foreign country.

Sec. 5. [24.36] **Stop-sale order; seizures.** Subdivision 1. The commissioner shall issue and enforce a written or printed "stop-sale use or removal" order to the owner or custodian of any hazardous substance when the commissioner finds that the product is being offered or exposed for sale in violation of any of the provisions of this act, and his order shall direct that the product shall be held at a designated place until the provisions of this act have been complied with and the product is released in writing by the commissioner. However, the owner or custodian of such product has the right to appeal from such order to a court of competent jurisdiction in the county or city where the product is found, praying for a judgment as to the justification of the order, and for the discharge of the product from the order prohibiting the sale in accordance with the findings of the court. The provisions of this section shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of this act. The commissioner shall release the hazardous substance held under any stop-sale use or removal order when the requirements of this act have been complied with and upon payment of all reasonable costs and expenses incurred in connection with such order. When the commissioner issues and enforces a "stop-sale, use or removal" order against any hazardous substance declared in violation of this act, in possession of any dealer or distributor, such dealer or distributor may return to the person from whom such hazardous substance was purchased all unbroken retail containers affected by such order and such person shall reimburse the dealer or distributor for the full purchase price, including all delivery costs.

Subd. 2. Any hazardous substance found not to be in compliance with this act shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which the product is located. In the event the court finds that the hazardous substance is in violation

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of the provisions of this act and orders the condemnation of the product, it shall be disposed of in any manner consistent with the character of the hazardous substance and the laws of the state. In no instance shall the disposition of the hazardous substance be ordered by the court without first giving the claimant an opportunity to apply to the court for the release of the product or for permission to process or relabel the product to bring it into compliance with this act.

Sec. 6. [24.37] Hearing before report of criminal violation. Before any violation of this act is reported by the commissioner to any state's attorney for institution of a criminal proceedings, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

Sec. 7. [24.38] Regulations and hearings. The commissioner is authorized, after public hearing following due notice, to promulgate regulations for the efficient enforcement of this act.

Sec. 8. [24.39] Examinations and investigations. (a) The commissioner is authorized to conduct examinations, inspections, and investigations for the purposes of this act through officers and employees of the department or through any health officer or employee of the state of Minnesota.

(b) For purposes of enforcement of this act, officers, or employees duly designated by the commissioner, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment in which hazardous substances are held, or to enter any vehicle being used to transport or hold such hazardous substances; and (2) to inspect and sample, at reasonable times and within reasonable limits and in a reasonable manner, finished hazardous substances in retail packages and labeling thereon in such factory, warehouse, establishment, or vehicle. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

Sec. 9. [24.40] Records of shipment. For the purpose of enforcing the provisions of this act, carriers and

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persons receiving hazardous substances or holding such hazardous substances so received, shall, upon the request of an officer or employee duly designated by the commissioner, permit such officer or employee, at reasonable times, to have access to and to copy all records showing the movement of any such hazardous substance, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; and it shall be unlawful for any such carrier or person to fail to permit such access to any copying of any record so requested when such request is accompanied by a statement in writing specifying the nature or kind of such hazardous substance to which such request relates: Provided, that evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained.

Sec. 10. [24.41] Publicity. (a) The commissioner may cause to be published from time to time reports summarizing any judgments, decrees, or court orders which have been rendered under this act, including the nature of the charge and the disposition thereof.

(b) The commissioner may also cause to be disseminated information regarding hazardous substances in situations involving, in the opinion of the commissioner, imminent danger to health. Nothing in this section shall be construed to prohibit the commissioner from collecting, reporting, and illustrating the results of the investigations of the department.

Sec. 11. [24.42] Separability clause. If any provision of this act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the act and the applicability thereof to other persons and circumstances shall not be affected thereby.

Sec. 12. Repeals. Minnesota Statutes 1949, Section 24.01; and Minnesota Statutes 1957, Sections 24.02, subdivisions 2 and 3, 24.03 to 24.06, and 24.23, subdivision 1, are repealed.

Sec. 13. Time of taking effect. This act shall take effect on January 1, 1962.

Approved June 2, 1961.

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