NATIONAL ASSEMBLY

SECOND SESSION THIRTY-THIRD LEGISLATURE

Bill 65

An Act to amend the Act respecting occupational health and safety

Introduction

Introduced by
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Minister of Labour

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EXPLANATORY NOTES

This bill amends the Act respecting occupational health and safety for the purpose of implementing in Québec a national programme of information on hazardous products used in the workplace.

The bill creates new obligations for employers with regard to certain products which may be harmful to the health and safety of the workers.

To ensure the safe utilization of hazardous products, the bill requires employers to make available to their employees specified information on hazardous products by means of labels and material safety data sheets or through a training and information programme.

Employers may, however, be exempted from the obligation to disclose any confidential information on a label or safety data sheet by filing an application for exemption with the agency designated by the Government. Decisions rendered by that agency are subject to appeal.

Finally, the bill confers on the Commission de la santé et de la sécurité du travail and on the Government the regulatory powers necessary for the carrying out of its provisions.

Bill 65

An Act to amend the Act respecting occupational health and safety

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Act respecting occupational health and safety (R.S.Q., chapter S-2.1) is amended by inserting, in section 1, the following definition:

"**"controlled product"** means any product included in the classification established by regulation or meeting the criteria set out in the classification;".

2. The said Act is amended by inserting, after section 62, the following subdivision:

"§ 5.—*Information in respect of controlled products*

"**62.1** No employer may allow the use or handling of a controlled product in a workplace unless the product carries a label and a material safety data sheet which meet the requirements of this Act and the regulations and unless the worker has received the training and information required to carry out the work entrusted to him safely.

An employer may, however, store a controlled product in a workplace if he takes, without delay, all the steps necessary to ensure that the product carries the prescribed label and material safety data sheet and that the worker is given the training and information referred to in the first paragraph.

"**62.2** An employer who manufactures a controlled product must affix a label to the product and prepare in respect of that product

a material safety data sheet, both of which must meet the requirements of this Act and the regulations.

"**62.3** The material safety data sheet concerning a controlled product shall contain the following information:

(1) where the controlled product is a pure substance, the chemical identity of the controlled product or where the controlled product is not a pure substance, the chemical identity and concentration of any ingredient that is a controlled product;

(2) where the controlled product contains an ingredient that is included in the ingredient disclosure list prescribed by regulation and the ingredient is in a concentration that is equal to or greater than the concentration specified in the list for that ingredient, the chemical identity and concentration of that ingredient;

(3) the chemical identity and concentration of any ingredient of the product which the employer has reasonable grounds to believe may be harmful to human health;

(4) the chemical identity and concentration of any ingredient of the product the toxicological properties of which are not known to the employer;

(5) any other information prescribed by regulation.

"**62.4** The label and material safety data sheet of a controlled product must be in French. The French text may be accompanied with one or several translations.

"**62.5** An employer must, in addition to his obligations under section 51, implement a training and information programme with respect to controlled products, the minimum content of which is prescribed by regulation.

The training and information programme shall be established by the health and safety committee. The procedure set out in section 79 shall apply in cases of disagreement within the committee.

Where there is no health and safety committee, the training and information programme shall be established by the employer in consultation with any person designated by mutual agreement between the employer and the workers.

The programme must be updated each year or as and when required by circumstances.

The programme shall be incorporated into any compulsory prevention programme implemented in the establishment.

"**62.6** An employer must, in respect of every controlled product present in a workplace,

(1) transmit a copy of the material safety data sheet concerning the controlled product to the health and safety committee, the prevention representative or, where there is no health and safety committee or prevention representative, to the certified association or, where there is no certified association, to the representative of the workers within the establishment;

(2) keep and make readily available to every worker, in the workplace, the material safety data sheet concerning the controlled product, in accordance with the regulations;

(3) subject to section 62.7, disclose, on request, to any interested worker of the establishment, to the health and safety committee or to the prevention representative or, where there is no health and safety committee or prevention representative, to the certified association or, where there is no certified association, to the representative of the workers within the establishment, the sources of information in his possession relating to any toxicological data used in preparing the material safety data sheet.

"**62.7** An employer may be exempted from the obligation to disclose, on a label or material safety data sheet,

(1) the chemical identity or concentration of any ingredient of the controlled product;

(2) the sources of any information relating to toxicological data concerning the controlled product;

(3) the common name, chemical name, trade name, generic name or brand name of the controlled product;

(4) information by means of which the supplier of the controlled product can be identified.

No employer may, however, be exempted from the obligation to disclose information on any hazard defined by regulation.

"**62.8** An application for exemption shall be filed in the form and manner prescribed by regulation. It must contain the prescribed information and be accompanied with the prescribed documents and fees.

"**62.9** An employer who files an application for exemption is not required to disclose the information forming the object of his application, until a final decision is rendered.

"**62.10** The Government shall, by order, designate the body having exclusive jurisdiction to examine and grant or dismiss an application for exemption.

"**62.11** The designated body shall examine every application for exemption in accordance with the procedure prescribed by regulation and may require, within the period it determines, any additional information it considers necessary.

The designated body shall make its decision on the basis of the criteria prescribed by regulation.

"**62.12** Where the designated body dismisses all or part of an application for exemption, it shall order the applicant to disclose, within the period and in the form and manner it determines, the information forming the object of the application. The applicant must comply with the decision of the designated body.

Following a final decision granting an application, the applicant is exempt, for a period of three years, from the obligation to disclose the information forming the object of his application.

"**62.13** The employer, a worker of the establishment, a member of the health and safety committee, a prevention representative, a certified association representing a worker of the establishment or any interested person may, within the period prescribed by regulation, appeal from the decision rendered in respect of an application for exemption.

"**62.14** The Government shall, by order, designate the body having exclusive jurisdiction to hear and decide any appeal under section 62.13.

"**62.15** Appeals are brought by filing with the appellate body a written application containing a detailed statement of the grounds of the appeal.

Applications shall be filed in the form and manner prescribed by regulation and shall contain the prescribed information and be accompanied with the prescribed documents and fees.

"**62.16** The appellate body shall hear and decide every appeal in accordance with the procedure prescribed by regulation.

It shall render its decisions on the basis of the criteria prescribed by regulation.

"**62.17** The appellate body may confirm or quash a decision appealed from, or render any decision which should have been rendered in first instance.

If it considers that information must be disclosed to protect the health and insure the safety of workers, the appellate body may, in a decision granting an exemption, order that such information be disclosed to a person designated by it. The person to whom such an order is directed must comply within the period and in the manner specified therein.

A person to whom information is disclosed pursuant to the preceding paragraph shall not disclose the information to any other person or allow any other person to have access to the information.

"**62.18** No employer may file a second application for exemption in respect of information for which an exemption has been refused.

"**62.19** For the purposes of sections 62.10 and 62.14, the Government may, by order, designate a body or agency established for similar purposes by the Parliament of Canada.

Where that is the case, the body or agency shall exercise the powers and duties conferred on it by its constitutive Act in accordance with the rules and in the manner prescribed by that Act. However, the persons mentioned in section 62.13 may appeal from any decision concerning an application for exemption.

"**62.20** Notwithstanding sections 62.9 and 62.12, an employer is bound to disclose any information in his possession concerning a controlled product

(1) to the Commission, at its request;

(2) to a physician requesting the information for the purpose of making a medical diagnosis or dispensing medical treatment in an emergency;

(3) to a nurse requesting the information for the purpose of providing first aid in an emergency.

Every person who obtains information pursuant to this section shall keep such information confidential.

"**62.21** Section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) does not apply in respect of information contemplated by the first paragraph of section 62.7."

3. Section 223 of the said Act is amended by inserting, after subparagraph 21 of the first paragraph, the following subparagraphs:

"(21.1) identifying the controlled products, establishing a classification of the controlled products and specifying the criteria or methods of classification used to classify the products listed in the classification;

"(21.2) excluding products from the application of subdivision 5 of Division II of Chapter III or certain of its provisions;

"(21.3) establishing an ingredient disclosure list with respect to ingredients contemplated by paragraph 2 of section 62.3;

"(21.4) prescribing labelling and posting standards applicable to controlled products present or manufactured in a workplace and prescribing, in particular,

(*a*) the information that a label or sign must contain;

(*b*) the form of labels or signs;

(*c*) measures for the up-dating and renewal of labels and signs and for their replacement in case of loss, destruction or deterioration;

(*d*) circumstances in which a label may be replaced by a sign or another means of information specified in the regulation;

"(21.5) prescribing standards applicable to the material safety data sheets concerning the controlled products present or manufactured in a workplace and prescribing, in particular,

(*a*) the information that a material safety data sheet must contain;

(*b*) the form of material safety data sheets and the methods of reproduction permitted to facilitate access thereto;

(*c*) measures for the up-dating, distribution and conservation of material safety data sheets;

"(21.6) prescribing the minimum content of a training and information programme contemplated by section 62.5;

"(21.7) defining the word "label" and the expression "information on hazards" for the purposes of subdivision 5 of Division II of Chapter III;".

4. The said Act is amended by inserting, after section 223, the following sections:

"**223.1** The Government may make regulations

(1) prescribing the form and manner in which an application for exemption under section 62.8 or an appeal under section 62.15 must be filed and the information, documents and fees that must accompany it;

(2) prescribing the criteria to be applied in examining an application for exemption;

(3) prescribing the procedure applicable to the examination of an application for exemption under section 62.8;

(4) prescribing the rules of procedure applicable to the body designated pursuant to section 62.14 and the period within which an appeal may be filed.

"**223.2** The regulations made for the carrying out of subdivision 5 of Division II of Chapter III may provide that, where they refer to other texts, they refer to all subsequent amendments to such texts."

5. The first regulation made by the Commission de la santé et de la sécurité du travail and the first regulation made by the Government for the carrying out of subdivision 5 of Division II of Chapter III of the Act respecting occupational health and safety may be adopted without the publication of a draft regulation in the *Gazette officielle du Québec*.

6. The provisions of this Act come into force on the date or dates fixed by the Government.