

**Introduced by Senator Monning**February 7, 2013

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An act to amend Section 6276.12 of the Government Code, and to amend Section 147.2 of the Labor Code, relating to employment.

## LEGISLATIVE COUNSEL'S DIGEST

SB 193, as introduced, Monning. Hazard evaluation system and information service.

Existing law requires the Department of Industrial Relations, with the State Department of Public Health, to establish a repository of current data on toxic materials and harmful physical agents in use or potentially in use in places of employment in the state. That law requires the repository, among other things, to provide information and collect and evaluate data relating to possible hazards to employees resulting from exposure to toxic materials or harmful physical agents. That law expressly does not require employers to report any information not otherwise required by law.

This bill would require, upon written request from the repository, chemical manufacturers, suppliers, distributors, importers, and their agents to provide to the repository the names and addresses of their customers who have purchased specified chemicals or commercial products containing those chemicals, and certain other information related to those shipments. The bill would deem the names and addresses of customers to be confidential. The bill would also provide that the State Department of Public Health shall be entitled to reimbursement of attorney's fees and costs incurred in seeking an injunction to enforce this requirement.

The California Public Records Act requires certain public records to be made available for public inspection, and lists records that are exempt from disclosure under the act.

The bill would exempt from public disclosure under the act the names and addresses of customers provided to the repository by chemical manufacturers, suppliers, distributors, importers, and their agents, that would be required pursuant to this act, as confidential, but would provide that those names and addresses may be disclosed to officers or employees of the state not affiliated with the repository who are responsible for carrying out the provisions of the Labor Code relating to safety in employment. The bill would also state findings and declarations of the Legislature for limiting the public’s right of access to the names and addresses of those customers.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 6276.12 of the Government Code is
- 2 amended to read:
- 3 6276.12. Conservatee, confidentiality of the conservatee’s
- 4 report, Section 1826, Probate Code.
- 5 Conservatee, estate plan of, confidentiality of, Section 2586,
- 6 Probate Code.
- 7 Conservatee with disability, confidentiality of report, Section
- 8 1827.5, Probate Code.
- 9 Conservator, confidentiality of conservator’s birthdate and
- 10 driver’s license number, Section 1834, Probate Code.
- 11 Conservator, supplemental information, confidentiality of,
- 12 Section 1821, Probate Code.
- 13 Conservatorship, court review of, confidentiality of report,
- 14 Section 1851, Probate Code.
- 15 Consumer fraud investigations, access to complaints and
- 16 investigations, Section 26509.
- 17 Consumption or utilization of mineral materials, disclosure of,
- 18 Section 2207.1, Public Resources Code.
- 19 Contractor, evaluations and contractor responses, confidentiality
- 20 of, Section 10370, Public Contract Code.
- 21 Contractor, license applicants, evidence of financial solvency,
- 22 confidentiality of, Section 7067.5, Business and Professions Code.

- 1 Controlled Substance Law violations, confidential information,  
2 Section 818.7.
- 3 Controlled substance offenders, confidentiality of registration  
4 information, Section 11594, Health and Safety Code.
- 5 Cooperative Marketing Association, confidential information  
6 disclosed to conciliator, Section 54453, Food and Agricultural  
7 Code.
- 8 Coroner, inquests, subpoena duces tecum, Section 27491.8.
- 9 County aid and relief to indigents, confidentiality of  
10 investigation, supervision, relief, and rehabilitation records, Section  
11 17006, Welfare and Institutions Code.
- 12 County alcohol programs, confidential information and records,  
13 Section 11812, Health and Safety Code.
- 14 County Employees' Retirement, confidential statements and  
15 records, Section 31532.
- 16 County mental health system, confidentiality of client  
17 information, Section 5610, Welfare and Institutions Code.
- 18 County social services, investigation of applicant, confidentiality,  
19 Section 18491, Welfare and Institutions Code.
- 20 County social services rendered by volunteers, confidentiality  
21 of records of recipients, Section 10810, Welfare and Institutions  
22 Code.
- 23 County special commissions, disclosure of health care peer  
24 review and quality assessment records not required, Section  
25 14087.58, Welfare and Institutions Code.
- 26 County special commissions, disclosure of records relating to  
27 the commission's rates of payment for publicly assisted medical  
28 care not required, Section 14087.58, Welfare and Institutions Code.
- 29 Court files, access to, restricted for 60 days, Section 1161.2,  
30 Code of Civil Procedure.
- 31 Court reporters, confidentiality of records and reporters, Section  
32 68525.
- 33 Court-appointed special advocates, confidentiality of information  
34 acquired or reviewed, Section 105, Welfare and Institutions Code.
- 35 Crane employers, previous business identities, confidentiality  
36 of, Section 7383, Labor Code.
- 37 Credit unions, confidentiality of investigation and examination  
38 reports, Section 14257, Financial Code.
- 39 Credit unions, confidentiality of employee criminal history  
40 information, Section 14409.2, Financial Code.

1 Criminal defendant, indigent, confidentiality of request for funds  
2 for investigators and experts, Section 987.9, Penal Code.

3 Criminal offender record information, access to, Sections 11076  
4 and 13202, Penal Code.

5 Crop reports, confidential, subdivision (e), Section 6254.

6 *Customer list of chemical manufacturers, suppliers, distributors,*  
7 *importers, and their agents, confidential, Section 147.2, Labor*  
8 *Code.*

9 Customer list of employment agency, trade secret, Section 16607,  
10 Business and Professions Code.

11 Customer list of telephone answering service, trade secret,  
12 Section 16606, Business and Professions Code.

13 SEC. 2. Section 147.2 of the Labor Code is amended to read:

14 147.2. (a) In accordance with Chapter 2 (commencing with  
15 Section 6350) of Part 1 of Division 5 of this code and Section  
16 105175 of the Health and Safety Code, the Department of Industrial  
17 Relations—~~shall~~, by interagency agreement with the State  
18 Department of *Public Health Services*, *shall* establish a repository  
19 of current data on toxic materials and harmful physical agents in  
20 use or potentially in use in places of employment in the state.

21 ~~The~~

22 (b) *The* repository shall fulfill all of the following functions:

23 (1) Provide reliable information of practical use to employers,  
24 employees, representatives of employees, and other governmental  
25 agencies on the possible hazards to employees of exposure to toxic  
26 materials or harmful physical agents.

27 (2) Collect and evaluate toxicological and epidemiological data  
28 and any other information that may be pertinent to establishing  
29 harmful effects on health of exposure to toxic materials or harmful  
30 physical agents. Nothing in this subdivision shall be construed as  
31 authorizing the repository to require employers, *other than*  
32 *chemical manufacturers, suppliers, distributors, importers, and*  
33 *their agents*, to report any information not otherwise required by  
34 law.

35 (3) *Upon written request by the repository, chemical*  
36 *manufacturers, suppliers, distributors, importers, and their agents*  
37 *shall provide to the repository the names and addresses of their*  
38 *customers who have purchased certain chemicals, as specified by*  
39 *the repository, or commercial products containing those chemicals*  
40 *and information related to those shipments, including the quantity*

1 *and dates of shipments, and the proportion of a specified chemical*  
2 *within a mixture containing the specified chemical.*

3 (A) *The names and addresses of customers provided by chemical*  
4 *manufacturers, suppliers, distributors, importers, and their agents*  
5 *pursuant to this paragraph shall be considered confidential and*  
6 *exempt from public disclosure under the California Public Records*  
7 *Act (Chapter 3.5 (commencing with Section 6250) of Division 7*  
8 *of Title 1 of the Government Code), except that those names and*  
9 *addresses may be disclosed to officers or employees of the state*  
10 *not affiliated with the repository who are responsible for carrying*  
11 *out the purposes of Division 5 (commencing with Section 6300).*

12 (B) *The State Department of Public Health shall be entitled to*  
13 *reimbursement of attorney's fees and costs incurred in seeking an*  
14 *injunction to enforce this paragraph.*

15 (3)

16 (4) *Recommend to the Chief of the Division of Occupational*  
17 *Safety and Health Administration that an occupational safety and*  
18 *health standard be developed whenever it has been determined*  
19 *that a substance in use or potentially in use in places of employment*  
20 *is potentially toxic at the concentrations or under the conditions*  
21 *used.*

22 (4)

23 (5) *Notify the ~~Director~~ Secretary of Food and Agriculture of*  
24 *any information developed by the repository that is relevant to*  
25 *carrying out his or her responsibilities under Chapters 2*  
26 *(commencing with Section 12751) and 3 (commencing with*  
27 *Section 14001) of Division 7 of the Food and Agricultural Code.*

28 ~~The~~

29 (c) *The Director of Industrial Relations shall appoint an*  
30 *Advisory Committee to the repository. The Advisory Committee*  
31 *shall consist of four representatives from labor, four representatives*  
32 *from management, four active practitioners in the occupational*  
33 *health field, and three persons knowledgeable in biomedical*  
34 *statistics or information storage and retrieval systems. The*  
35 *Advisory Committee shall meet on a regular basis at the request*  
36 *of the director. The committee shall be consulted by, and shall*  
37 *advise the director at each phase of the structuring and functioning*  
38 *of the repository and alert system with regard to, the procedures,*  
39 *methodology, validity, and practical utility of collecting,*  
40 *evaluating, and disseminating information concerning hazardous*

1 substances, consistent with the primary goals and objectives of the  
2 repository.

3 ~~Nothing~~

4 (d) *Nothing* in this section shall be construed to limit the ability  
5 of the State Department of *Public Health Services* to propose  
6 occupational safety and health standards to the Occupational Safety  
7 and Health Standards Board.

8 ~~Policies~~

9 (e) *Policies* and procedures shall be developed to assure, to the  
10 extent possible, that the repository uses and does not duplicate the  
11 resources of the federal government and other states.

12 ~~On~~

13 (f) *On* or before December 31 of each year, the Department of  
14 Industrial Relations shall submit a report to the Legislature  
15 detailing the implementation and operation of the repository  
16 including, but not limited to, the amount and source of funds  
17 allocated and spent on repository activities, the toxic materials and  
18 harmful physical agents investigated during the past year and  
19 recommendations made concerning them, actions taken to inform  
20 interested persons of the possible hazards of exposure to toxic  
21 materials and harmful physical agents, and any recommendations  
22 for legislative changes relating to the functions of the repository.

23 SEC. 3. The Legislature finds and declares that Section 1 of  
24 this act, which amends Section 6276.12 of the Government Code,  
25 imposes a limitation on the public's right of access to the meetings  
26 of public bodies or the writings of public officials and agencies  
27 within the meaning of Section 3 of Article I of the California  
28 Constitution. Pursuant to that constitutional provision, the  
29 Legislature makes the following findings to demonstrate the interest  
30 protected by this limitation and the need for protecting that interest:

31 In order to protect the names and addresses of customers who  
32 have purchased chemicals from chemical manufacturers, suppliers,  
33 distributors, importers, and their agents, it is necessary that lists  
34 containing those names and addresses be exempt from disclosure  
35 under the California Public Records Act (Chapter 3.5 (commencing  
36 with Section 6250) of Division 7 of Title 1 of the Government  
37 Code).

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