§ 209-u. Notification of presence of hazardous materials. 1. The knowledge of the presence of hazardous materials is vital to meeting the contingencies of a fire or other emergency. It is the purpose of this section to secure the health, safety and welfare of the public, protect those called upon to respond to the emergency, encourage preparedness to meet any danger, and promote planning for future demands for emergency services by requiring the reporting of the presence of hazardous materials.

2. As used in this section:

(a) the term "insured" or "policyholder" means the policyholder of a fire insurance policy insuring against a risk located in this state; and

(aa) the term "person" means any individual, partnership, corporation or association; and

(b) the term "insurer" means any insurance company authorized to do the business of fire insurance in this state; and

(c) for the purpose of this section hazardous materials shall be those which bear a label under requirements of the United States Department of Transportation or those listed on the form prescribed by the state fire administrator.

3. Every person engaged in commerce in this state, excepting those operating as a farm, as defined by subdivision one of section six hundred seventy-one of the labor law who, based upon the experience of the business in the use of hazardous materials during the previous year, may have possession of hazardous materials at a permanent place of business, a construction site or a temporary storage depot, shall report the presence of such hazardous materials to the chief of the appropriate fire department, fire corporation, or fire company having responsibility for fire protection of each location at which any such hazardous material may be found. Upon receipt thereof, in counties which have an office of county fire coordinator, the fire department, fire corporation or fire company, shall forward a copy of said report to the office of the county fire coordinator.

4. A separate report shall be filed for each street address at which any such hazardous materials may be found. Such report shall be filed

annually with such fire chief on a date to be determined by the state fire administrator in the manner prescribed by the state fire administrator. Upon receipt thereof, in counties which have an office of county fire coordinator, the fire department, fire corporation or fire company, shall forward a copy of said report to the office of the county fire coordinator. Such report shall be printed by and supplied to insurers upon their request by the office of fire prevention and control. Failure to file as required in this section shall not be the basis for denial by an insurer of an insured's claim under any policy in force for said property. The filing by the person of a single report to any one fire department, fire corporation, or fire company shall be sufficient to meet the requirements of this section where hazardous materials may be found at more than one location at each street address for which he must report.

5. An exemption from the provisions of subdivision three of this section may be granted by the chief of the fire department, fire corporation, or fire company where, in cooperation with or at the invitation of the person, he chooses to make or causes his representative to make an inspection of the person's place of business. At the time of such inspection the person is required to inform the chief or his representative of any hazardous materials which are subject to the provisions of this section. Failure to inform shall constitute a violation as set forth in subdivision eight of this section.

6. Exemptions from the provisions of subdivision three of this section may also be granted by said chief as follows: (a) a general exemption if the firefighting capability of the person is sufficient to defend against an emergency involving such hazardous material; (b) an exemption, based upon the need for confidentiality, from the reporting of specific hazardous materials. Requests for exemptions shall be in writing and shall be filed annually with said chief. Such exemptions shall be filed with said chief and in counties which have an office of county fire coordinator, a copy of said exemption shall be forwarded by said chief to the office of county fire coordinator on a date to be determined by the state fire administrator in the manner prescribed by the state fire administrator. Exemptions shall be in writing and shall

expire one year from the date granted. An exemption may be revoked if the conditions provided in paragraph (a) or (b) of this subdivision no longer exist.

7. The state fire administrator shall provide that the report form required in subdivision four of this section shall indicate the manner in which the exemption procedures granted herein shall be followed and also that the form shall make provision for the signature of the fire chief for the purpose of certifying that an exemption to subdivision three has been granted.

8. Any person who fails to report the presence of hazardous materials as required in this section shall be subject to a fine of not more than two hundred fifty dollars for the first offense, and upon being found guilty of a second or subsequent offense, by a fine of not less than two hundred fifty dollars or more than one thousand dollars. Except as otherwise provided by law, such a violation shall not be a crime and the penalty or punishment imposed therefor shall not be deemed for any purpose a criminal penalty or punishment and shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of a person found guilty thereof.