

SENATE BILL NO. 281

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY SENATOR DAVIS

Introduced: 2/15/10

Referred: Education, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to pest management and the procurement, use, and storage of**
2 **pesticides and hazardous substances at elementary and secondary schools; and**
3 **providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 SHORT TITLE. This Act may be known as the Alaska Healthy Schools Act.

8 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 LEGISLATIVE FINDINGS AND INTENT. (a) The legislature finds that

11 (1) children are especially vulnerable to the ill effects of pesticides and
12 hazardous substances, because their bodies and brains are still developing;

13 (2) scientific studies have linked asthma, cancer, birth defects, nervous system
14 disorders, reproductive problems, endocrine disruption, neurological problems, learning

1 disorders, and immune deficiency to exposure to pesticides;

2 (3) children and school staff spend a significant part of their time in school
3 buildings and may be exposed to a variety of products containing hazardous substances that
4 have been linked to adverse health outcomes, including maintenance products, art supplies,
5 playground equipment, and materials used in school construction;

6 (4) health threats resulting from children's exposure to pesticides and
7 hazardous substances may result in increased costs to schools, school districts, and the state,
8 in terms of staff time and effort, cleanup costs, school closings, and student absenteeism;

9 (5) many new alternatives to pesticides and products currently used in schools
10 containing hazardous substances are available that are the same in form, function, and utility
11 but do not contain or contain lower concentrations of potentially harmful chemicals;

12 (6) school districts and public and private elementary and secondary schools
13 should be informed of and required to use environmentally sensitive, nonchemical alternatives
14 to pesticides and nontoxic products.

15 (b) It is the intent of the legislature to

16 (1) prevent unnecessary exposure of children attending, and staff employed at,
17 school facilities to pesticides and hazardous substances;

18 (2) provide the healthiest possible school facilities;

19 (3) promote the use of safe, nonchemical alternatives for pest prevention and
20 control before the use of pesticides as a last resort;

21 (4) provide notification to parents of students when students may be exposed
22 to pesticides or hazardous substances at school.

23 * **Sec. 3.** AS 14.33 is amended by adding new sections to read:

24 **Article 5. Pest Management in Schools.**

25 **Sec. 14.33.300. Integrated pest management.** (a) The governing body of a
26 school district and the person in charge of a private elementary or secondary school
27 shall, in cooperation with the Department of Environmental Conservation, adopt an
28 integrated pest management plan for the schools of the school district or the private
29 elementary or secondary school that complies with guidelines developed and adopted
30 under AS 46.03.335(b).

31 (b) In addition to adopting an integrated pest management plan under (a) of

1 this section, the governing body of a school district and the person in charge of a
2 private elementary or secondary school shall

3 (1) designate at least one integrated pest management plan coordinator
4 under AS 14.33.305;

5 (2) identify a coordinator's responsibilities;

6 (3) provide a process for responding to inquiries and complaints
7 relating to the school district's or private elementary or secondary school's integrated
8 pest management plan;

9 (4) conduct public outreach relating to the integrated pest management
10 plan;

11 (5) make available to the public and provide to the Department of
12 Environmental Conservation the annual report required under AS 14.33.320(c); and

13 (6) make the school district's or private elementary or secondary
14 school's integrated pest management plan available to the public on the Internet and at
15 a convenient facility of the school district or private elementary or secondary school.

16 **Sec. 14.33.305. Integrated pest management plan coordinator.** (a) The
17 governing body of a school district, the superintendent of the school district, or the
18 person in charge of a private elementary or secondary school shall designate at least
19 one employee of the school district or the private elementary or secondary school as
20 an integrated pest management plan coordinator for the school district or private
21 elementary or secondary school.

22 (b) A person designated as an integrated pest management plan coordinator
23 shall

24 (1) provide notice and post warnings relating to pesticide use under
25 AS 14.33.315;

26 (2) oversee pest management measures in the school district or private
27 elementary or secondary school;

28 (3) ensure that pest management measures comply with AS 14.33.300
29 - 14.33.349 and AS 46.03.335;

30 (4) evaluate the results of pest management practices; and

31 (5) keep records required by AS 14.33.320.

1 (c) If an integrated pest management plan coordinator declares a pest
 2 emergency under AS 14.33.310(c), the coordinator shall review the integrated pest
 3 management plan adopted by the governing body of the school district or the person in
 4 charge of a private elementary or secondary school to determine whether the plan
 5 should be modified to prevent future pest emergencies. The coordinator shall submit
 6 any recommendations for modification of the integrated pest management plan to the
 7 governing body of the school district or the person in charge of the private elementary
 8 or secondary school.

9 (d) An integrated pest management plan coordinator shall complete at least six
 10 hours of continuing education annually relating to pest management that includes a
 11 review of

12 (1) the integrated pest management plan adopted by the school district
 13 or private elementary or secondary school under AS 14.33.300; and

14 (2) health and safety concerns related to the use and storage of
 15 pesticides.

16 **Sec. 14.33.310. Use of pesticides at schools.** (a) A pesticide that does not meet
 17 the guidelines established by the Department of Environmental Conservation under
 18 AS 46.03.335(b) may not be used or stored in or on the grounds of a public or private
 19 elementary or secondary school.

20 (b) A pesticide allowed under the guidelines adopted by the Department of
 21 Environmental Conservation under AS 46.03.335 may be used or stored in or on the
 22 grounds of a school only if the use of the pesticide is authorized by the integrated pest
 23 management plan coordinator, and

24 (1) reasonable, safe, alternative, nonchemical measures for eliminating
 25 or mitigating a pest, such as sanitation, structural remediation, habitat manipulation,
 26 mechanical modifications, and biological measures, have been used and have failed; or

27 (2) a pest emergency has been declared under (c) of this section.

28 (c) An integrated pest management plan coordinator may declare a pest
 29 emergency if the coordinator determines the use of a pesticide is necessary to
 30 eliminate or mitigate a pest situation that presents a danger to human health or school
 31 property.

1 (d) A person who uses or stores a pesticide at a public or private elementary or
 2 secondary school must be licensed to use or store pesticides or have received a
 3 temporary waiver under AS 46.03.320(b).

4 (e) If the labeling of a pesticide product specifies a reentry time, the pesticide
 5 product may not be used in an area where a person may be present before the specified
 6 reentry time. If no reentry time is specified for a pesticide product, an integrated pest
 7 management plan coordinator shall determine when the area where the pesticide was
 8 used may be reentered.

9 **Sec. 14.33.315. Notification of pesticide use.** (a) Except as provided under (c)
 10 of this section, not less than 48 hours before a pesticide is used at a public or private
 11 elementary or secondary school, an integrated pest management plan coordinator for
 12 the school district or private elementary or secondary school shall notify students,
 13 parents of students, and school staff of the pesticide use by

14 (1) posting notices, as described in (b) of this section; and

15 (2) providing written notice to parents of students that includes the
 16 information required by (b)(3)(A) - (G) of this section.

17 (b) A notice required by (a)(1) of this section must

18 (1) be at least 8 1/2 inches by 11 inches;

19 (2) be conspicuously posted at

20 (A) an outdoor treatment site and in highly visible locations
 21 along the perimeter of the application area; or

22 (B) an indoor treatment site, at each entry point in or around
 23 the application area;

24 (3) include the following information:

25 (A) a header containing the United States Environmental
 26 Protection Agency signal word that indicates toxicity level from the pesticide
 27 label next to the phrase "pesticide application";

28 (B) the brand name and active ingredients, the name of the
 29 manufacturer, and the United States Environmental Protection Agency
 30 registration number of each pesticide being applied;

31 (C) the name of the school and a description of the specific area

1 of application of each pesticide;

2 (D) the name and telephone number of the person responsible
3 for applying each pesticide and the person's pesticide applicator license
4 number or proof of the person's temporary license waiver provided by the
5 Department of Environmental Conservation under AS 46.03.320;

6 (E) the date, time, and duration of each pesticide application
7 and any alternative dates in case of inclement weather;

8 (F) the telephone number of the pesticide manufacturer;

9 (G) the rate, concentration, and method of application;

10 (H) a prominently placed statement that includes the words
11 "WARNING: PESTICIDE-TREATED AREA."

12 (c) If an integrated pest management plan coordinator for the school district or
13 private elementary or secondary school determines that a pest emergency declared
14 under AS 14.33.310(c) makes it impractical to provide notice of pesticide use at least
15 48 hours before the pesticide use occurs, the coordinator shall provide notice of the
16 pesticide use, in the manner provided under (a) of this section, not later than 24 hours
17 after the pesticide use.

18 **Sec. 14.33.320. Record keeping.** (a) The governing body of a school district
19 and the person in charge of a private elementary or secondary school shall maintain a
20 written or electronic record of all pesticide use in or on the grounds of a school for not
21 less than 10 years. A copy of the record shall be made available to the public on
22 request.

23 (b) The record of pesticide use in or on the grounds of a public or private
24 elementary or secondary school must include, for each pesticide application,

25 (1) the purpose or pest condition that necessitated the pesticide use;

26 (2) the date and time of the pesticide use;

27 (3) a description of the specific area of application of each pesticide;

28 (4) the brand name and active ingredients, the name of the
29 manufacturer, and the United States Environmental Protection Agency registration
30 number of each pesticide;

31 (5) the quantity of each pesticide used and the method of application;

1 (6) the least toxic and nonchemical alternative methods or treatments
2 available for control of the pest and the reason for using each selected pesticide;

3 (7) a copy of the label and material safety data sheet for each pesticide;
4 and

5 (8) the name of the person that applied each pesticide and the person's
6 pesticide applicator license number or proof of the person's temporary license waiver
7 provided by the Department of Environmental Conservation under AS 46.03.320.

8 (c) The governing body of a school district and the person in charge of a
9 private elementary or secondary school shall provide to the Department of
10 Environmental Conservation an annual report. The governing body of a school district
11 and the person in charge of a private elementary or secondary school shall also
12 provide a copy of the school district's or private school's report to the public on
13 request. The annual report must include

14 (1) the quantity of each pesticide used in or on the grounds of a school;

15 (2) the target pest for each pesticide used;

16 (3) the cost of pest management to the school district or the private
17 elementary or secondary school during the previous year;

18 (4) the number, if any, of emergency pesticide applications made under
19 AS 14.33.310(c) by a school district or private elementary or secondary school during
20 the year;

21 (5) the nonchemical pest prevention and control measures used; and

22 (6) a pest management plan for the following year.

23 **Sec. 14.33.349. Definitions.** In AS 14.33.300 - 14.33.349,

24 (1) "parents of students" means biological, adoptive, or foster parents,
25 or adults who act as guardians of students and make decisions related to students'
26 safety, education, and welfare;

27 (2) "pest" means a living organism or infectious, transmissible, or
28 contagious disease of plants that is or may become dangerous or detrimental to
29 humans, property, or the environment;

30 (3) "pesticide" has the meaning given in AS 46.03.900;

31 (4) "private elementary or secondary school" means an elementary or

1 secondary school that does not receive direct state or federal funding;

2 (5) "school district" means a borough school district, a city school
3 district, a regional educational attendance area, or a state boarding school.

4 **Article 6. Hazardous Substances in Schools.**

5 **Sec. 14.33.350. Hazardous substances in schools.** (a) The governing body of
6 a school district and the person in charge of a private elementary or secondary school,
7 in cooperation with the Department of Environmental Conservation, shall

8 (1) adopt a plan to minimize or eliminate the use and presence of
9 hazardous substances and products containing hazardous substances in or on the
10 grounds of a school district or private elementary or secondary school; the plan must

11 (A) comply with the guidelines developed and adopted under
12 AS 46.03.335;

13 (B) include a timetable for the minimization or elimination of
14 hazardous substances and products containing hazardous substances in or on
15 the grounds of a school; and

16 (C) be made available to the public on the Internet and at a
17 convenient facility of the school district or private elementary or secondary
18 school;

19 (2) prepare and make conveniently available to the public written
20 reports of any sampling, evaluation, and remediation measures relating to hazardous
21 substances or products containing hazardous substances;

22 (3) provide a process for responding to inquires and complaints
23 relating to the use or presence of hazardous substances or products containing
24 hazardous substances in or on the grounds of a school.

25 (b) The governing body of a school district, the superintendent of the school
26 district, or the person in charge of a private elementary or secondary school shall
27 designate at least one employee of the school district or private elementary or
28 secondary school as a hazardous substances plan coordinator for the school district or
29 private elementary or secondary school.

30 (c) Not less than 48 hours before an activity in or on the grounds of a school
31 that a hazardous substances plan coordinator for a school district or private elementary

1 or secondary school designated under (b) of this section, using competent and
 2 scientifically sound data and information, determines may expose students, parents of
 3 students, or school staff to hazardous substances, the hazardous substances
 4 information coordinator shall notify students, parents of students, and school staff of
 5 the activity by

6 (1) posting notices as described in (d) of this section; and

7 (2) providing written notice to parents of students that includes the
 8 information required by (d)(2)(A) - (D) of this section.

9 (d) The notice required by (c)(1) of this section must

10 (1) be conspicuously posted at

11 (A) an outdoor treatment site and in highly visible locations
 12 along the perimeter of an affected area; or

13 (B) an indoor treatment site at each entry point in or around the
 14 area of potential exposure;

15 (2) include the following information:

16 (A) the name of the school and address of the affected
 17 premises;

18 (B) the name of the hazardous substance or substances;

19 (C) the name, address, and telephone number of a hazardous
 20 substances plan coordinator designated under (b) of this section to address
 21 inquires or complaints relating to the use or presence of hazardous substances
 22 or products containing hazardous substances in or on the grounds of a school;

23 (D) the date and duration of the proposed activity; and

24 (E) a prominently placed statement that includes the words
 25 "WARNING: POTENTIAL HAZARDOUS SUBSTANCE EXPOSURE
 26 AREA."

27 (e) A person designated as a hazardous substances plan coordinator for a
 28 school district or private elementary or secondary school under (b) of this section shall

29 (1) annually, within 90 days after the beginning of the school year, as
 30 defined under AS 14.25.220, advise students, parents of students, and school staff that
 31 information relating to hazardous substances or products containing hazardous

1 substances and pertinent to the school district or private elementary or secondary
2 school is available on request;

3 (2) annually inventory all hazardous substances and products
4 containing hazardous substances used or present in the facilities of the school district
5 or private elementary or secondary school and make the inventory available to
6 students, parents of students, and school staff;

7 (3) provide a process for responding to inquires and complaints
8 relating to activities at the school district or school that may expose students, parents
9 of students, or school staff to hazardous substances or products containing hazardous
10 substances; and

11 (4) conduct public outreach relating to the school district's or private
12 elementary or secondary school's hazardous substances plan developed under this
13 section.

14 (f) Products for use in schools by school districts and private elementary and
15 secondary schools shall be procured in accordance with the list of products developed
16 by the Department of Environmental Conservation under AS 46.03.350(d) using the
17 guidelines developed under AS 46.03.350(b).

18 (g) In this section,

19 (1) "hazardous substance" means a substance defined as a hazardous
20 substance under 15 U.S.C. 1261, as amended;

21 (2) "parents of students" means biological, adoptive, or foster parents,
22 or adults who act as guardians of students and make decisions related to students'
23 safety, education, and welfare;

24 (3) "product" means a product, material, supply, article, or commodity
25 that school students or staff may be exposed to, including materials used in school
26 construction, electronics, playground equipment, cleaning products, and art supplies.

27 * **Sec. 4.** AS 14.45.100 is amended to read:

28 **Sec. 14.45.100. Exemption.** A religious or other private school that complies
29 with AS 14.45.100 - 14.45.130 is exempt from other provisions of law and regulations
30 relating to education, except law and regulations relating to physical health, fire safety,
31 sanitation, immunization, pesticides, hazardous substances, and physical

1 examinations.

2 * **Sec. 5.** AS 46.03.330(a) is amended to read:

3 (a) An officer, agent, or employee of the state, [OR] of a borough or city of
 4 any class, **of a school district, of a regional educational attendance area, or of a**
 5 **private elementary or secondary school** may not direct, carry out, or participate in
 6 the spraying or application of a pesticide or broadcast chemical in any program or
 7 project involving funds, materials, or equipment of the state, borough, [OR] city,
 8 **school district, regional educational attendance area, or private elementary or**
 9 **secondary school**, except in accordance with regulations adopted by the department
 10 under AS 46.03.320 **and 46.03.335**.

11 * **Sec. 6.** AS 46.03 is amended by adding a new section to article 5 to read:

12 **Sec. 46.03.335. Regulation of pesticides at schools and oversight of school**
 13 **integrated pest management plans.** (a) The department, in consultation with the
 14 Department of Education and Early Development, shall develop and adopt regulations
 15 relating to the

16 (1) use, storage, and handling of, and record keeping related to,
 17 pesticides in and on the grounds of a school district or private elementary or secondary
 18 school;

19 (2) implementation, administration, adequacy, and enforcement of
 20 integrated pest management plans adopted by school districts and private elementary
 21 or secondary schools under AS 14.33.300; and

22 (3) use of nonchemical measures as alternatives to pesticides by a
 23 school district or private elementary or secondary school.

24 (b) In developing and adopting regulations under (a) of this section, the
 25 department shall include guidelines that

26 (1) allow the use of a pesticide to eliminate or mitigate a specific pest
 27 only if the department determines that the pesticide is the effective pesticide in
 28 eliminating or mitigating the specific pest that is least likely to adversely affect human
 29 health;

30 (2) prohibit the use of a pesticide for aesthetic or nuisance abatement
 31 purposes;

1 (3) prohibit the application of pesticides on a routine schedule for
2 preventive purposes;

3 (4) prohibit the use of a pesticide that has been linked to acute or
4 chronic health effects, including cancer, hormone disruption, reproductive system
5 damage, immune dysfunction, or nervous system toxicity;

6 (5) require regular monitoring and inspections to detect pests, pest
7 damage, and unauthorized pesticide use and to evaluate the effectiveness of pest
8 control measures;

9 (6) identify acceptable density levels of pest populations;

10 (7) require education of school staff regarding sanitation, pest
11 monitoring, and pest control;

12 (8) require pest management and prevention strategies that result in

13 (A) the least risk to human health among available strategies;

14 (B) the least damage to the school and the surrounding natural
15 environment;

16 (C) the least disruption to natural controls;

17 (D) the fewest negative effects on nontarget organisms;

18 (E) long-term reductions in pest control needs; and

19 (F) the use of the smallest amount of the least toxic formulation
20 with the least potential for human exposure.

21 (c) The department shall create a list of pesticides and alternative nonchemical
22 measures approved under this section. The department shall provide the list of
23 approved pesticides and alternative nonchemical measures to all school districts and
24 private elementary or secondary schools.

25 (d) When evaluating and approving pesticides for use in schools under this
26 section, the commissioner shall review relevant research conducted by the United
27 States Environmental Protection Agency, the Agency for Toxic Substances and
28 Disease Registry in the United States Department of Health and Human Services, and
29 the Office of the Federal Environmental Executive.

30 (e) A pesticide approved by the department under this section may only be
31 used by a school district or private elementary or secondary school if a pest emergency

1 is declared by the integrated pest management plan coordinator for that school district
2 or private elementary or secondary school under AS 14.33.310(c).

3 (f) The department shall review the annual report submitted by each school
4 district and private elementary and secondary school under AS 14.33.320 to ascertain
5 compliance with this section or a regulation adopted under this section.

6 (g) In this section,

7 (1) "pest" has the meaning given in AS 14.33.349;

8 (2) "private elementary or secondary school" has the meaning given in
9 AS 14.33.349;

10 (3) "school district" has the meaning given in AS 14.33.349.

11 * **Sec. 7.** AS 46.03 is amended by adding a new section to read:

12 **Article 5A. Hazardous Substances in Schools.**

13 **Sec. 46.03.350. Regulation of hazardous substances at schools and**
14 **oversight of school hazardous substance plans.** (a) The department, in consultation
15 with the Department of Education and Early Development, shall develop and adopt
16 regulations for the minimization or elimination of hazardous substances and products
17 containing hazardous substances in or on the grounds of a school district or private
18 elementary or secondary school.

19 (b) In developing and adopting regulations under (a) of this section, the
20 department shall

21 (1) identify hazardous substances and products that contain hazardous
22 substances used in schools; and

23 (2) adopt guidelines for the procurement and use of alternatives and
24 alternative products by school districts and private elementary and secondary schools.

25 (c) When developing guidelines under (b) of this section, the department shall
26 review relevant research conducted by the United States Environmental Protection
27 Agency, the Agency for Toxic Substances and Disease Registry in the United States
28 Department of Health and Human Services, the Office of the Federal Environmental
29 Executive, and the United States Consumer Product Safety Commission.

30 (d) In addition to the regulations and guidelines developed under this section,
31 the department shall provide to school districts and private elementary and secondary

1 schools a list of products that meet the guidelines developed under (b) of this section.

2 (e) The department shall provide the guidelines developed under (b) of this
3 section and the list of products adopted under (d) of this section to all school districts
4 and private elementary and secondary schools.

5 (f) In this section,

6 (1) "hazardous substance" has the meaning given in AS 14.33.350;

7 (2) "private elementary or secondary school" has the meaning given in
8 AS 14.33.349;

9 (3) "product" has the meaning given in AS 14.33.350;

10 (4) "school district" has the meaning given in AS 14.33.349.

11 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 TRANSITION: REGULATIONS. The Department of Education and Early
14 Development and the Department of Environmental Conservation may adopt regulations
15 necessary to implement this Act. The regulations take effect under AS 44.62 (Administrative
16 Procedure Act), but not before July 1, 2010.

17 * **Sec. 9.** Section 8 of this Act takes effect immediately under AS 01.10.070(c).

18 * **Sec. 10.** Except as provided in sec. 9 of this Act, this Act takes effect July 1, 2010.