

**SENATE . . . . . No. 2349**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Fourteen**  
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SENATE, Thursday, July 31, 2014

The committee on Ways and Means, to whom was referred the House Bill relative to pesticide licensing and mosquito control (House, No. 3568); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2349.

For the committee,  
Stephen M. Brewer

# SENATE . . . . . No. 2439

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Fourteen  
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1           SECTION 1. Section 2 of chapter 132B of the General Laws, as appearing in the 2012  
2 Official Edition, is hereby amended by inserting after the definition of “nematode,” the following  
3 definition:-

4           “Permitted catch basin applicator”, an employee of the commonwealth or its political  
5 subdivisions who is permitted, pursuant to section 10, to use pesticides in the form of dry  
6 formulation mosquito larvicides, approved by the department, in storm drains and catch basins;  
7 provided, however, that each permitted catch basin applicator shall be supervised by a certified  
8 or licensed applicator.

9           SECTION 2. Section 6A of said chapter 132B, as so appearing, is hereby amended by  
10 striking out, in line 6, the words “or licensed” and inserting in place thereof the following  
11 words:- , licensed or permitted.

12           SECTION 3. Said section 6A of said chapter 132B, as so appearing, is hereby further  
13 amended by striking out, in line 7, the words “or license” and inserting in place thereof the  
14 following words:- , license or permit.

15 SECTION 4. Section 6E of said chapter 132B, as so appearing, is hereby amended by  
16 inserting after the word “ applicator,”, in line 19, the second time it appears, the following  
17 words:- permitted catch basin applicator.

18 SECTION 5. Said chapter 132B is hereby further amended by striking out section 10, as  
19 so appearing, and inserting in place thereof the following section:-

20 Section 10. (a) The department may issue certifications, licenses and permits to use  
21 pesticides to individuals in accordance with the standards and procedures contained in and  
22 established pursuant to this chapter. Each certification, license and permit issued pursuant to this  
23 section shall be valid only for the individual to whom it is issued, may not be transferred and  
24 shall not continue in force and effect after the death of the individual to whom it is issued. All  
25 certifications, licenses and permits shall be for a period not to exceed 1 year, unless sooner  
26 revoked or suspended.

27 (b) The department may authorize individuals to use pesticides in classifications as a  
28 certified commercial applicator, certified private applicator, permitted catch basin applicator or  
29 licensed applicator; provided, however, that the department shall require that all persons who are  
30 applicators of pesticides in public and private places used for human occupation and habitation,  
31 except residential properties with 3 or less dwelling units, shall be so certified, licensed or  
32 permitted with such special designation.

33 (c) The department may establish such categories and subcategories as it deems necessary  
34 to restrict or condition the scope of pesticide use permitted within each classification. The  
35 department may establish such standards and criteria, take such action and impose such

36 requirements as it deems necessary to determine or redetermine levels of competence and  
37 experience to qualify for each classification and each category and subcategory.

38 (d) Each applicant for a certification, license or permit shall annually file with the  
39 department an application providing such information as the department may require and an  
40 application fee, not to exceed \$20, as set by the department.

41 If an individual files an application with the department to renew a certification, license  
42 or permit, which is in effect on the date of the application for renewal, and pays the appropriate  
43 fee, such certification, license or permit shall be deemed to be in effect until: (i) 90 days have  
44 elapsed after the certification, license or permit was scheduled to expire; or (ii) the department  
45 notifies the applicant that the certification, license or permit has been renewed, modified or  
46 denied, whichever occurs first.

47 (e) The department may issue a certification, license or permit to an applicant if the  
48 department determines that the applicant satisfies the criteria established for that certification,  
49 license or permit and the category or subcategory for which the certification, license or permit is  
50 sought. Upon determination that the applicant has satisfied the criteria established for that  
51 certification, license or permit, the department shall immediately issue a temporary certification,  
52 license or permit to be valid until the applicant receives a permanent certificate, license or  
53 permit. The department may issue a certification, license or permit subject to such terms,  
54 conditions, restrictions and requirements as it deems necessary. The department may require that  
55 an applicant for a certification, license or permit obtain and maintain in effect a contract of  
56 liability insurance conforming to regulations established by the department.

57 (f) The department shall, prior to issuing a certificate, license or permit, evaluate each  
58 applicant to determine the applicant's competence with respect to the use and handling of  
59 pesticides or to the use and handling of the pesticides or class of pesticides covered or to be  
60 covered by the individual's certification, license or permit. The evaluation shall include such  
61 examinations as the department may require. Examinations may be taken only upon payment of  
62 a fee, not to exceed \$10 for each examination given, as the department may require by regulation  
63 approved by the board. Each examination shall include an evaluation of the applicant's  
64 competence with respect to the use of integrated pest management.

65 (g) The department may revoke, suspend, cancel or deny a certification, license or permit,  
66 or any class thereof, at any time, if it finds that: (i) the terms or conditions the certification,  
67 license or permit are being violated or are inadequate to avoid unreasonable adverse impacts on  
68 the environment; (ii) the holder of or applicant for the certification, license or permit has violated  
69 any provision of this chapter, the Federal Insecticide, Fungicide and Rodenticide Act, or any  
70 regulation, standard, order, license, certification or permit issued thereunder; or (iii) the holder or  
71 applicant for the certification, license or permit is not competent with respect to the use and  
72 handling of pesticides or to the use and handling of the pesticides or class of pesticides covered  
73 by the individual's certification, license or permit. Any person whose certification, license or  
74 permit is suspended or revoked under this section shall also be subject to such other punishment,  
75 penalties, sanctions or liabilities as may be provided by law. As part of its determination to  
76 refuse to grant, revoke or suspend a certification, license or permit, the department may specify a  
77 period, not to exceed 2 years, within which the applicant shall be prohibited from reapplying for  
78 a certification, license or permit, which may be waived or shortened at the discretion of the  
79 department. Each permitted catch basin applicator shall maintain true and accurate records of

80 the larvicide application which identifies the following: the name of the city, town or political  
81 subdivision; the name of the applicator; the pesticide brand name and EPA registration number;  
82 the date of the application; the method of application; the total amount applied per day; and the  
83 location where catch basins were treated.

84 (h) The department may appropriately license, certify or permit any person possessing a  
85 valid certification or license, or equivalent rating, issued by the pesticide control agency of  
86 another state or the federal government, whose standards for the issuance of such rating are not  
87 less stringent than those of the department; provided, however, that the pesticide control agency  
88 of that state extends similar privileges to persons so licensed, certified or permitted by the  
89 commonwealth. Any person so licensed, certified or permitted shall be subject to the annual fee  
90 requirements of this section.

91 (i) Notwithstanding subsection (f), the department may issue a catch basin larvicide  
92 applicator permit to an individual it deems competent with respect to the use, handling and  
93 application of catch basin larvicide treatments; provided, however, that the individual completes  
94 a department approved training and evaluation to determine competence with respect to the use  
95 and handling of mosquito larvicides.

96 (j) The department may impose an administrative or civil penalty on a person who has  
97 not been issued either a temporary or permanent certification, license or permit from the  
98 department or who uses a pesticide in a public or private place used for human occupation and  
99 habitation, except residential properties with 3 or less dwelling units, of not more than \$500 for a  
100 first offense and not more than \$1,000 for a subsequent offense.

101           SECTION 6. Section 13 of said chapter 132B, as so appearing, is hereby amended by  
102 striking out, in line 4, the words “or license,” and inserting in place thereof the following words:-  
103 , license or permit.