

2021 -- H 5641 SUBSTITUTE A

LC001524/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO HEALTH AND SAFETY -- PESTICIDE CONTROL

Introduced By: Representatives Kislak, Bennett, Kazarian, Speakman, Cortvriend,
Carson, and Donovan

Date Introduced: February 22, 2021

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-25-4 of the General Laws in Chapter 23-25 entitled "Pesticide
2 Control" is hereby amended to read as follows:

3 **23-25-4. Definitions.**

4 As used in this chapter:

5 (1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or
6 mitigate pests, or which will act as a plant regulator, defoliant, or desiccant.

7 (2) "Adulterated" applies to any pesticide if its strength or purity falls below the professed
8 standards of quality as expressed on its labeling under which it is sold, or if any substance has been
9 substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has
10 been wholly or in part abstracted.

11 (3) "Agricultural commodity" means any plant, or part of plant, or animal, or animal
12 product, produced by a person (including farmers, ranchers, vineyardists, plant propagators,
13 Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable
14 persons) primarily for sale, consumption, propagation, or other use by humans or animals.

15 (4) "Animal" means all vertebrate and invertebrate species, including, but not limited to,
16 man and other mammals, birds, fish, and shellfish.

17 (5) "Beneficial insects" means those insects which, during their life cycle, are effective
18 pollinators of plants, are parasites or predators of pests, or are otherwise beneficial.

19 (6) "Board" means the pesticide advisory board as provided for under § 23-25.2-3.

1 (7) "Defoliant" means any substance or mixture of substances intended for causing the
2 leaves or foliage to drop from a plant with or without causing abscission.

3 (8) "Desiccant" means any substance or mixture of substances intended for artificially
4 accelerating the drying of plant tissue.

5 (9) "Device" means any instrument or contrivance (other than a firearm) which is intended
6 for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life
7 (other than humans and other than bacteria, virus, or other micro-organism on or in living humans
8 or other living animals) but not including equipment used for the application of pesticides when
9 sold separately from it.

10 (10) "Director" means the director of environmental management.

11 (11) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for
12 shipment, or receive and (having so received) deliver or offer to deliver pesticides in this state.

13 (12) "Environment" includes water, air, land, and all plants and humans and other living
14 animals in it, and the interrelationships which exist among these.

15 (13) "EPA" means the United States Environmental Protection Agency.

16 (14) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §
17 136 et seq., and other legislation supplementary to it and amendatory of it.

18 (15) "Fungi" means all nonchlorophyll-bearing thallophytes (that is, all nonchlorophyll-
19 bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews,
20 molds, yeasts, and bacteria, except those in or on living humans or other living animals, and except
21 those in or on processed food, beverages, or pharmaceuticals.

22 (16) "Highly toxic pesticide" means any pesticide determined to be a highly toxic pesticide
23 under the authority of § 25(c)(2) of FIFRA, 7 U.S.C. § 136w(c)(2), or by the director under § 23-
24 25-9(a)(2).

25 (17) "Imminent hazard" means a situation which exists when the continued use of a
26 pesticide during the time required for cancellation proceedings pursuant to § 23-25-8 would likely
27 result in unreasonable adverse effects on the environment or will involve unreasonable hazard to
28 the survival of a species declared endangered by the secretary of the interior under 16 U.S.C. §
29 1531 et seq.

30 (18) "Inert ingredient" means an ingredient which is not an active ingredient.

31 (19) "Ingredient statement" means:

32 (i) Statement of the name and percentage of each active ingredient together with the total
33 percentage of the inert ingredients in the pesticide; and

34 (ii) When the pesticide contains arsenic in any form, the ingredient statement shall also

1 include percentages of total and water soluble arsenic, each calculated as elemental arsenic.

2 (20) "Insect" means any of the numerous small invertebrate animals generally having the
3 body more or less obviously segmented, for the most part belonging to the class insecta, comprising
4 six (6) legged, usually winged forms, as for example, moths, beetles, bugs, bees, flies, and their
5 immature stages, and to other allied classes of anthropods whose members are wingless and usually
6 have more than six (6) legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

7 (21) "Integrated Pest Management (IPM)" refers to a method of pest control that uses a
8 systems approach to reduce pest damage to tolerable levels through a variety of techniques,
9 including natural predators and parasites, genetically resistant hosts, environmental modifications
10 and, when necessary and appropriate, chemical pesticides. IPM strategies rely upon nonchemical
11 defenses first and chemical pesticides second.

12 (22) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide
13 or device or any of its containers or wrappers.

14 (23) "Labeling" means the label and all other written, printed, or graphic matter:

15 (i) Accompanying the pesticide or device at any time; or

16 (ii) To which reference is made on the label or in literature accompanying the pesticide or
17 device, except to current official publications of EPA, the United States Departments of Agriculture
18 and Interior, and the department of health and human services; state experiment stations; state
19 agricultural colleges; and other federal or state institutions or agencies authorized by law to conduct
20 research in the field of pesticides.

21 (24) "Land" means all land and water areas, including airspace, all plants, animals,
22 structures, buildings, contrivances, and machinery appurtenant to it or situated on it, fixed or
23 mobile, including any used for transportation.

24 (25) "Nematode" means invertebrate animals of the phylum Nematelminthes and class
25 Nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered
26 with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

27 (26) "Neonicotinoids" means any of a class of systemic water soluble insecticides related
28 to nicotine that affect the central nervous system of insects by selectively binding to the
29 postsynaptic nicotinic receptors of insects thereby causing paralysis and death. Neonicotinoids
30 include, but are not limited to:

31 (i) Imidacloprid;

32 (ii) Acetamiprid;

33 (iii) Clothianidin;

34 (iv) Nitenpyram;

- 1 (v) Nithiazine;
- 2 (vi) Thiacloprid;
- 3 (vii) Thiamethoxam; and
- 4 (viii) Dinotefuran.

5 ~~(26)~~(27) "Plant regulator" means any substance or mixture of substances intended, through
6 physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for
7 altering the behavior of plants or the produce of these but shall not include substances to the extent
8 that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and
9 soil amendments. Also, the term "plant regulator" is not required to include any of those nutrient
10 mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products,
11 intended for improvement, maintenance, survival, health, and propagation of plants, are not for pest
12 destruction and are nontoxic and nonpoisonous in the undiluted packaged concentration.

13 ~~(27)~~(28) "Permit" means a written certificate, issued by the director, authorizing the
14 purchase, possession, and/or use of certain pesticides or pesticide uses defined in subdivisions (34)
15 and (35) of this section.

16 ~~(28)~~(29) "Person" means any individual, partnership, association, fiduciary, corporation,
17 governmental entity, or any organized group of persons whether incorporated or not.

18 ~~(29)~~(30) "Pest" means:

- 19 (i) Any insect, rodent, nematode, fungus, or weed; and
- 20 (ii) Any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other
21 micro-organism (except viruses, bacteria, or other micro-organisms on or in living humans or other
22 living animals) which the director declares to be a pest under § 23-25-9(a)(1).

23 ~~(30)~~(31) "Pesticide" means:

- 24 (i) Any substance or mixture of substances intended for preventing, destroying, repelling,
25 or mitigating any pest; and
- 26 (ii) Any substance or mixture of substances intended for use as a plant regulator, defoliant,
27 or desiccant.

28 ~~(31)~~(32) "Pesticide dealer" means any person who distributes within the state any pesticide
29 product classified for restricted use by EPA or limited use by the director.

30 ~~(32)~~(33)(i) "Private applicator" means any person who uses or supervises the use of any
31 pesticide for purposes of producing any agricultural commodity on land owned or rented by him or
32 her or his or her employer or (if applied without compensation other than trading of personal
33 services between producers of agricultural commodities) on land of another person.

34 (ii) "Certified private applicator" means any private applicator who is certified under § 23-

1 25-14 as authorized to purchase, acquire, apply, or supervise the application of any pesticide
2 classified for restricted use by EPA or limited use by the director.

3 (iii) "Commercial applicator" means any person (whether or not that person is a private
4 applicator with respect to some uses), including employees of any federal, state, county or
5 municipal agency, department, office, division, section, bureau, board, or commission, who applies
6 or supervises the application of any pesticide for any purpose or on any property other than as
7 provided by the definition of "private applicator".

8 (iv) "Certified commercial applicator" means any commercial applicator who is certified
9 under § 23-25-13 as authorized to purchase, acquire, apply, or supervise the application of a
10 pesticide classified for restricted use by EPA or limited use by the director.

11 (v) "Licensed commercial applicator" means any commercial applicator who is licensed
12 under § 23-25-12 as authorized to use or supervise the use of any pesticide not classified for
13 restricted use by EPA or limited use by the director on land not owned or rented by him or her.

14 ~~(33)~~(34) "Protect health and the environment" means protection against any unreasonable
15 adverse effects on the environment.

16 ~~(34)~~(35) "Registrant" means a person who has registered any pesticide pursuant to the
17 provisions of this chapter.

18 ~~(35)~~(36) "Restricted use pesticide" means a pesticide or pesticide use that is classified for
19 restricted use by the administrator of EPA, or under § 23-25-6(h).

20 ~~(36)~~(37) "State limited use pesticide" means any pesticide or pesticide use which, when
21 used as directed or in accordance with a widespread and commonly recognized practice, the director
22 determines, subsequent to a hearing, requires additional restrictions to prevent unreasonable
23 adverse effects on the environment including humans, land, beneficial insects, animals, crops, and
24 wildlife, other than pests.

25 ~~(37)~~(38) "Under the direct supervision" means that on-site supervision of any pesticide
26 application by an appropriately certified or licensed applicator who is responsible for the
27 application and is capable of dealing with emergency situations which might occur.

28 ~~(38)~~(39) "Unreasonable adverse effects on the environment" means any unreasonable risk
29 to humans or the environment, taking into account the economic, social, and environmental costs
30 and benefits of the use of any pesticide.

31 ~~(39)~~(40) "Weed" means any plant which grows where not wanted.

32 ~~(40)~~(41) "Wildlife" means all living things that are neither human nor, as defined in this
33 chapter, pests, including but not limited to mammals, birds, and aquatic life.

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1 SECTION 2. Chapter 23-25 of the General Laws entitled "Pesticide Control" is hereby
2 amended by adding thereto the following section:

3 **23-25-40. Neonicotinoids restricted.**

4 (a) All pesticides registered in the state that contain one or more neonicotinoids and are
5 labelled as approved for outdoor use are hereby immediately classified as state limited use
6 pesticide. Such pesticides shall not be:

7 (1) Sold or distributed to any person other than a certified applicator;

8 (2) Used or applied by any person other than a certified applicator or any person working
9 under the direct supervision of a certified applicator;

10 (3) Applied, except in the course of academic research, to any linden or basswood tree; or

11 (4) Applied, except in the course of academic research, to any plant when such plant bears
12 blossoms.

13 (b) This section does not apply to:

14 (1) Pet or veterinary care products used for preventing, destroying, repelling, or mitigating
15 fleas, mites, ticks, heartworms, or other insects or organisms when applied to or administered to
16 companion animals, livestock, or captive wild animals, regardless of whether the application or
17 administration occurs indoors or outdoors;

18 (2) Personal care products used for preventing, destroying, repelling, or mitigating lice or
19 bedbugs;

20 (3) Indoor pest control products used for preventing, destroying, repelling, or mitigating
21 insects indoors and registered in this state only for indoor use;

22 (4) Products used for controlling wood-destroying pests in and around homes and other
23 human-made structures, in accordance with the label; or

24 (5) An article or substance treated with, or containing, a neonicotinoid to protect the article
25 or substance itself (for example, seeds treated with a neonicotinoid to protect the seeds or wood
26 products treated to protect the wood against insect infestation), if the neonicotinoid is registered for
27 such use.

28 (c) Nothing in this section shall prohibit the director from further restricting or regulating
29 neonicotinoids pursuant to § 23-25-9.

30 SECTION 4. This act shall take effect on January 1, 2023.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY -- PESTICIDE CONTROL

- 1 This act would restrict the use of neonicotinoids which are a class of insecticides.
- 2 This act would take effect on January 1, 2023.

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