



2023 South Dakota Legislature

House Bill 1121

Introduced by: **Representative** Drew Peterson

1 **An Act to expand the definition of a pesticide dealer.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 38-21-14 be AMENDED:**

4 **38-21-14.** Terms used in this chapter mean:

- 5 (1) "Animals," all vertebrate and invertebrate species, including humans;
- 6 (2) "Bulk pesticide," any volume of a pesticide_z which is transported or held in an
7 immediate reusable container_z in undivided quantities greater than one hundred
8 pounds net dry weight or fifty-five United States gallons liquid measure. ~~The term~~
9 ~~does not include, but not including~~ pesticides that are in the custody of the ultimate
10 user and are fully prepared for use by the user;
- 11 (3) "Bulk pesticide storage facility," any area, location, tract of land, building,
12 structure, or premises constructed_z in accordance with rules promulgated by the
13 secretary_z for the storage of bulk pesticides;
- 14 (4) "Certified applicator," any individual ~~who is~~ certified under this chapter to use any
15 pesticide;
- 16 (5) "Commercial applicator," any certified applicator eighteen years of age or older
17 who uses any pesticide on any property_z other than as a private applicator;
- 18 (6) "Defoliant," any substance or mixture of substances intended for causing the leaves
19 or foliage to drop from a plant, with or without causing abscission;
- 20 (7) "Desiccant," any substance or mixture of substances intended for artificially
21 accelerating the drying of plant tissue;
- 22 (8) "Device," any instrument or contrivance intended for trapping, destroying,
23 repelling, or mitigating insects or for destroying, repelling, or mitigating fungi,
24 weeds, rodents, or any other pests designated by the secretary, but not including
25 equipment used for the application of pesticides_z if sold separately, and not
26 including rodent traps;

- 1 (9) "Environment," ~~includes~~ water, air, land, and all plants and animals living therein,
 2 and the interrelationships ~~which~~that exist among these;
- 3 (10) "Equipment," any type of ground, water, or aerial equipment or any device using
 4 motorized, mechanical, or pressurized power ~~used~~ to apply any pesticide, but ~~does~~
 5 not ~~include~~ including any pressurized, hand-sized, household device that requires
 6 the person applying the pesticide to be the source of power or energy to make the
 7 pesticide application;
- 8 (11) "Fungus," any nonchlorophyll-bearing thallophyte, except those on or in processed
 9 food, beverages, or pharmaceuticals, or those on or in living animals;
- 10 (12) "Insect," any of the numerous small invertebrate animals belonging to the class
 11 insecta or to other allied classes of arthropods;
- 12 (13) "Labeling," any label and other written, printed, or graphic matter:
 13 (a) On the pesticide or device or any ~~of its~~ containers or wrappers;
 14 (b) Accompanying the pesticide or device at any time; or
 15 (c) To which reference is made on the label or in literature accompanying the
 16 pesticide or device, except accurate, nonmisleading reference to current
 17 official publications of any government institution or official agency of the
 18 United States or of this or any other state, authorized by law to conduct
 19 research in the field of pesticides;
- 20 (14) "Land," all land and water areas, including airspace, and all plants, animals,
 21 structures, buildings, contrivances, and machinery, appurtenant thereto or
 22 situated thereon, fixed or mobile, including any used for transportation;
- 23 (15) "Pesticide dealer," ~~any entity that distributes~~ a person who distributes:
 24 (a) A restricted-use pesticides or pesticides pesticide;
 25 (b) A pesticide that is restricted in use or distribution, by regulation; or
 26 (c) A pesticide that is to be applied to agricultural land and is provided in a
 27 container larger than one hundred gallons;
- 28 (16) "Nematode," any invertebrate animal of the phylum ne-mathel-minthes or
 29 nematoda;
- 30 (17) "Pest," any insect, rodent, nematode, fungus, weed, or other form of terrestrial or
 31 aquatic plant or animal life or virus, bacteria, or other microorganism, except
 32 viruses, bacteria, or other microorganisms on or in living human or other living
 33 animals, which the secretary declares to be a pest;
- 34 (18) "Pesticide," any substance or mixture of substances ~~intended for preventing,~~
 35 ~~destroying, repelling, or mitigating~~ intended:

- 1 effect thereof, and which is in a package or container separate from that of the
2 pesticide with which it is to be used;
- 3 (26) "Unreasonable adverse effects on the environment," any unreasonable risk to
4 humans or the environment, taking into account the economic, social, and
5 environmental costs and benefits of the use of any pesticide; and
- 6 (27) "Weed," any plant ~~which~~that grows where it is not wanted.