

SENATE FILE NO. SF0160

Pesticides.

Sponsored by: Senator(s) Geis

A BILL

for

1 AN ACT relating to pesticides; providing for direct  
2 supervision by licensed applicators; providing definitions;  
3 providing rulemaking authority for reciprocal agreements;  
4 providing penalties; and providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

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8 **Section 1.** W.S. 35-7-376 is created to read:

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10 **35-7-376. Direct supervision.**

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12 (a) As used in this section, unless otherwise  
13 prescribed by its labeling, a pesticide shall be considered  
14 to be applied under the direct supervision of a certified  
15 applicator if it is applied by a competent person acting  
16 under the instructions and control of a certified  
17 applicator who is available within a reasonable time and

1 distance, even though the certified applicator is not  
2 physically present at the time and place the pesticide is  
3 applied.

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5 (b) All pesticide applications made for hire shall be  
6 under the direct supervision of a certified commercial  
7 applicator. All applications of restricted use pesticide  
8 shall be made under the direct supervision of a certified  
9 applicator. Availability of the certified applicator shall  
10 be directly related to the potential hazard of the  
11 situation. The certified applicator shall be:

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13 (i) Available by immediate contact through  
14 telephone or radio; or

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16 (ii) Physically present on-site when use of the  
17 pesticide poses a potentially serious hazard to people or  
18 the environment.

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20 (c) As used in this section:

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22 (i) Reasonable time by the supervising  
23 applicator to on-site is deemed to be not more than one (1)  
24 hour response time;

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2 (ii) Reasonable distance by the supervising  
3 applicator to on-site is deemed to be not more than fifty  
4 (50) air miles.

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6 **Section 2.** W.S. 35-7-354(d)(ii), (iii), by creating a  
7 new paragraph (iv) and by creating new subsections (f)  
8 through (j), 35-7-359 by creating new subsections (b)  
9 through (d), 35-7-362, 35-7-366 by creating a new  
10 subsection (d) and 35-7-374(a)(iv)(intro) are amended to  
11 read:

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13 **35-7-354. Definitions.**

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15 (d) "Pesticide" means:

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17 (ii) Any substance or mixture of substances  
18 intended for use as a plant regulator, defoliant, or  
19 desiccant; ~~and~~

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21 (iii) Any substance or mixture of substances  
22 intended to be used as a spray adjuvant; ~~and~~ and

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1           (iv) Any other pesticide product or substance  
2 whether general use, restricted use, registered, suspended  
3 or cancelled, which by the label or portions thereof  
4 clearly show it is used or has been used as a pesticide.

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6           (f) "Dealer" or "distributor" means any person who  
7 imports, consigns, distributes, offers to sell or sells,  
8 barters or otherwise supplies pesticides in this state. A  
9 dealer or distributor may also be a registrant.

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11           (g) "Director" means the director of the department  
12 of agriculture or his authorized agent.

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14           (h) "Label" means a display of written, printed or  
15 graphic matter upon or affixed to the immediate container  
16 of any pesticide, or a reference within such display to  
17 other information.

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19           (j) "Official sample" means any sample of a  
20 pesticide, degradate or residue taken by and designated as  
21 official by the director.

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23           **35-7-359. Classification of licenses.**

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1       (b) A commercial applicator shall notify the  
2 department of any change of address or change of employment  
3 within thirty (30) days of that change.

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5       (c) The director may refuse an application for a  
6 reciprocal license for just cause including, but not  
7 limited to:

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9           (i) An incomplete or falsified application;

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11           (ii) A prior violation related to pesticides in  
12 this state or another state.

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14       (d) The director may immediately suspend a reciprocal  
15 license upon discovery of any violation under subsection  
16 (c) of this section. The director may reinstate a license  
17 suspended under this subsection following a hearing  
18 pursuant to the Wyoming Administrative Procedure Act.

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20       **35-7-362. Reciprocal agreement.**

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22       The director may issue a license or certification on a  
23 reciprocal basis with other states without examination to a  
24 nonresident who is licensed, or certified, in another state

1 substantially in accordance with the provisions of this act  
2 but financial security as provided for in W.S. 35-7-360 or  
3 proof of liability insurance shall be submitted by  
4 nonresident commercial applicators. The department shall,  
5 by rule and regulation, establish criteria for reciprocity  
6 including, but not limited to, formal agreements with other  
7 states, residency, categories and examination. The  
8 director is authorized to adopt additional rules and  
9 regulations necessary to implement this section.

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11 **35-7-366. Penalties.**

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13 (d) If the department incurs fees or other expenses  
14 to remediate a violation by an applicator, the department  
15 may seek restitution from the applicator or the  
16 applicator's employer through a court of competent  
17 jurisdiction.

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19 **35-7-374. Prohibited acts.**

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21 (a) It is unlawful for any person to:

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23 (iv) Use any ~~registered~~ pesticide in a manner  
24 inconsistent with its labeling which means to use any

1 ~~registered~~ pesticide in a manner not permitted by the  
2 labeling, or not authorized by the director under a special  
3 local need registration, an experimental use permit or an  
4 emergency exemption, provided that this paragraph does not  
5 include:

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7       **Section 3.** This act is effective July 1, 2013.

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(END)