

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 988 Session of
1993

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ROONEY, MANDERINO, MAYERNIK, L. I. COHEN, PLATTS, RUBLEY,
FICHTER, BAKER, NYCE AND REBER, MARCH 25, 1993

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 20, 1994

AN ACT

1 Providing for advance notification of pesticide application
2 within schools, school grounds, athletic fields and
3 playgrounds.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Pesticide
8 Notification Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Applicator." A certified applicator, private applicator,
14 commercial applicator or public applicator.

1 "Board." The Pesticide Advisory Board.

2 "Certified applicator." An individual who is certified under
3 section 16.1, 17 or 17.1 of the act of March 1, 1974 (P.L.90,
4 No.24), known as the Pennsylvania Pesticide Control Act of 1973,
5 as competent to use or supervise the use or application of any
6 pesticide.

7 "Commercial applicator." A certified applicator, whether or
8 not he is a private applicator with respect to some uses, who
9 uses or supervises the use of any pesticide on the property or
10 premises of another or on easements granted under State law, or
11 any applicator who uses or supervises the use of any restricted-
12 use pesticide on property owned or rented by him or his
13 employer, when not for purposes of producing an agricultural
14 product. The Secretary of Agriculture may by regulation deem
15 certain types of applicators using any pesticide on their own
16 property or that of their employer as commercial applicators.

17 "Department." The Department of Agriculture of the
18 Commonwealth.

19 "Indoor pesticide treatment." A pesticide treatment that
20 includes an outside perimeter treatment of the building if the
21 primary purpose of the treatment is to treat the inside of the
22 building. The Secretary of Agriculture shall define a perimeter
23 treatment by regulation and shall adopt the definitions provided
24 in Federal law.

25 "Insect." Any of the numerous small invertebrate animals
26 generally having a more or less obviously segmented body, for
27 the most part belonging to the class Insecta, comprising six-
28 legged, usually winged forms, as, for example, beetles, bugs,
29 bees and flies, and to other allied classes of arthropods whose
30 members are wingless and usually have more than six legs, as,

1 for example, spiders, mites, ticks, centipedes and wood lice.

2 "Integrated pest management plan." A decision-making process
3 which includes inspection and pest identification, monitoring of
4 pest and beneficial insect populations and recordkeeping of
5 same, injury-level assessment to determine when treatment is
6 needed, treatment selection and application with pest prevention
7 methods, such as habitat modification and sanitation measures,
8 and nontoxic controls being the primary selections and
9 evaluation of results.

10 "Land." All land and water areas, including airspace, and
11 all plants, animals, structures, buildings, contrivances and
12 machinery appurtenant thereto or situated thereon, fixed or
13 mobile, including any used for transportation.

14 "License." Written permission issued by the Department of
15 Agriculture to a business or person as authorized under the act
16 of March 1, 1974 (P.L.90, No.24), known as the Pennsylvania
17 Pesticide Control Act of 1973.

18 "Nematode." Invertebrate animals of the phylum
19 Nemathelminthes and class Nematoda, that is, unsegmented round
20 worms with elongated, fusiform or sac-like bodies covered with
21 cuticle and inhabiting soil, water, plants or plant parts; may
22 also be called nemas or eelworms.

23 "Outdoor pesticide treatment." An outdoor pesticide
24 treatment that is applied anywhere on the school grounds,
25 including, but not limited to, athletic fields or playgrounds.

26 "Permit." A written certificate issued by the Secretary of
27 Agriculture or his authorized agent authorizing the purchase,
28 possession or use of pesticides classified for restricted use by
29 a private applicator.

30 "Person." An individual, partnership, association,

1 corporation or any organized group of persons, whether
2 incorporated or not.

3 "Pest." An insect, rodent, nematode, fungus, weed or other
4 form of terrestrial or aquatic plant or animal life or virus,
5 bacteria or other micro-organism, except viruses, bacteria or
6 other micro-organisms on or in living man or other living
7 animals, which the administrator declares to be a pest under
8 section 25(c)(1) of the Federal Insecticide, Fungicide, and
9 Rodenticide Act (61 Stat. 163, 7 U.S.C. § 136 et seq.).

10 "Pest control information sheet." A document which contains
11 the date of treatment, the name, address and telephone number of
12 the applicator, the pesticide utilized and any other information
13 that is required by the Secretary of Agriculture.

14 "Pest management consultant." An individual who is not a
15 licensed applicator and who for a fee offers or supplies
16 technical advice, supervision or aid or makes recommendations to
17 the user of pesticides classified for restricted use.

18 "Pesticide." A substance or mixture of substances intended
19 for preventing, destroying, repelling or mitigating any pest and
20 a substance or mixture of substances intended for use as a plant
21 regulator, defoliant or desiccant.

22 "Pesticide application technician." An individual employed
23 by a commercial applicator or governmental agency who, having
24 met the competency requirements as set forth in the act of March
25 1, 1974 (P.L.90, No.24), known as the Pennsylvania Pesticide
26 Control Act of 1973, is registered by the Secretary of
27 Agriculture to apply any pesticides under the direct supervision
28 of a certified applicator.

29 "Private applicator." A certified applicator who uses or
30 supervises the use of any pesticide which is classified for

1 restricted use for purposes of producing any agricultural
2 commodity on property owned or rented by him or his employer or,
3 if applied without compensation other than trading of personal
4 services between producers of agricultural commodities, on the
5 property of another person.

6 "Public applicator." A certified applicator who applies
7 pesticides as an employee of the Commonwealth or its
8 instrumentalities or any local agency.

9 "School." A public or private elementary or secondary school
10 wherein a resident of this Commonwealth may fulfill the
11 compulsory school attendance requirements and which meets the
12 applicable requirements of Title IV of the Civil Rights Act of
13 1964 (Public Law 88-352, 78 Stat. 241). The term also includes a
14 kindergarten program operated by a school.

15 "Secretary." The Secretary of Agriculture of the
16 Commonwealth.

17 Section 3. Notification of pesticide treatments at schools.

18 (a) Indoor pesticide treatment.--For an indoor pesticide
19 treatment at a school building, the certified applicator or
20 technician shall supply the pest control information sheet and a
21 pest control sign, which shall be at least 8 1/2 by 11 inches in
22 size, to the chief administrator or building manager. The chief
23 administrator or building manager shall be responsible for all
24 of the following:

25 (1) Posting the sign in an area of common access that
26 the individuals are likely to check on a regular basis at
27 least 72 hours before and for at least two days following
28 each planned treatment.

29 (2) Providing the information sheet to every individual
30 working in the building at least 72 hours before each planned

1 treatment.

2 (3) Providing notice in writing to the parents or
3 guardians of the students enrolled in that school at least 72
4 hours before each planned treatment. The notice shall include
5 the name, address and telephone number of the applicator
6 applying the treatment, day of treatment and the pesticide
7 utilized.

8 (b) Outdoor pesticide treatment.--For an outdoor treatment
9 to be applied anywhere on the school grounds, including, but not
10 limited to, athletic fields or playgrounds, the certified
11 applicator or technician shall supply the pest control
12 information sheet and a pest control sign, which shall be at
13 least 8 1/2 by 11 inches in size, to the chief administrator or
14 grounds manager. The pest control sign shall be posted at the
15 field or playground to be treated at least 72 hours before and
16 for two days after the planned treatment.

17 (c) Notification.--Personnel at a school with an athletic
18 field or a playground to be treated with a pesticide are
19 required to notify in writing the parents or guardians of the
20 children attending the school at the time the child is
21 registered of the following:

22 (1) The school periodically applies pesticides indoors
23 and on school grounds.

24 (2) Information on the application of pesticides is
25 available at the request of the parents or guardians.

26 (d) Emergency pesticide use.--The secretary shall establish
27 by regulation procedures for emergency pesticide applications
28 for which the required notification in subsections (a) and (b)
29 shall be waived. The regulations shall include the following:

30 (1) Emergency pesticide applications shall be allowed

1 only in the event of an immediate threat to the health and
2 safety of students and employees.

3 (2) Before any emergency application, students and
4 employees shall vacate the portion of the building or grounds
5 to be treated and shall not be allowed to return to that
6 portion of the building or grounds for at least 24 hours
7 following the application.

8 (3) School officials shall notify by telephone any
9 parents or guardians who have requested such notification.
10 Schools shall advise parents of their right to request
11 notification of emergency pesticide use on an annual basis
12 and explain procedures for requesting such notification.

13 (e) Records.--Each school district and private elementary or
14 secondary school shall maintain detailed records of all chemical
15 pest control treatments for a period of at least ~~30~~ SEVEN years <—
16 so that chronic health problems suffered by school personnel and
17 students can be monitored.

18 (f) Integrated plan.--Each board of public school directors
19 and the governing boards of private schools shall, on or before
20 September 1, 1995, adopt an integrated pest management plan that
21 incorporates the standards developed by the secretary.

22 (g) Standards.--The secretary, with the assistance of the
23 board, shall develop and adopt standards for the integrated pest
24 management plan no later than March 1, 1995. In developing these
25 standards, the board shall consult with a person who is
26 knowledgeable in the area of integrated pest management in
27 schools. The standards shall include the following:

28 (1) A requirement that the least toxic methods available
29 to control pests, rodents, insects and weeds be used.

30 (2) A hierarchy of treatments that schools shall use in

1 controlling pests, rodents, insects and weeds.

2 (3) A uniform pest control sign to be utilized in school
3 buildings which meets the requirements of this section.

4 (H) STATE REIMBURSEMENT.--THE COMMONWEALTH SHALL PAY TO <—
5 SCHOOL DISTRICTS ALL ADDITIONAL COSTS, INCLUDING, BUT NOT
6 LIMITED TO, THE DEVELOPMENT AND IMPLEMENTATION OF THE INTEGRATED
7 PEST MANAGEMENT PLAN, THE POSTING OF SIGNS AND THE NOTIFICATION
8 OF PARENTS, GUARDIANS AND SCHOOL PERSONNEL RESULTING FROM THE
9 PROVISIONS OF THIS ACT. EACH SCHOOL DISTRICT SHALL DOCUMENT THE
10 COSTS TO THE DEPARTMENT OF EDUCATION. THE DEPARTMENT OF
11 EDUCATION SHALL HAVE 30 DAYS TO VERIFY THESE EXPENSES. THE
12 GOVERNOR SHALL REQUEST, ON AN ANNUAL BASIS, SUFFICIENT FUNDS IN
13 THE GENERAL FUND APPROPRIATION REQUEST OF THE DEPARTMENT OF
14 EDUCATION TO COVER THE COST OF THIS SECTION. PAYMENTS UNDER THIS
15 SECTION SHALL BEGIN WITH THE 1995-1996 SCHOOL YEAR. THE
16 PROVISIONS OF THIS ACT SHALL BE NULL AND VOID IF REIMBURSEMENT
17 IS NOT MADE TO SCHOOL DISTRICTS PURSUANT TO THIS SUBSECTION.

18 ~~(h)~~ (I) Restriction on application.-- <—

19 (1) The secretary shall require that a pesticide may be
20 applied in a school building only during periods in which
21 students are not expected to use the building for normal
22 academic instruction or organized extracurricular activities
23 for at least 24 hours following the application.

24 (2) The secretary shall also require that a pesticide
25 may be applied on school grounds only during periods in which
26 students are not expected to use the treated portion of the
27 grounds for normal academic instruction or organized
28 extracurricular activities for at least 24 hours following
29 the application. The secretary shall establish by regulation
30 standards for pesticide application on school grounds,

1 including, but not limited to, the buffer areas around the
2 treated portion of the grounds in which students will not be
3 permitted for 24 hours after application.

4 (3) Under no circumstances shall pesticides be applied
5 in a school building or on school grounds when students are
6 present in the school building or on school grounds for
7 normal academic instruction or organized extracurricular
8 activities, except as provided in subsection (d).

9 ~~(i) Exemption. Disinfectant and antimicrobial products~~ <—

10 (J) EXEMPTIONS.-- <—

11 (1) DISINFECTANT AND ANTIMICROBIAL PRODUCTS shall be
12 exempted from the notification and recordkeeping requirements
13 of subsections (a) and (d).

14 (2) ANY VOCATIONAL-TECHNICAL SCHOOL WHICH INCLUDES THE <—
15 TEACHING OF PESTICIDE MANAGEMENT AS A PART OF ITS CURRICULUM
16 SHALL BE EXEMPT FROM THE PROVISIONS OF THIS ACT.

17 Section 4. Liability of school board members.

18 The board of directors of any school entity shall not be held
19 liable, individually or as a group, for injuries or illness to
20 students and school personnel resulting from the application of
21 pesticides when a good faith effort has been made to notify
22 parents or guardians and school personnel in accordance with
23 section 3.

24 Section 5. Effective date.

25 This act shall take effect in 60 days.