

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2213

Session of
1988

INTRODUCED BY FOX, FLICK, RYAN, MORRIS, JACKSON, REBER,
MICOZZIE, TRELLO, HECKLER, E. Z. TAYLOR AND NAHILL,
FEBRUARY 24, 1988

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
FEBRUARY 24, 1988

AN ACT

1 Amending the act of March 1, 1974 (P.L.90, No.24), entitled "An
2 act relating to the labeling, distribution, storage,
3 transportation, use, application and disposal of pesticides
4 and devices; providing for registration and examination of
5 such materials; the licensing of pesticide dealers and pest
6 management consultants and imposing penalties," further
7 providing for the regulation and certification of persons
8 using or applying pesticides; requiring certain notice and
9 posting when pesticides are used; and providing that certain
10 information shall be available to the public.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 4 of the act of March 1, 1974 (P.L.90,
14 No.24), known as the Pennsylvania Pesticide Control Act of 1973,
15 amended or added December 12, 1986 (P.L.1542, No.167), is
16 amended to read:

17 Section 4. Definitions.--As used in this act:

18 (1) "Active ingredient" means:

19 (i) in the case of a pesticide other than a plant regulator,
20 defoliant, or desiccant, an ingredient which will prevent,
21 destroy, repel, or mitigate any pest;

(ii) in the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof;

(iii) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; and

(iv) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

(2) "Administrator" means the administrator of the Federal Environmental Protection Agency.

(3) "Adulterated" applies to any pesticide if:

(i) its strength or purity falls below the professed standard of quality as expressed on its labeling under which it is sold;

(ii) any substance has been substituted wholly or in part for the pesticide; or

(iii) any valuable constituent of the pesticide has been wholly or in part abstracted.

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

(5) "Antidote" means a practical treatment in case of poisoning and includes first-aid treatment.

(6) "Applicator" means certified applicator, private applicator, commercial applicator [or], public applicator or residential applicator.

(A) "Certified applicator" means any individual who is certified under section 16.1, 17 or 17.1 of this act as competent to use or [supervise the use or application of] apply any pesticide.

1 (B) "Private applicator" means a certified applicator who
2 uses [or supervises the use of] any pesticide which is
3 classified for restricted use for purposes of producing any
4 agricultural commodity on property owned or rented by him or his
5 employer or, if applied without compensation other than trading
6 of personal services between producers of agricultural
7 commodities, on the property of another person.

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

18 (D) "Public applicator" means any certified applicator who
19 applies pesticides as an employe of the State or its
20 instrumentalities or any local agency.

21 (E) ["Pesticide application technician" means any individual
22 employed by a commercial applicator or governmental agency who,
23 having met the competency requirements of section 16.1 of this
24 act, is registered by the secretary to apply any pesticides
25 under the direct supervision of a certified applicator.]

26 "Residential applicator" means a person who is neither certified
27 nor licensed who applies general use pesticides to property that
28 he owns or rents.

29 (7) "Beneficial insects" means those insects which, during
30 their life cycle, are effective pollinators of plants, are

1 parasites or predators of pests, or are otherwise beneficial.

2 (8) "Board" means the Pesticide Advisory Board.

3 (8.1) "Central registry system" means a list maintained by
4 the Bureau of Plant Industry of the department of all persons
5 who have requested in writing that they desire forty-eight hours
6 notification of an application of a pesticide within a one-mile
7 radius of their property, to be accessed by all licensees prior
8 to any contractual application.

9 (8.2) "Customer" means a person who has entered into a
10 contract with a licensee for the application of pesticides.

11 (9) "Defoliant" means any substance or mixture of substances
12 intended for causing the leaves or foliage to drop from a plant,
13 with or without causing abscission.

14 (9.1) "Department" means the Department of Agriculture of
15 the Commonwealth.

16 (10) "Desiccant" means any substance or mixture of
17 substances intended for artificially accelerating the drying of
18 plant tissue.

19 (11) "Device" means any instrument or contrivance (other
20 than a firearm) which is intended for trapping, destroying,
21 repelling, or mitigating any pest or any other form of plant or
22 animal life (other than man and other than bacteria, virus, or
23 other microorganism on or in living man or other living
24 animals); but not including equipment used for the application
25 of pesticides when sold separately therefrom.

26 (12) "Distribute" means to offer for sale, hold for sale,
27 sell, barter, or supply pesticides in this State.

28 (13) "Environment" includes water, air, land, and all plants
29 and man and other animals living therein, and the
30 interrelationships which exist among these.

1 (14) "Equipment" means any type of ground, water or aerial
2 equipment or contrivance using motorized, mechanical or
3 pressurized power and used to apply any pesticide on land and
4 anything that may be growing, habitating or stored on or in such
5 land, but shall not include any pressurized hand-sized household
6 apparatus used to apply any pesticide, or any equipment or
7 contrivance of which the person who is applying the pesticide is
8 the source of power or energy in pesticide application.

9 (15) "Establishment" means any place where a pesticide or
10 device is produced, or held, for distribution or sale.

11 (15.1) "Experimental use pesticide" means a pesticide that
12 has not yet been fully approved and is allowed to be used on an
13 experimental basis with a permit.

14 (16) "Fungus" means any non-chlorophyll bearing thallophyte
15 (that is, any non-chlorophyll bearing plant of a lower order
16 than mosses and liverworts), as for example, rust, smut, mildew,
17 mold, yeast, and bacteria, except those on or in living man or
18 other animals and those on or in processed food, beverages, or
19 pharmaceuticals.

20 (16.1) "General use pesticide" means any pesticide that is
21 not classified as either a restricted or experimental use
22 pesticide.

23 (17) "Highly toxic" means any highly toxic pesticide as
24 determined by the administrator.

25 (18) "Imminent hazard" means a situation which exists when
26 the continued use of a pesticide during the time required for
27 cancellation proceeding would be likely to result in
28 unreasonable adverse effects on the environment or will involve
29 unreasonable hazard to the survival of a species declared
30 endangered by the Secretary of the Interior of the United States

1 under Public Law 91-135.

2 (19) "Inert ingredient" means an ingredient which is not
3 active.

4 (20) "Ingredient statement" means a statement which
5 contains:

6 (i) the name and percentage of each active ingredient, and
7 the total percentage of all inert ingredients, in the pesticide;
8 and

9 (ii) if the pesticide contains arsenic in any form, a
10 statement of the percentages of total and water soluble arsenic,
11 calculated as elementary arsenic.

12 (21) "Insect" means any of the numerous small invertebrate
13 animals generally having the body more or less obviously
14 segmented, for the most part belonging to the class insecta,
15 comprising six-legged, usually winged forms, as for example,
16 beetles, bugs, bees, flies, and to other allied classes of
17 arthropods whose members are wingless and usually have more than
18 six legs, as for example, spiders, mites, ticks, centipedes, and
19 wood lice.

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

23 (23) "Labeling" pertaining to pesticide registration means
24 all labels and all other written, printed, or graphic matter:

25 (i) accompanying the pesticide or device at any time; or

26 (ii) to which reference is made on the label or in
27 literature accompanying the pesticide or device, except to
28 current official publications of the Federal Environmental
29 Protection Agency, the United States Departments of Agriculture
30 and Interior, the Department of Health, Education and Welfare,

1 State experiment stations, State agricultural colleges, and
2 other similar Federal or State institutions or agencies
3 authorized by law to conduct research in the field of
4 pesticides.

5 (24) "Land" means all land and water areas, including
6 airspace, and all plants, animals, structures, buildings,
7 contrivances, and machinery appurtenant thereto or situated
8 thereon, fixed or mobile, including any used for transportation.

9 (24.1) "License" means written permission, issued by the
10 department, to a business or person as authorized in sections
11 12, 13 and 15.1 of this act.

12 (24.2) "Local agency" means a governmental unit other than
13 the Commonwealth government. The term shall include, but not be
14 limited to, a county, city, borough, town, township, school
15 district or municipal authority.

16 (24.3) "Material Safety Data Sheet" or "MSDS" means a
17 written document prepared by a manufacturer, supplier or
18 importer for the purpose of transmitting information concerning
19 a chemical.

20 (25) "Misbranded" means any pesticide which fails to be
21 labeled in accordance with section 2, definitions - (q)
22 misbranded - of the "Federal Insecticide, Fungicide and
23 Rodenticide Act of 1947," as amended in 1972.

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

29 (28) "Permit" means a written certificate, issued by the
30 secretary or his authorized agent, authorizing the purchase,

1 possession, and/or use of pesticides classified for restricted
2 use by a private applicator.

3 (29) "Person" means any individual, partnership,
4 association, corporation, or any organized group of persons
5 whether incorporated or not.

6 (30) "Pest" means any insect, rodent, nematode, fungus,
7 weed, or any other form of terrestrial or aquatic plant or
8 animal life or virus, bacteria, or other microorganism (except
9 viruses, bacteria, or other microorganisms on or in living man
10 or other living animals) which the administrator declares to be
11 a pest under section 25(c)(1) of the "Federal Insecticide,
12 Fungicide and Rodenticide Act of 1947," as amended in 1972.

13 (31) "Pesticide" means any substance or mixture of
14 substances intended for preventing, destroying, repelling, or
15 mitigating any pest, and any substance or mixture of substances
16 intended for use as a plant regulator, defoliant, or desiccant.

17 (32) "Pesticide dealer" means any person who sells or
18 distributes pesticides classified for "restricted use."

19 (33) "Pest management consultant" means any individual who
20 is not a licensed applicator, and who for a fee offers, or
21 supplies technical advice, supervision or aid, or makes
22 recommendations to the user of pesticides classified for
23 restricted use.

24 (34) "Plant regulator" means any substance or mixture of
25 substances intended, through physiological action, for
26 accelerating or retarding the rate of growth or rate of
27 maturation, or for otherwise altering the behavior of plants or
28 the produce thereof, but shall not include substances to the
29 extent that they are intended as plant nutrients, trace
30 elements, nutritional chemicals, plant inoculants, and soil

1 amendments. Also, the term "plant regulator" shall not be
2 required to include any of such of those nutrient mixtures or
3 soil amendments as are commonly known as vitamin-hormone
4 horticultural products, intended for improvement, maintenance,
5 survival, health, and propagation of plants, and as are not for
6 pest destruction and are nontoxic, nonpoisonous in the undiluted
7 packaged concentration.

8 (35) "Producer and produce". The term "producer" means the
9 person who manufactures, prepares, compounds, propagates, or
10 processes any pesticide or device. The term "produce" means to
11 manufacture, prepare, compound, propagate, or process any
12 pesticide or device.

13 (36) "Protect health and the environment" mean protection
14 against any unreasonable adverse effects on the environment.

15 (37) "Registrant" means a person who has registered any
16 pesticide pursuant to the provisions of this act.

17 (38) "Registration" includes reregistration.

18 (39) "Restricted use" means the use of a pesticide which is
19 classified as a restricted use pursuant to section 3(d) of the
20 "Federal Insecticide, Fungicide and Rodenticide Act of 1947," as
21 amended in 1972.

22 (39.1) "Secretary" means the Secretary of Agriculture of the
23 Commonwealth.

24 (40) "Snails or slugs" includes all harmful mollusks.

25 [(40.1) "Under the direct supervision of a certified
26 commercial or public applicator," unless otherwise prescribed by
27 labeling, means application by a registered pesticide
28 application technician acting under the instructions and control
29 of a certified applicator who is available if and when needed,
30 even though such certified applicator is not physically present

1 at the time and place the pesticide is applied, or application
2 by a crew of noncertified or nonregistered employees working
3 under the instruction and control of a certified commercial or
4 public applicator who is physically present at the job site.]

5 (41) "Unreasonable adverse effects on the environment" means
6 any unreasonable risk to man or the environment, taking into
7 account the economic, social, and environmental costs and
8 benefits of the use of any pesticide.

9 (42) "Weed" means any plant which grows where not wanted.

10 (43) "Wildlife" means all living things that are neither
11 human, domesticated, nor, as defined in this act, pests;
12 including, but not limited to mammals, birds, and aquatic life.

13 Section 2. Section 5.1 of the act is amended by adding a
14 subsection to read:

15 Section 5.1. Registration.--* * *

16 (j) The secretary may register a pesticide and place such
17 limitations on its use as he may deem proper. In exercising this
18 authority, the secretary may, inter alia, disallow the use of a
19 pesticide in lawn or ornamental or turf control unless specific
20 evidence is submitted showing the potentiality of hazards to
21 human health or safety, or to the environment if it is not so
22 used.

23 Section 3. Sections 7(a) and (b), 8(f) and (16.1) of the
24 act, amended or added December 12, 1986 (P.L.1542, No.167), are
25 amended to read:

26 Section 7. Determinations; Rules and Regulations; Classified
27 for Restricted Use and General Use; and Uniformity.--(a) The
28 secretary is authorized, after due notice and an opportunity for
29 a hearing or public comment:

30 (1) To declare as a pest any form of plant or animal life

1 (except virus, bacteria, or other microorganisms on or in living
2 man or other living animals) which is injurious to man,
3 desirable animals, desirable plants, and land; and

4 (2) To determine pesticides, and quantities of substances
5 contained in pesticides, which are injurious to the environment.
6 The secretary shall be consistent with the Federal Environmental
7 Protection Agency regulations in this determination.

8 (b) The secretary is authorized, after due notice and a
9 public hearing or public comment, to adopt appropriate
10 regulations for carrying out the provisions of this act,
11 including but not limited to regulations providing for:

12 (1) The collection, examination, and reporting of samples of
13 pesticides or devices.

14 (2) The safe handling, transportation, storage, display,
15 distribution, and disposal of pesticides and their containers
16 consistent with "Federal Insecticide, Fungicide and Rodenticide
17 Act of 1947," as amended in 1972.

18 (3) Restricting or prohibiting the use of certain types of
19 containers or packages for pesticides not federally registered.
20 These restrictions may apply to type of construction, strength,
21 and/or size to alleviate danger of spillage, breakage, or
22 misuse. The secretary shall be consistent with Federal
23 regulations concerning pesticide containers.

24 (4) Labeling requirements of all pesticides not federally
25 registered required to be registered under provisions of this
26 act.

27 (5) Regulating the labeling of devices.

28 (6) Adopting lists of pesticides classified for restricted
29 and general use for the Commonwealth or for designated areas
30 within the Commonwealth if the secretary determines that such

1 pesticides may require regulations restricting or prohibiting
2 their distribution or use. Such lists are to be consistent with
3 Federal lists unless there is a local need or imminent hazard.
4 The secretary may include in the regulation the time and
5 conditions of distribution or use of such pesticides classified
6 for restricted or general use and may, if he deems it necessary
7 to carry out the purpose and provisions of this act, require
8 that any or all pesticides classified for restricted or general
9 use shall be purchased, possessed, or used only under the permit
10 of the secretary and under his direct supervision in certain
11 areas and/or under certain conditions or in certain quantities
12 or concentrations.

13 (c) Such rules and regulations shall be adopted pursuant to
14 the provisions of the act of July 31, 1968 (P.L.769, No.240),
15 known as the "Commonwealth Documents Law."

16 (d) For the purpose of uniformity of requirements between
17 the states and the Federal Government, and to avoid confusion
18 endangering the environment, the secretary may, after a public
19 hearing or public comment, adopt regulations in conformity with
20 the primary pesticide standards, particularly as to labeling,
21 registration requirements, and pesticides classified for
22 restricted use as established by the Federal Environmental
23 Protection Agency or other Federal or Commonwealth agencies.

24 (e) Nothing in this act shall be construed as requiring the
25 secretary to report minor violations of this act for prosecution
26 or for the institution of condemnation proceedings when he
27 believes that the public interest will be served best by a
28 suitable notice of warning in writing. However, the secretary
29 shall maintain an appropriate record of all violations
30 identified as a result of use observations, misuse

1 investigations or by inspectors in the normal conduct of their
2 duties.

3 Section 8. Prohibited Acts.--* * *

4 (f) No person shall use for his own advantage [or reveal]
5 any information relative to the formulas, supporting data or
6 other [confidential] information for registration of pesticide
7 products acquired by the authority of section 5.1 of this act[,
8 but this provision shall not be deemed to prohibit the
9 disclosure of information to the secretary or proper officials
10 or employees of the Commonwealth, or to courts of competent
11 jurisdiction in response to a subpoena, or to physicians or
12 pharmacists or other qualified persons for purposes of providing
13 health care treatment].

14 * * *

15 Section 16.1. Standards of Qualifications for Certification
16 of Commercial Applicators.--No individual shall be certified
17 competent to apply [or supervise the application of] any
18 pesticide for any purpose unless he has demonstrated his
19 competence to apply pesticides in the proper certification
20 category. Each category shall be subject to separate written
21 testing procedures, requirements and examination fees and shall
22 demonstrate minimum standard proficiency on the basis of a
23 written examination conducted at an approved test site under
24 direction of the department or its designated agents. The
25 secretary shall require a fee not to exceed fifty dollars (\$50)
26 for the basic core examination for certified applicators, and an
27 additional fee not to exceed ten dollars (\$10) shall be charged
28 for each additional category in which the applicant desires to
29 be certified. An annual fee of thirty dollars (\$30) shall be
30 charged when the certification does not require an examination.

Certifications shall be valid for one calendar year. The secretary shall promulgate rules and regulations pertaining to:

(1) Written examination requirements for obtaining an applicator's certification. Each applicant for certification shall demonstrate knowledge and competence as to:

(i) Identification of pests to be controlled and the damages caused by such pests.

(ii) The appropriate control measures to be used, including pesticides.

(iii) The hazards that may be involved in applying pesticides, so as to protect people and the environment.

(iv) The proper use of pesticide application equipment, including calibration and dosage calculations.

(v) Protective clothing and respiratory equipment required during application and handling of pesticides.

(vi) General precautions to be followed in cleaning and maintaining equipment used.

(vii) Transportation, storage and disposal of pesticides.

(viii) Applicable Federal and State pesticide laws and regulations.

(2) Renewal of applicator's certificates shall be on the basis of attendance at approved courses. Such courses shall include, at a minimum, a review of certification course subject matter, but shall not include a written examination.

Section 4. Section 16.2 of the act is repealed.

Section 5. Sections 17.1, 17.2, 17.3 and 25.1 of the act, added December 12, 1986 (P.L.1542, No.167), are amended to read:

Section 17.1. Public Applicators.--No person employed by any unit of a Federal, State or local agency shall engage in applying pesticides at any time without being certified as

1 provided under [sections 16.1 and 16.2] section 16.1 of this
2 act. Such certification fee shall be ten dollars (\$10) and shall
3 be valid for a three-year period.

4 Section 17.2. Private Applicators.--(a) No private
5 applicator shall use any pesticides [classified for restricted
6 use] without that private applicator first complying with the
7 certification requirements determined by the secretary as
8 necessary to prevent unreasonable adverse effects on people or
9 on the environment. To be certified, the private applicator
10 shall pass a written examination administered at an approved
11 test site by the secretary or his agent.

12 (b) Certain standards to determine the individual's
13 competency with respect to the use and handling of restricted
14 use pesticides by the private applicator shall take into
15 consideration the standards of the Federal Environmental
16 Protection Agency, but, as a minimum, shall include the
17 following topics:

18 (1) Labeling and label comprehension.

19 (2) Safety and health.

20 (3) Environmental protection.

21 (4) Pests.

22 (5) Pesticides.

23 (6) Integrated pest management.

24 (7) Equipment.

25 (8) Application techniques and technology.

26 (9) Laws and regulations.

27 (c) Upon successful completion of the written examination,
28 the private applicator shall be issued a permit authorizing the
29 purchase and use of restricted use pesticides. Such permit fee
30 shall be ten dollars (\$10) and shall be valid for a three-year

1 period.

2 (d) A private applicator shall be recertified as competent
3 with respect to the use and handling of restricted use
4 pesticides upon the successful completion of an update training
5 program as determined by the secretary. Such program shall
6 include, at a minimum, a review of certification topics, but
7 shall not include a written examination.

8 Section 17.3. Protection of Trade Secrets and Other
9 Information.--(a) In submitting data required by this act, the
10 applicant may:

11 (1) Clearly mark any portions thereof which in his opinion
12 are trade secrets or commercial or financial information.

13 (2) Submit such marked material separately from other
14 material required to be submitted under this act.

15 (b) Notwithstanding any other provisions of this act, the
16 secretary shall not make public information which in his
17 judgment contains or relates to trade secrets in commercial or
18 financial information which is obtained from a person [and is
19 privileged or confidential, except that, when necessary to carry
20 out the provisions of this act, information relating to formulas
21 of products acquired by authorization of this act may be
22 revealed to any State or Federal agency consulted or as required
23 by law].

24 (c) If the secretary proposes to release for inspection
25 information which the applicant or registrant believes to be
26 protected from disclosure under subsection (b), he shall notify
27 the applicant or registrant, in writing, by certified mail. The
28 secretary shall not thereafter make available for inspection
29 such data until thirty days after receipt of the notice by the
30 applicant or registrant. During this period, the applicant or

1 registrant may initiate an action in an appropriate court for a
2 declaratory judgment as to whether such information is subject
3 to protection under subsection (b).

4 Section 25.1. Additional Regulatory Authority.--(a) The
5 secretary shall, after due notice and public comment, adopt
6 appropriate regulations providing for:

7 (1) The control of the aerial application of [restricted
8 use] pesticides to rights-of-way only after notice in a
9 newspaper of general circulation in the affected area, at least
10 one week prior to the date of application. This regulation shall
11 include, but not be limited to:

12 (i) Minimum spraying distances.

13 (ii) Procedural prohibitions and restrictions relating to
14 weather conditions.

15 (2) The prior notification by commercial applicators to
16 individuals residing in dwellings on land [contiguous to a
17 restricted use pesticide application site.] within a one-mile
18 radius of an application site where individuals have requested
19 to be notified or have registered with the central registry
20 system, as provided for in sections 4(8.1) and 25.2. The
21 secretary, by regulations, shall determine the appropriate
22 mechanism for and the timing and form of notification.

23 (3) Regulations to prohibit the application of restricted
24 use pesticides within one hundred feet of certain publicly owned
25 or designated lands unless a waiver is granted. The secretary
26 may grant a waiver if an applicant demonstrates that:

27 (i) The application of the specified pesticide is necessary
28 and will result in a demonstrated public benefit.

29 (ii) The application of the pesticide will not cause adverse
30 impact on the use of the area to be protected.

(iii) The application of the pesticide will not result in the destruction or loss of any rare or endangered flora or fauna or significant natural community existing in the protected area.

(b) The protected publicly owned or designated area under this section shall include:

(1) Designated natural areas on State forest lands.

(2) Areas designated on Pennsylvania's Natural Diversity Inventory containing rare or endangered species or significant natural communities.

Section 6. The act is amended by adding sections to read:

Section 25.2. Notification.--(a) Any person may request to be notified of the date of an application of a pesticide on any property with a one-mile radius of his residence.

(b) No less than forty-eight hours notice in writing or by direct phone contact shall be given by the commercial applicator proposing to apply the pesticide to any person requesting such notice. The notice shall state, within one hour, the time of the proposed spraying.

(c) A request for prior notice may be made by making the request directly to the commercial applicator or by registering in the central registry system.

(d) Commercial applicators shall consult the central registry system within five days of any proposed application.

(e) A person who has requested and been given notice shall have the right to refuse the application by any commercial applicator three times per season. Each commercial applicator shall maintain a record of persons who have contacted him refusing applications and the time and manner of the contact, which record shall be maintained for at least two years as to any person. Any application made after a valid refusal as

1 authorized by this section shall constitute a violation of this
2 act.

3 Section 25.3. Contracts.--All licensees shall, prior to
4 application, have a written contract with their customers. The
5 contract shall include information about all the chemicals to be
6 applied. The information shall be either complete MSDS forms or
7 complete label information. For the sake of informed consent,
8 all licensees must provide information that there exists
9 alternatives to chemical spraying, such as pelletized or
10 granular options and organic alternatives, as well as integrated
11 pest management. The contract shall also include complete
12 information about the responsibility of posting and complete
13 information about the responsibility of notifying persons who
14 request to be notified.

15 Section 25.4. Odor.--No pesticide shall be applied unless it
16 has a clearly perceptible odor. The odor may either be from the
17 pesticide itself or from one of the inert ingredients.

18 Section 25.5. Posting of Signs.--(a) Signs shall be posted
19 at least forty-eight hours before any pesticide application. The
20 signs shall be posted on the perimeter of the property to be
21 sprayed at reasonable intervals and shall be not less than five
22 inches by seven inches in size. One sign shall be posted and
23 readable by the main access to the property. Posting of signs
24 shall be required for all applicators, including residential
25 applicators. Applicators must include on the signs that are
26 posted prior to the application the following:

27 (1) The name and phone number of their company in the case
28 of a licensee, or the name and home phone number in the case of
29 a residential applicator.

30 (2) The name of the pesticide or active ingredient that will

1 be sprayed.

2 (3) The date and time of proposed applications.

3 (b) After any application of a pesticide, signs shall be
4 posted on the perimeter of the property sprayed. Such signs
5 shall be the same size and posted in the same manner as provided
6 in subsection (a), and shall remain in place for at least forty-
7 eight hours. These signs shall include the following:

8 (1) The name of the licensee or residential applicator
9 applying the chemical.

10 (2) The name of the pesticide or the active ingredient.

11 (3) The address and phone number of the Pennsylvania poison
12 control center or the nearest local poison control center.

13 (4) A "Mr. Yuk" symbol.

14 (5) Health, safety and medical information or the MSDS or
15 labels to provide the health, safety and medical information as
16 prescribed by the secretary by regulation.

17 (c) The secretary may, by regulation, determine what
18 additional information should be included on the signs and may,
19 by regulation, determine more specifically sizes, colors or
20 areas where signs are to be posted.

21 (d) When the application is by a licensee, both the customer
22 and the licensee shall be responsible to see that the signs are
23 posted before and after the spraying. No application shall be
24 made unless they have confirmed that the signs have been posted.

25 (e) It shall be unlawful for anyone to remove, alter or
26 deface a sign that has been so posted or to conspire with
27 another to remove, alter or deface a sign. The customer or
28 licensee shall not be held liable for any penalty for sign
29 removal if the sign is removed by another person under
30 circumstances over which the customer or licensee has no

1 control.

2 (f) Application shall not be made on days when wind
3 conditions cause drift from the boundaries of the target
4 property. A wind speed in excess of three miles per hour shall
5 be sufficient to prohibit a spray application in a residential
6 area.

7 (g) Pesticides shall not be applied prophylactically unless
8 there is strong evidence of potentially hazardous infestation to
9 human health or to property or to the environment.

10 Section 35.1. Access to Information.--All information files
11 with the department relating to the registration of pesticides,
12 as provided for in section 5.1, shall be available to the public
13 to the extent that, in the judgment of the secretary, such
14 information will not reveal a trade secret, as protected under
15 section 17.3. In addition, any person shall have the right to
16 receive the MSDS or a copy of the label for any chemical to
17 which he may have been exposed. Any information so requested
18 shall be supplied to the requestor at the cost to the department
19 of copying and mailing, with no additional charges.

20 Section 7. This act shall take effect in 60 days.