

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1723 Session of
1989

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LAUGHLIN, JUNE 19, 1989

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
JUNE 19, 1989

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:

(i) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, 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

1 certified under section 16.1, 17 or 17.1 of this act as
2 competent to use or [supervise the use or application of] apply
3 any pesticide.

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

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

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

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

29 "Residential applicator" means a person who is neither certified
30 nor licensed who applies general use pesticides to property that

1 he owns or rents.

2 (7) "Beneficial insects" means those insects which, during
3 their life cycle, are effective pollinators of plants, are
4 parasites or predators of pests, or are otherwise beneficial.

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

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

12 (8.2) "Customer" means a person who has entered into a
13 contract with a licensee for the application of pesticides.

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

17 (9.1) "Department" means the Department of Agriculture of
18 the Commonwealth.

19 (10) "Desiccant" means any substance or mixture of
20 substances intended for artificially accelerating the drying of
21 plant tissue.

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

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

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

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

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

14 (15.1) "Experimental use pesticide" means a pesticide that
15 has not yet been fully approved by the Commonwealth and the
16 Federal Environmental Protection Agency and is allowed to be
17 used on an experimental basis with a permit.

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

24 (16.1) "General use pesticide" means any pesticide that is
25 not classified as either a restricted or experimental use
26 pesticide.

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

29 (18) "Imminent hazard" means a situation which exists when
30 the continued use of a pesticide during the time required for

1 cancellation proceeding would be likely to result in
2 unreasonable adverse effects on people and the environment or
3 will involve unreasonable hazard to the survival of a species
4 declared endangered by the Secretary of the Interior of the
5 United States under Public Law 91-135.

6 (19) "Inert ingredient" means an ingredient which is not
7 active.

8 (20) "Ingredient statement" means a statement which
9 contains:

10 (i) the name and percentage of each active ingredient, and
11 the total percentage of all inert ingredients, in the pesticide;
12 and

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

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

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

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

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

30 (ii) to which reference is made on the label or in

1 literature accompanying the pesticide or device, except to
2 current official publications of the Federal Environmental
3 Protection Agency, the United States Departments of Agriculture
4 and Interior, the Department of Health, Education and Welfare,
5 State experiment stations, State agricultural colleges, and
6 other similar Federal or State institutions or agencies
7 authorized by law to conduct research in the field of
8 pesticides.

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

13 (24.1) "License" means written permission, issued by the
14 department, to a business or person as authorized in sections
15 12, 13 and 15.1 of this act.

16 (24.2) "Local agency" means a governmental unit other than
17 the Commonwealth government. The term shall include, but not be
18 limited to, a county, city, borough, town, township, school
19 district or municipal authority.

20 (24.3) "Material Safety Data Sheet" or "MSDS" means a
21 written document prepared by a manufacturer, supplier or
22 importer for the purpose of transmitting information concerning
23 a chemical.

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

28 (27) "Nematode" means invertebrate animals of the phylum
29 nemathelminthes and class nematoda, that is unsegmented round
30 worms with elongated, fusiform, or saclike bodies covered with

1 cuticle, and inhabiting soil, water, plants, or plant parts; may
2 also be called nemas or eelworms.

3 (28) "Permit" means a written certificate, issued by the
4 secretary or his authorized agent, authorizing the purchase,
5 possession, and/or use of pesticides classified for restricted
6 use by a private applicator.

7 (29) "Person" means any individual, partnership,
8 association, corporation, or any organized group of persons
9 whether incorporated or not.

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

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

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

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

28 (34) "Plant regulator" means any substance or mixture of
29 substances intended, through physiological action, for
30 accelerating or retarding the rate of growth or rate of

1 maturation, or for otherwise altering the behavior of plants or
2 the produce thereof, but shall not include substances to the
3 extent that they are intended as plant nutrients, trace
4 elements, nutritional chemicals, plant inoculants, and soil
5 amendments. Also, the term "plant regulator" shall not be
6 required to include any of such of those nutrient mixtures or
7 soil amendments as are commonly known as vitamin-hormone
8 horticultural products, intended for improvement, maintenance,
9 survival, health, and propagation of plants, and as are not for
10 pest destruction and are nontoxic, nonpoisonous in the undiluted
11 packaged concentration.

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

17 (36) "Protect health and the environment" mean protection
18 against any unreasonable adverse effects on people and the
19 environment.

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

22 (38) "Registration" includes reregistration.

23 (38.1) "Residential properties" include single dwellings,
24 duplexes, triplexes, apartments, townhouses and condominiums.
25 The term does not include farms, golf courses or arbors.

26 (38.2) "Residential use" means applying chemicals to lawns,
27 trees and shrubs on residential properties.

28 (39) "Restricted use" means the use of a pesticide which is
29 classified as a restricted use pursuant to section 3(d) of the
30 "Federal Insecticide, Fungicide and Rodenticide Act of 1947[,"

1 as amended in 1972]._"

2 (39.1) "Secretary" means the Secretary of Agriculture of the
3 Commonwealth.

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

5 [(40.1) "Under the direct supervision of a certified
6 commercial or public applicator," unless otherwise prescribed by
7 labeling, means application by a registered pesticide
8 application technician acting under the instructions and control
9 of a certified applicator who is available if and when needed,
10 even though such certified applicator is not physically present
11 at the time and place the pesticide is applied, or application
12 by a crew of noncertified or nonregistered employees working
13 under the instruction and control of a certified commercial or
14 public applicator who is physically present at the job site.]

15 (41) "Unreasonable adverse effects on the environment" means
16 any unreasonable risk to man or the environment, taking into
17 account the health, economic, social, and environmental costs
18 and benefits of the use of any pesticide.

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

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

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

25 Section 5.1. Registration.--* * *

26 (j) The secretary may limit the use of a pesticide or
27 prohibit it in accordance with the criteria set forth by the
28 "Federal Insecticidal Fungicide and Rodenticide Act of 1947."

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

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

(1) To declare as a pest any form of plant or animal life
(except virus, bacteria, or other microorganisms on or in living
man or other living animals) which is injurious to man,
desirable animals, desirable plants, and land; and

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

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

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

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

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

(4) Labeling requirements of all pesticides not federally

1 registered required to be registered under provisions of this
2 act.

3 (5) Regulating the labeling of devices.

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

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

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

1 (e) Nothing in this act shall be construed as requiring the
2 secretary to report minor violations of this act for prosecution
3 or for the institution of condemnation proceedings when he
4 believes that the public interest will be served best by a
5 suitable notice of warning in writing. However, the secretary
6 shall maintain an appropriate record of all violations
7 identified as a result of use observations, misuse
8 investigations or by inspectors in the normal conduct of their
9 duties.

10 Section 8. Prohibited Acts.--* * *

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

21 * * *

22 Section 16.1. Standards of Qualifications for Certification
23 of Commercial Applicators.--No individual shall be certified
24 competent to apply [or supervise the application of] any
25 pesticide for any purpose unless he has demonstrated his
26 competence to apply pesticides in the proper certification
27 category. Each category shall be subject to separate written
28 testing procedures, requirements and examination fees and shall
29 demonstrate minimum standard proficiency on the basis of a
30 written examination conducted at an approved test site under

1 direction of the department or its designated agents. The
2 secretary shall require a fee not to exceed fifty dollars (\$50)
3 for the basic core examination for certified applicators, and an
4 additional fee not to exceed ten dollars (\$10) shall be charged
5 for each additional category in which the applicant desires to
6 be certified. An annual fee of thirty dollars (\$30) shall be
7 charged when the certification does not require an examination.
8 Certifications shall be valid for one calendar year. The
9 secretary shall promulgate rules and regulations pertaining to:

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

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

15 (ii) The appropriate control measures to be used, including
16 pesticides, nonchemical means and integrated pesticide
17 management technique.

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

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

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

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

26 (vii) Transportation, storage and disposal of pesticides.

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

29 (2) Renewal of applicator's certificates shall be on the
30 basis of attendance at approved courses. Such courses shall

1 include, at a minimum, a review of certification course subject
2 matter, but shall not include a written examination.

3 Section 4. Section 16.2 of the act is repealed.

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

6 Section 17.1. Public Applicators.--No person employed by any
7 unit of a Federal, State or local agency shall engage in
8 applying pesticides at any time without being certified as
9 provided under [sections 16.1 and 16.2] section 16.1 of this
10 act. Such certification fee shall be ten dollars (\$10) and shall
11 be valid for a three-year period.

12 Section 17.2. Private Applicators.--(a) No private
13 applicator shall use any pesticides classified for restricted
14 use without that private applicator first complying with the
15 certification requirements determined by the secretary as
16 necessary to prevent unreasonable adverse effects on people or
17 on the environment. To be certified, the private applicator
18 shall pass a written examination administered at an approved
19 test site by the secretary or his agent.

20 (b) Certain standards to determine the individual's
21 competency with respect to the use and handling of restricted
22 use pesticides by the private applicator shall take into
23 consideration the standards of the Federal Environmental
24 Protection Agency, but, as a minimum, shall include the
25 following topics:

26 (1) Labeling and label comprehension.

27 (2) Safety and health.

28 (3) Environmental protection.

29 (4) Pests.

30 (5) Pesticides.

1 (6) Integrated pest management.

2 (7) Equipment.

3 (8) Application techniques and technology.

4 (9) Laws and regulations.

5 (c) Upon successful completion of the written examination,
6 the private applicator shall be issued a permit authorizing the
7 purchase and use of restricted use pesticides. Such permit fee
8 shall be ten dollars (\$10) and shall be valid for a three-year
9 period.

10 (d) A private applicator shall be recertified as competent
11 with respect to the use and handling of restricted use
12 pesticides upon the successful completion of an update training
13 program as determined by the secretary. Such program shall
14 include, at a minimum, a review of certification topics, but
15 shall not include a written examination.

16 (e) For the purposes of this section, a farmer shall not be
17 considered a private applicator.

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

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

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

25 (b) Notwithstanding any other provisions of this act, the
26 secretary shall not make public information which in his
27 judgment contains or relates to trade secrets in commercial or
28 financial information which is obtained from a person [and is
29 privileged or confidential, except that, when necessary to carry
30 out the provisions of this act, information relating to formulas

1 of products acquired by authorization of this act may be
2 revealed to any State or Federal agency consulted or as required
3 by law].

4 (c) If the secretary proposes to release for inspection
5 information which the applicant or registrant believes to be
6 protected from disclosure under subsection (b), he shall notify
7 the applicant or registrant, in writing, by certified mail. The
8 secretary shall not thereafter make available for inspection
9 such data until thirty days after receipt of the notice by the
10 applicant or registrant. During this period, the applicant or
11 registrant may initiate an action in an appropriate court for a
12 declaratory judgment as to whether such information is subject
13 to protection under subsection (b).

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

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

22 (i) Minimum spraying distances.

23 (ii) Procedural prohibitions and restrictions relating to
24 weather conditions.

25 (2) The prior notification by commercial applicators to
26 individuals residing [in dwellings on land contiguous to a
27 restricted use pesticide application site.] on residential
28 properties within a one-half-mile radius of an application site
29 where individuals have requested to be notified or have
30 registered with the central registry system, as provided for in

1 sections 4(8.1) and 25.2. The secretary, by regulations, shall
2 determine the appropriate mechanism for and the timing and form
3 of notification.

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

8 (i) The application of the pesticide will not have an
9 unreasonable, adverse effect on human health or the environment.

10 ~~[(i)]~~ (ii) The application of the specified pesticide is
11 necessary and will result in a demonstrated public benefit.

12 ~~[(ii)]~~ (iii) The application of the pesticide will not cause
13 adverse impact on the use of the area to be protected.

14 ~~[(iii)]~~ (iv) The application of the pesticide will not
15 result in the destruction or loss of any rare or endangered
16 flora or fauna or significant natural community existing in the
17 protected area.

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

20 (1) Designated natural areas on State forest lands.

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

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

25 Section 25.2. Notification.--(a) Any person residing on
26 residential property may request to be notified of the date of
27 an application of any pesticide on any residential property
28 within a one-half-mile radius of his residence.

29 (b) No less than forty-eight hours notice in writing or by
30 direct phone contact shall be given by the commercial applicator

1 proposing to apply the pesticide to any person requesting such
2 notice. The notice shall state, within one hour, the time of the
3 proposed spraying.

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

7 (d) Commercial applicators shall consult the central
8 registry system monthly for updates before any proposed
9 application.

10 (e) A person who has requested and been given notice shall
11 have the right to request a new date and time for spraying by
12 any commercial applicator.

13 (f) If for any reason the proposed residential spraying
14 cannot be carried out at the time stated in the notice required
15 by subsection (b), the commercial applicator shall, by direct
16 phone contact or any other means, promptly so inform the persons
17 who have requested notice of the proposed spraying and, at that
18 time or as soon as a new date is set, inform them of the new
19 date and time.

20 (g) This section shall not apply when spraying is done on
21 farms.

22 Section 25.3. Contracts.--All licensees shall, prior to
23 application on residential property, have a written contract
24 with their customers. The contract shall include information
25 about all the chemicals to be applied. The information shall be
26 either complete MSDS forms or complete label information. Such
27 information, in addition to being set forth in the contract,
28 shall be given to the customers prior to each application. For
29 the sake of informed consent, all licensees must provide
30 information that there exists alternatives to chemical spraying,

1 such as organic alternatives, as well as integrated pest
2 management. The contract shall also include complete information
3 about the responsibility of displaying a sticker or sign and
4 complete information about the responsibility of notifying
5 persons who request to be notified. After entering into a
6 contract the customer shall display a sticker or sign on a front
7 window or other easily seen portion of a residential property
8 containing the name of the licensee, so that there will be no
9 danger of misapplication. The sticker or sign shall be
10 recognizable from the nearest street.

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

14 Section 25.5. Application of Pesticides in or near
15 Schools.--No pesticide shall be applied in or on school grounds
16 at any time that students, teachers or administrative staff are
17 in the school.

18 Section 25.6. 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
22 eighteen inches by twenty-four inches in size. One sign shall be
23 posted and readable by the main access to the property and any
24 other major thoroughfare. Posting of signs shall be required for
25 all applicators, including residential applicators. Applicators
26 must include on the signs that are posted prior to the
27 application the following:

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

1 (2) The name of the pesticide or active ingredient that will
2 be sprayed.

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

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

9 (1) The name of the commercial applicator applying the
10 chemical.

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

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

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

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

18 (c) Information on pesticides which is required to appear on
19 signs shall be supplied by and obtained from the manufacturer.

20 (d) A residential applicator using nonchemical biological
21 products and integrated pest management techniques shall be
22 exempt from the posting requirements of this section.

23 (e) The secretary may, by regulation, determine what
24 additional information should be included on the signs and may,
25 by regulation, determine more specifically colors or additional
26 areas where signs are to be posted.

27 (f) When the application is by a commercial applicator, both
28 the customer and the commercial applicator shall be responsible
29 to see that the signs are posted before and after the spraying.
30 No application shall be made unless they have confirmed that the

1 signs have been posted.

2 (g) It shall be unlawful for anyone to remove, alter or
3 deface a sign that has been so posted or to conspire with
4 another to remove, alter or deface a sign. The customer or
5 licensee shall not be held liable for any penalty for sign
6 removal if the sign is removed by another person under
7 circumstances over which the customer or licensee has no
8 control.

9 (h) Application shall not be made on days when wind
10 conditions cause drift from the boundaries of the target
11 residential property. A wind speed in excess of three miles per
12 hour shall be sufficient to prohibit a spray application in a
13 residential area. The wind speed limitation shall not apply in
14 any case where an application of pesticides must be made to
15 control the gypsy moth or the black fly and, if a biological
16 product is applied, there shall be no right of refusal, as
17 provided for in section 25.2.

18 (i) Pesticides shall not be applied prophylactically unless
19 there is strong evidence of potentially hazardous infestation to
20 human health or to property or to the environment.

21 (j) If a property owner has services performed on the
22 exterior of his property within seven days after the application
23 of a pesticide it shall be his duty to inform the person
24 performing the services of the application and the name of the
25 pesticide applied.

26 Section 25.7. Protective Gear.--All commercial applicators
27 shall wear appropriate protective gear during the application of
28 lawn chemicals.

29 Section 25.8. Indoor Pesticide Applications.--A permanent
30 notice of the application of pesticides shall be conspicuously

1 posted near the entrance in all buildings open to the public,
2 including, but not limited to, health care facilities,
3 restaurants, hotels and motels, schools, places of worship and
4 public meeting places, malls, department stores, food stores and
5 the work place. The notice shall include the date and time of
6 the application of a pesticide, the name of the pesticide used,
7 possible adverse health effects and the date of the next
8 proposed application.

9 Section 25.9. Vehicles Transporting Pesticides.--Any
10 commercial vehicle transporting pesticides shall, by decal or
11 otherwise, display on both sides of the cab, a list of the
12 chemical contents of the pesticide in order to enable emergency
13 personnel to take proper action in the event of an accident or
14 leakage.

15 Section 35.1. Access to Information.--All information files
16 with the department relating to the registration of pesticides,
17 as provided for in section 5.1, shall be available to the public
18 to the extent that, in the judgment of the secretary, such
19 information will not reveal a trade secret, as protected under
20 section 17.3. In addition, any person shall have the right to
21 receive the MSDS or a copy of the label for any chemical to
22 which he may have been exposed. Any information so requested
23 shall be supplied to the requestor at the cost to the department
24 of copying and mailing, with no additional charges. Physicians
25 shall be able to obtain a list of active and inactive
26 ingredients when pesticide poisoning has occurred. The list will
27 be provided to facilitate treatment and not to violate trade
28 secret information.

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