

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2800 Session of
1990

INTRODUCED BY BIRMELIN, STABACK, LEE, TIGUE, PHILLIPS, DISTLER,
FOX, HECKLER, E. Z. TAYLOR, CLYMER, JOSEPHS, TRELLO, McHALE,
McCALL, SERAFINI, VROON, CAWLEY, HAGARTY, BELARDI,
B. D. CLARK AND DIETTERICK, JULY 1, 1990

REFERRED TO COMMITTEE ON TRANSPORTATION, JULY 1, 1990

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," regulating
7 the application of pesticides by the Department of
8 Transportation; and further providing for prohibited acts.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 8 of the act of March 1, 1974 (P.L.90,
12 No.24), known as the Pennsylvania Pesticide Control Act of 1973,
13 is amended by adding a subsection to read:

14 Section 8. Prohibited Acts.--* * *

15 (u) No person shall remove, alter or deface, or conspire
16 with another person to remove, alter or deface, a sign posted
17 under section 18.1.

18 Section 2. The act is amended by adding a section to read:

19 Section 18.1. Application of Pesticides by Department of
20 Transportation.--(a) The Department of Transportation or its

contracted pesticide applicators shall inform all roadside property owners, both resident and nonresident, of a proposed application of a pesticide along their property at least thirty days prior to the proposed application.

(1) The notification shall include the date and time of the spraying, the names of the pesticides to be used and the telephone number of the district roadside management specialist.

(2) The notification shall be either by certified mail or by personal notification. If personal notification is used, the Department of Transportation must secure a signature from the property owner, indicating that the property owner was informed.

(3) A property owner shall have the right to prohibit the application of pesticides within one thousand feet of his property, and a resident shall have the right to prohibit the application of pesticides within one thousand feet of his residence.

(i) Prohibition of the application of pesticides under this clause shall be effected by notice to the Department of Transportation's district roadside management specialist not less than ten days prior to the scheduled application.

(ii) The department's notification to owners and residents shall explain their right to prohibit pesticide application under this clause.

(iii) The district roadside management specialist shall maintain a registry of all owners and residents who have prohibited application of pesticides under this clause. Prior to applying pesticides, personnel of the Department of Transportation or its contracted applicators shall consult the registry to determine where pesticide application is prohibited.

(iv) Roadside maintenance along areas where the use of

pesticides has been prohibited under this clause shall make use of nonchemical management methods.

(4) Any change in the date and time of a proposed application of pesticides by the Department of Transportation or its contracted applicators must conform to the notification requirements of this subsection.

(b) The Department of Transportation shall post signs along roadways that are scheduled to be sprayed no later than forty-eight hours prior to the proposed spraying application.

(1) The signs shall be not less than eighteen inches by twenty-four inches in size and shall contain the words "PennDOT Chemical Pesticide Spray Area."

(2) Signs shall be placed at one-half-mile intervals along the roadside which is scheduled for pesticide spraying.

(3) The first and last sign sites along the roadway to be sprayed shall include an additional sign, listing a telephone number for public information, the names of the pesticides to be used and the date and time of the proposed spraying.

(4) Each sign will remain in place for no less than ten days following a chemical pesticide application.

(c) (1) The Department of Transportation and its contracted applicators shall have their spray vehicles posted with signs containing the words "Chemical Pesticide Spraying Vehicle" in letters no less than two inches in height. The signs shall be posted on both sides of the vehicle.

(2) Each chemical pesticide spray vehicle and vehicles transporting pesticides shall have the name of the chemicals being used or transported clearly displayed on the dashboard of the vehicle in order to enable emergency personnel to take proper action in the event of an accident or leakage.

1 (d) No pesticide shall be applied unless it has a clearly
2 perceptible odor. The odor may either be from the pesticide
3 itself or from one of the inert ingredients.

4 (e) (1) No pesticide shall be applied within one thousand
5 feet of a lake, creek, stream, river or wetlands.

6 (2) No pesticide shall be applied within one thousand feet
7 of a household, school, institution, commercial business or
8 publicly owned property.

9 (3) No pesticide shall be applied within one thousand feet
10 of a domestic animal pasture, hayfield or crop field.

11 (4) Pesticides shall not be applied on days when wind
12 conditions cause drift from the boundaries of the target
13 roadside property or whenever wind speed is in excess of three
14 miles per hour.

15 (5) Pesticide spray vehicles shall not travel more than five
16 miles per hour to prevent wind drift from the motion of the
17 vehicle or its possible combination with natural wind drift.

18 (6) Pesticides shall not be mixed or combined for spraying.
19 A minimum ten-day period must elapse before application of a
20 second pesticide in an area where a pesticide has been applied.

21 (f) (1) Pesticide manufacturers shall provide the secretary
22 with a list of the active and inactive, or inert, ingredients of
23 all pesticides used by the Department of Transportation and its
24 contracted applicators.

25 (2) All information filed with the secretary relating to the
26 registration of pesticides, as provided for in this act, shall
27 be made available to the public to the extent that, in the
28 judgment of the secretary, the information will not reveal a
29 trade secret, as protected under this act. In addition, any
30 person shall have the right to receive the material safety data

1 sheet, as defined in section 2 of the act of October 5, 1984
2 (P.L.734, No.159), known as the Worker and Community Right-to-
3 Know Act, or a copy of the label for any chemical to which he
4 may have been exposed.

5 (3) A physician shall be able to obtain from the secretary a
6 list of the active and inactive, or inert, ingredients when
7 pesticide poisoning has occurred. The list will be provided to
8 facilitate treatment and not to violate trade secret
9 information.

10 (4) A Department of Transportation district roadside
11 management specialist shall not expend funds for roadside
12 spraying of pesticides without first providing a detailed cost
13 analysis of all of the various alternatives to pesticide
14 spraying for roadside management pertinent to his district which
15 clearly indicates that roadside pesticide spraying is more cost
16 effective than any of the various alternatives for roadside
17 management. The cost analysis shall include all of the
18 alternatives--organic, biological and mechanical--and shall
19 include a copy of the "Integrated Pest Management Plan"
20 pertinent to his district.

21 Section 3. This act shall take effect in 60 days.