

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1088 Session of
1993

INTRODUCED BY GREENLEAF, LOEPER AND SCHWARTZ, MAY 10, 1993

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, MAY 10, 1993

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; providing that certain
10 information shall be available to the public; and making a
11 repeal.

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

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

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

19 (1) "Active ingredient" means:

20 (i) in the case of a pesticide other than a plant regulator,
21 defoliant, or desiccant, an ingredient which will prevent,
22 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.

[(A)] (6.1) "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.

[(B)] (6.2) "Private applicator" means a certified

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

7 [(C)] (6.3) "Commercial applicator" means a certified
8 applicator (whether or not he is a private applicator with
9 respect to some uses) who uses [or supervises the use of] any
10 pesticide on the property or premises of another, or on
11 easements granted under State law, or any applicator who uses
12 [or supervises the use of] any restricted use pesticide on
13 property owned or rented by him or his employer, when not for
14 purposes of producing an agricultural product. The secretary may
15 by regulation deem certain types of applicators using any
16 pesticide on their own property or that of his employer as
17 commercial applicators.

18 [(D)] (6.4) "Public applicator" means any certified
19 applicator who applies pesticides as an employe of the State or
20 its 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 (7) "Beneficial insects" means those insects which, during
27 their life cycle, are effective pollinators of plants, are
28 parasites or predators of pests, or are otherwise beneficial.

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

30 (8.1) "Central registry system" means a list maintained by

the Bureau of Plant Industry of the department of all persons who have requested in writing that they desire forty-eight hours notification of an application of a pesticide within a one-half mile radius of their property, to be accessed by all licensees prior to any contractual application.

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

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

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

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

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

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

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

(14) "Equipment" means any type of ground, water or aerial equipment or contrivance using motorized, mechanical or pressurized power and used to apply any pesticide on land and

1 anything that may be growing, habitating or stored on or in such
2 land, but shall not include any pressurized hand-sized household
3 apparatus used to apply any pesticide, or any equipment or
4 contrivance of which the person who is applying the pesticide is
5 the source of power or energy in pesticide application.

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

8 (15.1) "Experimental use pesticide" means a pesticide that
9 has not yet been fully approved by the Commonwealth and the
10 Federal Environmental Protection Agency and is allowed to be
11 used on an experimental basis with a permit.

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

18 (16.1) "General use pesticide" means any pesticide that is
19 not classified as either a restricted or experimental use
20 pesticide.

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

23 (18) "Imminent hazard" means a situation which exists when
24 the continued use of a pesticide during the time required for
25 cancellation proceeding would be likely to result in
26 unreasonable adverse effects on people and the environment or
27 will involve unreasonable hazard to the survival of a species
28 declared endangered by the Secretary of the Interior of the
29 United States under Public Law 91-135.

30 (19) "Inert ingredient" means an ingredient which is not

1 active.

2 (20) "Ingredient statement" means a statement which
3 contains:

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

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

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

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

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

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

24 (ii) to which reference is made on the label or in
25 literature accompanying the pesticide or device, except to
26 current official publications of the Federal Environmental
27 Protection Agency, the United States Departments of Agriculture
28 and Interior, the Department of Health, Education and Welfare,
29 State experiment stations, State agricultural colleges, and
30 other similar Federal or State institutions or agencies

1 authorized by law to conduct research in the field of
2 pesticides.

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

7 (24.1) "License" means written permission, issued by the
8 department, to a business or person as authorized in sections
9 12, 13 and 15.1 of this act.

10 (24.2) "Local agency" means a governmental unit other than
11 the Commonwealth government. The term shall include, but not be
12 limited to, a county, city, borough, town, township, school
13 district or municipal authority.

14 (24.3) "Material Safety Data Sheet" or "MSDS" means a
15 written document prepared by a manufacturer, supplier or
16 importer for the purpose of transmitting information concerning
17 a chemical.

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

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

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

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

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

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

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

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

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

1 soil amendments as are commonly known as vitamin-hormone
2 horticultural products, intended for improvement, maintenance,
3 survival, health, and propagation of plants, and as are not for
4 pest destruction and are nontoxic, nonpoisonous in the undiluted
5 packaged concentration.

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

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

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

16 (38) "Registration" includes reregistration.

17 (38.1) "Residential property" means homes, apartments,
18 townhouses, condominiums, schools, nursing homes, day-care
19 centers, playing fields and playgrounds. The term does not
20 include land used for the commercial production of agricultural
21 or horticultural products.

22 (38.2) "Residential use" means the application of pesticides
23 to lawns, trees and shrubs on residential property by a
24 commercial applicator.

25 (39) "Restricted use" means the use of a pesticide which is
26 classified as a restricted use pursuant to section 3(d) of the
27 "Federal Insecticide, Fungicide, and Rodenticide Act [of 1947,"
28 as amended in 1972]."

29 (39.1) "Secretary" means the Secretary of Agriculture of the
30 Commonwealth.

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

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

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

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

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

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

Section 5.1. Registration.--* * *

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

Section 3. Sections 7, 8(f) and 16.1 of the act, amended or 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

1 a hearing or public comment:

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

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

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

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

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

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

27 (4) Labeling requirements of all pesticides not federally
28 registered required to be registered under provisions of this
29 act.

30 (5) Regulating the labeling of devices.

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

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

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

28 (e) Nothing in this act shall be construed as requiring the
29 secretary to report minor violations of this act for prosecution
30 or for the institution of condemnation proceedings when he

1 believes that the public interest will be served best by a
2 suitable notice of warning in writing. However, the secretary
3 shall maintain an appropriate record of all violations
4 identified as a result of use observations, misuse
5 investigations or by inspectors in the normal conduct of their
6 duties.

7 Section 8. Prohibited Acts.--* * *

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

18 * * *

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

1 additional fee not to exceed ten dollars (\$10) shall be charged
2 for each additional category in which the applicant desires to
3 be certified. An annual fee of thirty dollars (\$30) shall be
4 charged when the certification does not require an examination.
5 Certifications shall be valid for one calendar year. The
6 secretary shall promulgate rules and regulations pertaining to:

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

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

12 (ii) The appropriate control measures to be used, including
13 pesticides, nonchemical means and integrated pesticide
14 management technique.

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

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

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

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

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

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

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

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

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

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

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

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

- 23 (1) Labeling and label comprehension.
- 24 (2) Safety and health.
- 25 (3) Environmental protection.
- 26 (4) Pests.
- 27 (5) Pesticides.
- 28 (6) Integrated pest management.
- 29 (7) Equipment.
- 30 (8) Application techniques and technology.

1 (9) Laws and regulations.

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

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

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

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

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

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

29 (c) If the secretary proposes to release for inspection
30 information which the applicant or registrant believes to be

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

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

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

17 (i) Minimum spraying distances.

18 (ii) Procedural prohibitions and restrictions relating to
19 weather conditions.

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

29 (3) Regulations to prohibit the application of restricted
30 use pesticides within one hundred feet of certain publicly owned

or designated lands unless a waiver is granted. The secretary may grant a waiver if an applicant demonstrates that:

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

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

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

~~[(iii)]~~ (iv) 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 by Commercial Applicators.--(a) Any person may request to be notified of the date of an application of a pesticide on residential property within a one-half-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

1 in the central registry system.

2 (d) Commercial applicators shall consult the central
3 registry system monthly for updates before any proposed
4 application.

5 (e) A person who has requested and been given notice shall
6 have the right to refuse the application by any commercial
7 applicator three times per year. Each commercial applicator
8 shall maintain a record of persons who have contacted him
9 refusing applications and the time and manner of the contact,
10 which record shall be maintained for at least two years as to
11 any person. Any application made after a valid refusal as
12 authorized by this section shall constitute a violation of this
13 act.

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

20 Section 25.3. Contracts.--All licensees shall, prior to
21 application on residential property, have a written contract
22 with their customers. The contract shall include information
23 about all the chemicals to be applied. The information shall be
24 either complete MSDS forms or complete label information. Such
25 information, in addition to being set forth in the contract,
26 shall be given to the customers prior to each application.
27 Licensees shall provide information regarding alternatives to
28 chemical spraying, such as organic alternatives, as well as
29 integrated pest management. The contract shall also include
30 complete information about the responsibility of displaying a

sticker or sign and complete information about the
responsibility of notifying persons who request to be notified.
After entering into a contract the customer shall display a
sticker or sign on a front window or other easily seen portion
of a residential property containing the name of the licensee,
so that there will be no danger of misapplication. The sticker
or sign shall be recognizable from the nearest street.

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

Section 25.5. Application of Pesticides in or near
Schools.--No pesticide shall be applied in or in the immediate
proximity of a school at any time that students, teachers or
administrative staff are in the school.

Section 25.6. Posting of Signs by Commercial Applicators.--
(a) Signs shall be posted at least forty-eight hours before any
pesticide application by a commercial applicator on residential
property. The signs shall be posted on the perimeter of the
property to be sprayed at reasonable intervals and shall be not
less than eighteen inches by twenty-four inches in size. One
sign shall be posted and readable by the main access to the
property and any other major thoroughfare. Signs posted pursuant
to this section shall include:

(1) The name, address and phone number of the licensee.

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

(3) The date and time of proposed applications.

(b) After any application of a pesticide, signs shall be
posted on the perimeter of the property sprayed. Such signs
shall be the same size and posted in the same manner as provided

in subsection (a), and shall remain in place for at least forty-eight hours. These signs shall include the following:

(1) The name, address and phone number of the licensee.

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

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

(4) A "Mr. Yuk" symbol.

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

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

(d) The secretary may, by regulation, determine additional information to be included on the signs as well as the color of signs or additional areas where signs are to be posted.

(e) Both the customer and the licensee shall be responsible for posting signs as required by this section before and after spraying. No application shall be made unless they have confirmed that the signs have been posted.

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

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

1 area. The wind speed limitation shall not apply in any case
2 where an application of pesticides must be made to control the
3 gypsy moth or the black fly and, if a biological product is
4 applied, there shall be no right of refusal, as provided for in
5 section 25.2.

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

9 (i) If a property owner has services performed on the
10 exterior of his property within seven days after the application
11 of a pesticide it shall be his duty to inform the person
12 performing the services of the application and the name of the
13 pesticide applied.

14 Section 25.7. Vehicles Transporting Pesticides.--Any
15 commercial vehicle transporting pesticides shall, by decal or
16 otherwise, display on both sides of the cab, a list of the
17 chemical contents of the pesticide.

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

1 secret information.

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